

Thursday, February 9, 2023
PERRY CITY COUNCIL MEETING AMENDED AGENDA
(Adding Item 4C)

This is an “Electronic Meeting” Web/Teleconferencing will be used to participate
Go to www.perrycity.org for meeting access instructions

The Perry City Council will hold an electronic meeting at 3005 South 1200 West in Perry and via web/teleconference on the Thursday identified above, starting at approximately 7:00 PM. Members of the public may attend the meeting in person or may view the meeting via Zoom using a link and instructions on the web page at: <https://www.perrycity.org/whats-new.htm.htm>. Agenda items may vary depending on length of discussion, cancellation of scheduled items, or agenda alteration. Numbers and/or times are estimates of when agenda items will be discussed. Action on public hearings will always be later in the same meeting or at a subsequent meeting. Every agenda item shall be a discussion and/or action item, unless otherwise indicated.

Approx. 7:00 PM – Regular City Council Meeting

- 1. Call to Order**
- 2. Procedural Issues**
 - A. Conflicts of Interest Declaration(s), If Any
- 3. Presentation – Annual Trainings**
 - A. Open Meetings Act
 - B. Harassment & Discrimination Prevention
 - C. Storm Water Training
- 4. Action Items (Roll Call Vote)**
 - A. Ordinance 2023-01 Codification of the Perry Municipal Code
 - B. Discussion/Action Regarding Fleet Vehicle Leases
 - C. Discussion/Action Regarding Agreement with Hemmco Consulting
- 5. Minutes & Council/Mayor Reports (Including Council Assignments)**

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

 - A. Approval of Consent Items
 - January 12, 2023 City Council Meeting Minutes
 - January 26, 2023 City Council Meeting Minutes
 - January 28, 2023 City Council Retreat Minutes
 - B. Mayor’s Report
 - C. Council Reports
 - D. Staff Comments
 - E. Planning Commission Report
- 6. Executive Session (if needed)**
 - A. Discussion of the purchase, exchange, lease, or sale of real property, when public discussion would disclose the value of the property or prevent the authority from completing the transaction of the best possible terms.
 - B. Strategy session to discuss the character, professional competence, or physical or mental health of an individual.
 - C. Strategy session to discuss collective bargaining.
 - D. Strategy session regarding pending, or reasonably imminent litigation.
 - E. Strategy session to discuss the deployment of security personnel, devices, or systems.
 - F. Discussion of investigative proceedings regarding allegations of criminal misconduct.
- 7. Approx. 8:30 PM - Adjournment**

Certificate of Posting

The undersigned duly appointed official hereby certifies that a copy of the foregoing agenda was sent to each member of the City Council and was posted in three locations: the Perry City Offices, Centennial Park, Perry City Park; and was emailed to the Ogden Standard-Examiner, Box Elder News Journal; and posted on the State Public Meeting Notice Website on this 8th day of February, 2023. Any individual requiring auxiliary services should contact the City Offices at least 3 days in advance at (435-723-6461).

Shanna S. Johnson, City Recorder

OPEN AND PUBLIC MEETINGS ACT

Utah Code Annotated

Title 52 Chapter 4

2023 Annual Training



PURPOSE OF THE OPEN AND PUBLIC MEETINGS ACT

- Due Process. Procedurally affords the public “notice” and an “opportunity to be heard.”
- Openness. American public policy and democracy favors openness.
- Public Meetings. Conduct, Deliberate, Act and Decide the public’s business in an open meeting.

STATE LAW: OPEN AND PUBLIC MEETINGS ACT

54-4-102 Public Policy. The Legislature finds and declares that the state, its agencies and political subdivisions, exist to aid in the conduct of the people's business. It is the intent of the Legislature that the state, its agencies, and its political subdivisions:

- **(a)** take their actions openly; and
- **(b)** conduct their deliberations openly.

52-4-104.Training. The presiding officer of the public body shall ensure that the members of the public body are provided with annual training on the requirements of this chapter.



OPEN MEETINGS - OVERVIEW

Five Parts - Open and Public Meetings Act:

- One – Meetings
- Two – Public Notice
- Three – Minutes and Records
- Four – Closed Meetings
- Five – Enforcement

ALL MEETINGS OPEN TO THE PUBLIC ..

52-4-103

- WHAT IS A MEETING?
 - It is the convening of a public body, with a quorum present.
 - Includes a workshop or an executive session.
 - Includes meeting held in person or by means of electronic communications.
 - Where the purpose of the meeting is discussing, receiving comments, or acting upon a matter where the public body has jurisdiction or advisory power.
- **52-4-201.**

A meeting is open to the public unless it's a closed meeting allowed under state law.
- Public meetings may only be held at City Hall, some exemptions apply.

PUBLIC BODY

- WHAT IS A PUBLIC BODY?
 - The City Council.
 - The Planning Commission.
 - Any other administrative, advisory, executive, or legislative body of the city that is:
 - Created by statute, rule, ordinance, or resolution.
 - Has two or more members.
 - Spends or is supported by taxes.
 - Has authority to make public decisions.



MEETINGS

WHAT IS A MEETING: convening of a public body with a quorum present.

WHAT IS NOT A “MEETING”?

- A chance meeting.
- A social gathering.
- **Training.**



OPEN MEETINGS – PUBLIC NOTICE

- In January each year the City Recorder will publish a notice of the annual meeting schedule (UCA 52-4-202).
- At least 24 hours before any meeting, an agenda must be posted that includes:
 - Agenda topics written with “reasonable specificity.”
 - Date of the meeting.
 - Time of the meeting.
 - Place of the meeting.
- A topics raised by the public that is not on the agenda may only be heard if the presiding officer allows. No action can be taken on an item not on the agenda.
- Agendas must also be posted, provided to a “local media correspondent,” and uploaded to the Utah Public Notice Website.

OPEN MEETINGS – MINUTES AND RECORDS

- Written minutes and a recording shall be kept of all open meetings. Minutes are not transcripts (UCA 52-4-203).
- Written minutes of an open meeting shall include:
 - Date, time, and place of the meeting.
 - The names of members present and absent.
 - Brief substance of all matters, which may include a summary of comments made by members of the public body.
 - A record, by individual member, of each vote taken by the public body.
 - Name and brief substance of comment by each person who is not a member of the public body, and upon recognition by the presiding officer.
 - Any other information a member requests be entered in the minutes, so long as it happened.

OPEN MEETINGS – MINUTES AND RECORDS

- The recording of an open meeting shall:
 - Be a complete and unedited record from commencement through adjournment.
 - Be properly labeled or identified with the date, time, and place of the meeting.
- The City shall:
 - Make pending minutes available to the public within 30 days after holding the open meeting that is the subject of the pending minutes.
 - Post the approved written minutes of an open meeting to the Utah Public Notice Website and make available to the public at City Hall, including any public materials distributed at the meeting.
 - Within 3 business days after holding an open meeting, make an audio recording of the open meeting available to the public for listening.
- All or part of an open meeting may be independently recorded by any person in attendance if the recording does not interfere with the conduct of the meeting.
- The written minutes are permanent and the official record of the meeting.
- A recording of a site visit or a traveling tour is not required if there is no vote or action.



CLOSED MEETINGS – PROCEDURE

52-4-204. Closed meetings:

- A closed meeting may be held only if:
 - A quorum is present; and
 - 2/3 of the vote of the Public Body to approve closing the meeting.
- Closed meetings can only be held for limited purposes.
- No ordinance, resolution, rule, regulation, contract, or appointment can be approved in a closed meeting.
- The open meeting's minutes must reflect:
 - The reason for the closed meeting.
 - Location of the closed meeting.
 - Roll call to enter the closed meeting.



CLOSED MEETINGS – PURPOSE

- A closed meeting may ONLY be held for the following purposes:
 - Discuss character, professional competence, or physical or mental health of an individual.
 - Strategy sessions to discuss collective bargaining.
 - Strategy sessions to discuss pending or reasonably imminent litigation.
 - Strategy sessions to discuss the purchase, exchange, or lease of real property.
 - Investigate allegations of criminal misconduct.
 - Discuss deployment of security personnel, devices, or systems.
- A public body may not interview a person applying to fill an elected position in a closed meeting.
- 54-2-406(6) No recording and signed sworn statement if the closed meeting is for:
 - Discussing character, professional competence, or physical or mental health of an individual.
 - Discuss deployment of security personnel, devices, or systems.

OPEN MEETINGS – ENFORCEMENT

- Utah Supreme Court broadly interprets the Utah Open and Public Meetings Act to ensure the purpose of openness. Exceptions will be strictly construed. *Kearns-Tribune Corp. v. Salt Lake County*
- 54-4-302 provides that any final action taken in violation of the Act is voidable by the court.
- 54-4-303 states that a person who feels the City violated the Act may sue to:
 - Compel compliance.
 - Interpret the Act based on a public body's actions.
 - The court may award reasonable attorney fees and court costs to a successful plaintiff.
- The Act does not prohibit removing a disruptive person from a meeting when orderly conduct is seriously compromised.



OPEN AND PUBLIC MEETINGS ACT

The End



WORKPLACE CONDUCT

2023 Training





Purpose of this Training

- ✓ Recognize what is occurring on the workplace
- ✓ Prevention of unlawful conduct and discrimination
- ✓ Understanding complaints
- ✓ Avoid costly claims

Protected Classes

Federal and State Law

Race

Creed

Color

Gender

Gender Identity

Sexual Orientation

Veteran Status

National Origin

Citizenship

Disability

Age

Pregnancy

Familial Status

Genetics



Federal, State, and Local Law

- Title VII – Civil Rights Act of 1964 – “. . . It shall be unlawful employment practice for an employer . . . To discriminate against an individual with respect to . . . compensation, terms, conditions, or privileges of employment because of [protected class status].”
- Equal Pay Act of 1963
- Age Discrimination Act of 1967
- Rehabilitation Act of 1973
- 1978 Pregnancy Disability Amendment to Title VII
- Americans with Disabilities Act of 1990, amended 2008
- Genetic Information Nondiscrimination Act of 2008
- State Law – Utah Anti-discrimination Act.
- Municipal Code and City Policies and Procedures Manual

Sexual Harassment

- “Sexual Harassment” means sex or gender-based harassment:
 - Quid pro quo, and/or
 - Hostile Environment
- Hostile Work Environment means conduct to a protected class that unreasonable interferes with an individual’s job performance, or creates an intimidating, hostile, or offensive work atmosphere.
- Includes behavior such as:
 - Stereotyping
 - Unwanted physical touching
 - Targeting a protected class or individual

Examples and Explanations

- Who can be a perpetrator?
 - Management
 - Employee
 - Public – Anyone
- Who can be a victim?
 - Targeted individual
 - Anyone in the work environment
 - Anyone who tries to help
- How to we address harassment?
 - Report to supervisor
 - End the harassment

Complaints

What to do if you have been illegally harassed?

- Be familiar with the workplace policies
- Report to the appropriate authority
- Be prepared to give specific information
- Conduct an investigation
- Understand confidentially
- Report retaliation
- Cooperate with efforts to resolve the problem

Workplace Violence Prevention

- What is workplace violence?
 - Any act or threat of physical violence, harassment, intimidation, or other threatening disruptive behavior that occurs in the workplace.
 - Examples:
 - Verbal Abuse
 - Direct or indirect threats (including nonverbal)
 - Violent or extreme action
- Warning Signs:
 - Fascination with weapons
 - Alcohol or drug use
 - Severe stress
 - Anguish over workplace issues
 - History of violence
 - Psychological instability
 - Social isolation
 - Declining hygiene or personality changes

ANNUAL STORM WATER TRAINING FOR CITY COUNCIL

2023

INTRODUCTION



- **Storm Water Management Program.**
 - Federal (EPA) and State (DEQ) requirements.
 - Pollution reduction and mitigation.
 - Annual training is required for municipalities.



■ Best Management Practices (BMPs)

- **Actions or items** that prevent or reduce water pollution.



- Minimum Control Measures (MCM)
 - Methods used to prevent or reduce the discharge of pollutants.



Six Minimum Control Measures (MCMs)

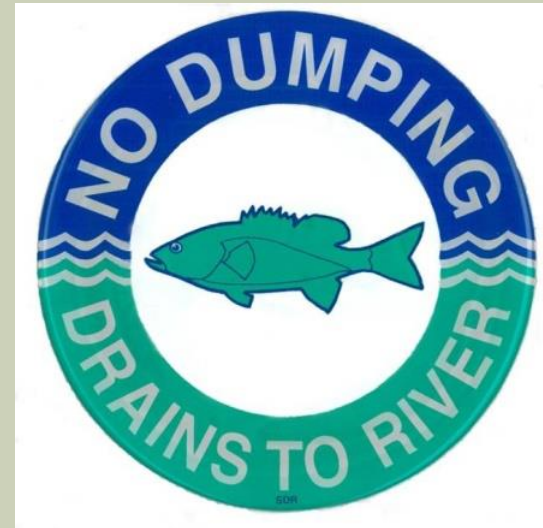
- Six Minimum Control Measures (MCMs)
 - 1 Public Education and Outreach
 - 2 Public Involvement and Participation
 - 3 Illicit Discharge Detection and Elimination
 - 4 Construction Site Storm Water Runoff Control
 - 5 Long-Term Storm Water Management
 - 6 Pollution Prevention and Good Housekeeping

- Each section contains tasks, goals, and deadlines.

MCM 1 – PUBLIC EDUCATION



- Examples
 - Water Fair
 - Community service
 - School or club project
 - Earth Day activity



MCM 2 – PUBLIC INVOLVEMENT



- **Similar to Public Education.**
- **Post SWMP on website and/or at city hall (available for review).**
- **Documentation.**



MCM 3 – ILLICIT DISCHARGE, DETECTION & ELIMINATION



Report violations.

MCM 3 – ILLICIT DISCHARGE, DETECTION & ELIMINATION



Maybe not so obvious...



Grass
clippings in
the gutter



Grass
clippings
dumped in
drainage

MCM 4 – CONSTRUCTION SITES

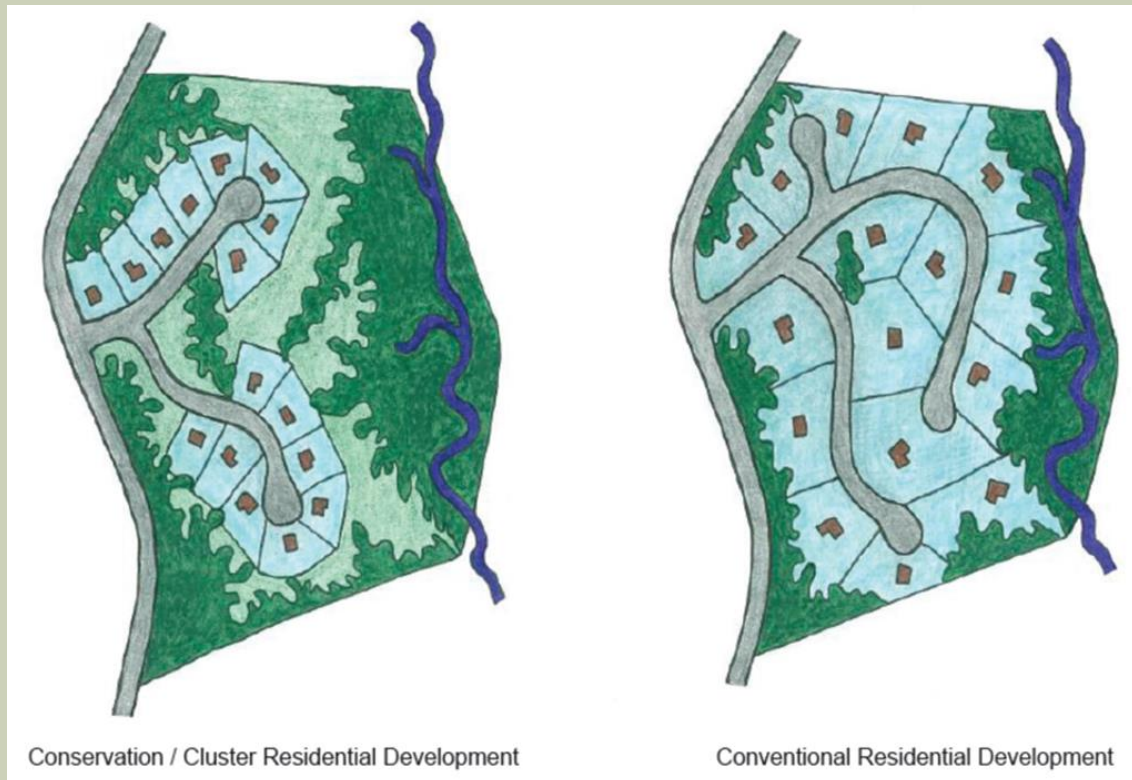


Rainfall on construction sites can cause harmful polluted runoff and sediment to drain into local streams.

MCM 5 – LONG-TERM SW MGMT



- Non-structural example – land planning
 - Cluster subdivisions - leave undisturbed or natural land



MCM 6 – GOOD HOUSEKEEPING



- Implement a program for with the goal of preventing or reducing the runoff of pollutants to the MS4 and waters of the state.
- All components of the program included in the Storm Water Management Plan.
- Updated every 5 years.

Perry City
Storm Water Management Plan



November 2021

Prepared by
JONES & ASSOCIATES
Consulting Engineers

SUMMARY

Requires involvement from City Council, Public Works, and the public

Implementation requires time, funding, and manpower.



**PERRY CITY
ORDINANCE 2023-01**

CODIFICATION ADOPTED

**AN ORDINANCE OF PERRY CITY, UTAH, ADOPTING THE
CODIFICATION OF THE PERRY MUNICIPAL CODE.**

WHEREAS, Perry City (hereafter “City”) is a municipal corporation, duly organized and existing under the laws of the State of Utah;

WHEREAS, *Utah Code Annotated* §10-3-707 grants to the City power to codify ordinances into a Municipal Code and states: “[a]ny municipality is hereby empowered to revise, codify and compile from time to time and to publish in book, pamphlet or looseleaf form all ordinances of the municipality of a general and permanent character and to make such changes, alterations, modifications, additions, and substitutions therein as it may deem best to the end that a complete simplified code of the ordinances then enforced shall be presented, but with errors, inconsistencies, repetitions, and ambiguities therein eliminated.”

WHEREAS, *Utah Code Annotated* §10-3-708 authorizes the City to arrange its ordinances stating: “[t]he ordinances in the revision, codification and compilation shall be arranged in such order as the governing body may decide and may exclude the titles, enacting clauses, signatures of a mayor or mayor pro tempore of the governing board, attestations, and other formal parts, except the attestation of the recorder.”

WHEREAS, *Utah Code Annotated* §10-3-709 states that: “[s]uch revision shall be by one ordinance embracing all ordinances of a general and permanent character preserved as changed or added to and perfected by the revision, codification and compilation and shall be a repeal of all ordinances in conflict with the revision, codification and compilation, but all ordinances then enforced shall continue in force after the revision, codification and compilation for the purpose of all rights acquired, fines, penalties and forfeitures and liabilities incurred and actions therefor.”

WHEREAS, in accordance with Resolution 2022-24 and *Utah Code Annotated* §10-3-706, the Mayor appointed civiclinQ to re-codify the Perry Municipal Code and that has now been completed;

WHEREAS, the City Council now desires to adopt the re-codification;

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

Section 1: Adoption. In accordance with *Utah Code Annotated* §10-3-709, and other applicable law, the Perry Municipal Code codified by civiclinQ as attached is hereby adopted and incorporated herein by this reference and shall be published in its entirety.

Section 2: Severability. If a court of competent jurisdiction determines that any part of this Code is unconstitutional or invalid, then such portion of this Code, or specific application of this Code, shall be severed from the remainder, which reminder shall continue in full force and effect.

Section 4: Effective Date. This Ordinance shall take effect on immediately upon adoption.

PASSED AND ADOPTED by the City Council on this ____ day of _____, 2023.

Mayor

ATTEST:

City Recorder

Roll Call Vote:



Municipal Code

Publish Date: 01/12/2023

Preface



Perry City Municipal Code

The Municipal Code of Perry City, Utah was, initially published in house, and its most recent complete adoption was made by the Perry City Council in 2011. In 2015, codification and administration of the Municipal Code began in-house under the direction of the City Recorder. This Municipal Code shall be cited as the Perry Municipal Code or “PMC” as an acronym.

This Municipal Code maintains a structure by subject matter using a decimal numbering system identifying the title, chapter, and section (for example: **1.01.010**).

- The first number in the sequence (**1**.01.010) designates the **title** level.
- The second series of numbers (**1.01**.010) designates the **chapter** level.
- The last series (1.01.**010**) designates the **section** level.
- If a fourth series exists comprising letters or numbers beyond the section level, it designates a **subsection** level.

This complete set of numbers is designed to aid in searching the Municipal Code and to assist in subsequent codification as new ordinances are added to the Municipal Code.

To outline, give structure, and more granularly reference the legislation herein, the following list order (or pattern of ascending alphanumeric characters) is used: 1, a, (i), (1), (A). Drafting legislation with this list order better reconciles the content in local software and hard copies, with the content in this online code.

Vacant titles, chapters, or sections may be designed for future use and may be marked “Reserved” to ease internal expansion.

The legislative history written as footnotes at the bottom of legislative text identifies specific legal sources. These sources contain documents which may or may not be linked.

The Municipal Code is supplemented from time to time with adoptions, amendments, repeals, corrections and reenactments made by the Perry City, Utah. The specific legal sources that comprise this Municipal Code have been adapted during the codification process from the original formatting of the official hard copy. In the event of discrepancies between the online Municipal Code and the official hard copy, the official hard copy governs. Municipal Code Online, Inc., provides a searchable database of the Municipal Code for easy reference and convenience.

NOTICE: THE MUNICIPAL CODE MAY NOT REFLECT OTHER RULES PROMULGATED UNDER THE AUTHORITY OF THE CODE, INCLUDING OTHER REGULATIONS AND TECHNICAL SPECIFICATION. THE MUNICIPAL CODE MAY NOT REFLECT ALL OR THE MOST CURRENT VERSION OF LEGISLATION ADOPTED BY THE CITY COUNCIL THAT HAS YET TO BE UPDATED ONLINE. FOR MORE INFORMATION CONTACT THE CITY OFFICE AT 435-723-6461 AND/OR ROBERT.BARNHILL@PERRYCITY.ORG

1 General Provisions

1.03 General Provisions

1.03.010 Definitions

The following words and phrases, whenever used in the ordinances of the City of Perry, shall be construed as defined in this section unless from the context a different meaning is intended or unless a different meaning is specifically defined and more particularly directed to the use of such words or phrases:

ACCESSORY USE OR BUILDING: A use or detached, subordinate building on the same lot with, but of a nature clearly incidental and subordinate to, the principal use of the property or building.

ADVERTISE or ADVERTISING: Any means by which one identifies or directs attention to a use, product, commodity, business, service, event, person, organization, idea, or message.

AGENT OF OWNER: Any person who can show written proof that he is acting for the property owner and with the property owner's knowledge and permission.

AGGREGATE: Coarse to medium grained particulate material in the form of sand, gravel, and crushed stone.

AGRICULTURE: the tilling of the soil, the raising of crops, horticulture, and food production for humans or animals, but not including the keeping or raising of domestic animals or businesses such as fruit-packing plants, fur farms, animal hospitals, stables, kennels or other similar uses.

AGRICULTURAL LANDS: Agricultural Lands shall mean those lands upon which a bona fide agricultural operation exists, or areas of vacant ground consisting of five (5) or more contiguous acres of land.

AGRICULTURAL OPERATION: Agricultural Operation means any facility for the production for commercial purposes of crops, livestock, poultry, livestock products, or poultry products.

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 Ordinance.

APARTMENT: Apartment means a habitable residential unit that was duly approved by the City that is rented by its owner for residential occupation. For the purposes of this Title, this definition does not apply to an apartment building consisting of two units or less where the property Owner occupies one of the units or the same premise as the Tenant(s), notwithstanding that the Owner complies with the other applicable relevant portions of the City's land use ordinances.

APPEAL AUTHORITY: The land use appeal authority, also known as the Hearing Officer, decides appeals when there is an error in administration or grants a variance to the requirements of an ordinance under special circumstances, and which replaced the Board of Adjustment and the Special Uses and Appeals Board.

APPLICANT: Person or persons who formally make an application.

AVERAGE PERCENT OF 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 parcel or lot. A vertical rise of one hundred (100) feet between two points, one hundred (100) feet apart measured on a horizontal plane is a one hundred (100) percent slope.

AREA OF SIGN or SIGN AREA: The Area of a Sign is measured as the smallest square, circle, rectangle, triangle of combination thereof that encompasses the extreme limits of the writing, representation, emblem, or other display, including materials or colors of the background. Sign Area does not include structural supporting framework, bracing or wall to which the Sign is attached. If separate letters or images are mounted directly on a wall, canopy, or similar structure, the Sign Area shall be the area in square feet of the smallest rectangle, which encloses the Sign, messages, and/or images. Also referred to as size, area, or face in relation to Signs.

BASEMENT: The portion of a building that is partly (twelve (12) inches or more) or completely below the grade or level of the abutting ground.

BERM: Raised barrier separating two areas.

BIKEWAY: A path or lane for the use of bicycles.

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

BOARD OF ADJUSTMENT: A five (5) member board previously organized to decide appeals when there is an error in administration or grant a variance to the requirements of an ordinance under special circumstances, but which has been replaced by the Hearing Officer.

BUILDING, ACCESSORY: A detached subordinate building on the same lot with, and of a nature customarily incidental and subordinate to, the principal building is a building accessory. See – Accessory Use or Building.

BUILDING, HEIGHT OF: The vertical distance from the average, finished grade to the highest point of the coping of a flat roof or to the deck line of a mansard roof, or to a point midway between the lowest part of the eaves or cornice and ridge of a pitch or hip roof is the building height.

BUILDING INSPECTOR: The person designated as the building official or building inspector for the local jurisdiction by the governing body as having authority charged with administration and enforcement of the adopted building code. The building inspector may also be the zoning administrator, if so designated.

BUILDING OFFICIAL: A building official is the official, or his duly authorized deputy, charged with the administration and enforcement of this ordinance.

BUILDING PERMIT REQUIRED: The construction, alternation, repair, or removal of any building, structure, or part thereof as provided or as restricted in this Ordinance shall not be commenced or continued except after the issuance of a written permit from the building inspector. Work not started within one hundred eighty (180) days will require a new permit.

BUSINESS: Means all kinds of vocations, occupations, professions, trades, enterprises, establishments, services provided, and all other kinds of commercial activities and matters, including the keeping of a machine, which are conducted for private profit or benefit, either directly or indirectly, on any premises in the City or anywhere else within its jurisdiction.

BUSINESS LICENSE: A written business license certificate issued by the business licensing authority allowing a person to operate and maintain a home occupation or business under the provisions of the Perry City Business License Code and regulations issued hereunder.

BUSINESS LICENSE APPEAL AUTHORITY: Business License Appeal Authority means the official or board charged with hearing and acting upon an appeal of a final action or decision of a Licensing Authority; also known as the Hearing Officer.

BUSINESS LICENSE INSPECTION AND ENFORCEMENT AUTHORITY: Any federal, state, county, or local authority that may inspect, investigate, or enforce upon a business compliance with any governing law.

CARPORT: A carport is any covered, private vehicle parking area not completely enclosed by walls or doors that is attached to a dwelling or accessory building. For the purposes of this Ordinance, a carport shall be subject to all the regulations prescribed for a private garage. A carport shall be considered part of a dwelling if the carport and dwelling have a roof in common.

CITY: The City of Perry, or the area within the territorial limits of the City, and such territory outside the City over which the City has jurisdiction or control by virtue of any constitutional or statutory provision.

CITY ATTORNEY: The attorney employed by or officially representing the local jurisdiction.

CITY COUNCIL OR COUNCIL: The City Council of the City. "All its members" or "All Council members" means the total number of Council members holding office.

CITY ENGINEER: The engineer employed by or under contract with and officially representing the local jurisdiction.

CITY STANDARDS: A set of standard drawings and specifications adopted by Perry City.

CLUSTER HOUSING: A subdivision of land in which the lots have areas less than the minimum lot area of the zoning district in which the subdivision is located, but which complies with the cluster subdivision provisions of the Perry City Land Use Ordinance and in which a significant part of the land is privately reserved or dedicated as permanent common open space to provide low-density character for the residential lots in the subdivision.

COMMONS: A public area usually central to a neighborhood, town or city.

COMMUNITY DEVELOPMENT DIRECTOR: The director of the Community Development Department of Perry City, the City Planner, or the Planner.

COMMUNITY GARDEN: A piece of land that is cultivated (not with Weeds) by a group of people rather than a single family or individual.

CONDITIONAL USE: The use of a building or land indicated by "C" on the land use chart which may require special conditions to mitigate impacts and meet the standards outlined in the PMC.

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.

CONSERVATION LAND: Conservation Land means land containing unique, historic, cultural, archaeological, natural or other significant features, including, but not limited to, Meadows, Grasslands, Tree Stands, Streams, Stream Corridors, Flood Walls, Berms, Watercourses, Farmland (including orchards), Wildlife Corridors and/or Wildlife Habitats, historic buildings and/or sites, archaeological sites and open space.

CONSERVATION SUBDIVISION PLAN: A plan used to show the number, location, and size of parcels, as well as the location, layout, and type of open spaces for property proposed for development as Conservation Subdivision.

CONSERVATION SUBDIVISION: A subdivision of land in which the lots have areas and setbacks less than the minimum dimensions of the zoning district in which the subdivision is located, but which complies with the Conservation Subdivision provisions of PMC 15.07.130. In a Conservation Subdivision, a predetermined minimum portion of the subdivision is preserved as permanent open space.

CONSTRAINED AND SENSITIVE LAND: Constrained and Sensitive Land means land that is generally unbuildable and that contains constrained and sensitive features including, but not limited to, wetlands, floodplains, steep slopes, faults and other geologically or environmentally sensitive features.

CONVENTIONAL SUBDIVISION: A subdivision of land in which lot area, Frontage, setback and other requirements of the underlying zoning district in which the subdivision is located are met, as required by PMC 15.07.

CONVENTIONAL SUBDIVISION PLAN: A hypothetical plan used to determine the base number of Dwelling units that a Conventional Subdivision design would yield for any given property proposed for development as a Conservation Subdivision.

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.

COUNCIL: The City Council of the City of Perry "All its members" or "all Council members" means the total number of Council members holding office.

COUNTY: This term refers to the county of Box Elder.

COURT: An open space, unobstructed to the sky, other than a yard which is located at or above grade level and bounded on two or more sides by walls or a building(s).

CROSSWALK OR WALKWAY: A right-of-way dedicated to public use, to facilitate access through a subdivision block; designed for use by pedestrians and not for use by motor vehicles; may be located within or without a street right-of-way, at grade, or separated from vehicular traffic.

CUL-DE-SAC: The term "cul-de-sac" (dead-end street) means a street, existing or proposed, which has access from one open end and is terminated by a vehicular turn-around at the other end, as defined by Perry City Standards.

DAY: This terms refers to a calendar day.

DENSITY: The number of families, individuals, dwelling units or housing structures per unit of land; usually that unit is expressed as an acre. The control of density is one of the basic purposes of zoning. Gross density includes land for streets, schools and parks. Net density does not include area for public spaces.

DENSITY, CONTROL OF: Density control is imitation on the occupancy of land. Density can be controlled through zoning by one or a combination of the following methods: use restrictions (single or multiple dwellings); minimum lot size requirements; floor area ratios; setback and yard requirements; minimum house-size requirements; establishing ratios between lot and house size; limitations on units per acre; and other means.

DESIGN, SUBDIVISION: These include:

1. Street alignment, grades and width; and
2. Width and alignment of easements and rights-of-way for drainage, water systems, sanitary sewer lines, and other utilities; and
3. Minimum lot area, width, and depth, etc.

DEVELOPMENT IMPACT FEE: A fee or charge imposed on a developer to pay for the costs to the community of providing services to a new development. It is a means of providing.

DIVISION OF AGRICULTURAL LAND FOR AGRICULTURAL PURPOSES: A bona fide division of partition of agricultural land for agricultural purposes shall mean, for purposes of this ordinance, the division of a parcel of land into three (3) or more parcels which meet all of the following conditions:

1. None of the parcels created can be smaller than five (5) acres in area for irrigated land and ten (10) acres for un-irrigated land.
2. The purpose of the division shall be to use each of the lots for agriculture, not for investments, building development, recreational use, cabin or other housing use, livestock feed yard, or any other agricultural industry or business.
3. Each of the parcels created have access to a public street or highway or to a private street approved by the Planning Commission and the governing body.
4. Each of the parcels created shall be capable, in the opinion of the Planning Commission and the governing body, of producing an income from the sale of agricultural products sufficient to justify its existence as a separate agricultural-lot entity. Among the factors used in making a decision as to whether a division of land is or is not bona fide division or partition of agricultural land for agricultural purposes, the Planning Commission and the governing body may consider the availability of water for irrigation or stock-watering purposes; the class of the soil and depth of the soil mantel; the slope of the land; and, past history of agricultural production.
5. The owner seeking a bona fide division of agricultural land for agricultural purposes shall record a "Restrictive Covenant Precluding the No agricultural Use of Land" at the County Recorder's Office in a form approved by the city attorney.

DISQUALIFYING STATUS: In relation to residential solicitors, anything specifically defined in the PMC as requiring the denial or suspension of a certificate or license, and any of the following:

1. The applicant or registered solicitor has been criminally convicted of:
 - a. Felony homicide;
 - b. Physically abusing, sexually abusing, or exploiting a minor;
 - c. The sale or distribution of controlled substances, or
 - d. Sexual assault of any kind.
2. Criminal charges currently pending against the applicant or registered solicitor for:
 - a. Felony homicide;

- b. Physically abusing, sexually abusing, or exploiting a minor;
 - c. The sale or distribution of controlled substances, or;
 - d. Sexual assault of any kind.
3. The applicant or registered solicitor has been criminally convicted of a felony within the last ten (10) years.
 4. The applicant or registered solicitor has been incarcerated in a federal or state prison within the past five (5) years.
 5. The applicant or registered solicitor has been criminally convicted of a misdemeanor within the past five (5) years involving a crime of:
 - a. Moral turpitude, or
 - b. Violent or aggravated conduct involving persons or property.
 6. A final civil judgment been entered against the applicant or registered solicitor within the last five (5) years indicating that:
 - a. The Applicant or Registered Solicitor had either engaged in fraud, or intentional misrepresentation, or
 - b. That a debt of the Applicant or Registered Solicitor was non dischargeable in bankruptcy pursuant to 11 U.S.C. § 523(a)(2), (a)(4), (a)(6), or (a)(19).
 7. The applicant or registered solicitor currently on parole or probation to any court, penal institution, or governmental entity, including being under house arrest or subject to a tracking device.
 8. The applicant or registered solicitor has an outstanding arrest warrant from any jurisdiction.
 9. The applicant or registered solicitor is currently subject to a protective order based on physical or sexual abuse issued by a court of competent jurisdiction.

DOOR-TO-DOOR SOLICITATION: The practice of engaging in or attempting to engage in conversation with any person at a residence, whether or not that person is a competent individual, while making or seeking to make or facilitate a home solicitation sale, or attempting to further the sale of goods and or services.

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.

DWELLING: Any building or portion thereof that is designed or used as the more or less permanent Residence of one or more individuals or families for residential purposes such as sleeping and taking meals. The following are not a Dwelling: tents, hotels, apartment hotels, boardinghouses, rooming houses, tourist courts, commercial assisted living center, nursing home, recreational vehicle, camper trailer, and other similar facilities

EASEMENT: A quantity of land set aside or over or under which a liberty, privilege, or advantage in land without profit, existing distinct from the ownership of the land, is granted to the public or some particular person or part of the public. No permanent structures as defined and reviewed by the Planning Commission are allowed in any recorded easements.

EDUCATIONAL FACILITY: A teaching or instructional Business (except a Home Preschool) operated as a Home Occupation or as a commercial facility.

ENTITY: Entity includes a corporation, partnership, limited liability company, or other lawful entity, organization, society or association.

ESCROW AGREEMENT: In relation to Subdivisions and land development an Escrow Agreement sets the terms for the fund of monies established to ensure completion of work required by state statute and the PMC.

ESSENTIAL FACILITIES: Essential facilities are any utility, sanitary, and public safety facilities provided by a public utility or governmental agency for overhead or surface or underground services, excluding any building, electrical sub-station or transmission line of fifty (50) K or greater capacity.

EXCAVATION USES: Mines, gravel pits, sand pits, clay pits (including concrete batching plants and/or asphalt plants installed in connection with pits) rock quarries, rock crushers, and buildings or structures in connection, therewith (see PMC 15.31, for regulations).

EXPLORATION: In relation to aggregate extraction means, the search for aggregate by geological, geophysical, geochemical, or other techniques, including but not limited to sampling, assaying, drilling, or any surface or underground works needed to determine the type, extent, or quantity of aggregate present.

FAMILY: One or more persons related by blood, marriage or adoption, or a group of not more than four unrelated persons living together as a single nonprofit housekeeping unit.

FARMLAND: Land specifically used for agriculture purposes in the raising of crops or livestock, including fruit crops.

FINAL CIVIL JUDGMENT: A civil judgment that would be recognized under state law as a judgment to which collateral estoppels would apply.

FINAL PLAT: A subdivision map prepared in accordance with the provision of the Subdivision Ordinance which is designed to be placed on record in the office of the County Recorder.

FIRE PROTECTION: Such water supply, water lines, fire hydrants and/or other protective devices as may be required in the provisions of the Perry City Land Use Ordinance for adequate elimination of fire hazards.

FLAG LOT: A flag or L-shaped lot comprised of a staff portion contiguous with the flag portion thereof (subject to special conditions).

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

FLOOD WALL: Primarily a vertical barrier that (temporarily or permanently) contains the waters of a river or other Waterway.

FRONT FOOT OF BUILDING OCCUPANCY: Means a single lineal dimension measured horizontally along the front major entrance of a building which defines the limits of a particular occupancy at that location.

FRONTAGE: Frontage is any area of a lot facing the street of public right-of-way. All property fronting on one side of the street between intersecting or intercepting streets, or between a street and a right-of-way, waterway, 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.

GARAGE, PRIVATE: An enclosed vehicle parking area attached to a dwelling or an accessory building designed or used for the storage of not more than four automobiles, owned and used by the occupants of the main building to which it is accessory, provided, that on a lot occupied by a multi-family dwelling, the private garage may be designed and used for the storage of a minimum of one and one-half times as many automobiles as there are dwelling units in the multiple dwelling. A garage shall be considered part of a dwelling if the garage and dwelling have a roof or wall in common.

GENERAL PLAN: A long range generalized plan of the City of Perry for development and zoning approved by the Planning Commission and adopted by the Governing Body for the Local Jurisdiction, including maps, reports or both as required by law.

GEOLOGICAL HAZARD: A hazard that is inherent in the crust of the earth or artificially created which is dangerous or potentially dangerous to life, property and/or improvements due to movement, failure and/or shifting of the earth is a geological hazard.

GOODS: One or more tangible items, wares, objects of merchandise, perishables of any kind, subscriptions, or manufactured products offered, provided, or sold.

GOVERNING BODY: The elected legislative body of the local jurisdiction that is the City Council for Perry City.

GRASS: Vegetation typically consisting of shorter-height plants that (1) are usually green in color, (2) grow over large areas, and (3) are not Weeds. Kentucky bluegrass is a common type of grass used in the State.

GRASSLAND: An open area of land covered with Grass, but not Weeds.

HAUL ROAD: A road designated as a haul road on the Circulation, Road or Master Transportation Plan or as defined by the Planning Commission. Haul Roads shall require special negotiation of construction standards with the City Engineer before any improvement of existing roads or development of proposed roads is approved.

HEALTH OFFICER: The health officer or department employed or officially representing the local jurisdiction in health related matters.

HEARING OFFICER: The person designated to hear and decide certain appeals, variances, and administrative code enforcement hearings in relation to the Land Use Ordinances and business license regulations of the City.

HEIGHT OF BUILDING: See - Building, Height of.

HOME DAYCARE: A child-care facility licensed by the State with a regularly scheduled, ongoing enrollment operated in a Dwelling.

HOME OCCUPATION: Every trade, profession, occupation, business or activity engaged in within a Residence or Dwelling with the object of economic profit, benefit or gain, directly or indirectly and carried on by Persons residing on the premises and is ongoing in nature as opposed to temporary (Example: garage sales, lemonade stands) and is incidental and secondary to the use of the property as a Residence or Dwelling.

HOME SOLICITATION SALE: Home solicitation sale means to make or attempt to make a sale of goods or services by a solicitor at a residence by means of door-to-door solicitation regardless of the means of payment or consideration used for the transaction, or the time of delivery of the goods or services, or the previous or present classification of the Solicitor as a Solicitor, peddler, hawker, itinerant merchant, or similar designation.

HOMEOWNER'S ASSOCIATION: A non-profit organization operating under recorded legal agreements running with the land. Generally, each lot owner in a condominium or similar planned development becomes a member upon purchase and each lot is subject to a charge for a proportionate share of the expenses for the organization's activities, such as landscaping, maintaining common areas, recreation facilities, parking areas and enforcement of CC&Rs (Conditions, Covenants & Restrictions).

HOME PRESCHOOL: A teaching or instructional Business for children who have not yet entered the first grade level offered by Box Elder School District operated as a Home Occupation.

HOUSEHOLD PETS: Animals or fowl ordinarily permitted in and around the house or yard, and kept for company or pleasure, such as dogs, cats, and canaries, but not including the keeping of normally dangerous animals, such as lions, tigers, etc. or domesticated farm animals such as pigs, horses, cows, goats, ducks, pigeons etc. (see PMC Title 9, Perry City Animals Ordinance for limitations on household pets.)

IMPROVEMENTS: Work, objects, devices, facilities or utilities required to be constructed or installed in a subdivision. Such improvements may include, but are not limited to, streets, paving, grading, construction to required standards, water systems, sewer systems, sidewalks, curbs and gutters, drainage facilities, street trees, street signs, streetlights, traffic control or safety devices, fire hydrants, and such other facilities or construction as is required by the Subdivision Ordinance, subdivision regulations, or by the Planning Commission and/or City Council for the necessary, proper development of a proposed subdivision.

INFRASTRUCTURE: Facilities and services needed to sustain industrial, manufacturing, residential and commercial activities. It includes sewer and water lines, streets and roads, communication lines and public facilities such as fire houses, parks, etc.

INUNDATION: Water of sufficient depth and/or motion to damage property by presence of water, moving debris or deposit of silt is known as inundation.

KENNEL/CATTERY: The keeping of three or more dogs/cats, with equipment and supplies for the business of breeding, raising, and/or boarding of dogs/cats for business purposes. A business license is required for a kennel or cattery.

LATERAL SEWER: A lateral sewer is any sewer line that discharges into another sewer line and has only the building sewage as a tributary to it.

LAW: This term denotes applicable federal law, the Constitution and statutes of the state of Utah, the ordinances of the City, and when appropriate, any and all rules and regulations which may be promulgated thereunder or by any governing authority.

LICENSING AUTHORITY: Licensing Authority means the City authority designated to administer this Code in relation to business licenses, issue a business license, or review and/or revoke a business license.

LIMITED NUMBER OF LIVESTOCK: The keeping of livestock shall not exceed six (6) large animals per acre, such as any combination of the following examples: Horses, cattle, sheep, goats, pigs, etc. and shall not exceed 18 small animals per acre, such as chickens, turkeys, ducks, geese, pigeons, peacocks, rabbits and other small fur bearing animals, etc.

LOCAL ATTORNEY: The attorney employed by or officially representing Perry City.

LOCAL BUILDING INSPECTOR: The building inspector employed by or officially representing Perry City.

LOCAL ENGINEER: The engineer employed by or officially representing Perry City.

LOCAL JURISDICTION: Local jurisdiction refers to Perry City.

LOCAL SURVEYOR: The surveyor employed by or officially representing Perry City.

LOT: A parcel or unit of land 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 by a parcel on a recorded subdivision map, or shown on a plat used in the lease or sale or offer of lease or sale of land resulting from the division of a larger tract. A parcel of land occupied or to be occupied by a building or a group of buildings, together with such yards, open spaces, with width and area as are required by Perry City Ordinance; having frontage upon a street, or upon a right-of-way approved by an Appeal Authority. These regulations may be waived by a Land Use Authority or Appeal Authority, as allowed by any Planned Unit Development, Cluster Housing Development, or other City ordinance. Not more than one dwelling structure shall occupy any one lot.

LOT, CORNER: A corner lot is any lot abutting on two intersecting or intercepting streets, where the interior angle of intersection or interception does not exceed one hundred thirty-five degrees.

LOT, RESTRICTED: A lot requiring adherence to special conditions and/or requirements to be met before a building permit can be issued or has an "R" designation on the recorded subdivision plat and a listed condition to be met for a building permit. The slope of the lot may be a reason for the restriction.

LOT RIGHT-OF-WAY: A strip of land of not less than sixteen (16) feet in width connecting a lot to a dedicated street or right of way for use as private access to that lot.

LOT, UNRESTRICTED: A lot having an average slope less than is prohibited by the Foothill Development Ordinance, Chapter 15.09 (Perry City Land Use Ordinance), and having the buildable area designated on the subdivision plat in which the lot is located with no "R" designation with the number.

MAIN BUILDING: The principal building or dwelling on a lot recognized as the primary use of the property on which it is located.

MAINTENANCE PLAN: A plan that identifies the means for permanent maintenance of the Conservation Land within the Conservation Subdivision.

MASTER PLAN: A plan adopted by Perry City Council describing a certain aspect of the city or infrastructure for future development or current use such as the Transportation Master Plan, Trails Master Plan, Master Plan for Dale Young Park, etc. as subsidiary plans that may or may not be included as components of the General Plan

MAY: The word "may" is permissive.

MAYOR: The duly elected mayor of the City.

MEADOW: A field habitat vegetated by Grass and other non-woody plants, but not Weeds.

MINING OPERATION(S): Mining Operation(s) means those activities conducted on the surface of the land for the exploration for development of or the extraction of mineral deposits and/or raw materials from its natural occurrences, including surface mining and surface effects of underground mining including on-site transportation and other primary processing.

MOBILE HOME: A detached, single-family dwelling unit not less than six-hundred square feet in area, designed for long-term occupancy, and to be transported on its own wheels or on flatbed or other trailers or detachable wheels; containing 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 utility connections and other minor work. 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.

MOBILE HOME LOT: A lot within a mobile home subdivision designed to be used for the accommodation of one (1) mobile home.

MOBILE HOME PARK: An area designed and approved by Planning Commission and City Council for occupancy by mobile homes, to be under a single ownership or management for mobile home space rental or lease. All requirements of the Mobile Home Parks and Mobile Home Subdivisions Chapter shall be met.

MOBILE HOME SPACE: A space within a mobile home park designed to be used for the accommodation of one (1) mobile home.

MOBILE HOME SUBDIVISION: A subdivision designed and intended for residential use where the lots are to be individually owned or occupied by mobile homes exclusively. All requirements of the Mobile Home Parks and Mobile Home Subdivisions Chapter shall be met.

MODULAR/MANUFACTURED 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; or as integral parts which have been built or assembled prior to incorporation in the building. A modular/manufactured home is classed as a mobile home until it is placed on a permanent foundation and complies with all governing building codes.

MONTH: One calendar month.

MULTI-FAMILY DWELLING: A building which is designed, built, or remodeled to consist of multiple attached dwellings that are owned separately. Not an apartment.

MUNICIPAL SERVICE: Municipal Service means public utilities; services for police, fire and other emergencies and protection; storm water runoff; traffic control; parking; transportation; beautification; or snow removal.

MUST/SHALL: These are each mandatory terms.

NONCONFORMING BUILDING OR STRUCTURE: A building or structure or portion thereof, lawfully existing at the time this chapter became effective which does not conform to all the height, area, and yard regulations herein prescribed in the zone in which it is located.

NONCONFORMING USE: A use which lawfully occupied a building or land at the time the zoning ordinance became effective and which does not conform to the use regulations of the zoning district in which it is located.

OATH: An oath includes an affirmation or declaration in all cases in which, by law, an affirmation may be substituted for an oath, and in such cases the words "swear" and "sworn" shall be equivalent to the words "affirm" and "affirmed."

O&M COSTS: The regular and periodic costs of operating and maintaining Conservation Land within a Conservation Subdivision.

OFFICIAL MAP: A map which has been adopted as the official map of the local jurisdiction, showing existing public streets, streets on plats of subdivision which have been approved by the Planning Commission, and/or other street extensions, widenings, narrowings, or vacations which have been accurately surveyed and definitely located.

OFF-STREET PARKING SPACE: The space required to park one (1) passenger vehicle, which space shall meet the requirements of the Zoning Ordinance, Parking Ordinance and is located off of the public right of way.

OPEN SPACE: Areas reserved in parks, courts, playgrounds, golf courses, subdivisions and other similar open areas to meet the density requirements of planned unit developments.

OPERATOR: Any person, firm, corporation, association, partnership, receiver, trustee, executor, administrator, guardian, fiduciary, agent, or other organization or representative of any kind either public or private, owning, controlling, or managing mining operations or proposed mining operations including exploring for or developing of mineral deposit sites.

OWNER: Any person, corporation, association, partnership, or other representative of any kind, either public or private, owning, or controlling an entity recognized by law, and his or its lessees, permittees, assignees, or successors in interest.

PARCEL OF LAND or PARCEL: A contiguous quantity of land, in possession of, owned by or recorded as the property of the same person and/or entity. (Land recorded as the same ownership, but physically divided by a public highway, road or street is not considered contiguous and is therefore, two or more individual parcels.)

PARK: A Mini-park, Neighborhood Park, Community Park or Regional Park/Park Preserve, as these terms are defined in PMC, or an other similar type of park designated in PMC.

PARKING LOT: An open area, other than a street, used for the parking of more than four motor vehicles and available for public use, whether free, for compensation or as an accommodation for clients and customers.

PEDESTRIAN WAY: A right of way designed for use by pedestrians and not intended for use by any vehicle or animal that is ridden or led. It may be a crosswalk, walkway, sidewalk or path and may be located with or without a street right of way, at grade or grade separated from vehicular traffic.

PERCENT OF SLOPE OR GRADE: 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 an area or within a lot.

PERSON: A natural person, receiver, assignee, trustee in bankruptcy, joint venture, joint stock company, partnership, association, society, club, company, corporation, business, firm, trust, estate, organization, or other group of individuals acting as a unit, whether mutual, cooperative, fraternal, non-profit, or otherwise, or the manager, lessee, agent, servant, officer or employee of any of them.

PERSONAL PROPERTY: Money, goods, chattels, things in action and evidences of debt.

PICNIC AREA: An area of land suitable and set aside for picnicking and sometimes provided with tables.

PLAN, SKETCH: A generalized layout of a proposed subdivision or development, with accompanying general proposals and intentions of the developer, relating the proposed subdivision or development to its area, to public utilities, facilities, and services, and to special problems which may exist in the area.

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.

PLANNING COMMISSION: The administrative body charged with the development of the General Plan, formulation and administration of the zoning map and ordinance and the review of any other land-use matters designated by the Mayor and City Council. The Commission is an advisory board to the City Council and City Officials (see Chapter 15.03, Perry City Land Use Ordinance).

PLAYGROUND: An area used for outdoor play or recreation, especially by children, and often, but not limited to, (1) containing recreational equipment such as, but not limited to, slides and swings and (2) located in a Park or school grounds.

PLAYING COURT OR FIELD: A space arranged for playing a certain game or sport such as, but not limited to, badminton, baseball, basketball, football, soccer, tennis or volleyball.

PLOT PLAN: A drawing of a lot, drawn to scale, showing its actual measurements, the size and location of any existing buildings or buildings to be erected, the location of the lot in relation to abutting streets, setbacks and other such information as may be required by the Planning Commission or Building Inspector.

POLITICAL POSITION: Any actually held belief, or information for, against, or in conjunction with any political, social, environmental, or humanitarian belief or practice.

PRECEDING/FOLLOWING: These terms mean next before and next after, respectively.

PRELIMINARY PLAT: A drawing, to scale, representing a proposal for a subdivision of land, meeting the preliminary plat requirements (dimensions, topography, existing structures, etc.) of PMC Title 14, Subdivision Ordinance, Including Special Exceptions and Flag Lots.

PRINCIPLE USE: A principal use is any main use of land, a building, an area, or a structure that is distinguished from conditional, accessory, or secondary uses. (Example: A home is a principal use on a lot. Pools, detached garages or sheds are accessory uses.)

PROPERTY: The term includes real and personal property.

PROTECTION STRIP: A strip of land between the boundary of a subdivision and a street within the subdivision for the purpose of controlling the access to the street by property owners abutting the subdivision is a protection strip.

PUBLIC ROAD: Any road, street, alley, lane, court, place, viaduct, tunnel, culvert, or bridge laid out or erected as such by the public, or dedicated or abandoned to the public, or made such in an action for the partition of real property, and includes the entire area within the right-of-way.

REAL PROPERTY: This term includes lands, tenements, and hereditaments.

RECLAMATION: Actions performed during or after mining operations to shape, stabilize, re-vegetate, or otherwise treat the land affected in order to achieve a safe, stable, ecological condition. The mined lands will be reclaimed to a useable condition which is readily adaptable to alternate land uses and create no danger to public safety. These rehabilitated or reclaimed conditions will be consistent with the Perry land use plan in the immediate area. The reclamation process may extend to affected lands surrounding the mined lands and may require backfilling, grading, re-soiling, re-vegetation, soil compaction, stabilization, and other measures.

REGISTERED SOLICITOR: Any person who has been issued a current certificate by the City.

REGULATING AUTHORITY: Regulating Authority means any federal, state or local authority, or professional organization that holds authority to regulate a Person or Business. A Regulating Authority includes such entities as the Utah Division of Occupational and Professional Licensing, the local health department, the Utah State Bar, the fire Marshall or related designee, the local planning commission, any land use authority, and similar authorities.

RELIGIOUS BELIEF: Any sincerely held belief, or information for, against, or in conjunction with, any theistic, agnostic, or atheistic assumption, presumption or position, or religious doctrine, dogma, or practice regardless of whether or not the belief or information is endorsed by any other person or public or private entity.

REMAINDER: The portion of land or Parcel created by a Subdivision that falls outside the Subdivision boundary and does not receive approval for development.

RESIDENCE: Any living unit contained within any building or structure that is occupied by any Person as a Dwelling consistent with the City's zoning laws, together with the lot or other real property on which the living unit is located. This does not include the sidewalk, public street, or public rights-of-way.

RESPONSIBLE PERSON OR ENTITY: In relation to Residential Solicitation, that person or entity responsible to provide the following to an applicant, registered solicitor, and the competent individual in a residence to whom a sale of goods or services is made or attempted to be made by means of a residential solicitation:

1. Maintaining a state sales tax number, a special events sales tax number, computing the sales taxes owed, paying the sales taxes, and filing any required returns or reports;
2. Facilitating and responding to requests from consumers who desire to cancel the sale pursuant to applicable contractual rights or law; and
3. Refunding any monies paid or reversing credit card charges to those persons who timely rescind any sale pursuant to applicable contractual rights or law.

SALE OF GOODS OR SERVICES: The conduct and agreement of a solicitor and the competent individual in a residence regarding a particular good(s) or services(s) that entitles the consumer to rescind the same within three days under any applicable federal, state, or local law.

SENSITIVE AREA DESIGNATION PLAN: A schematic plan that identifies all Constrained and Sensitive Lands within the property boundaries and within 400 feet outside of the property boundaries, including, but not limited to, floodplains wetlands, steep slopes and restricted areas. The Sensitive Area Designation Plan identifies natural or cultural resources present on the property and within 400 feet outside of the property, such as Meadows, Grasslands, Tree Stands, Streams, Stream Corridors, Flood Walls, Berms, Watercourses, Farmland, Wildlife Corridors and/or Wildlife Habitats; historic buildings and/or sites; archaeological sites; cultural features and green space.

SERVICES: Those intangible goods or personal benefits offered, provided, or sold to a competent individual.

RURAL ROAD: A street (not completed to Perry City's minimum standards), existing, designated and approved by the Planning Commission and City Council, 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 gives access to abutting property. A Rural Road has less construction requirements for a temporary period as determined by City Council. Abutting property owners must sign agreements pertaining to the installation of improvements to the road at a later date.

SIDEWALK. That portion of a street between the curb line and the adjacent property line intended for the use of pedestrians.

SIGN: An object, device, or structure, or part thereof, situated outdoors or indoors which is used for Advertising as viewed from outdoors. Includes the Sign structure, supports, lighting system, and any attachments, ornaments, or other features used for Advertising.

SIGN, ATTACHED: A permanent Sign that is attached to a building, including Flat, Projecting, and Roof Signs.

SIGN, BLADE: See Projecting Sign

SIGN, DETACHED: A permanent Sign that is not attached to a building.

SIGN, DIRECTIONAL: A Sign that communicates directional information to traffic for on-site or off-site destinations. Directional Signs may only include text, information, and graphics necessary to clearly give direction.

SIGN, ELECTRONIC MESSAGE DISPLAY: A Sign which uses changing patterns of light to display Advertising.

SIGN, FLAT: A Sign which is directly painted, printed, or attached to the outside wall or window of a building or located inside a building within twelve inches (12") of a window. A Sign which is erected parallel to the outside wall or window of a building and projecting not more than eighteen (18") inches from the wall or window. Also known as a wall Sign.

SIGN, MARQUEE: See Projecting Sign

SIGN, MONUMENT: A type of Detached Sign that is not a Pole Sign.

SIGN, MULTI-TENANT: A type of Detached Sign which contains Advertising for multiple businesses or tenants within a single development or area.

SIGN, OFF-PREMISE: A permanent Sign with Advertising unrelated to the property on which the sign is located or directs attention to a use, product, commodity, business, service, idea, or message that is not sold, offered, or existing on the property where the Sign is located. A billboard is a type of and included in the definition of Off-premise Sign.

SIGN, ON-PREMISE: A permanent Sign with Advertising related to the property on which the Sign is located.

SIGN, POLE: A type of Detached Sign that is supported by one (1) upright support and is not attached or braced by any other structure.

SIGN, POLITICAL: A type of Temporary Sign which expresses a position, conveys a message concerning, or advocates a position on the candidacy of a person, party, or issue on an upcoming ballot.

SIGN, PROJECTING: A type of Attached Sign oriented perpendicular to the street, and extending in the whole or in part more than eighteen inches (18") beyond the wall or structure. Includes projecting Marquees and Blade Signs.

SIGN, REAL ESTATE: A type of Temporary Sign related to the property on which it is located and offering such property for sale, rent, or lease.

SIGN, ROOF: A Sign which is erected on or over the roof of a building. A Roof Sign does not include Detached Signs that overlap a roof twelve inches (12") or less.

SIGN, PERMANENT: A Sign constructed or erected for Advertising, informational or directional purposes and intended to be used on an on-going basis.

SIGN, SUBDIVISION: A Sign identifying a Subdivision. Also called a Development Sign.

SIGN, TEMPORARY: A Sign used for advertising, informational, or directional purposes and intended to be used for a short, defined time period. Temporary Signs are intended for temporary or seasonal Advertising. Temporary Signs shall be removed as soon as the event ends or products Advertised are sold and within the time frame allowed by the PMC.

SIGN, WALL: See Flat Sign

SILVICULTURE: The growing and cultivation of trees.

SITE PLAN REVIEW: The process whereby local officials, Planning Commission and/or staff review the site plans of a developer to assure that the plans meet all ordinance requirements, the purposes and standards of the zone, provide for public facilities and protect adjacent property.

SOLICITING, SOLICIT, OR SOLICITATION: Any of the following:

1. Seeking to obtain sales or orders for the exchange of goods, wares, merchandise, services, or perishables of any kind, for any kind of remuneration or consideration, regardless of whether advance payment is sought.
2. Seeking to obtain prospective customers to apply for or to purchase insurance, subscriptions to publications, or publications;
3. Seeking to obtain contributions of money or any other thing of value for the benefit of any person or entity;
4. Seeking to obtain order or prospective customers for goods or services;
5. Seeking to engage an individual in conversation at a residence for the purpose of promoting or facilitating the receipt of information regarding religious belief, political position, charitable conduct, or home solicitation sale: or
6. Other activities falling within the commonly accepted definition of soliciting, such as hawking or peddling.

SOLICITOR(S): A persons(s) engaged in door-to-door solicitation.

SPECIAL ASSESSMENT AREA: An area designated by the City for the purpose of funding the costs of improvements, operation and maintenance, or economic promotion activities that benefit property within the area.

SPECIAL USE APPLICATION: An application for any of the following:

1. A Conditional Use Permit; or
2. A non-conforming use or non-complying structure; or
3. A limited non-conforming use or limited non-complying structure; or
4. A special exception; or
5. A zoning location/boundary policy decision; or
6. Any other special application.

SPOT ZONING: There is no statutory reference to spot zoning in the Utah Code Annotated. The definition and legal status of spot zoning are founded entirely upon Utah case law. The cases relative to "Spot Zoning" are generally cases where a particular small tract of land within a large district specially zoned so as to impose upon it restrictions not imposed upon the surrounding land. The creation of a small (single parcel) zoning district for a use that is generally incompatible with surrounding zoning is a logical suspect for a claim of "Spot Zoning."

STATE: The State of Utah

STORY: The space within a building included between the surface of any floor and the surface of the ceiling next above.

STORY, HALF: A story with a least two of its opposite sides situated in a sloping roof, the floor area of which does not exceed two-thirds of the floor immediately below it.

STREAM: A typically small, narrow body of water with a current, confined within a bed and stream banks.

STREAM CORRIDOR: An ecosystem comprising a Watercourse (usually a Stream), flood plains and transitional fringe.

STREET: A thoroughfare which has been dedicated or abandoned to the public and/or accepted by proper public authority which has been made public by right of use and has been accepted by the City or State as a street.

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

SUBDIVIDER: The word "subdivider" means an individual, corporation, or registered partnership owning or controlling any tract, lot, or parcel of land to be subdivided; or a group of two or more persons owning any tract, lot or parcel of land to be subdivided who have given their power of attorney to one of their group or to another individual to act on their behalf in planning, negotiating for, in representing or executing the purpose of the subdivision.

SUBDIVISION: Any land that is divided, resubdivided or proposed to be divided into two or more Lots, Parcels, sites, units, Lots, or other division of land for the purpose, whether immediate or future, for offer, sale, lease, or development either on the installment plan or upon any and all other plans, terms, and conditions.

SUBDIVISION, CLUSTER: A subdivision of land in which the lots have areas less than the minimum lot area of the district in which the subdivision is located, but which complies with the Cluster Subdivision provisions of the Zoning Ordinance and in which a significant part of the land is privately reserved or dedicated as permanent common open space to provide low-density character for the residential lots in the subdivision.

SUBDIVISION LAND USE AUTHORITY: The group, board, or council designated and given authority to approve and otherwise act on subdivisions and all matters related thereto, in behalf of Perry City.

SUBSTANTIATED REPORT: An oral, written, or electronic report:

1. Submitted to and documented by the City by a:
 - a. A competent individual who is willing to provide law enforcement or other City employees with publicly available identification of their name, address, and any other reliable means of contact;
 - b. City Law enforcement or licensing officer; or
 - c. Any other regularly established law enforcement agency at any level of government.
2. That provides any of the following information regarding a registered solicitor:
 - a. Documented verification of a previously undisclosed disqualifying status of a registered solicitor;
 - b. Probable cause that the registered solicitor has committed an act that could result in disqualifying status which has not yet been determined to be a disqualifying status.
 - c. Documented, eye-witness accounts that the registered solicitor has engaged in repeated patterns of behavior that demonstrates failure by the registered solicitor to adhere to the requirements of this chapter; or
 - d. Probable cause that continued licensing of the registered solicitor creates exigent circumstances that threaten the health, safety, or welfare of any individuals or entities within the City.

SURFACE MINING OPERATIONS: All or any part of the process involved in the mining of aggregate by open-pit mining of aggregate exposed naturally or by removing over burden, or surface work incident to the foregoing. Surface mining operations shall include, but are not limited to:

1. In-place distillation, retorting or leaching;
2. The production and disposal of mining waste;
3. Exploration activities; and
4. Rock crushing plants, aggregate washing, screening and drying facilities and equipment, and concrete batching plants.

TEMPORARY LICENSE: Temporary License means any Business License issued to a Person for a period of forty-five (45) calendar days or less.

TEMPORARY STRUCTURE: Structures associated with an approved Temporary Use including, but not limited to contractor's offices, real estate offices, equipment sheds, temporary buildings, storage yards, structures used by seasonal vendors, and structures incidental to a permitted construction project or other permitted Temporary Use.

TEMPORARY USE: A use allowed for a limited time with the intent to discontinue the use upon expiration of the period. Uses include, but are not limited to, food trucks, food carts, carnivals, circuses, Christmas tree sales, fireworks sales, corn mazes, haunted houses, outdoor concerts, seasonal vendors, construction offices, religious services, retreats, revivals, rallies, and other similar uses or activities.

TENANT/OCCUPANT: Any person who occupies the whole or a part of a building or land, whether alone or with others.

TOWNHOUSE: Condominium Development. A single family dwelling of one, two or three stories connected to another house by a common wall placed in a high density or commercial zone. Condominium standards apply with reduce density.

TRAIL: A marked, paved or beaten path or course, often, but not limited to, one that has been planned for a particular purpose.

TRANSITION ZONE: Buffer lots for reduction of zones between developments. See note under sketch or concept plan.

TREE STAND: A group of multiple trees of mature age.

UTILITIES: Public services including but not limited to culinary water lines, pressure and gravity irrigation lines, sanitary and storm sewer lines, natural gas lines, electric power, cable T.V., and telephone transmission lines, together with all poles, wires, underground conduit and junction boxes, guy wires and bracing, etc.

VARIANCE: A device which grants a property owner relief from certain provisions of the zoning ordinance, because of particular physical surroundings, shapes, or topographical conditions of the property. .

VICINITY PLAN: A map or drawing, to scale, showing the physical relationships of a proposed development to existing or proposed streets, buildings, and utilities; other relevant information such as special terrain or surface drainage; and existing zoning classifications of all land within three hundred (300) feet of the property proposed for development.

VILLAGE GREEN: A common open area within a neighborhood, town or city, typically a Grassland and a small body of water at the center of an agricultural or other rural settlement, but in all composition not including Weeds.

WATERCOURSE OR WATERWAY: A natural channel conveying water.

WEED: A plant considered undesirable, unattractive, troublesome or injurious, especially one that grows where it is not wanted and often grows or spreads fast and/or takes the place of desired plants, and including, but not limited to, noxious weeds and all other similar terms defined in State Law.

WIDTH OF LOT: The distance between the side lot lines at the distance back from the front lot line required for the depth of the front yard.

WILDLIFE CORRIDOR: An area of habitat connecting wildlife populations separated by human activities or structures (such as roads, development or logging).

WILDLIFE HABITAT: The natural environment in which wildlife lives.

WOODED AREA: An area of land that is dominated by Tree Stands and other woody plants.

WRITTEN: Printed, typewritten, mimeographed, multi-graphed, typed, handwritten, or otherwise reproduced in permanent visible form.

YARD: A space on a lot other than a court, unoccupied and unobstructed from the ground upward by buildings except as otherwise provided herein.

YARD, FRONT: A space on the same lot with a building, between the front line of the building 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 for the building.

YARD, REAR: A space on the same lot with a building between the rear line of the building and the rear lot line that extends 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. The rear yard shall be located opposite of the front yard.

YARD, SIDE: A space on the same lot with a building that is between the side line of the building and 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 side of building. On corner lots, the property owner may choose either frontage as the side yard.

YARD, STREET SIDE: A space on the same lot with a building and is between the side of the building and the street.

YEAR: This term refers to a calendar year.

ZONE: A district as described on the zoning map or in the zoning ordinance.

ZONING ADMINISTRATOR: The local official designated by the local governing body to enforce the regulations of the Zoning Ordinance. The Zoning Administrator may also be the Building Inspector or a City Council Member.

ZONING MAP: The officially adopted map of Perry City specifying the districts and/or areas zoned and the zoning designation of each is the zoning map.

ZONING ORDINANCE: The Zoning Ordinance of Perry City defining zoned areas and permitted land uses within zones and other related information and requirements regarding land use within the City also known as the "Perry City Land Use Ordinance".

HISTORY

Adopted by Ord. [15-C](#) on 3/17/2015

Amended by Ord. [18-E](#) on 3/28/2019

Amended by Ord. [19-C Multi-Family Housing](#) on 5/23/2019

Amended by Ord. [19-F Multi-Family Housing](#) on 10/10/2019

Amended by Ord. [20-G Subdivisions](#) on 4/23/2020

Amended by Ord. [20-P Temporary Uses and Structures](#) on 9/24/2020

Amended by Ord. [20-T Signs](#) on 5/12/2021

1.03.020 Interpretation Of Language

All words and phrases shall be construed according to the common and approved usage of the language, but technical words and phrases and such others as may have acquired a peculiar and appropriate meaning in the law shall be construed and understood according to such peculiar and appropriate meaning.

HISTORY

Adopted by Ord. [15-C](#) on 3/17/2015

1.03.030 Grammatical Interpretation

The following grammatical rules shall apply in the ordinances of the City unless it is apparent from the context that a different construction is intended:

1. **Gender:** Each gender includes the masculine, feminine and neuter genders.
2. **Singular and Plural:** The singular number includes the plural and the plural includes the singular.
3. **Tenses:** Words used in the present tense include the past and the future tenses and vice versa, unless manifestly inapplicable.

HISTORY

Adopted by Ord. [15-C](#) on 3/17/2015

1.03.040 Acts By Agents

When an act is required by an ordinance, the same being such that it may be done as well by an agent as by the principal, such requirement shall be construed to include all such acts performed by an authorized agent.

HISTORY

Adopted by Ord. [15-C](#) on 3/17/2015

1.03.050 Prohibited Acts Include Causing And Permitting

Whenever in the ordinances of the City any act or omission is made unlawful, it shall include causing, allowing, permitting, aiding, abetting, suffering, or concealing the face of such act or omission.

HISTORY

Adopted by Ord. [15-C](#) on 3/17/2015

1.03.060 Computation Of Time

Except when otherwise provided, the time within which an act is required to be done shall be computed by excluding the first day and including the last day, unless the last day is Sunday or a holiday, in which case it shall also be excluded.

HISTORY

Adopted by Ord. [15-C](#) on 3/17/2015

1.03.070 Construction

The provisions of the ordinances of the City and all proceedings under them are to be construed with a view to affect their objects and to promote justice.

HISTORY

Adopted by Ord. [15-C](#) on 3/17/2015

1.03.080 Repeal Shall Not Revive Any Ordinances

The repeal of an ordinance shall not repeal the repealing clause of an ordinance or revive any ordinance which has been repealed thereby.

HISTORY

Adopted by Ord. [15-C](#) on 3/17/2015

1.03.090 Severability

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

HISTORY

Amended by Ord. [18-E](#) on 3/28/2019

1.05 Corporate Seal

1.05.010 Corporate Seal

The official corporate seal of the City shall be one and seven-eighths inches in diameter and the following device: Inside the inner circle the words, "Corporate Seal," and near the outer circle the words, "City of Perry, Box Elder County, Utah."

HISTORY

Adopted by Ord. [15-C](#) on 3/17/2015

1.07 General Penalty

1.07.010 General Penalty

Except in cases where a different punishment is prescribed by ordinance, any person convicted of violating any ordinance of the City shall be punished by a fine not to exceed one thousand dollars (\$1,000.00), imprisonment not to exceed six (6) months, or both.

HISTORY

Adopted by Ord. [15-C](#) on 3/17/2015

2 Municipal Administration

2.01 Government And Elected Officials

2.01.010 Form Of Government

The City operates under the "Six-Member Council Form of Municipal Government" form of government as specified in Utah Code §10-3b-301, et seq., which consists of the Mayor and five (5) council members who collectively constitute the Governing Body.

HISTORY

Reenacted by Ord. [21-L Title 2 - Municipal Administration Re-enacted](#) on 10/4/2021

2.01.020 Oath Of Office

Elected and appointed officials shall take and subscribe the State constitutional oath of office.

HISTORY

Reenacted by Ord. [21-L Title 2 - Municipal Administration Re-enacted](#) on 10/4/2021

2.01.030 Mayor

The Mayor shall perform the duties of that office which are, or may be, prescribed by Law, and shall see that the Laws are faithfully executed. The Mayor shall preside at all meetings of the City Council, and in case that the Mayor is absent from said meeting a member of the City Council may be appointed by the City Council as Mayor Pro Tempore to act during the absence of the Mayor.

HISTORY

Reenacted by Ord. [21-L Title 2 - Municipal Administration Re-enacted](#) on 10/4/2021

2.01.040 City Council

The City Council shall perform all duties as are, or may be, prescribed by Law, and shall perform such other acts consistent with Law.

HISTORY

Reenacted by Ord. [21-L Title 2 - Municipal Administration Re-enacted](#) on 10/4/2021

2.01.050 Meetings

Meetings of a City public body, as defined by State Law, are subject to the Utah Open and Public Meeting Act set forth in Title 52, Chapter 4 of the Utah Code Annotated, unless otherwise provided by Law.

HISTORY

Reenacted by Ord. [21-L Title 2 - Municipal Administration Re-enacted](#) on 10/4/2021

2.03 Elections

2.03.010 Chief Election Officer

The City Recorder is designated the Chief Election Officer of the City.

HISTORY

Reenacted by Ord. [21-L Title 2 - Municipal Administration Re-enacted](#) on 10/4/2021

2.03.020 Municipal Elections

The City Recorder shall administer all municipal elections as set forth in Utah Code Annotated §10-3-201, et seq., as amended, and otherwise provided in Law.

HISTORY

Reenacted by Ord. [21-L Title 2 - Municipal Administration Re-enacted](#) on 10/4/2021

2.03.030 Campaign Finance Rules

1. **Adoption.** Utah Code Annotated §10-3-208, as amended, is hereby adopted as the minimum requirement for campaign finance disclosure for each candidate for municipal elective office.
2. **Requirement.** All candidates for elective municipal office shall comply with the campaign finance and disclosure requirements set forth in State Law.
3. **Expenditures.** All personal use expenditures shall comply with Utah Code Annotated §10-3-209, as amended.
4. **Violation.** In addition to penalties provided by State Law, any candidate who fails to comply with the provisions of this Section is guilty of an infraction and a fine not to exceed \$50.

HISTORY

Reenacted by Ord. [21-L Title 2 - Municipal Administration Re-enacted](#) on 10/4/2021

2.03.040 Vacancy

Any vacancy in any of an elected office by death, resignation, removal, or otherwise shall be filled for the unexpired term of such office by a majority vote of the City Council as provided by State Law.

HISTORY

Reenacted by Ord. [21-L Title 2 - Municipal Administration Re-enacted](#) on 10/4/2021

2.05 Appointed Officials And Policies

2.05.010 Statutory Officers

As provided by State Law, the Mayor shall appoint a qualified person as City Recorder and a qualified person as City Treasurer. The term for each statutory officer shall continue until a successor is qualified and appointed. The Governing Body may remove any statutory officer as provided by Law.

HISTORY

Reenacted by Ord. [21-L Title 2 - Municipal Administration Re-enacted](#) on 10/4/2021

2.05.020 City Administrator

1. **Appointment.** A City Administrator shall be appointed and removed by the Governing Body subject to the terms and conditions of any employment contract or agreement contemporaneous or subsequent to the appointment.
2. **Limitations.** The following limitations apply:
 - a. Nothing in this Section shall be construed to limit the powers of the Mayor or Council, nor does this Section change the form of government under Utah Code Annotated §10-3b-103.
 - b. A member of the Governing Body may not serve as City Administrator.
 - c. The City Administrator shall not simultaneously serve as City Recorder, City Treasurer, or other appointed position.
3. **Duties.** The City Administrator shall be under the supervision and control of the Governing Body and perform the following duties:
 - a. Under the direction of the Mayor, administer and exercise supervisory authority over all departments and subordinate employees of the City.
 - b. Manage the day-to-day operations of the City as directed by the Mayor.
 - c. Recommend the hiring, disciplining, or termination of any City employee, or appointed officer.

- d. Conduct performance evaluations for subordinates, recommend pay increases for City employees, and initiate pay adjustments as prescribed by ordinance or policy.
- e. Assist in the formulation, administration, and enforcement of all Laws, policies, and procedures.
- f. Assist in matters relating to land use and development.
- g. Assist in the preparation of the annual budget and financial administration.
- h. Attend meetings as necessary and speak as needed.
- i. Employ consultants and professionals to aid City administration as needed.
- j. Administer contracts for the City.
- k. Assist with public relations as coordinated with the Mayor.
- l. Perform such other duties as may be delegated or assigned.

HISTORY

Reenacted by Ord. [21-L Title 2 - Municipal Administration Re-enacted](#) on 10/4/2021

2.05.030 Appointed Officers

The Mayor appoints department heads, statutory officers, and other appointed officials subject to the advice and consent of the City Council. Unless otherwise provided, the term for each appointed officer shall continue until a successor is qualified and appointed. The Governing Body may remove any appointed officer as provided by Law.

HISTORY

Reenacted by Ord. [21-L Title 2 - Municipal Administration Re-enacted](#) on 10/4/2021

2.05.040 Policies And Procedures

1. **Personnel.** The Governing Body hereby adopts the "Personnel Policies and Procedures Manual" and may update the same as needed by resolution. Title 10, Chapter 3, Part 11 of the Utah Code Annotated governs certain "Personnel Rules and Benefits" as may be applicable under State Law.
2. **Public Works.** The "Public Works Standards for Development, Design, and Construction" dated September 23, 2021, as prepared by Jones & Associates Consulting Engineer, is hereby adopted. The Mayor and Public Works Director are hereby delegated authority to make any update, modification, or amendment to the same upon recommendation by the City Engineer so long as such update, modification, or amendment is not in direct conflict with the currently adopted General Plan. Any reference to any public works specifications in this code is hereby amended to read "Public Works Standards for Development, Design, and Construction" as stated in this Part.
3. **Public Safety.** The "Police Policy and Procedures" are hereby adopted. The Mayor is hereby delegated authority to make any update, modification, or amendment upon recommendation by the Police Chief.
4. **Firing Range.** The Mayor and Chief Range Safety Officer (RSO) is hereby delegated authority to adopt any policies and procedures for the operation and maintenance of a public firing range. Funds to operate a public firing range is subject to approval by the City Council.

HISTORY

Reenacted by Ord. [21-L Title 2 - Municipal Administration Re-enacted](#) on 10/4/2021

2.07 Compensation Schedules

2.07.010 Compensation

The compensation schedule for elected and certain appointed officers shall be set from time-to-time by the Governing Body subject to Utah Code Annotated §10-3-818.

HISTORY

Reenacted by Ord. [21-L Title 2 - Municipal Administration Re-enacted](#) on 10/4/2021

2.07.020 Elected Officers

1. **Compensation.** Effective with the paycheck including pay for work performed on and after July 1, 2021, the compensation on a two (2) week basis and annual basis for the referenced elected officers shall be as follows:
 - a. Mayor: \$389.91 every two (2) weeks; \$10,137.72 annually. The Mayor may opt to receive medical and dental benefits, in addition to compensation in this Section, the same manner as other employees of the City.
 - b. City Council Member: \$188.03 every two (2) weeks; \$4,888.75 annually.
2. **Increase.** Elected officers receive an annual cost-of-living adjustment equal to that given other employees of the City. In the event no cost-of-living adjustment is offered in any given year, the elected officers of the City shall not receive a cost-of-living adjustment for that year. The cost-of-living adjustment is subject to being annually appropriated by the Governing Body. In the event the Governing Body chooses to fund the salary increase, the Governing Body shall include any such increase as part of the annual budget process to become effective July 1 of the following fiscal year.

HISTORY

Reenacted by Ord. [21-L Title 2 - Municipal Administration Re-enacted](#) on 10/4/2021

2.07.030 Appointed Officers

1. **Compensation Schedule.** The City may adopt an update to its Compensation Schedule from time-to-time.
2. **Benefits.** In addition to the Compensation Schedule, Appointed Officers also receive benefits such as medical, dental, disability, and retirement.
3. **Increase.** Compensation increases may be awarded based on budget availability as follows:
 - a. Merit or performance increases may be awarded annually based on employee's annual performance review.
 - b. Cost-of-living adjustment as determined by the Governing Body.
 - c. Salary surveys may be conducted periodically and result in market-based increases approved by the City Council.

HISTORY

Reenacted by Ord. [21-L Title 2 - Municipal Administration Re-enacted](#) on 10/4/2021

2.09 Community Development And Renewal Agency

2.09.010 Creation

In accordance with Utah Code Annotated §17C-1-201.5, as amended, the City Council hereby creates the Perry Community Reinvestment Agency (hereafter "Agency") for the purpose of implementing Title 17C of the Utah Code Annotated, as amended, known as the "Limited Purpose Local Government Entities – Community Reinvestment Agencies Act".

HISTORY

Reenacted by Ord. [21-L Title 2 - Municipal Administration Re-enacted](#) on 10/4/2021

2.09.020 Agency Board

In accordance with Utah Code Annotated §17C-1-203, the City Council shall constitute the governing board of the Agency.

HISTORY

Reenacted by Ord. [21-L Title 2 - Municipal Administration Re-enacted](#) on 10/4/2021

2.09.030 Powers

The Agency shall exercise all the powers set forth in Utah Code Annotated §17C-1-202, as amended, and another applicable Law.

HISTORY

Reenacted by Ord. [21-L Title 2 - Municipal Administration Re-enacted](#) on 10/4/2021

2.09.040 Boundaries

In accordance with Utah Code Annotated §17C-1-201.5, as amended, the boundaries of the Agency shall be coterminous with the boundaries of Perry City, Utah.

HISTORY

Reenacted by Ord. [21-L Title 2 - Municipal Administration Re-enacted](#) on 10/4/2021

2.11 Justice Court

2.11.010 Justice Court

1. **Designation.** The Governing Body is authorized to enter an inter-local agreement with a justice court of competent jurisdiction as provided in Utah Code Annotated §78A-7-102(4), as amended, and as required by State Law.
2. **Administration.** The City Administrator shall oversee the proper and effective administration of the Justice Court.

HISTORY

Reenacted by Ord. [21-L Title 2 - Municipal Administration Re-enacted](#) on 10/4/2021

2.11.020 Prosecuting Attorney

The Mayor, subject to the advice and consent of the City Council, may appoint or enter into a contract with a duly licensed attorney in the State to serve as the City Prosecutor. The City Prosecutor acts under the direction of the City Attorney.

HISTORY

Reenacted by Ord. [21-L Title 2 - Municipal Administration Re-enacted](#) on 10/4/2021

2.13 Fire Services

2.13.010 Equipment

The Governing Body may provide necessary firefighting equipment for the City.

HISTORY

Reenacted by Ord. [21-L Title 2 - Municipal Administration Re-enacted](#) on 10/4/2021

2.13.020 Fire Service

The Governing Body may contract or otherwise provide for fire protection services by inter-local agreement with a county, municipality, local district, or otherwise.

HISTORY

Reenacted by Ord. [21-L Title 2 - Municipal Administration Re-enacted](#) on 10/4/2021

2.15 Financial And Property Administration

2.15.010 Definitions

The definitions of Utah Code Annotated §10-6-106 and §11-39-101, 1953 as amended, are hereby incorporated in this Chapter by this reference. Unless the context requires otherwise, the following additional definitions apply:

1. **"Finance Officer"** means the City employee designated by the City Council to administer finances in accordance with Utah Code Annotated §10-6-158.

2. **"Encumbrance"** means an obligation of the City.
3. **"Services"** shall mean professional and other skilled services such as auditing, architecture, engineering, surveying, appraisals, legal service, or counseling, sought or obtained from sources other than regular city employees, and does not include any contract for municipal type services, such as law enforcement, fire protection, garbage removal, snow removal, and other similar services.
4. **"A significant parcel of real property"** for the purposes of Utah Code Annotated §10-8-2, means any Real Property owned by the City over one (1) acre in size, and does not include any road, street, public right-of-way, or easement.
5. **"Supplies"** means any and all tangible articles or things which shall be furnished to or used by any City department or employee within the scope of employment with the City.

HISTORY

Reenacted by Ord. [21-L Title 2 - Municipal Administration Re-enacted](#) on 10/4/2021

2.15.020 Uniform Fiscal Procedures Act

The accounting, budgeting, and financial reporting procedures of the municipality shall be in accordance with the Uniform Fiscal Procedures Act, provided in Title 10, Chapter 6 of the Utah Code Annotated, or successor statute.

HISTORY

Reenacted by Ord. [21-L Title 2 - Municipal Administration Re-enacted](#) on 10/4/2021

2.15.030 Finance Administration

1. **Oversight.** The Governing Body provides financial oversight and authorization and is ultimately responsible for the proper creation of the City's financial statements.
2. **Department.** Financial management is governed by Law under the Administrative Department, as supervised by the Mayor.
3. **City Treasurer.** The City Treasurer shall perform the functions provided by Law.
4. **Finance Officer.** The Finance Officer shall perform the functions set forth by the Governing Body or established by policy. The Finance Officer shall provide monthly, quarterly, and annual financial reporting as provided by law. Monthly reporting shall be made to the Governing Body as per its direction, including the preparation of the City's financial statements.
5. **Purchase Orders.** The City Treasurer shall administer all purchase orders in a uniform manner for any expenditures over \$500.
6. **Petty Cash.** A petty cash fund may be maintained by the City Treasurer in an amount not to exceed \$750.
7. **Formalities.** Payment of any debt shall be tendered in the form and manner authorized by the Mayor.
8. **Conflict.** Notwithstanding the provisions of this Chapter, any purchase involving state or federal funding shall comply with the applicable state or federal regulations governing such funding.
9. **Indemnification.** The City shall indemnify its officials against all legitimate civil claims brought by another for reason of any expenditure in excess of the approved budget or for non-conformance to Law.
10. **Budget.** The Mayor is the Budget Officer and shall prepare and submit to the City Council a balanced tentative budget, including any proposed fee or tax increases on or before the first meeting each April. Preparation of the annual budget shall be coordinated with each department head in conjunction with the Finance Officer. The City Council shall approve or amend the tentative budget, and adopt the final budget as provided by State Law.
11. **Inter-local Agreements.** Any inter-local agreement requires approval by resolution of the Governing Body.
12. **Allotment.** Allotments shall be made within the limits of the budget, except where approved by the City Council by amendment to the budget.
13. **Annual Audit.** The Governing Body shall cause an annual audit to be prepared by an independent auditor in accordance with Law and appropriate guidance from the Office of the Utah State Auditor.
14. **Emergency.** In case of an actual emergency, an authorized official who purchases Services or Supplies in the normal course of duty may purchase directly any Services or Supplies whose immediate procurement is essential for life, health, safety, or welfare of the public. The authorized purchasing official shall promptly send the Finance Officer a requisition and a copy of the over-the-counter delivery order, and, if required by the Mayor, a full written report of the circumstances of the emergency.
15. **Indemnification.** The City shall indemnify its officials against all legitimate civil claims brought by another for reason of any expenditure in excess of the approved budget or for non-conformance to Law.

HISTORY

Reenacted by Ord. [21-L Title 2 - Municipal Administration Re-enacted](#) on 10/4/2021

2.15.040 Real Property

1. **Policy.** The appropriation, acquisition, or disposal of property shall conform to the applicable requirements of Utah Code Annotated §10-8-2, 1953 as amended, and the provisions of this Section.
2. **Real Property.** The disposition of Real Property is as follows:
 - a. The disposal of a significant parcel of real property owned by the City shall be made in accordance with Utah Code Annotated §10-8-2(4).
 - b. The disposal of a non-significant parcel of real property shall be made by the Mayor subject to the approval of the City Council in accordance with any additional policy.
 - c. Consideration shall be given for fair market value of any disposal of Real Property.
 - d. Methods for disposal may include, but are not limited to: listing with a broker, auction, or private negotiations.

HISTORY

Reenacted by Ord. [21-L Title 2 - Municipal Administration Re-enacted](#) on 10/4/2021

2.15.050 Other Property

1. **Generally.** This Section governs the acquisition, use, and disposal of all non-real estate property of the City in accordance with Utah Code Annotated §10-8-2, 1953 as amended. Each department head, or their designee, is authorized to acquire equipment, services, or other property within the limits of the annual budget.
2. **Property Use.** This policy presumes that incidental or personal use or possession of public property by a City officer or employee is authorized. This policy is enacted to minimize exposure under Utah Code Annotated §76-8-402 and other applicable Law. The City recognizes the benefits to the community when officials and employees are able to use City property for incidental or personal use in addition to the primary use of fulfilling their duties. To enable officers and employees to continue to use their issued equipment in a manner that best serves the public, officers and employees are authorized to use or possess any City property issued to them for any incidental or personal use, so long as the property is used in a lawful manner. This policy presumes that any public property issued to an officer or employee is properly in that person's possession and that the use or possession of said property is fulfilling their duties or otherwise appropriate.
3. **Property Classification.** Each department head, or other designee, is authorized to report to the Finance Officer property that should be classified as an asset for Audit purposes or determine whether certain property classified as material consumed in normal operations of the City.
4. **Property Disposal.** A department head may submit a list of assets to the City Council to be declared surplus for the purpose of disposal. This Part does not apply to property consumed in normal operations or that is classified as garbage or junk. City property shall be disposed of or released to ownership by anyone other than the City only after such property has been declared surplus by the City Council and put up for sale on a public forum.

HISTORY

Reenacted by Ord. [21-L Title 2 - Municipal Administration Re-enacted](#) on 10/4/2021

2.15.060 Procurement Of Architect Or Engineer Services

The City may procure the Services of an architect or engineer in accordance with the requirements of Utah Code Annotated §10-7-20.5, as amended.

HISTORY

Reenacted by Ord. [21-L Title 2 - Municipal Administration Re-enacted](#) on 10/4/2021

2.15.070 Building Improvements And Public Works Projects

1. **Capital Projects.** The City shall follow the procedures of Utah Code Annotated §11-39-101, et. seq, as amended, for all applicable building improvements or public works projects that exceed the amount specified under State Law.
2. **Expenditure.** Any applicable building improvement or public works project paid for by the City shall be in accordance with Utah Code Annotated §11-39-102, as amended.
3. **Bids.** The City shall issue a request for bids or proposals for applicable projects in accordance with Utah Code Annotated §11-39-103, as amended.
4. **Award Procedures.** The procedure for award is as follows:
 - a. The City reserves the right to reject any and all bids or proposals.
 - b. No bidder or proposal shall have any right, legal or equitable, or claim against the City for any expense or cost incurred in the preparation or submission of a bid or proposal, which is rejected, regardless of the reasons for the rejection.
 - c. The City expressly reserves the right to waive minor or slight irregularities in a bid which are in the best interest of the City.
 - d. The decision on award of a bid or proposal is final and shall not create any right to any bidder or proposal.
 - e. Generally bids shall be awarded, particularly for Supplies and Services, to the lowest responsible bidder defined in Utah Code Annotated §11-39-101. In determining the lowest responsible bidder, the City may consider the following criteria, in addition to price, in rejecting a bid:
 - i. The ability, capacity, and skill of the bidder to perform as required.
 - ii. Whether the bidder can perform promptly, or within the time specified without delay or interference.
 - iii. The character, integrity, reputation, judgment, experience, and efficiency of the bidder.
 - iv. The quality of past performance by the bidder.
 - v. Prior and current compliance by the bidder with the laws and ordinances.
 - vi. Sufficiency of the financial resources of the bidder to perform.
 - vii. Quality, availability, and adaptability of the supplies or services to the particular use required.
 - viii. The ability of the bidder to provide future maintenance or service.
 - ix. The number and scope of conditions attached to the bid or price quotation.
 - x. Such other factors as may be specified in Utah Code Annotated §11-39-101, et. seq, or as otherwise provided by Law, including the ability of the City to determine factors based upon the specifics of the project, project inventory, any expertise, or considerations for ease in maintenance.
 - xi. In the event that a bid award is not given to the low bidder, a statement for placing the award elsewhere should be prepared by the City and filed with the other documents relating to the bid.
5. **No Bid.** A project involving a building improvement or public works project not requiring a bid, as provided in this Section, such shall be administered in by the applicable department subject to oversight by the Mayor.

HISTORY

Reenacted by Ord. [21-L Title 2 - Municipal Administration Re-enacted](#) on 10/4/2021

2.15.080 Obligations And Contracts Generally

1. **Appropriations.** No liability or obligation against the City is created and no expenditure of public funds may be made unless for a valid corporate purpose and in accordance with Utah Code Annotated §10-8-2, as amended.
2. **Validity.** No contract obligation is valid or binding against the City unless:
 - a. In written form within budgetary limits.
 - b. Approved by the City Council, where expressly required.
 - c. Approved as to form, if required.
 - d. Executed by the Mayor.
 - e. Attested by the City Recorder.
3. **Insurance.** The City may require insurance certificates or bonds as part of an obligation, liability, or contract which may also:
 - a. Name the City and/or others involved as an additional insured.
 - b. Outline an approved cancellation clause.
 - c. Be in a sum sufficient to protect the interest of the City.
 - d. Be issued by an entity authorized to conduct business in the State.

- e. The contractor under any contract for a building improvement or public works project may be required to post performance and/or material bonds as determined by the City.
- 4. **Withholding Payment.** Payment may be withheld as retainage under the terms of a contract, for non-performance, or other reason under Law or the contract. The City prefers to have a retainage provision favorable to the City in contracts.
- 5. **Refuse Bid.** Subject to due process and the general appeal process established in the municipal code, and in conjunction with the applicable department, the Mayor may establish rules and procedures and/or issue determinations to preclude contractors or suppliers from submitting bids where:
 - a. Contractor has failed to perform prior contracts or services as required.
 - b. Contractor has not satisfactorily completed a prior contract.
 - c. Contractor has violated the Law.
- 6. **Cooperation.** The Finance Officer may maximize public benefit and costs as appropriate to join with other units of government in cooperative purchasing arrangements. The purchasing agent may purchase supplies, materials, and equipment from the vendor who has submitted the lowest bid price for such items to the State of Utah Purchasing Office at the quoted price, without any solicitation or price quotation or invitation to bid.
- 7. **Negotiation.** The City may negotiate with any prospective awarded bidder relating to the final contract terms and conditions. Should negotiations fail to reach a final contract, the City may terminate negotiation and proceed with the next appropriate bidder, in order, until satisfactory terms are negotiated.
- 8. **Exceptions.** This Section does not apply to contracts involving: sole source providers, inter-local agreements, legal settlements, court or administrative proceedings, interpreters, expert witnesses, emergency situations, investigatory services, situations waived by the Mayor, or contracts administered by another agency where the City is a participant.
- 9. **Contract Review.** The City Administrator may periodically inventory and review the contracts and agreements to determine the status.

HISTORY

Reenacted by Ord. [21-L Title 2 - Municipal Administration Re-enacted](#) on 10/4/2021

2.15.090 Grants

Any grant application that anticipates or proposes to bind the City to a particular project, commits the City financially, or requires matching funds must first be authorized by the Mayor or City Administrator, unless such project is appropriated in the annual budget.

HISTORY

Reenacted by Ord. [21-L Title 2 - Municipal Administration Re-enacted](#) on 10/4/2021

2.15.100 Ethics And Sanctions

- 1. **Ethical Practices.** In order to provide for fairness and accountability, the following practices violate rules of ethical conduct:
 - a. For any bidder or prospective bidder, or any employee or officer thereof, in restraint of freedom of competition or otherwise, by agreement with any other Person, bidder, or prospective bidder, to bid a fixed price, or to "rotate" bidding practices among competitors.
 - b. For any Person to offer or to give to any employee of the City or any member of their immediate family, any gain, whether in the form of money, services, loan, travel, entertainment, hospitality, promise, or other form, under circumstances in which it could reasonably be intended to influence them or could reasonably be expected to influence them in their duties concerning the award of any contract or order of purchase, or for any City employee to directly or indirectly solicit or directly or indirectly accept any such gift for such purpose.
 - c. For any City employee or officer to disclose, in advance of the opening of the bids the content of any bid invited through the formal competitive bidding procedure.
 - d. For any City employee or officer to actively participate in the awarding of a contract from which they directly benefit without disclosure of the same.
 - e. For any City employee or officer or other Person to appropriate public property for personal or private use without prior approval under this Chapter.
- 2. **Sanctions.** Where a violation of the rules of ethical conduct occur where a contract would not have been entered into on behalf of the City if such had been discovered prior to execution the City may:
 - a. Deem that there was no authority, either actual, apparent or implied, to negotiate or execute any contract.

- b. Deem the contract voidable.
- c. Ratify by majority vote any contract where misconduct was discovered and made known to the City Council and found to be insignificant.
- d. Place an employee or officer in violation on unpaid administrative leave, as determined by the Mayor, while the City seeks any appropriate legal redress.
- e. Deem any employee, officer, Person in violation of this Section liable to the City for any losses incurred from the violation.

HISTORY

Reenacted by Ord. [21-L Title 2 - Municipal Administration Re-enacted](#) on 10/4/2021

2.17 Records Access And Management

2.17.010 Adoption Of State Law

Title 63G, Chapter 2, of the Utah Code Annotated, entitled "Government Records Access and Management Act" (GRAMA) is adopted and incorporated herein by this reference. The City Recorder is the records manager for the City and may distribute and classify City records in accordance with GRAMA.

HISTORY

Reenacted by Ord. [21-L Title 2 - Municipal Administration Re-enacted](#) on 10/4/2021

2.17.020 Records Fees

The City imposes a records fee equal to the costs of the time and expenses of the City Recorder to research, obtain records, and respond to a record request in addition to any duplicating costs.

HISTORY

Reenacted by Ord. [21-L Title 2 - Municipal Administration Re-enacted](#) on 10/4/2021

2.17.030 Retention Schedule

The City adopts the Utah State Retention Schedule as prepared by the Utah State Archives as the retention schedule for the City.

HISTORY

Reenacted by Ord. [21-L Title 2 - Municipal Administration Re-enacted](#) on 10/4/2021

2.19 Rules And Ethics

2.19.010 Rules Of Order And Procedure

The City Council shall adopt and update by resolution Rules of Order and Procedure in accordance with Utah Code Annotated §10-3-606.

HISTORY

Reenacted by Ord. [21-L Title 2 - Municipal Administration Re-enacted](#) on 10/4/2021

2.19.020 Ethics

All City officers and employees should abide by Utah Code Annotated §10-3-1301, et. seq., as amended, and the same is adopted by reference as the rules of ethical conduct.

HISTORY

Reenacted by Ord. [21-L Title 2 - Municipal Administration Re-enacted](#) on 10/4/2021

2.19.030 Conflict Of Interest

1. **General Rule.** Officials for whom private benefits may come as the result of any action should not be a participant in the action, if:
 - a. The private benefit may be direct or indirect.
 - b. The private benefit may create a material personal gain or provide a distinct advantage to relations or friends or to groups and associations which hold some share of a City official's loyalty.
2. **Membership.** Mere membership itself in a group or organization shall not be considered a conflict of interest, unless a reasonable person would conclude that such membership in itself would prevent an objective consideration of the matter.
3. **Declaration.** An official experiencing a conflict of interest should declare that conflict publicly, then:
 - a. Not attempt to include any other official for the benefit of the official with a conflict.
 - b. Be excused from the meeting where the discussion and action occurs.
 - c. Abstain from voting on the action.
 - d. The vote of any official with a conflict of interest who fails to declare a conflict of interest is disqualified.
 - e. A conflict of interest may exist under these rules even though an official may not believe there exists an actual conflict.
 - f. An official who has a question as to whether a conflict of interest exists should raise the question with other land use officials in public meeting or with the City Attorney in order to determine if a conflict of interest exists.
 - g. No official should engage in any transaction in which the official has a direct or indirect financial interest, unless the transaction is disclosed publicly, and the transaction is determined to be lawful.
4. **Safeguards.** Ex parte communication or private meetings between a planning commissioner or member of the City Council relating to a land use applicant, their agents, or other interested parties are prohibited. Partisan information or any other relevant information on any application received by a City decision maker should be made part of the public record.

HISTORY

Reenacted by Ord. [21-L Title 2 - Municipal Administration Re-enacted](#) on 10/4/2021

2.19.040 Public And Private Information

It is important to distinguish between information that belongs to the public and information that does not. Public reports and official records are open on an equal basis to all inquiries under GRAMA. Certain information regarding private affairs prepared by a private party and obtained in the course of performing public duties should be treated within confidence and is protected under GRAMA. Certain private affairs become public affairs when an official action such as an application is submitted, so some information may not be public until based upon the facts and circumstances of the information. Information contained in studies in progress is generally not disclosed except in accordance with policies or upon completion of the study.

HISTORY

Reenacted by Ord. [21-L Title 2 - Municipal Administration Re-enacted](#) on 10/4/2021

2.19.050 Political Activity

The City is non-partisan. Membership by a City official in a political party and the extent of participation in political activities should be governed by professional judgment. A City official should not use their position to obtain contributions, support, or partisan favors for a political party.

HISTORY

Reenacted by Ord. [21-L Title 2 - Municipal Administration Re-enacted](#) on 10/4/2021

3 Municipal Procedures

3.01 Perry City Employee Personnel Policy

3.01.010 Perry City Employee Personnel Policy

Perry City has adopted and shall continue to update and maintain by resolution a Employee Personnel Policies and Procedures Handbook that includes policies and procedures for Perry City employees regarding Employment, Employment Status and Records, Employee Benefit Programs, Employee Compensation, Timekeeping/Payroll, Work Conditions and Hours, Leaves of Absences, Employee Conduct and Disciplinary Action, Employee Grievances and Appeals, Termination of Employment, and such other areas and topics that the Perry City Council deems necessary and appropriate.

Every Perry City Employee shall receive a copy of the Employee Personnel Policies and Procedures Handbook and shall have access to a copy at the Perry City Offices.

HISTORY

Adopted by Ord. [15-C](#) on 3/17/2015

Amended by Ord. [15-I](#) on 5/21/2015

4 General Revenue

4.01 Assessments

4.01.010 Assessments

All property within the corporate limits of the City which is or which may hereafter be made taxable for county or state purposes by the laws of the state, shall be assessed and taxed for municipal purposes. The assessment of all property taxable as aforesaid, and the collection of all general taxes levied for municipal purposes in the City shall be made in the manner now or which may hereafter be provided by the laws of the state for the assessment of property, for the collection of taxes for county and state purposes, and the redemption from tax sales.

HISTORY

Adopted by Ord. [15-C](#) on 3/17/2015

4.03 Sales And Use Tax

4.03.010 Title

This Chapter shall be known as the Sales and Use Tax Ordinance of the City of Perry.

HISTORY

Adopted by Ord. [15-C](#) on 3/17/2015

4.03.020 Purpose

The following regarding the purpose of this Ordinance:

1. The 48th Session of the Utah Legislature of Utah has authorized the counties and municipalities of the state to enact sales and use tax ordinances imposing a one percent tax.
2. It is the purpose of this chapter to conform to the sales and use tax of the municipality to the requirements of the Sales and Use Tax Act, Chapter 12 of Title 59, Utah Code Annotated, 1953, as currently amended.

HISTORY

Adopted by Ord. [15-C](#) on 3/17/2015

4.03.030 Sales And Use Tax

The following regarding sales and use taxes:

1. From and after the effective date of the ordinance codified in this chapter, there is levied and there shall be collected and paid a tax upon every retail sale of tangible personal property, services and meals made within the municipality at the rate of one percent. The following is also included:
 - a. An excise tax is imposed on the storage, use or other consumption in this municipality of tangible personal property from any retailer on or after the operative date of said ordinance at the rate of one percent of the sales price of the property.
 - b. For the purpose of this chapter all retail sales shall be presumed to have been consummated at the place of business delivered by the retailer or his agent to an out-of-state destination or to a common carrier for delivery to an out-of-state destination. In the event a retailer has no permanent place of business, the place or places at which the retail sales are consummated shall be as determined under the rules and regulations prescribed by and adopted by the State Tax Commission. Public utilities as defined by Title 54, Utah Code Annotated, 1953, shall not be obligated to determine the place or places within any county or municipality where public utilities services are rendered, but the place of sale or the sales tax revenue arising from such service allocable to the City shall be as determined by the State Tax Commission pursuant to an appropriate formula and other rules and regulations to be prescribed and adopted by it.
2. Except as hereinafter provided, and except insofar as they are inconsistent with the provisions of the Sales and Use Tax Act, all of the provisions of Chapter 12, Title 59, Utah Code Annotated, 1953, as amended, and in force and effect on the effective date of the ordinance codified in this chapter, insofar as they relate to sales taxes, excepting Sections 59-12-101 and 59-12-119 thereof, are adopted and made a part of this chapter as though fully set forth herein.

- a. Wherever, and to the extent that in Chapter 12 of Title 59, Utah Code Annotated, 1953, the state is named or referred to as the taxing agency, the name of this municipality shall be substituted therefor. Nothing in this subsection shall be deemed to require substitution of the name of the municipality for the word "state" when that word is used as part of the title of the State Tax Commission, or of the Constitution of the state, nor shall the name of the municipality be substituted for that of the state in any section when the result of that substitution would require action to be taken by or against the municipality or any agency thereof, rather than by or against the State Tax Commission in performing the functions incident to the administration or operation of this chapter.
- b. If an annual license has been issued to a retailer under Section 59-12-106 of the Utah Code Annotated, 1953, an additional license shall not be required by reason of this section.
- c. There shall be excluded from the purchase price paid or changed by which the tax is measured:
 - i. The amount of any sales or use tax imposed by the state of Utah upon a retailer of consumer;
 - ii. The gross receipts from the sale of or the cost of storage, use or other consumption of tangible personal property upon which a sales or use tax has become due by reason of the sale transaction to any other municipality and any county in the state under the sales or use tax ordinance enacted by that county or municipality in accordance with the Sales and Use Tax Act.

HISTORY

Adopted by Ord. [15-C](#) on 3/17/2015

4.03.040 Enactment Of Sales Tax Revenue Transfer For Transit Purposes

In addition to the other sales and use taxes authorized by law, there is hereby established, approved, and levied a sales and use tax of 0.25% upon retail sales (and/or other applicable sales), as set forth in Utah Code Ann. Title 59, Chapter 12 (and subject to any exemptions identified therein), with said sales and use tax revenue to be transferred to the Utah Transit Authority as set forth in law and in the Interlocal Cooperation Agreement, which was approved by Resolution 08-02, on or about January 10, 2008.

HISTORY

Adopted by Ord. [15-C](#) on 3/17/2015

4.03.050 Violation And Penalty

Any person violating any of the provisions of this chapter shall be deemed guilty of a misdemeanor, and upon conviction thereof, shall be punishable by a fine in an amount less than three hundred dollars (\$300.00) or imprisonment for a period of not more than six months, or by both such fine and imprisonment.

HISTORY

Adopted by Ord. [15-C](#) on 3/17/2015

4.04 Municipal Energy Sales And Use Tax

4.04.010 Definitions

1. **"Consumer"** means a person who acquires taxable energy for any use that is subject to the municipal energy sales and use tax.
2. **"Contractual franchise fee"** means a fee:
 - a. Provided for in a franchise agreement; and
 - b. That is consideration for the franchise agreement; or
 - c. A fee similar to subsection (2)(a) or (2)(b); or
 - d. Any combination of subsection (2)(a) or (2)(b).
3. **"Delivered value"** means the fair market value of the taxable energy delivered for sale or use in the municipality and includes:
 - a. The value of the energy itself; and
 - b. Any transportation, freight, customer demand charges, service charges, or other costs typically incurred in providing taxable energy in useable form to each class of customer in the municipality;

- c. Delivered value does not include the amount of a tax paid under Part 1 or Part 2 of Chapter 12, Title 59 of the Utah Code Annotated.
- 4. **"Energy supplier"** means a person supplying taxable energy, except for persons supplying a de minimus amount of taxable energy, if such persons are excluded by rule promulgated by the State Tax Commission.
- 5. **"Franchise agreement"** means a franchise or an ordinance, contract, or agreement granting a franchise.
- 6. **"Franchise tax"** means:
 - a. A franchise tax;
 - b. A tax similar to a franchise tax; or
 - c. Any combination of subsections (a) or (b).
- 7. **"Person"** means and includes any individual firm, partnership, joint venture, association, corporation, estate, trust, business trust, receiver, syndicated, this state, any county, city, municipality, district, or other local governmental entity of the state, or any group or combination acting as a unit.
- 8. **"Perry City"** or the **"City"** means the municipal corporate limits of Perry City, Utah.
- 9. **"Sale"** means any transfer or title, exchange, or barter, conditional or otherwise, in any manner, or taxable energy for a consideration. It includes:
 - a. Installment a. and credit sales;
 - b. Any closed transaction constituting a sale; and,
 - c. Any transaction under which right to acquire, use or consume taxable energy is granted under a lease or contract and the transfer would be taxable if an outright sale were made.
- 10. **"Storage"** means any keeping or retention of taxable energy in Perry City for any purpose except sale in the regular course of business.
- 11. **"Use"** means the exercise of any right or power over taxable energy incident to the ownership or the leasing of the taxable energy. Use does not include the sale, display, demonstration, or trial or taxable energy in the regular course of business and held for resale.
- 12. **"Taxable energy"** means gas and electricity.

HISTORY

Adopted by Ord. [15-C](#) on 3/17/2015

4.04.020 Municipal Energy Sales And Use Tax

There is hereby levied and imposed, subject to the provisions of this chapter, a tax on every sale or use of taxable energy made within Perry City equaling six percent (6%) of the delivered value of the taxable energy to the consumer. This tax shall be known as the municipal energy sales and use tax.

- 1. **Calculation.** The tax shall be calculated on the delivered value of the taxable energy to the consumer.
- 2. **No preclusion.** The tax shall be in addition to any sales or use tax on taxable energy imposed by the City authorized by Title 50, Chapter 12, Part 2 of the Utah Code Annotated, The Local Sales and Use Tax Act.

HISTORY

Adopted by Ord. [15-C](#) on 3/17/2015

4.04.030 Exemptions From The Municipal Energy Sales And Use Tax

No exemptions are granted from the municipal energy sales and use tax, except as expressly provided in Utah Code Annotated §10-1-305(2) (b); notwithstanding any exemption granted in accordance with Utah Code Annotated §59-1-104. The following are exempt from the municipal energy sales and use tax, pursuant to Utah Code Annotated §10-1-305(2)(b):

- 1. Sales and use of aviation fuel, motor fuel, and special fuels subject to taxation under Title 59, Chapter 13 of the Utah Code Annotated.
- 2. Sales and use of taxable energy that is exempt from taxation under federal law, the United States Constitution, or the Utah Constitution.
- 3. Sales and use of taxable energy purchased or stored for resale.
- 4. Sales or use of taxable energy to a person, if the primary use of the taxable energy is for use in compounding or producing taxable energy or a fuel subject to taxation under Title 50, Chapter 13 of the Utah Code Annotated.

5. Taxable energy brought into the state by a nonresident for the nonresident's own personal use or enjoyment while within the state, except taxable energy purchased for use in the state by a nonresident living or working in the state at the time of purchase.
6. The sale or use of taxable energy for any purpose other than as a fuel or energy; and, the sale of taxable energy for use outside the boundaries of the City.
7. The sale, storage, use, or other consumption of taxable energy is exempt from the Municipal Energy Sales and Use Tax levied by this chapter, provided:
 - a. The delivered value of the taxable energy has been subject to a municipal energy sales or use tax levied by another municipality within the state authorized by Title 59, Chapter 12, Part 3 of the Utah Code Annotated; and,
 - b. The City is paid the difference between the tax paid to the other municipality and the tax that would otherwise be due under this chapter, if the tax due under this chapter exceeds the tax paid to the other municipality.

HISTORY

Adopted by Ord. [15-C](#) on 3/17/2015

4.04.040 Existing Franchise Not Affected - Limitations

This chapter shall not alter any existing franchise agreements between the City and any other energy suppliers. There is a credit against the tax due from any consumer in the amount of a contractual franchise fee paid if:

1. The energy supplier pays the contractual franchise fee to Perry City pursuant to a recent franchise agreement;
2. The contractual franchise fee is passed through by the energy supplier to a consumer as a separately itemized charge; and
3. The energy supplier has accepted the franchise.

HISTORY

Adopted by Ord. [15-C](#) on 3/17/2015

4.04.050 Tax Collection Options

Upon direction from the city council, the city administrator is authorized to implement one of the following methods of administration and collection of the Municipal Energy Sales and Use Tax:

1. **State collection option.** The City may contract with the Utah State Tax Commission to perform all functions necessary for the administration and collection of the Municipal Energy Sales and Use Tax, in accordance with this chapter and the state laws and regulations relating to the administration and collection of the municipal energy sales and use tax by the Utah State Tax Commission. The mayor is hereby authorized to enter into supplementary agreements with the Utah State Tax Commission necessary to effectuate the administration and collection of the Municipal Energy Sales and Use Tax set forth in this chapter.
2. **Local collection option.** The city administrator may coordinate with any energy supplier to pay the Municipal Energy Sales and Use Tax revenues collected from consumers directly to the City as agreed in writing between the City and energy supplier. The mayor is hereby authorized to enter into supplementary agreements with the energy supplier necessary to effectuate the administration and collection of the Municipal Energy Sales and Use Tax set forth in this chapter. An energy supplier paying the Municipal Energy Sales and Use Tax directly to the City may deduct any contractual franchise fees collected by the energy supplier qualifying as a credit and remit the net tax less any amount the energy supplier retains as authorized by Utah Code Annotated §10-1-307(4).

HISTORY

Adopted by Ord. [15-C](#) on 3/17/2015

4.04.060 Incorporation By Reference

1. Except as herein provided, and except insofar as they are inconsistent with the provisions of Utah Code Annotated §10-1-305, as well as this chapter, all of the provisions of Part 1, Chapter 12, Title 50 of the Utah Code Annotated 1953, as amended, and in force and effect on the effective date of this chapter, insofar as they relate to sales and use taxes, excepting Utah Code Annotated §§59-12-101 and 95-12-119 thereof, and excepting for the amount of the sales and use taxes levied therein, are hereby adopted and made a part of this chapter as if fully set forth herein.

2. Wherever, and to the extent that in Part 1, Chapter 12, Title 50, Utah Code Annotated 1953, as amended, the State of Utah is named or referred to as the "taxing agency," the name of Perry City shall be substituted, insofar as is necessary for the purposes of that part, as well as Part 3 Chapter 1, Title 10, Utah Code Annotated 1953, as amended. Nothing in this subparagraph shall be deemed to require substitution of the name Perry City for the word "state" when that word is used as part of the title of the Utah State Tax Commission, or of the Constitution of Utah, nor shall the name of Perry City be substituted for that of the state in any section when the result of such substitution would require action to be taken by or against Perry City or any agency thereof, rather than by or against the Utah State Tax commission in performing the functions incident to the administration or operation of this chapter. Any amendments made to Part 1, Chapter 12, Title 59, Utah Code Annotated 1953, as amended, which would be applicable to Perry City for the purposes of carrying out this chapter are hereby incorporated herein by reference and shall be effective upon the date that they are effective as a Utah statute.

HISTORY

Adopted by Ord. [15-C](#) on 3/17/2015

4.04.070 License To Collect And Reporting Requirements

No additional license to collect or report the Municipal Energy Sales and Use Tax levied by this chapter is required, provided the energy supplier collecting the tax has duly issued license under Part 1, Chapter 12, Title 59 of the Utah Code Annotated.

HISTORY

Adopted by Ord. [15-C](#) on 3/17/2015

4.05 Municipal Transient Room Tax

4.05.010 Title

This Chapter shall be known as the "Perry City Municipal Transient Room Tax Ordinance."

HISTORY

Adopted by Ord. [15-C](#) on 3/17/2015

4.05.020 Purpose

The Utah Legislature authorizes municipalities to adopt an ordinance that imposes a one (1%) percent transient room tax. It is the purpose of this chapter to conform this tax to the requirements of the transient room tax in accordance with Part 3A of Chapter 12 of Title 59, Utah Code Annotated, 1953, as amended, or its successor statute. In accordance with Utah Code Annotated §59-12-352(4), 1953, as amended, the transient room tax imposed by this chapter may be used for general fund purposes.

HISTORY

Adopted by Ord. [15-C](#) on 3/17/2015

4.05.030 Transient Room Tax Imposed

The following regarding imposing the transient room tax:

1. There is hereby levied upon the business of every person, company, corporation, or other like and similar persons, groups or organizations, doing business in the City as motor courts, motels, hotels, inns or the like, and similar public accommodations, an annual license tax equal to one percent (1%) of the gross revenue derived from the rent for each and every occupancy of a suite, room or rooms, occupied for a period of less than thirty (30) days.
2. For purposes of this section, gross receipts shall be computed upon the base room rental rate. There shall be excluded from the gross revenue, by which this tax is measured:
 - a. The amount of any sales or use tax imposed by the state of Utah or by any other governmental agency upon a retailer or consumer;
 - b. The amount of any transient room tax or resort communities tax levied under authority of Section 3A of Chapter 12 of Title 59, Utah Code Annotated, 1953, as amended, or its successor statute;

- c. Receipts from the sale or service charge for any food, beverage or room-service charges in connection with the occupancy of the suite, room or rooms, not included in the base room rate; and
 - d. Charges made for supplying telephone service, gas or electrical energy service, not included in the base room rate.
3. The City may collect on the same basis and schedule as established for the transient room tax being collected by the Utah State Tax Commission. Every person or business taxed hereunder shall report and remit to the "collecting officer" (that person or entity designated by the City Administrator as responsible for collection of taxes) the amount of tax due for the period covered by the report. Unless otherwise designated, the "collecting officer" shall be the City Treasurer.
4. The City may contract with the Utah State Tax Commission or other agencies to perform all functions incident to the administration and operation of this chapter and is further authorized to participate in such enforcement measures, including but not limited to levies and other penalties, as may be established by the Utah State Tax Commission.
5. The City Administrator is hereby authorized to implement this chapter and to fulfill the necessary notice requirements set forth in Utah Code Annotated §59-12-355, 1953, as amended, including any additional subsequent requirements set by statute or by regulation of the Utah State Tax Commission.

HISTORY

Adopted by Ord. [15-C](#) on 3/17/2015

4.05.040 Penalties And Interest

In accordance with Utah Code Annotated §59-12-354(2)(c) and (4), 1953, as amended, there is hereby also imposed penalties and interest in amounts that are less than or equal to the penalties and interest rates authorized for the Utah State Tax Commission set forth in Utah Code Annotated §§59-1-401 and 59-1-402. As an additional penalty at the discretion of the municipality, any person, corporation, or entity violating any of the provisions of this chapter shall be deemed guilty of a class B misdemeanor, and upon conviction thereof, shall be punishable by a fine in an amount not less than \$1,000 or imprisonment for a period of not more than six months, or by both such fine and imprisonment.

HISTORY

Adopted by Ord. [15-C](#) on 3/17/2015

4.07 Index Of Annual Budget And Tax Rate Approvals (Reserved)

4.07.010 09-I - (Final Budget Amendment For Fiscal Year 08-09), Approved 06/11/09

HISTORY

Adopted by Ord. [15-C](#) on 3/17/2015

4.07.020 09-J (Final Budget FY 09-10), Approved 06/11/09

HISTORY

Adopted by Ord. [15-C](#) on 3/17/2015

4.07.030 09-Q Initialed Called 09-21 (Final Tax Rates And Budget FY 09-10), Approved 08/13/09

HISTORY

Adopted by Ord. [15-C](#) on 3/17/2015

4.07.040 10-I (Final Amended Budget FY 09-10), Approved 06/10/10

HISTORY

Adopted by Ord. [15-C](#) on 3/17/2015

4.07.050 10-J (Final Budget FY 10-11), Approved 06/10/10

HISTORY

Adopted by Ord. [15-C](#) on 3/17/2015

4.07.060 10-16 (Flat Tax Rate Adjustment), Approved 08/12/10

HISTORY

Adopted by Ord. [15-C](#) on 3/17/2015

4.09 Comprehensive Fee Schedule

4.09.010 Administration Fees

Code Violation Penalties:	
Per day code violation	\$100.00
Per day gravel pit ordinance violation	\$500.00
Municipal Code:	
Printed copy (all three main volumes, A to C)	\$75.00
Print copy (per volume)	\$25.00
Print copy: Public Works Standards Book (Title 76 of Vol. A)	\$15.00
Digital copy (per CD or DVD, all three volumes)	\$8.00
Copies: Including Documents, Maps, Etc.:	
Black & White 8.5" X 11 or 11" X 14" per page	\$0.25
Color Copies 8.5" X 11 or 11" X 14" per page	\$0.75
Black & White 11" X 17"	\$0.50
Color 11" X 17"	\$1.50
Larger Sizes available by request	
Return Check Fee:	
Return Check Fee	\$30.00
Accounts Receivable Re-billing Fee:	
Accounts Receivable Re-billing Fee	\$2.00
Administration Re-billing Fee (For Utility Billings):	
Administration Re-billing Fee (For Utility Billings)	\$2.00
Certified Copy:	
Certified Copy	\$5.00
Notarize A Document:	
Non-residents (per document)	\$5.00
Residents (one document per resident per day)	No Charge

Copies Of Digital Data (CD or DVD):	
Copies of digital data (CD or DVD)	\$8.00+ staff time for research (after first 15 minutes)
Facsimiles:	
First Page, Local Number	\$1.00
Each Additional Page, Local Number	\$0.50
First Page, Long Distance	\$2.00
Each Additional Page, Long Distance	\$1.00
Research, Compilation, Editing, Etc.:	
First 15 minutes	No Charge
Additional Time Per Hour	\$15.00
Audit:	
First Copy	No Charge
Each Additional Copy	\$10.00
Budget:	
First Copy	No Charge
Each Additional Copy	\$10.00
Gravel Pit Application Fee:	
Application Fee	\$300 + Actual Engineering Review Fees

HISTORY

Adopted by Ord. [15-C](#) on 3/17/2015

Amended by Ord. [17-H](#) Code Violation Penalties on 7/13/2017

Adopted by Ord. [18-A](#) Gravel Pit Application Fees on 1/11/2018

Amended by Ord. [20-M Fee Schedule](#) on 8/13/2020

4.09.020 Building Fees, Impact Fees And Penalties

Culinary Water Impact Fees:		
Description	ERU Conversion	Amount
3/4" Meter	1	\$2,877
1" Meter	1.67	\$4,805
1.5" Meter	3.33	\$9,580
2" Meter	5.33	\$15,334
3" Meter	10.67	\$30,697
4" Meter	16.67	\$47,959
6" Meter	33.33	\$95,889

8" Meter	53.33	\$153,428
Water Connection Fees:		
3/4" Meter		\$350.00
1" Meter		\$440.00
For Meters Larger than 1"		Cost of the Meter plus \$150.00
Sanitary Sewer Fees:		
Single Family Residential Impact Fee		\$5,250.00
Multi-Family Per Dwelling Unit Impact Fee		\$5,250.00
All Commercial Per ERU (Equivalent Residential Unit) Impact Fee		\$5,250.00
Sewer Connection Fee		\$50.00
Storm Water Impact Fees:		
Per ERU (Equivalent Residential Unit) NOTE: ERU is equal to 4,350 s.f. of impervious area		\$1,284.00
Public Safety Impact Fees:		
Residential Dwelling or Unit		\$243.22
Nonresidential per Sq. Ft.		\$0.12
Park Impact Fee:		
Residential Dwelling or Unit		\$2,000.00
Building Permit Deposit For Adjacent Improvements and Infrastructure, and Code Compliance:		
Deposit per Single Family Dwelling		\$4,000.00
Storm Water Connection Permit:		
Storm Water Connection Permit		\$50.00
Storm Water Construction Activity Permit:		
Storm Water Construction Activity Permit		\$650.00
Violations:		
Storm Water Violation		Up to \$1,000.00
Violation of the Perry City Public Works Standards for Development Design and Construction, PMC Title 14, or general inspection and permitting requirements related to Perry City infrastructure:		Up to \$750.00

HISTORY

Adopted by Ord. [15-C](#) on 3/17/2015

Amended by Ord. [20-J Amending Chapter 4.09 Comprehensive Fee Schedule](#) on 4/23/2020

Amended by Ord. [22-J Subdivision Amendments](#) on 8/25/2022

4.09.030 Monthly Utility Fees

Solid Waste (Garbage):	
1 st garbage can	\$10.50
Each extra garbage can	\$10.00
Garbage can replacement	\$10.00
Culinary Water:	
For those with Pine View Secondary Water:	
Base Rate	\$19.50*
0-10,000 Gallons	Included
10,001 – 20,000 Gallons	\$0.95
20,001 - < Gallons	\$2.00 per thousand
*An increase of 3% shall be applied annually on July 01, starting July 01, 2022.	
For those without Pine View Secondary Water:	
Base Rate	\$19.50*
0-15,000 Gallons	Included
15,001 – 30,000 Gallons	\$0.95
30,001 - < Gallons	\$2.00 per thousand
*An increase of 3% shall be applied annually on July 01, starting July 01, 2022.	
Storm Water:	
Storm Water Utility Fee imposed in accordance with Section 7.15.030 based on the ERU set forth therein.	\$6.00 per ERU
Sanitary Sewer¹:	
Single Family Residential	\$49.50
Multi-Family Residential, per ERU	\$49.50
Commercial, per ERU	\$49.50

HISTORY

Adopted by Ord. [15-C](#) on 3/17/2015

Amended by Ord. [16-C](#) on 6/9/2016

Amended by Ord. [20-M Fee Schedule](#) on 8/13/2020

Amended by Ord. [21-I Culinary Water Rates](#) on 6/10/2021

Amended by Ord. [22-H](#) on 6/23/2022

4.09.040 Annual Business License Fees

Home Business:	
Home Occupation	\$30.00
Professional Services/Contractor:	
Professional Services / Contractor	\$34.00
Wholesale/Retail Business:	
Wholesale / Retail Business	\$30.00
Medium Sized Retail Business:	
Medium Sized Retail Business	\$500.00
Big Box Stores:	
Big Box Stores	\$5,000.00
Construction:	
Construction	\$125.00
Automotive:	
Automotive	\$34.00
Gas Station/Convenience Store:	
Gas Station/Convenience Store	\$125.00
Food Sales/Fruit Stands:	
Food Sales/Fruit Stands	\$125.00
Large Scale Construction:	
Large Scale Construction	\$2,359.00
Live Performance:	
Live Performance	\$125.00
Movie Theater:	
Movie Theater	\$125.00
Public Lodging:	
Public Lodging	\$34.00
Rental:	
Rental (Plus \$10.00 Per Unit)	\$41.00+
Storage Units:	
Storage Units	\$125.00
Truck Stop:	
Truck Stop	\$2,608.00
Restaurant:	

Restaurant	\$125.00
Animal Kennel:	
Animal Kennel	\$50.00
Amusement Machines:	
Amusement Machines	\$30.00 each
Vending Machines:	
Vending Machines	\$5.00 each
Temporary:	
Temporary	\$34.00
Class A Beer License:	
Class A Beer License	\$225.00
Class B Beer License:	
Class B Beer License (if allowed by PMC Title 5, bus. license ordinance)	\$475.00
Public Exhibition:	
Public Exhibition	\$30.00 per day
Solicitors:	
Solicitors (ID required for all participants)	\$38.00/person
Late Fees (to be applied in addition to annual fee):	
30 Days After Due Date	+25% of annual fee
60 Days After Due Date	100% of annual fee

HISTORY

Adopted by Ord. [15-C](#) on 3/17/2015

Amended by Ord. [18-F](#) on 3/28/2019

Amended by Ord. [20-M Fee Schedule](#) on 8/13/2020

4.09.050 Land Use Fees

Zoning Map Amendment:	
Zoning Map Amendment	\$400.00
Annexation:	
Annexation	\$800.00
Subdivision Fees:	
Concept Application	\$100.00
Preliminary Subdivision Application:	
Residential Subdivision	\$300.00 plus \$100.00 per Lot

Commercial Subdivision	\$500.00 plus \$100.00 per Lot
Engineering and Design Application:	
Residential Subdivision	\$300.00 plus \$125.00 per Lot
Commercial Subdivision	\$500.00 plus \$125.00 per Lot
Final Plat Application:	
Residential or Commercial Subdivision	\$300.00 plus \$125.00 per Lot
Subdivision Amendment	\$400.00
Reimbursement Agreement Application	Varies
Vacate Fees:	
Vacate a Street, Alley, Right-of-way, etc.	\$300.00
Vacate a Subdivision	\$300.00
Site Plan Review (Design Review) and Conditional Use Permit Fees:	
Site Plan or Conditional Use Permit	\$300.00
Sign Permit	\$100.00
Land Use Appeals:	
Land Use Appeals and Variances	\$200.00
Temporary Use Permit:	
Temporary Use Permit Application	\$100.00
Accessory Dwelling Unit Application Fees:	
Application Fee	\$100.00
Other Special Use Permit Fees:	
Certificate of Existence for a Non-Conforming Use/Structure	\$50.00
Other Non-Conforming Use/Structure Application	\$150.00
Zoning/Boundary Policy Application	\$150.00
Land Use and Zoning Violations:	
Violation	Up to \$1,000.00 per day or incident

HISTORY

Adopted by Ord. [15-C](#) on 3/17/2015

Amended by Ord. [20-J Amending Chapter 4.09 Comprehensive Fee Schedule](#) on 4/23/2020

Amended by Ord. [20-M Fee Schedule](#) on 8/13/2020

Amended by Ord. [20-P Temporary Uses and Structures](#) on 9/24/2020

Amended by Ord. [20-T Signs](#) on 5/12/2021

4.09.060 Excavation Permit Fees

Penetration of Asphalt:

One Thousand Dollars \$1000.00 or \$.40 per sq. ft., whichever is greater.	
Five Hundred Dollars \$500.00 may be refunded after inspection and completion of work pursuant to Perry City's Public Works Standards for Development, Design, & Construction and within 15 days.	
Penetration of Gravel Surfaces:	
Five Hundred Dollars \$500.00 or \$.10 per sq. ft., whichever is greater.	
Two Hundred Fifty Dollars \$250.00 may be refunded after inspection and completion of work pursuant to Perry City's Public Works Standards for Development, Design, & Construction.	
Disturbance or Penetration of Curb and Gutter, Sidewalk, or Driveway Approaches:	
One Thousand Dollars \$1000.00 or \$.60 per sq. ft., whichever is greater.	
Nine Hundred Dollars \$900.00 may be refunded after inspection and completion of work pursuant to Perry City's Public Works Standards for Development, Design, & Construction.	
Boring, Jacking Or Tunneling:	
\$50.00. No Refund.	
Minimum Charge For Excavation (includes Boring, Jacking Or Tunneling):	
Hard Surface	\$60.00
Shoulder or Gravel Road	\$40.00
Other	\$20.00
Installation Of New Sidewalk, Curb And Gutter, And/or Driveway Approaches:	
Curb & Gutter per lineal foot	\$0.40
Sidewalk, Driveway Approaches per sq. ft.	\$0.10
Minimum Charge	\$30.00
"In Kind" Replacement Of Existing Sidewalk, Curb And Gutter, And/or Driveway Approaches (for Single Family Lots):	
Minimum Charge	\$30.00
Additional Fee For Cutting New Asphalt:	
1 yr. old or newer	\$300.00
1 yr. old to 2 yrs. old	\$250.00
2 yrs. old to 3 yrs. old	\$200.00
Additional Fee For Storm Sewer, Drainage And Water Pipelines:	
Regular excavation fees, plus per lineal foot of pipeline	\$0.40
Minimum Charge	\$30.00
Fees For Multiple Excavations:	
Multiple excavations shall be considered as a single excavation (for fee purposes) and shall be in accordance with the schedule(s) above if: (1) the distance between multiple excavations does not exceed one standard block (660 feet); and (2) the multiple excavations are accomplished within the same day. Otherwise, they shall be considered as separate excavations (for fee purposes).	

Miscellaneous Excavation Or Fill — Private Development:	
Minimum fees for the agency review and the permit and inspection of all on-site or off-site development related work shall be in accordance with the following schedule:	
Import or Export:	
1,000 cubic yards or more	\$30.00
Per cubic yard in excess of 1,000 cubic yards	plus \$0.02
Trench excavation or Fill:	
Exceeding 4' in depth or height	\$30.00
Per linear foot of trench	plus \$0.10
*Plus any applicable excavation fees, as per PMC 4.09.050.	

HISTORY

Adopted by Ord. [15-C](#) on 3/17/2015

Amended by Ord. [20-J Amending Chapter 4.09 Comprehensive Fee Schedule](#) on 4/23/2020

4.09.070 Park And Building Use Fees

Facility Reservation (Pavilions, etc.)- Residents:	
Residents (for up to 5 hours + \$5.00 for each additional hour)	\$35.00+*
Facility Reservation Non-Residents:	
Non-Residents (for up to 5 hours + \$7.00 for each additional hour)	\$45.00*
Special Events and/or Public Events:	
Reservation for up to 5 hours + \$7.00 for each additional hour(fee may be waived by the Mayor for Non-Profit Organizations)	\$50.00
Season Rates:	
Field reservations for team practices (for residents only)	\$2.00/hour*
Soccer Field Game:	
Any number of games for one calendar day	\$100.00
Mayor/Council/Employee Event Rate:	
Mayor/Council/Employee Event Rate	No Charge**
** No deposit. No cost for one event per year (up to 5 hours reserved) per current Perry City elected official or employee, and then at the regular residential rate thereafter. A "Community Party" (sponsored by a current Perry City elected official) counts as this one event per year.	
City-wide Event Rate:	
City-wide Event Rate	No Charge**
** No deposit. No cost to schedule the parks or buildings for City-wide, City-sponsored events, such as the Fourth of July celebration. All officially noticed City meetings shall have priority use of City buildings.	

Responsibility For "Cleanup":	
All individuals and groups are responsible to clean up after their events and activities. Refundable deposits may be kept by the City to pay for damage and/or cleanup. Perry City reserves the prerogative to not allow a certain individual or group to reserve any park or building after excessive damage and/or necessary cleanup.	

HISTORY

Adopted by Ord. [15-C](#) on 3/17/2015

Amended by Ord. [20-J Amending Chapter 4.09 Comprehensive Fee Schedule](#) on 4/23/2020

Amended by Ord. [20-M Fee Schedule](#) on 8/13/2020

4.09.080 Police Fees, Parking Citations, And Other Civil Penalties

Police Fees:	
Police Policy Manual (Printed Code)	\$50.00
Digital Policy Manual (USB Drive)	\$10.00
Administration, Including Copies Of Reports:	
Good Conduct Letter	GRAMA
Fingerprint, Resident	\$10.00 per card
Fingerprint, Non-Resident	\$25.00 per card
Incident Report (No Photos)	GRAMA
Digital Incident Report (Photos)	\$10.00 USB plus GRAMA
Printed Photos	\$1.00 per photo
Body Camera Video	\$10.00 USB plus GRAMA
GRAMA indicates the reasonable fees authorized in Utah Code §63G-2-203.	
Storm Water Drainage:	
Notice of Violation Issued, 1st Day, 24-hour remediation	No Charge
2nd Day	\$100.00
3rd Day	\$200.00
Each Subsequent Day	\$200.00
Overtime Parking (Posted Or Metered) Violation:	
If paid within 14 calendar days	\$10.00
If paid after 14 calendar days, but within 30 calendar days	\$40.00
If paid after 30 calendar days	\$70.00
Disabled Parking Violation:	
If paid within 14 calendar days	\$100.00
If paid after 14 calendar days, but within 30 calendar days	\$130.00

If paid after 30 calendar days	\$160.00
Expired Or Improper Registration Violation:	Reduced \$20.00 upon proof of registration.
If paid within 14 calendar days	\$40 (*\$20)
If paid after 14 calendar days, but within 30 calendar days	\$70 (*\$50)
If paid after 30 calendar days	\$100 (*\$80)
Restricted Parking Violations:	
If paid within 14 calendar days	\$30.00
If paid after 14 calendar days, but within 30 calendar days	\$60.00
If paid after 30 calendar days	\$90.00
All Other Parking Violations:	
If paid within 14 calendar days	\$20.00
If paid after 14 calendar days, but within 30 calendar days	\$50.00
If paid after 30 calendar days	\$80.00

HISTORY

Adopted by Ord. [15-C](#) on 3/17/2015

Amended by Ord. [22-N](#) on 9/22/2022

4.09.090 Animal Control Fees

Animal Control Fees:	
Code Violation - First Offense	\$100.00
Code Violation -Second Offense	\$250.00
Code Violation - Third Offense and thereafter	\$500.00
Expired License	\$50.00
Animal Impound Fees charged by animal shelter will be passed on to the animal owner.	
Animal Kennel: license required for each dog, plus ann. Bus. Lic. fee (PMC 4.09.040); and only allowed in certain zones (PMC 15.07.100 – Land Use Chart, page 1).	
Annual Animal Licenses:	
Dog, Unneutered or Unspayed	\$35.00
Dog, Neutered or Spayed	\$10.00
Duplicate or Replacement License	\$5.00
Late License Fee, After January 31st	\$15.00
As per PMC 9.05.080, there is no proration of fees for a new license for a partial year. Fees are waived for puppies being trained for guide schools or police service dogs.	
Department of Corrections Registration:	

Annual Registration	\$25.00

HISTORY

Adopted by Ord. [15-C](#) on 3/17/2015
Amended by Ord. [22-A Fee Schedule Amendment](#) on 1/27/2022
Amended by Ord. [22-N](#) on 9/22/2022

4.09.100 Uniform Fine Schedule

The amounts set forth in the Uniform Fine Schedule adopted by the Administrative Office of the Court of the State of Utah is hereby adopted by this reference for all applicable fines. Any violation under this Title that is not specified in the Uniform Fine Schedule adopted by the Administrative Office of the Court of the State of Utah is an infraction with a fine not to exceed \$750.00.

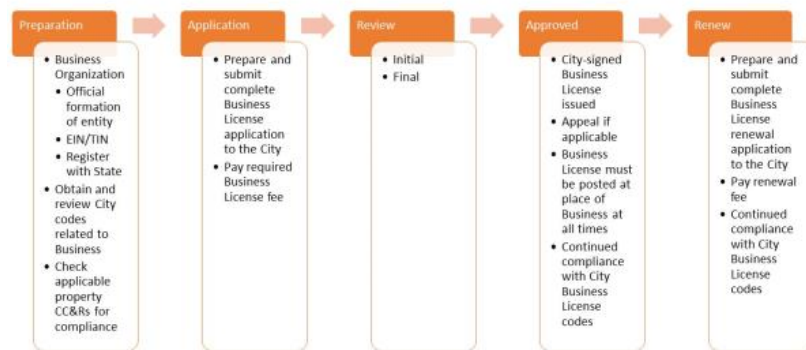
Adopted by Ord. [22-N](#) on 9/22/2022

5 Business Licenses And Regulations

5.01 Business Licensing

5.01.005 Steps To Obtaining A Business License

The following flowchart summarizes business licensing in the City. This graphic is for illustrative purposes only and is not specific or binding language.



HISTORY

Amended by Ord. [18-E](#) on 3/28/2019

5.01.010 Unlawful To Operate A Business Without A License

The City hereby prescribes that all businesses operating in the City shall be licensed for the purposes of regulation and revenue and shall also be subject to any applicable regulations established by ordinance. It shall be unlawful for any Person to engage in any business or similar operation within the City, whether on a temporary or permanent basis, without first procuring the license(s) required by this Title. All licenses under the provisions of this Title are non-transferable and expire as set forth in this Title.

HISTORY

Adopted by Ord. [15-C](#) on 3/17/2015

Amended by Ord. [18-E](#) on 3/28/2019

5.01.030 Adoption Of Study And Determination

1. **Study adopted.** The current Business License Fee Analysis adopted by the City (hereafter referred to as the "Study"), is hereby incorporated herein by this reference.
2. **Determination.** The city hereby determines what constitutes basic, disproportionate, and enhanced levels of Municipal Service as set forth in the Study based upon the amounts reasonably related to the costs for Municipal Service as identified in the Study.

HISTORY

Adopted by Ord. [15-C](#) on 3/17/2015

Amended by Ord. [18-E](#) on 3/28/2019

5.01.040 Uniform Business License Regulations

The following regarding uniform Business License regulations:

1. **Applicability:** The following types of Businesses are required to obtain a license before engaging in such business within the City:
 - a. Any Business.

- b. Any temporary Business.
 - c. Any Home Occupation.
 - d. A Solicitor (as defined in the PMC).
 - e. A Business leasing or renting residential apartment building(s) or house(s).
2. **Classification:** All Businesses shall be classified by the Licensing Authority, and any license fees shall be uniform in respect to the class upon which they are imposed.
3. **Applicability of other Laws:** It is the continuing duty of the Business owner to ensure that the Business is operating within the Law. Businesses in the City shall comply with the other applicable laws and ordinances that govern the Business, including, but not limited to:
- a. Applicable federal, state, and local law.
 - b. Applicable regulations enforced by any Regulating Authority.
 - c. Land use ordinances.
 - d. Applicable building and fire codes.
4. **Posting License Required:**
- a. It shall be the duty of any Person conducting a licensed Business in the City to display the Business License issued by the City. Such license shall be posted in a prominent place on the premises used for such Business at all times.
5. **Unlawful Uses of a License:** It is unlawful to do any of the following with a Business License:
- a. Counterfeit a license.
 - b. Deface or mutilate a license that is required to be posted
 - c. Steal or otherwise remove a license.
 - d. Sell or otherwise transfer any licenseto another.
 - e. Use a license beyond the scope for the Business for which it was issued.
 - f. Operate any licensed Business after expiration of the Business License or during a period when the Business License is revoked or suspended.
6. **License Period:** All licenses will be issued on Year-basis and shall expire as of December 31 of the issuing Year, regardless of the date issued.
7. **Branch Establishments:** A separate license must be obtained for each branch establishment or separate location of a Business engaged within the City, as if such branch establishment or location were a separate Business. Each Business License authorizes the licensee to engage only in the Business licensed at the location and in the manner designated in such license.
8. **Separate Businesses on Same Premises:** Where two or more Persons conduct separate Businesses at the same location, each such Person shall obtain a separate Business License for each such Business and must pay the required Business License fee for such Business.
9. **Inspections:** A Business License holder shall permit all reasonable inspections of his/her Business by the Licensing Authority, Business License Inspection and Enforcement Authority or a duly authorized representative of any legal regulating authority.
10. A Business License holder shall ensure that contact information supplied to the City for purposes of notification is kept current.
11. **Qualifications of Business License Applicants:**
- a. Character: To procure a City Business License the City may consider the character of the applicant as follows:
 - i. all criminal convictions of the applicant, the reasons therefor and his/her demeanor subsequent to such conviction;
 - ii. the Business License history of the applicant and whether such Person, in previously operating in the State or another state under a business license, has had such business license revoked or suspended, the reasons therefor, and the demeanor of the applicant subsequent to such action; and
 - iii. any additional facts concerning the applicant's moral character that are relevant to the operation of the Business for which a Business License application has been made and its effect on the public.
 - b. Prior Defaults: A Business Licensing Authority may refuse to grant a Business License to any applicant who has willfully refused previously to comply with the provisions of this Title where compliance was required, or who is indebted to the City on any past due obligation (unless operation of the Business will remedy the past due obligation).
12. **Zoning Conflict.** No Business License shall be granted to any Business License applicant where the conduct of the proposed Business will constitute a violation of PMC Title 15. Each Business License applicant shall present with his/her application evidence to the effect that the proposed use of the premises upon which the Business is to be conducted is not a violation of PMC Title 15. Any Business License issued contrary hereto is void. An application for business license may be denied if there are existing violations on the property for which the license is requested.

13. Exceptions from Business Licensing Requirements:

a. A Business License shall not be required for the following:

- i. An Person engaged in business for solely religious purposes who is tax exempt in such activities under the laws of the United States and the State and registered as a non-profit organization.
- ii. Any Person exempted by State law.
- iii. Any Business:
 - (1) holding valid license issued or exempt in the local jurisdiction in which the licensee has its place of business within the State of Utah, and
 - (2) registered by the State.
- iv. Any Person selling surplus household goods or furnishings:
 - (1) at a private residence in the garage or yard, if such sales are held less than ten days in a year, or
 - (2) as part of a City-sponsored community-wide event.

HISTORY

Adopted by Ord. [15-C](#) on 3/17/2015

Amended by Ord. [18-E](#) on 3/28/2019

5.01.050 Business License Application

1. New Business:

- a. Application Form and Filing: An application for a new Business License shall be made in the form and manner provided by the Licensing Authority and shall be filed with the Licensing Authority.
- b. Application Contents: The application shall include at least the following:
 - i. The name, State of Utah business registration number and location of the Business. Business name must be registered with the State of Utah prior to submitting application.
 - ii. The name of the applicant.
 - iii. The type of entity under which the business is organized, as applicable.
 - iv. The name and address of the registered agent with Utah Department of Commerce who is authorized to receive service of process and any communication regarding the applicant's license, as applicable.
 - v. The Business's state sales tax reporting numbers as applicable.
 - vi. Provide the state contractor's license number, state real estate broker's license number, or other professional license number issued by the state or a Regulating Authority, if applicable, and a copy of documentation evidencing current registration or licensure.
 - vii. Provide information relating to the purpose and general operation of the Business, including:
 - (1) Its primary operation and function.
 - (2) Building square footage, site frontage, and dimensions of its building and grounds.
 - (3) An overall site plan including parking and traffic flow information.
 - (4) Whether it engages in the sale of liquor or beer.
 - (5) Whether it is a Home Occupation, and if it is a Home Occupation, the following information:
 - (A) Days and hours of operation.
 - (B) The number of employees.
 - (6) Whether it engages in the handling or use of hazardous material or explosives, or hazardous activities).
 - (7) Emergency contact information.
 - viii. A statement:
 - (1) Consenting to permitting and complying with the inspections required by this Title, and;
 - (2) Certifying the completeness and accuracy of the information provided in and with the application.
 - ix. Signature block.
 - x. Any additional information required by the Licensing Authority on the application to assist in the regulation of a Business or as may be needed for the purpose of issuing the license including approvals from other Regulating Authorities.

2. Renewal of Existing Licensed Business:

- a. Application Form and Filing: An application for the renewal of an existing Business License shall be made in the form and manner provided by the Licensing Authority and shall be filed with the City's Licensing Authority.
- b. Application Contents: The application for renewal shall include at least the following:
 - i. The name of the Business.
 - ii. The name of the applicant.
 - iii. The City-assigned Business License identification number, if available.
 - iv. A statement certifying that nothing about the Business has changed since the last Business License application submission to the City, with space provided for the applicant to indicate any exceptions to this statement.
 - v. A statement:
 - (1) Consenting to permitting and complying with the inspections required by this Title, and;
 - (2) Certifying the completeness and accuracy of the information provided in and with the application.
 - vi. Signature block.

3. **Business to Provide Updated Information:** The applicant or his designee is responsible to provide to the Licensing Authority, in writing, updated information relating to any change in the information in the application within ten (10) days of the change.

HISTORY

Adopted by Ord. [15-C](#) on 3/17/2015

Amended by Ord. [18-E](#) on 3/28/2019

5.01.060 Business License Fees

The following regarding business license fees:

1. **Business license fees imposed and levied shall be on:**
 - a. A annual basis
 - b. According to the classifications of businesses specified in the Business License Fee Schedule
 - c. And in the amounts described therein.
2. **Fees may be established by Resolution:** The Business License Fee Schedule may be adopted by resolution based upon the basic level of services, disproportionate costs, and enhanced costs of regulating each class of business.
3. **Applicant to Pay License Fee:** Any applicant for a Business License must include the fee with any application upon filing of an application. The fee shall be in an amount equal to the fee designated on the Business License Fee Schedule for the classification of the business as assigned by the Licensing Authority. Annual renewal fees shall be made in the same manner. No application for a Business License shall be reviewed and no Business License shall issued until all fees are paid. The applicant of a new business starting after January 1 shall be issued a business license for the unexpired portion of the year; no proration of Business License fees is allowed.
4. **Due Date:** Fees for Business License renewals shall be due and payable on or before January 1 of the Year for which the Business License has been applied for.
5. **Late Fees and Penalties:** The following late fees apply to any person who engages in business prior to obtaining a Perry City Business License or fails to renew a license after such expires while continuing to operate the Business:
 - a. Late fees: As indicated in the Comprehensive Fee Schedule of the PMC. These fee shall continue to accrue for each year the Business operates without a license, except where such accrual is waived for good cause by the Licensing Authority.
 - b. If the license is not renewed after one year from the due date the license shall be revoked. In order to conduct business the business owner shall make application for a new license and pay the license fee plus the past license fees, late fees, and penalties for the time in which they operated without a renewed license.
 - c. Any Business License fee due and unpaid under this Title, and all penalties thereon, shall constitute a debt to the City and may be collected by court proceedings in the same manner as any other debt or may be turned over to a collection agency, which remedy shall be in addition to all other existing remedies.
 - d. Any license fee, and all late fees and penalties thereon, shall constitute a debt to the City and may be collected by court proceedings in the same manner as any other debt or may be turned over to a collection agency, which remedy shall be in addition to all other existing remedies.
 - e. The payment of late fees does not relieve any person from fully complying with all other requirements of law, nor from any other prescribed penalties.

6. **Refund Policy:** Unless otherwise provided herein, no Business License fee is refundable for any reason whatsoever once the license has been issued. If a Business License is denied or is withdrawn by applicant before approval, the applicant, shall be entitled to a refund of the amount paid in excess of \$75.00 which shall be retained to offset application processing costs.

HISTORY

Adopted by Ord. [15-C](#) on 3/17/2015

Amended by Ord. [18-F](#) on 3/28/2019

Amended by Ord. [20-M Fee Schedule](#) on 8/13/2020

5.01.080 Licensing Authority, Review Authorities, And Other Authorities

The City Council hereby designates the following authorities related to Business Licensing and their attendant powers and responsibilities:

1. Licensing Authority.

- a. The Licensing Authority shall be the City planner

i. Licensing Officers

(1) A licensing officer is designated by and operates under the direction of the City Planner.

- b. **Responsibilities:** The Licensing Authority, with assistance from Licensing Officers and City Staff, is required to administer the provisions of this Title. The Licensing Authority shall:

- i. Receive Business License applications and fees forwarding the same to the appropriate parties as applicable.
- ii. Classify the Business within the appropriate category contained in the Business License Fee Schedule based upon the information supplied in the application, and as such information may be supplemented by the Inspection and Enforcement Authority.
- iii. Request additional information from Business License applicants or existing City business licensees when questions arise or to verify the accuracy of information provided to the City by the same in conjunction with business licensing activities.
- iv. Coordinate inspections, investigations and enforcement with the Inspection and Enforcement Authority.
- v. Bill and collect renewal license information and fees and forward the same to the appropriate parties as applicable.
- vi. Maintain municipal records and information regarding Business Licenses. Such maintenance activities shall be conducted in compliance with applicable State records retention policies.
- vii. Forward any information or matters involving a Business License to the appropriate authority, as applicable.

viii. Approve or deny Business Licenses and issue the license:

- (1) Following Business License approval, prepare the Business License, including the signature(s) of the Mayor and/or Licensing Authority.

(A) The Business License shall:

- i. Specify by name the person, firm, or corporation to whom it is issued.
- ii. Designate the location where the Business shall be conducted.
- iii. Specify the classification of the Business and license number.
- iv. Include the statement that "This Business License is not transferable and is valid until expiration, revocation by Perry City and/or in the event of nonpayment of required Business License fees."
- ix. The City shall notify a Business License applicant, existing licensee, or other designated party for the same of the status or any action, including issuance, denial, suspension or revocation, relating to a Business License application or Business License.

2. Business License inspection and Enforcement Authority.

- a. The Licensing Authority may designate one or more Inspection and Enforcement Authorities to administer the provisions of PMC for any proposed or existing Business within the jurisdiction of the City. Any law enforcement officer of any jurisdiction shall be considered an ex-officio Business License Inspection and Enforcement Authority under this Title. An Inspection and Enforcement Authority shall be responsible to:

i. Conduct Code Inspections: Inspections may be conducted by the Inspection and Enforcement Authority as follows:

- (1) Prior to the issuance of a new or modified Business License at a given location, the Business License applicant or licensee shall permit inspection of the Business premises by the Inspection and Enforcement Authority to ensure compliance with the law and PMC.

- (2) Ongoing inspection of any Business or Business premises may be conducted by the Inspection and Enforcement Authority any time during business hours, or as otherwise arranged, to monitor ongoing compliance with PMC and other applicable law.
- ii. Conduct Investigations: Investigations may be conducted relating to any proposed Business to verify the accuracy of the information relating to its application, or responding to issues and complaints relating to any existing Business.
- iii. Coordination:
 - (1) Coordinate investigations and enforcement with the Licensing Authority.
 - (2) Assist the designated parties as directed with the City's Administrative Code Enforcement procedures for issues relating to a Business License.
- iv. Business License, Denial, Suspensions or Revocation:
 - (1) Recommend to the Licensing Authority that a Business License be denied, suspended or revoked.
 - (2) Forward matters involving Business License denial, suspension or revocation to the appropriate Licensing Authority.

3. Business License Appeal Authority.

- a. The Business License Appeal Authority shall be the Hearing Officer and shall:
 - i. Hear and decide all appeals under this Title, including decisions of the Licensing Authority and any appeal involving denial, revocation, suspension or disputed Business classification.
 - ii. Act in quasi-judicial manner and serve as the final arbiter of issues involving the interpretation of applicable law.
 - iii. Exercise other power and duties prescribed by Law or assignment.

HISTORY

Adopted by Ord. [15-C](#) on 3/17/2015

Amended by Ord. [18-F](#) on 3/28/2019

5.01.110 Business License Denial, Suspension, And Revocation

The City has cause to deny, suspend, or revoke a Business License if the Business License applicant or licensee:

1. Obtained a Business License by fraud or deceit.
2. Otherwise provided false or incomplete information on its Business License application to mislead any City official, the Licensing Authority, a Regulating Authority, or an Inspecting and Enforcement Authority
3. Failed to update its information on its application as provided in this Title or fully pay required Business License fees.
4. Failed to pay any duly imposed property taxes, other taxes, or fees imposed by the City.
5. Failed to meet the requirements for issuance of a Business License set forth in the PMC.
6. Violated Law relating to the Business for which a Business License has been applied or issued.

HISTORY

Adopted by Ord. [15-C](#) on 3/17/2015

Amended by Ord. [18-F](#) on 3/28/2019

5.01.130 Appeal

A Person may appeal a decision made under this Title to the Business License Appeal Authority. An appeal shall:

1. Not be heard by the Business License Business License Appeal Authority until after the Licensing Authority has made a final decision or taken a final action.
2. Be filed by a Written notice of appeal filed with the Licensing Authority within ten (10) days of the notice of a decision or action by the Licensing Authority.
3. Have no appeal fee, but all applicable Business License fees should have already been paid by the deadline as a pre-requisite to the appeal.
4. Be heard by the Business License Appeal Authority within a reasonable time after the filing of a notice of appeal.
5. Require that the Business License Appeal Authority follow the same applicable rules and regulations
 - a. Used by a land use appeal authority as set forth in PMC Title 15, and

- b. in the City's Administrative Code Enforcement program as set forth in PMC Title 17, as such appropriately apply.
6. Require that decisions of a Business License Appeal Authority become effective immediately (assuming the Business License Appeal Authority issues an oral decision at a public meeting); otherwise, decisions of a Business License Appeal Authority become effective as soon as they are made available in writing or to the public.
 7. Require that no lawsuit may be filed in district court by any Business Authority, Business License, Business Appeal applicant for any denial, suspension, or revocation of a Business License, or any Authority, other Business License Appeal by a Licensing Authority, or Business License Appeal Authority, until the appeal remedies of this Title are exhausted. An appeal to district court may only be made within 30 days of the final decision or action by a Licensing Authority, Business License Authority Appeal Authority (or as otherwise allowed by Law), which is the final decision or action of the of the City.
 8. **General Provisions.** No Person may challenge in district court any decision of the City relating to a Business License until that person has complied with the appeal procedures of this Title and exhausted all remedies thereunder. No adversely affected party shall present a theory of relief in district court that was not first presented to the Business License Appeal Authority. Adversely affected parties are precluded from pursuing duplicate or successive appeals before the Business License Appeal Authority as authorityAuthorityas a condition of the adversely affected party's duty to exhaust remedies in this Title.

HISTORY

Adopted by Ord. [15-C](#) on 3/17/2015

Amended by Ord. [18-F](#) on 3/28/2019

5.01.140 Penalties

In addition to the other penalties provided by law for a violation of this Title, the following penalties apply:

1. For engaging in activities in violation of this Title there is imposed:
 - a. Civil Penalties shall be imposed according to Title 17 of PMC, Administrative Code Enforcement Program.
2. **Criminal Penalties:**
 - a. A Class B misdemeanor, and each day a violation continues constitutes a separate offense.

HISTORY

Adopted by Ord. [15-C](#) on 3/17/2015

Amended by Ord. [18-F](#) on 3/28/2019

5.03 Alcohol Beverages

5.03.010 Definitions

The following definitions apply in this chapter:

1. The definitions set forth in Utah Code Annotated §32A-1-105, 1953, as amended, or its successor statute, are adopted and incorporated herein by this reference.
2. **"Alcohol or alcoholic beverage"** means both "beer" and "liquor" collective when referenced in this chapter, unless otherwise distinguished.
3. **"Alcoholic Beverage Control Act"** means Title 32A of the Utah Code Annotated, or its successor statute.
4. **"Enforcement officer"** means any law enforcement officer or the person designated by the City Administrator to enforce this chapter.
5. **"Local authority"** means the Perry City and its enforcement officers.
6. **"Licensing authority"** means the local official designated by the local authority to issue business licenses, or the city recorder in absence of such official.

HISTORY

Adopted by Ord. [15-C](#) on 3/17/2015

5.03.020 Identification Of License Classifications

In accordance with Utah Code Annotated §32A-10-101, licenses to sell an alcoholic beverage issued hereunder shall be of the following six (6) classes and shall carry the following privileges:

1. Class "A" retail licenses issued hereunder shall entitle the licensee to sell on the premises licensed in original containers for consumption off the premises in accordance with the Utah Alcoholic Beverage Control Act and the ordinances of the local authority.
2. Class "B" retail licenses (for restaurants) shall entitle the licensee to sell a patron alcohol, a maximum of two (2) alcoholic beverages per customer, to be served on the premises for consumption by the patron on the premises in conjunction with the sale of food in accordance with the Alcoholic Beverage Control Act and the ordinances of the local authority, as per Utah Code Section 32A-1-105(54), cited as follows:
 - a. Restaurant" means a business establishment:
 - i. where a variety of foods are prepared and complete meals are served to the general public;
 - ii. located on a premises having adequate culinary fixtures for food preparation and dining accommodations; and
 - iii. that is engaged primarily in serving meals to the general public.
3. Class "C" retail license shall entitle the licensee to sell draft beer for consumption on or off the premises and to sell beer in accordance with the Alcoholic Beverage Control Act and the ordinances of the local authority.
4. Class "D" retail license shall entitle the licensee to sell alcohol for consumption on or off the premises in accordance with the Alcoholic Beverage Control Act and the ordinances of the local authority.
5. Class "E" retail or wholesale license shall entitle the licensee to sell an alcoholic beverage in accordance with the Alcoholic Beverage Control Act and the ordinances of the local authority.
6. Class "F" a temporary license of any class issued for a period of time not to exceed one (1) year.

HISTORY

Adopted by Ord. [15-C](#) on 3/17/2015

5.03.030 Authorized License Classifications And License Fees

The local authority shall only issue a license to sell alcohol for the license classifications authorized in this section. In accordance with Utah Code Annotated §32A-11-102(2)(b), in addition to business license fees imposed by the local authority, including any accrued late fees, an annual application/license fee for the sale of alcohol is hereby imposed as set forth in this section. In the event that the local authority is required to issue a license for the sale of alcohol to an applicant by a governing authority or jurisdictional court, the annual application/license fee shall be paid as follows. The annual application/license fee for all other classes of licenses is also as follows:

1. Class "A" License: \$225.00 for the initial application and each annual license renewal.
2. Class "B" License: \$475.00 for the initial application and each license annual renewal.
3. Class "C" License: No Class "C" licenses are authorized by the local authority.
4. Class "D" License: No Class "D" licenses are authorized by the local authority.
5. Class "E" License: No Class "E" licenses are authorized by the local authority.
6. Class "F" Temporary License: No Class "F" or similar temporary-type licenses are authorized by the local authority.

HISTORY

Adopted by Ord. [15-C](#) on 3/17/2015

5.03.040 Licensing Requirements

1. **License required.** It is unlawful for any person to engage in the business of selling an alcoholic beverage within the city without first obtaining the licenses required by this chapter.
2. **Administration.** The city recorder shall administer this chapter under the direction of the city administrator.
3. **Application and fee.** Any person seeking a license to sell an alcoholic beverage shall submit a written application to the city recorder as provided for in this chapter which shall be accompanied by the appropriate application/license fee required. All but \$100.00 of the application/ license fee is refundable in the event that the application is denied (the \$100.00 nonrefundable amount is to cover the time and expense to process the application). However, the applicant is given thirty (30) days after notice from the city of a deficiency to cure a denied or defective application without the requirement of repayment of the application/ license fee.

4. **Information required.** All applications for a license to sell an alcoholic beverage shall be made in writing upon the form provided by the city recorder. The application shall state:
 - a. The name of the person desiring a license to sell an alcoholic beverage.
 - b. The name of the business.
 - c. The location where business is to be conducted.
 - d. The names of all partners holding more than a twenty percent (20%) interest in the business.
 - e. The class of license sought.
 - f. Other information specified on the application as determined by the city administrator, or any other information required by ordinance or statute.
5. **Review and approval.** An application that complies with this chapter shall be issued by the city recorder after review and approval by the licensing authority. An application that does not meet the requirements of this chapter shall be denied by the licensing authority.
6. **License owner.** A license for the sale of alcohol is issued in the name of the business operator or owner rather than the name of the business. In the event of a change of the business operator or ownership, a new application and license is required along with a \$25.00 processing fee (this fee is to cover the time and expense to process the application, and avoids the unnecessary expense of an additional annual business license fee).
7. **Nontransferable.** Licenses issued under this chapter are not transferable.
8. **Renewal.** A license issued under this chapter shall be renewed annual in conjunction the renewal schedule for business licenses.
9. **Display.** The holder of a license issued under this chapter shall display in a conspicuous location the licensee issued by the licensing authority along with any license issued by governing state agency for the sale of any alcoholic beverage.
10. **Time limit on operation.** If a holder of a license issued under this chapter fails to open or to conduct business within the jurisdiction of the local authority for a period of one (1) year after issuance of the license, then said license is void and a new application and fee must be submitted and approved by the licensing authority.

HISTORY

Adopted by Ord. [15-C](#) on 3/17/2015

5.03.050 Inspection And Enforcement

The licensing official or enforcement official may conduct an inspection regarding any license issued under this chapter to assure compliance with applicable law. The holder of a license issued under this chapter, by accepting said license, irrevocably consents to allow the inspection and search of the licensed premises by any the licensing officer and/or the enforcement officer for any alcoholic beverage or for any other goods illegally possessed or kept, or for any evidence of any alleged alcohol related crime under investigation by law enforcement. The licensee further consents to the seizure of alcohol that exceeds that classification limits set upon the license holder or alcohol related property in violation of this chapter.

HISTORY

Adopted by Ord. [15-C](#) on 3/17/2015

5.03.060 Restrictions

The following restrictions in this section apply to all license classes and persons.

1. **State law.** It is unlawful to sell alcohol in violation of the Utah Alcoholic Beverage Control Act, or its successor.
2. **Municipal code.** It is unlawful for a applicant or licensee to violate the municipal code or any terms of the license issued under this chapter.
3. **Limits on hours.** It is unlawful for a person or any class of licensee to sell or otherwise furnish a patron or other person with an alcoholic beverage during the hours from one o'clock (1:00) A.M. to six o'clock (6:00) A.M.
4. **Exceed license.** It is unlawful to sell an alcoholic beverage except in the manner for which he has been so licensed pursuant to the provisions of this chapter.
5. **Licensed premises.** It is unlawful for any licensee to sell an alcoholic beverage anywhere within the city, except upon or within the premises licensed for such sale.

6. **Advertising and promotions limitations.** It is unlawful to advertise the sale of an alcoholic beverage, except in full compliance with the Alcoholic Beverage Control Act and regulations duly made thereunder by the state. It is unlawful for any licensee to give away or offer a free lunch, free food, or similar promotion in connection with the sale of an alcoholic beverage.
7. **Intoxicated person.** It is unlawful to sell an alcoholic beverage to a person who appears to be intoxicated by drugs or alcohol, or who is under the influence of any intoxicating beverage.
8. **Under age.** It is unlawful to sell an alcoholic beverage to any person under the age of 21, or allow a person under the age of 21 years to sell the same.
9. **Unlawful product.** It is unlawful for any licensee to purchase or acquire or allow to be kept upon the licensed premises any alcoholic beverage not lawfully acquired from a brewer or wholesaler licensed under the provisions of the Alcoholic Beverage Control Act, or as part of a duly approved micro-brewery. It is unlawful for any licensee keep a any liquor product on the licensed premises that exceed the scope of the license class or violates the Alcoholic Beverage Control Act.
10. **Gambling.** It is unlawful for any licensee to have, possess, store or display upon the licensed premises any gambling or gaming device or any lottery tickets, or to allow any such device or tickets to be brought upon the premises for any purpose.
11. **Access.** It is unlawful for any serving area, door, or entryway to be locked or barricaded in any way so as to interfere with the free entrance to the licensed premises by any enforcement officer at any time while the premises is occupied or open to the public. However, licensee may maintain upon the premises a locked storeroom for the keeping of goods and supplies used in the business.
12. **Lookouts and warning devices.** It is unlawful for any person commonly known as a "lookout" to be stationed or maintained to give warning of an approach of any enforcement officer. It is unlawful to maintain or operate any device which is used or capable of being used to give warning to persons of the approach of an enforcement officer.
13. **Respondeat superior.** The licensee shall be responsible under this chapter for all of the activities of his employees and hereunder, the licensee unconditionally guarantees to the city that neither he nor his employees will violate the terms of this chapter, and for breach of such guarantee, the license may be revoked. It is unlawful for the owner or any licensee to:
 - a. Fail to maintain full control of the conduct of the business upon the licensed premises.
 - b. Fail to inform employees of the requirements of law relating to the sale of alcohol in the state of Utah.
 - c. Fail to maintain control of employees.
14. **Adverse action.** It is unlawful for any person to sell an alcoholic beverage after the revocation or suspension of any license issued to said person.
15. **Set-backs.** It is unlawful to operate a business where an alcoholic beverage is sold at retail for off-premise consumption within the set-back distance of a "community location" as defined in Utah Code Annotated §32A-1-105(14), according to the specified set-back distances for each class of license set forth in Title 32A of the Utah Code Annotated, unless the establishment pre-existed this chapter or is granted a variance to this part by the city council.
16. **Restricted activities.** It is unlawful to sell an alcoholic beverage at:
 - a. At a dance or dance hall.
 - b. At a public activity or on public property.
 - c. At a sexually-oriented business.
 - d. At a theater or cinema.
17. **Nuisances.** It is unlawful to keep or maintain a nuisance that results from the sale of an alcoholic beverage.

HISTORY

Adopted by Ord. [15-C](#) on 3/17/2015

5.03.070 Suspension And Revocation

Any enforcement officer may suspend or revoke a license issued under this chapter as follows:

1. **Suspension.** If a licensee has been issued a warning or citation for a violation of this chapter and a second violation occurs within a one (1) year period, then the enforcement officer may suspend a license for up to thirty (30) day. In lieu of a suspension, the enforcement officer may issue a civil penalty not to exceed \$1,000.00 for a violation of this chapter, unless a different fee is identified in the Fee Schedules (PMC 4.09).
2. **Revocation.** An enforcement officer may revoke a license issued under this chapter if a license has another violation of this chapter where a suspension has been made within a one (1) year period prior to the violation. Any revocation made under this chapter shall continue for a period of one (1) year after which an applicant may resubmit an application under this chapter.

3. **Education requirement.** An enforcement officer may issue a suspension to any licensee for a violation of Utah Code Annotated §32A-1-401, or follow the procedure in this section as set forth for any adjudicative proceeding or otherwise. In lieu of suspension and based upon the facts and circumstances, the enforcement officer may impose a fine of up to \$250 against any off-premise beer retailer for a violation of this part, unless a different fee is identified in the Fee Schedules (PMC 4.09).
4. **Operational requirements.** It is cause for immediate revocation or suspension for a licensee who violates the operational requirements of Utah Code Annotated §§32A-4-106 and 32A-4-307, depending upon the severity of the violation(s).

HISTORY

Adopted by Ord. [15-C](#) on 3/17/2015

5.03.080 Appeals

All appeals shall be filed pursuant to the provisions of PMC 5.01.130.

HISTORY

Adopted by Ord. [15-C](#) on 3/17/2015

5.03.090 Penalties

In addition to other remedies allowed by law or applicable civil penalties provided by ordinance or statute, each violation of this chapter is a class B misdemeanor.

HISTORY

Adopted by Ord. [15-C](#) on 3/17/2015

5.05 Residential Solicitation

5.05.010 Purpose

The following regarding the purpose of this Chapter:

1. **General Statement of Purpose:** Residents of the City have an inalienable interest in their personal safety, well-being, and privacy in their residences, as well as their ability to provide or receive information regarding matters of personal belief, political or charitable activities, and goods and services lawfully in commerce. The City has a substantial interest in protecting the well-being, tranquility, personal safety, and privacy of its citizens, which includes the ability to protect citizens from unwanted intrusions upon residential property. The City also has a substantial interest in protecting citizens from fraud or otherwise unfair consumer sales practices as well as criminal activity.
2. **General Statement of Policy:** There must be a balance between these substantial interests of the City and its citizens, and the effect of the regulations in this chapter on the rights of those who are regulated. Based on the collective experiences of City officials derived from regulating business activity, protecting persons and property from criminal conduct, responding to the inquiries of citizens regarding door-to-door solicitation, the experience of its law enforcement officers and those affected by door-to-door canvassing and solicitation, as well as judicial decisions outlining the boundaries of constitutional protections afforded and denied persons seeking to engage in door-to-door solicitation, the City adopts this chapter to promote the City's substantial interests in:
 - a. Respecting citizen's decisions regarding privacy in their residences;
 - b. Protecting persons from criminal conduct;
 - c. Providing equal opportunity to advocate for and against religious belief, political position, or charitable activities; and
 - d. Permitting truthful and non-misleading door-to-door solicitation regarding lawful goods or services in intrastate or interstate commerce.
3. The City finds that the procedures, rules and regulations set forth in this Chapter are narrowly tailored to preserve and protect the City interests referred to herein while at the same time balancing the rights of those regulated.

HISTORY

Adopted by Ord. [15-C](#) on 3/17/2015

5.05.020 No Other City License Or Approval Required

The following exemptions are:

1. **Registered and Exempt Solicitors:** Registered solicitors and persons exempt from registration by law need not apply for, nor obtain, any other license, permit, or registration from the City to engage in door-to-door solicitation in addition to the requirements of this chapter.
2. **General Business License does not Authorize Solicitation:** Any business licensed by the City under another City ordinance that uses employees, independent contractors, or agents for door-to-door solicitation in an effort to provide any tangible or intangible benefit to the business, is required to have its solicitors obtain a certificate, unless otherwise exempt.
3. **No General Business License if not in City:** Those responsible persons or entities associated with registered solicitors need not apply for, nor obtain, any other license, permit, or registration from the City, provided they do not establish a temporary or fixed place of business in the City.
4. **Licensing Required by Another Governmental Authority:** Nothing herein is intended to interfere with or supplant any other requirement of federal, state, or other local government laws regarding any license, permit, or certificate that a registered solicitor is otherwise required to have or maintain.

HISTORY

Adopted by Ord. [15-C](#) on 3/17/2015

5.05.040 Exemptions From Chapter

The following regarding exemptions:

1. Except as provided herein, the following are exempt from registration under this Chapter:
 - a. Invitee: Persons specifically invited to a residence by a competent individual prior to the time of the person's arrival at the residence.
 - b. Licensee: Persons whose license, permit, certificate or registration with the State of Utah permits them to engage in door-to-door solicitation to offer goods or services to an occupant of the residence.
 - c. Delivery service: Persons delivering goods to a residence pursuant to a previously made order, or persons providing services at a residence pursuant to a previously made request by a competent individual.
 - d. Non-profit: Persons advocating or disseminating information for, against, or in conjunction with, any religious belief, or political position regardless of whether goods, services, or any other consideration is offered or given, with or without any form of commitment, contribution, donation, pledge, or purchase.
 - e. Charity: Persons representing a charitable organization. The charitable exemption shall apply to students soliciting contributions to finance extracurricular social, athletic, artistic, scientific or cultural programs, provided that the solicitation has been approved in writing by the school administration, and that such student solicitors carry current picture student identification from the educational institution for which they are soliciting.
2. **Limitations:** Those persons exempt from registration are not exempt from the duties and prohibitions outlined in PMC 5.05.170, PMC 5.05.180 and PMC 5.05.190 while advocating or soliciting.

HISTORY

Adopted by Ord. [15-C](#) on 3/17/2015

5.05.050 Solicitation Prohibited

Unless otherwise authorized, permitted, or exempted pursuant to the terms and provisions of this chapter, being in or upon a private residence within the City by solicitors, for the purpose of home solicitation sales or to provide goods or services, is prohibited and is punishable as set forth in this Chapter.

HISTORY

Adopted by Ord. [15-C](#) on 3/17/2015

5.05.060 Registration Of Solicitors

Unless otherwise exempt under this chapter, all persons desiring to engage in door-to-door solicitation within the City, prior to doing so, shall submit a completed application to the licensing officer and obtain a certificate (which is a particular type of second-class temporary license).

HISTORY

Adopted by Ord. [15-C](#) on 3/17/2015

5.05.070 Application Form

The licensing officer shall provide a standard application form for use for the registration of solicitors. Upon request to the licensing officer, or as otherwise provided, any person or entity may obtain in person, by mail or facsimile, a copy of this application form. Each application form shall require disclosure and reporting by the applicant of the following information, documentation, and payment of the appropriate fee:

1. **Review of Written Disclosures:** An affirmation that the applicant has received and reviewed the disclosure information required by this chapter.
2. **Contact Information:** The following information shall be provided by applicant:
 - a. Applicant's true, correct and legal name, including any former names or aliases used during the last ten (10) years;
 - b. Applicant's telephone number, home address and mailing address, if different;
 - c. If different from the Applicant, the name, address, and telephone number of the responsible person or entity; and
 - d. The address by which all notices to the applicant required under this chapter are to be sent.
3. **Proof of Identity:** An in-person verification by the licensing officer of the Applicant's true identity by use of any of the following which bear a photograph of said Applicant:
 - a. A valid driver's license issued by any state.
 - b. A valid passport issued by the United States.
 - c. A valid identification card issued by any state.
 - d. A valid identification issued by a branch of the United States military.
4. **Return Original:** Upon verification of identity, the original identification submitted to establish proof of identity shall be returned to the applicant.
5. **Proof of Registration with Department of Commerce:** The applicant shall provide proof that either the applicant, or the responsible person or entity, has registered with the Utah State Department of Commerce.
6. **Special Events Sales Tax Number:** The applicant shall provide a special events sales tax number for either the applicant, or for the responsible person or entity for which the applicant will be soliciting.
7. **Marketing Information:** The following documentation shall be provided by applicant:
 - a. The goods or services offered by the Applicant, including any commonly known, registered or trademarked names.
 - b. Whether the applicant holds any other licenses, permits, registrations, or other qualifications required by federal or state law to promote, provide, or render advice regarding the offered goods or services.
8. **BCI Background Check:** The applicant shall provide:
 - a. An original or a copy of a BCI background check as defined in this chapter.
 - b. A signed copy of a waiver whereby applicant agrees to allow the City to obtain a name/date of birth BCI background check on applicant for purposes of enforcement of this chapter as set forth in Utah Code Annotated §53-10-108(1)(b).
 - c. Responses to questions regarding disqualifying status. The applicant shall be required to affirm or deny each of the following statements on the application form:
 - i. Has the applicant been criminally convicted of:
 - (1) Felony homicide.
 - (2) Physically abusing, sexually abusing, or exploiting a minor.
 - (3) The sale or distribution of controlled substances.
 - (4) Sexual assault of any kind.
 - ii. Are any criminal charges currently pending against the Applicant for:
 - (1) Felony homicide.
 - (2) Physically abusing, sexually abusing, or exploiting a minor.
 - (3) The sale or distribution of controlled substances.
 - (4) Sexual assault of any kind.

- iii. Has the Applicant been Criminally Convicted of a felony within the last ten (10) years.
 - iv. Has the Applicant been incarcerated in a federal or state prison within the past five (5) years.
 - v. Has the Applicant been Criminally Convicted of a misdemeanor within the past five (5) years involving a crime of:
 - (1) Moral turpitude.
 - (2) Violent or aggravated conduct involving persons or property.
 - vi. Has a final civil judgment been entered against the applicant within the last five (5) years indicating that:
 - (1) Applicant had either engaged in fraud, or intentional misrepresentation.
 - (2) That a debt of the applicant was non-dischargeable in bankruptcy pursuant to 11 U.S.C. ' 523(a)(2), (a)(4), (a)(6), or (a)(19).
 - vii. Is the applicant currently on parole or probation to any court, penal institution, or governmental entity, including being under house arrest or subject to a tracking device.
 - viii. Does the applicant have an outstanding arrest warrant from any jurisdiction.
 - ix. Is the applicant currently subject to a protective order based on physical or sexual abuse issued by a court of competent jurisdiction.
9. **Fee:** The Applicant shall pay such fees as determined applicable by the City, which shall not exceed the reasonable cost of processing the application and issuing the certificate and/or identification badge.
10. **Execution of Application:** The applicant shall execute the application form, stating upon oath or affirmation, under penalty of perjury, that based on the present knowledge and belief of the applicant, the information provided is complete, truthful and accurate.

HISTORY

Adopted by Ord. [15-C](#) on 3/17/2015

5.05.080 Written Disclosures

The application form shall be accompanied by written disclosures notifying the applicant of the following:

1. **Authorization:** Applicant's submission of the application authorizes the City to verify information submitted with the completed application including:
 - a. Applicant's address.
 - b. Applicant's and/or responsible person or entity's state tax identification and special use tax numbers, if any.
 - c. Validity of the applicant's proof of identity.
2. **Research:** The City may research any publicly available sources for information on the applicant, including but not limited, to databases for any outstanding warrants, protective orders, or civil judgments.
3. **Identity:** Establishing a valid proof of identity is required before registration is made.
4. **Fee:** Payment of the applicable fee amount must be submitted by applicant with any completed application.
5. **BCI Report:** Applicant must submit a BCI background check with a completed application. To the extent permitted by state and/or federal law, the applicant's BCI background check shall remain a confidential, protected, private record not available for public inspection.
6. **Public Record:** The City will maintain copies of the applicant's application form, proof of identity, and certificate and/or identification badge. These copies will become public records available for inspection on demand at the City office whether or not a certificate is denied, granted, or renewed.
7. **Supporting Documentation:** Applicant shall provide any additional supporting documentation relating to the criteria pertaining to disqualifying status.
8. **Temporary Certificate:** A request for a temporary certificate will be granted or denied the same business day that a completed application is submitted.

HISTORY

Adopted by Ord. [15-C](#) on 3/17/2015

5.05.090 When Registration Begins

The licensing officer shall not begin the registration process unless the applicant has submitted a completed application. The original identification submitted to establish proof of identity shall be returned after the licensing officer verifies the applicant's identity. A copy of the identification may be retained by the licensing officer. If an original BCI background check is submitted by the applicant, the licensing officer shall make a copy of the BCI and return the original to the applicant.

HISTORY

Adopted by Ord. [15-C](#) on 3/17/2015

5.05.100 Issuance Of Certificates

The licensing officer shall review the completed application submitted by the applicant and issue a certificate in accordance with the following:

1. Temporary Certificate:

- a. A temporary certificate shall issue allowing the Applicant to immediately begin door-to-door solicitation upon all the following conditions being met:
 - i. Applicant's submission of a completed application.
 - ii. Applicant's submission of the required fee.
 - iii. Applicant establishes proof of identity;
 - iv. The applicant's representations on the application form do not affirmatively show a disqualifying status.
 - v. BCI does not affirmatively show a disqualifying status.
 - vi. Applicant has not previously been denied a certificate by the City, or had a certificate revoked for grounds that still constitute a disqualifying status under this chapter.
- b. Expiration: A temporary certificate will automatically expire after twenty-five (25) calendar days from issuance, or upon grant or denial of an annual certificate, whichever period is shorter.

2. Annual Certificate: Within twenty-five (25) calendar days of the issuance of a temporary certificate the City licensing officer shall:

- a. Take any and all actions it deems appropriate to verify the truthfulness and completeness of the information submitted by the applicant, including, but not limited to those disclosed with the application form.
- b. Issue written notice to the applicant and the responsible person or entity, if any, that the applicant either:
 - i. Will be issued an annual certificate, eligible for renewal one year from the date of issuance of the temporary certificate; or
 - ii. Will not be issued an annual certificate for reasons cited in PMC 5.05.140.

3. Renewal Certificate: An annual certificate shall be valid for one year from the date of issuance of the temporary certificate and shall expire at midnight on the anniversary date of issuance. Any annual certificate that is not suspended, revoked, or expired may be renewed upon the request of the registered solicitor and the submission of a new completed application and payment of the fee, unless any of the conditions for the denial, suspension or revocation of a certificate are present as set forth in PMC 5.05.140, or a disqualifying status is present.

HISTORY

Adopted by Ord. [15-C](#) on 3/17/2015

5.05.110 Form Of Certificate And Identification Badge

The following regarding the form of certificate and identification badge:

1. **Certificate Form:** Should the licensing officer determine that the applicant is entitled to a certificate, the licensing officer shall issue a certificate to the applicant. The certificate shall list the name of the registered solicitor and the responsible person or entity, if any, and the date on which the certificate expires. The certificate shall be dated and signed by the license officer. The certificate shall be carried by the registered solicitor at all times while soliciting in the City.
2. **Identification Badge:** If the City issues an identification badge, with a certificate, the identification badge shall be worn prominently on his or her person while soliciting in the City. The identification badge shall bear the name of the City and shall contain:
 - a. The name of the registered solicitor.
 - b. Address and phone number of the registered solicitor, or the name, address, and phone number of the responsible person or entity is provided.

- c. A recent photograph of the registered solicitor.
- d. The date on which the certificate expires.

HISTORY

Adopted by Ord. [15-C](#) on 3/17/2015

5.05.120 Maintenance Of Registry

The licensing officer shall maintain and make available for public inspection a copy or record of every completed application received and the certificate or written denial issued by the City. The applicant's BCI background check shall remain a confidential, protected, private record not available for public inspection. The licensing officer may furnish to the head of the City's law enforcement agency a listing of all applicants, those denied, and those issued a certificate.

HISTORY

Adopted by Ord. [15-C](#) on 3/17/2015

5.05.130 Non-Transferability Of Certificates

Certificates shall be issued only in the name of the applicant and shall list the responsible party or entity, if any. The certificate shall be non-transferable. A registered solicitor desiring to facilitate or attempt to facilitate home solicitation sales with different goods, services, responsible person or entity shall submit a written change request to the licensing officer prior to the commencement of such a change. An amended certificate based on the changed information shall issue for the balance of time remaining on the solicitor's previous certificate before the amendment was filed. Before the amended certificate is issued to the registered solicitor, the registered solicitor may be required to pay any amendment fees, update any the identification badge, and provide any additional updated information to the registered solicitors' original application.

HISTORY

Adopted by Ord. [15-C](#) on 3/17/2015

5.05.140 Denial, Suspension, Or Revocation Of A Certificate Of Registration

The following regarding denial, suspension, or revocation of a certificate of registration:

1. **Denial:** Upon review, the licensing officer is prohibited from issuing a certificate to an applicant as provided in this section.
 - a. Denial of Temporary Certificate: Any of the following is a basis for denial of a temporary certificate:
 - i. The application form is incomplete.
 - ii. Applicant fails to:
 - (1) Establish proof of identity;
 - (2) Provide a BCI report; or
 - (3) Applicant does not pay the required fees.
 - iii. The completed application or BCI report indicates that the applicant has a disqualifying status.
 - iv. The applicant has previously been denied a certificate by the City, or has had a certificate revoked for grounds that still constitute a disqualifying status under this chapter.
 - b. Denial of Annual Certificate: Any of the following is a basis for denial of issuance of an annual certificate:
 - i. The information submitted by the applicant at the time of the granting of the temporary certificate is found to be incomplete or incorrect.
 - ii. Since the submission of the completed application, the applicant is subject to a previously undisclosed or unknown disqualifying status.
 - iii. Applicant fails to make payment of the required fees.
 - iv. Since the submission of the application, the City has received a substantiated report regarding the past or present conduct of the applicant for a violation of this chapter.

- v. Since the submission of the application, the City or other governmental entity has either criminally convicted or obtained a civil injunction against the applicant for violating federal, state, or municipal laws in a manner rising to the level of a disqualifying status.
- vi. Since the submission of the application, a final civil judgment has been entered against the applicant indicating that:
 - (1) The applicant had either engaged in fraud, or intentional misrepresentation; or
 - (2) That a debt of the applicant was non-dischargeable in bankruptcy pursuant to 11 U.S.C. § 523(a)(2), (a)(4), (a)(6), or (a)(19).
- c. Denial of Annual Certificate Renewal: Any of the following is a basis for denial of an annual certificate renewal:
 - i. The information submitted by the applicant when seeking renewal of a certificate is found to be incomplete or incorrect.
 - ii. Since the submission of the renewal application, the applicant is subject to a previously undisclosed or unknown disqualifying status.
 - iii. Failure to make payment of any required fee.
 - iv. Since the submission of the application or granting of a certificate, the City has received a substantiated report regarding the past or present conduct of the solicitor in violation of this chapter.
 - v. The City or other governmental entity has either criminally convicted or obtained a civil injunction against the applicant for violating federal, state, or municipal laws in a manner rising to the level of a disqualifying status.
 - vi. Since the submission of the application, a final civil judgment has been entered against the applicant indicating that:
 - (1) Applicant had either engaged in fraud, or intentional misrepresentation, or;
 - (2) That a debt of the applicant was non-dischargeable in bankruptcy pursuant to 11 U.S.C. § 523(a)(2), (a)(4), (a)(6), or (a)(19).
- 2. **Suspension or Revocation:** The City shall either suspend or revoke a certificate when any of the basis warranting the denial of a certificate occurs.
- 3. **Notice of Denial or Suspension:** Upon determination of the licensing officer to deny an applicant's completed application or to suspend a registered solicitor's certificate, the City shall cause written notice to be sent to the applicant or registered solicitor by the method indicated in the completed application. The notice shall specify the grounds for the denial or suspension, the documentation or information the City relied on to make the decision, the availability of the documentation for review by applicant upon one (1) business day notice to the City, and the date upon which the denial or suspension of the certificate shall take effect. It shall further state that the applicant or registered solicitor shall have ten (10) business days from the receipt of the notice of denial or suspension to appeal the same. The denial or suspension of the certificate shall be effective no sooner than two (2) calendar days from the date the notice is sent, unless that suspension is because of exigent circumstances outlined in PMC 5.05.030, in which case, the suspension is effective immediately. The denial or suspension shall remain effective unless and until the order is rescinded, overturned on appeal, or determined by a court to be contrary to equity or law. Failure to appeal the suspension of a certificate automatically results in its revocation.

HISTORY

Adopted by Ord. [15-C](#) on 3/17/2015

5.05.150 Appeal

An applicant or registered solicitor whose certificate has been denied or suspended shall have the right to appeal to the Appeal Authority (also known as the "Appeals Officer"). The following is also included:

1. **Standing:** Any appeal must be submitted by the applicant, the responsible person or entity, or authorized legal counsel.
2. **Procedure:** The following procedures and requirements shall apply to all appeals:
 - a. The appeal must be submitted in writing to the City Recorder or designee within ten (10) business days of the decision from which the appeal is taken.
 - b. The appeal shall describe in detail the nature of the appeal, the action complained of, and the grounds for appeal.
 - c. Upon request of the applicant or registered solicitor, within one business day, the City will make available any information upon which it relied in making the determination to either deny or suspend the certificate.

3. **Standard of Review:** The Appeals Officer shall review, de novo, all written information submitted by the applicant or registered solicitor to the licensing officer, any additional information relied upon by the licensing officer as the basis for denial, suspension or revocation, and any additional information supplied by the City, applicant or registered solicitor. Any additional information submitted by any party to the appeal to the Appeals Officer shall be simultaneously submitted to the opposing party. If requested, any party shall have three (3) business days to submit rebuttal documentation to the Appeals Officer regarding the additional information submitted by the opposing party.
4. **Decision:** The Appeals Officer will render a decision no later than fifteen (15) calendar days from the date the appeal was taken, unless an extension of time is agreed upon by the parties. In the event that any party to the appeal submits rebuttal information as allowed in PMC 5.05.150, the fifteen (15) calendar days shall be extended to include the additional three (3) days for rebuttal.
 - a. The denial or suspension of the certificate shall be reversed by the Appeals Officer if upon review of the written appeal and information submitted, the Appeals Officer finds that the licensing officer made a material mistake of law or fact in denying or suspending the applicant or registered solicitor's certificate.
 - b. If the written appeal and information submitted indicates that the licensing officer properly denied or suspended the certificate of the applicant or registered solicitor, the denial or suspension of the certificate shall be affirmed and constitute a determination that the suspended certificate is revoked.
 - c. The decision of the Appeals Officer shall be delivered to the applicant or registered solicitor by the means designated in the completed application, or as otherwise agreed during the appeal process.
5. **Exhaust Administrative Remedies Required:** The applicant is required to exhaust all administrative remedies relating to an application before filing suit or initiating a proceeding in any court.
 - a. After the ruling of the Appeals Officer, the applicant or solicitor is deemed to have exhausted all administrative remedies with the City.
 - b. Nothing herein shall impede or interfere with the Applicant's, Solicitor's, or City's right to seek relief in a court of competent jurisdiction after exhausting all administrative remedies.

HISTORY

Adopted by Ord. [15-C](#) on 3/17/2015

5.05.160 Deceptive Soliciting Practices Prohibited

The following activities are prohibited:

1. **Fraud:** No solicitor shall intentionally make any materially false or fraudulent statement in the course of soliciting.
2. **Improper Display of Identification:** A solicitor fails to properly display any identification badge required by this chapter to the consumer during face-to-face solicitation.
3. **False Name:** No solicitor uses a fictitious name, an alias, or any name other than his or her true and correct name.
4. **No Endorsement:** No solicitor shall represent directly or by implication that the granting of a certificate of registration implies any endorsement by the City of the solicitor's goods or services or of the individual solicitor.

HISTORY

Adopted by Ord. [15-C](#) on 3/17/2015

5.05.170 "No Soliciting" Notice

Any occupant of a residence may give notice of a desire to refuse solicitors by displaying a "No Solicitation" or similar sign which shall be posted on or near the main entrance door or on or near the property line adjacent to the sidewalk leading to the residence. Such sign shall not exceed the size parameters specified in the land use ordinance relating to signs. The display of such sign or placard shall be deemed to constitute notice to any solicitor that the inhabitant of the residence does not desire to receive and/or does not invite solicitors. It shall be the responsibility of the solicitor to check each residence for the presence of any such notice. The provisions of this section shall apply also to solicitors who are exempt from registration.

HISTORY

Adopted by Ord. [15-C](#) on 3/17/2015

5.05.180 Duties Of Solicitors

Solicitors shall have the following duties prescribed by law, notwithstanding the issuance of a certificate:

1. **Check for Notice:** Every person soliciting or advocating shall check each residence for any "No Soliciting" or similar sign or placard notifying a solicitor not to solicit on the premises. If such sign or placard is posted such solicitor shall desist from any efforts to solicit at the residence or dwelling and shall immediately depart from such property.
2. **Attempted Solicitation After Notice Of Desist:** No solicitor shall knock on the door, ring the doorbell, or in any other manner attempt to attract the attention of an occupant of a residence that bears a "No Solicitation" sign or placard for the purpose of engaging in or attempting to engage in advocating, a home solicitation sale, door-to-door soliciting, or soliciting.
3. **False Purpose:** No solicitor shall through ruse, deception, or fraudulent concealment of a purpose to solicit, to take action calculated to secure an audience with an occupant at a residence.
4. **Leave Premises upon Request:** Any solicitor who is at any time asked by an occupant of a residence or dwelling to leave shall immediately and peacefully depart.
5. **No Physical Contact:** No solicitor shall intentionally or recklessly make any physical contact with, or touch another person without the person's consent.
6. **Consent before Entering Premises:** No solicitor shall follow a person into a residence without their explicit consent.
7. **Pressure Tactics:** No solicitor shall continue to repeat soliciting after a person and/or competent individual has communicated clearly and unequivocally their lack of interest in the subject, goods or services of the solicitor.
8. **Profanity and Disorderly Conduct:** No solicitor shall use obscene or profane language in a place or under circumstances which could cause a breach of the peace or good order of the City in accordance with Utah Code Annotated §10-8-50, 1953, as amended, or engage in any other disorderly conduct as prohibited by law.

HISTORY

Adopted by Ord. [15-C](#) on 3/17/2015

5.05.190 Time Of Day Restrictions

It shall be unlawful for any person, whether licensed or not, to solicit at a residence before 9:00 a.m. or after 9:00 p.m Mountain Time, unless the solicitor has express prior permission from the resident to do so.

HISTORY

Adopted by Ord. [15-C](#) on 3/17/2015

5.05.200 Buyer's Right To Cancel

In any home solicitation sale, unless the buyer requests the solicitor to provide goods or services without delay in an emergency, the seller or solicitor shall present to the buyer and obtain buyer's signature to a written statement which informs the buyer of the right to cancel within three (3) days after signing an agreement to purchase. Such notice of "Buyer's right to cancel" shall be in the form required by Utah Code Annotated §70C-5-103, 1953, as amended, in addition to any other related state or federal law.

HISTORY

Adopted by Ord. [15-C](#) on 3/17/2015

5.05.210 Penalties

Any person who violates any term or provision of this chapter shall be guilty of a class B misdemeanor and shall be punished by a fine of not to exceed \$1,000.00 and/or a jail sentence of not to exceed six (6) months.

HISTORY

Adopted by Ord. [15-C](#) on 3/17/2015

5.07 Apartment House, Duplexes And Mobile Home Parks

5.07.010 Definitions

For the purposes of this title:

1. **Apartment House:** An apartment house shall consist of three or more rented units upon a plot of property.
2. **Duplex:** A building arranged or designed to be occupied by two families, the structure having only two dwelling units.
3. **Mobile Home, Mobile Home Park, and Mobile Home Space** as used in this Chapter are defined in PMC 5.01.020., Definitions.

HISTORY

Adopted by Ord. [15-C](#) on 3/17/2015

5.07.020 License Requirement

It is unlawful for any person or party to engage in or carry on the business of operating an apartment house, duplex or mobile home park, as defined, without first procuring a business license for the same.

HISTORY

Adopted by Ord. [15-C](#) on 3/17/2015

5.07.030 License: Inspection Required Prior To Issuance

Each apartment house, duplex and mobile home within the City shall be inspected by the City building inspector or his agents to ascertain the condition of safety and sanitation thereof prior to the issuance of such license. Any such apartment house, duplex, mobile home park shall be inspected annually prior to the issuance of each annual business license therefore.

HISTORY

Adopted by Ord. [15-C](#) on 3/17/2015

5.07.040 License: Application

Each apartment house, duplex, and mobile home park owner shall submit an application in writing on forms furnished by the City for an apartment house, duplex or mobile home park business license. The application forms shall grant to the City the right to make an inspection of the apartment house, duplex or mobile home park premises prior to the issuance of the initial and each subsequent annual apartment house, duplex and mobile home park license. Upon receipt of an approved inspection of the apartment house, duplex or mobile home park premises by the City building inspector or his agents, said application shall be submitted to the City Council for its approval; upon approval by the City Council said license shall be issued to applicant under the signatures of the Mayor and City Recorder.

HISTORY

Adopted by Ord. [15-C](#) on 3/17/2015

5.07.050 License: Contents

Every license shall specify by name, the person, and firm or party to whom it is issued, and shall designate the number of apartment units or mobile home park spaces and the place at which the apartment house, duplex or mobile home park business shall be carried on.

HISTORY

Adopted by Ord. [15-C](#) on 3/17/2015

5.07.060 License: Fee

The annual license fees for apartment houses, duplexes and mobile home parks shall be set from time to time by resolution of the City Council. All license fees shall be due and payable annually on or before February 16th of each calendar year. The license fees for newly constructed apartment houses will be due and payable forty-five (45) days after the certificate of occupancy is issued by the City. If a license fee is paid after the times specified above, a fifty (50%) percent penalty will be added.

HISTORY

Adopted by Ord. [15-C](#) on 3/17/2015

5.07.070 License: Revocation

The City Council reserves the right to revoke any apartment house, duplex or mobile home park license as issued hereunder for just cause, after proper notice to and right to hearing by the holder thereof, according to law.

HISTORY

Adopted by Ord. [15-C](#) on 3/17/2015

5.07.080 Violation: Misdemeanor

Any person who shall engage in the operation of an apartment house, duplex or mobile home park as defined in this title, without first obtaining a license as provided in this chapter shall be deemed guilty of a misdemeanor.

HISTORY

Adopted by Ord. [15-C](#) on 3/17/2015

5.09 Fees

5.09.010 Assessment Generally

The license fee levied and assessed upon any business, profession, or calling engaging in business with the City, shall be assessed as hereinafter set forth. The City may modify the amounts chargeable as license fees from time to time by resolution, and upon enacting said resolution the ordinance codified in this chapter shall be considered modified, as set forth therein.

HISTORY

Adopted by Ord. [15-C](#) on 3/17/2015

5.09.020 Fees

License fees for businesses shall be as identified in PMC 5.01.040 (Uniform Business License Regulations) and PMC 4.09 (Fee Schedules).

HISTORY

Adopted by Ord. [15-C](#) on 3/17/2015

5.11 Sexually Oriented Businesses

5.11.010 Purpose Of Chapter

The purpose and objective of this Chapter is to establish reasonable and uniform regulations to prevent the concentration of Sexually Oriented Businesses or their location in areas deleterious to the City, regulate the signage of such businesses, control the adverse effects of such signage, and prevent inappropriate exposure of such businesses to the community. This chapter is to be construed as a regulation of time, place, and manner of the operation of these businesses, consistent with the United States and Utah Constitutions.

HISTORY

Adopted by Ord. [15-C](#) on 3/17/2015

5.11.020 Purpose Of Provisions

It is the purpose and object of this Chapter that the City establishes reasonable and uniform regulations governing the time, place, and manner of operation of Sexually Oriented Businesses and their employees in the City. This Chapter shall be construed to protect the governmental interests recognized by this Chapter in a manner consistent with constitutional protections provided by the United States and Utah Constitutions.

HISTORY

Adopted by Ord. [15-C](#) on 3/17/2015

5.11.030 Application Of Provisions

This chapter imposes regulatory standards and license requirements on certain business activities that are characterized as Sexually Oriented Businesses, and employees of those businesses characterized as Sexually Oriented Business employees. Except where the context or specific provisions require, this chapter does not supersede or nullify any other related ordinances, including but not limited to, those codified in the Perry City Municipal Code and Business License Requirement of the Municipal Code.

HISTORY

Adopted by Ord. [15-C](#) on 3/17/2015

5.11.040 Definitions

For the purpose of this chapter, the following words shall have the following meanings:

1. **Adult Bookstore or Adult Video Store:** means a commercial establishment which:
 - a. Excludes minors from more than five (5%) percent of the retail floor or shelf space of the premises; or
 - b. As one of its principal business purposes, offers for sale or rental, for any form of consideration, any one or more of the following:
 - i. Books, magazines, periodicals, or other printed matter.
 - ii. Photographs, films, motion pictures, video cassettes or video representations.
 - iii. Something where the central theme of which depicts or describes "specified sexual activities," or "specified anatomical areas".
 - iv. Instruments, devices, or paraphernalia which are designated for use in connection with "specified sexual activities," except for legitimate medically recognized contraceptives.
2. **Adult Business:** means an adult motion picture theater, adult bookstore, or adult video store.
3. **Adult Motion Picture Theater:** means a commercial establishment which:
 - a. Excludes minors from the showing of two (2) consecutive exhibitions (repeated showings of any single presentation shall not be considered a consecutive exhibition).
 - b. As one of its principal business purposes, shows, for any form of consideration, films, motion pictures, video cassettes, slides, or similar photographic reproductions which are primarily characterized by the depiction or description of "specified sexual activities" or "specified anatomical areas."
4. **Adult Theater:** means a theater, concert hall, auditorium, or similar commercial establishment which:
 - a. Holds itself out as such a business.
 - b. Excludes minors from the showing of two (2) consecutive exhibitions (repeated performance of the same presentation shall not be considered a consecutive exhibition).
 - c. As one of its principal business purposes, features persons who appear in live performances in a state of semi-nudity or which are characterized by the exposure of specified anatomical areas or by specified sexual activities.
5. **Employ:** means hiring an individual to work for pecuniary or any other form of compensation, whether such person is hired on the payroll of the employer, as an independent contractor, as an agent, or in any other form of employment relationship.

6. **Escort:** means any person who, for pecuniary compensation, dates, socializes, visits, consorts with, or accompanies or offers to date, consort with, socialize, visit or accompany another or others to or about social affairs, entertainment, or places of amusement, or within any place of public or private resort or any business or commercial establishment or any private quarters. Escort shall not be construed to include persons who provide business or personal services, such as licensed private nurses, aides for the elderly or handicapped, social secretaries or similar service personnel whose relationship with their patron is characterized by a bona fide contractual relationship having a duration of more than twelve (12) hours and who provide a service not principally characterized as dating or socializing. Escort shall also not be construed to include persons providing services such as singing telegrams, birthday greetings, or similar acts characterized by appearances in a public place, contracted for by a party other than the duration not longer than one (1) hour.
7. **Escort Service:** means an individual or entity, who for pecuniary compensation, furnishes or offers to furnish escorts, or provides or offers to introduce patrons to escorts.
8. **Escort Service Runner:** means any third person, not an escort, who for pecuniary compensation, acts in the capacity of an agent or broker for an escort service, escort, or patron by contacting or meeting with escort services, escorts, or patrons at any location within the city, whether or not such third person is employed by such escort service, escort, patron, or by another business, or is an independent contractor or self-employed.
9. **Nudity or Nude:** means a state of dress in which the areola of the female breast, or male or female genitals, pubic region, or anus are covered by less than the covering required in the definition of seminude.
10. **Operator:** means the manager or other natural person principally in charge of a Sexually Oriented Business.
11. **Out-Call:** Out-Call services means services of a type performed by a BOB employee outside of the premises of the licensed BOB, including but not limited to escorts, models, dancers, and other similar employees.
12. **Patron:** means any person who contracts with or employs any escort services or escort or the customer of any business licenses pursuant to this Chapter.
13. **Pecuniary Compensation:** means any commission, fee, salary, tip, gratuity, hire, profit, reward, or any other form of consideration.
14. **Person:** means any person, unincorporated association, corporation, partnership, or other legal entity.
15. **Principal Business Purpose:** means that a business offers those business activities and/or materials mentioned in the definitions of Sexually Oriented Businesses as a constant and intentional objective of their business, but also seek to promote it as such.
16. **Seminude:** means a state of dress in which opaque clothing covers no more than the areola of the female breast: and the male or female genitals, pubic region, and anus shall be fully covered by an opaque covering no narrower than four (4") inches wide in the front and five (5") inches wide in the back, which shall not taper to less than one (1") inch wide at the narrowest point.
17. **Seminude Dancing Agency:** means any person, agency, firm, corporation, partnership, or any other entity or individual which furnishes, books, or otherwise engages or offers to furnish, book, or otherwise engage the service of a professional dancer licensed pursuant to this Chapter for performance or appearance at a business licensed for adult theaters.
18. **Seminude Entertainment Business:** means any business, including adult theater, where employees perform or appear in the presence of patrons of the business in a state of semi nudity. A business shall also be presumed to be a seminude entertainment business if the business holds itself out as such a business.
19. **Sexually Oriented Business:** means seminude entertainment businesses, sexually oriented out-call services, adult businesses, and semi nude dancing agencies as defined by this Chapter.
20. **Sexually Oriented Business Employees:** means those employees who work on the premises of a Sexually Oriented Business in activities related to the sexually oriented portion of the business. This includes all managing employees, dancers, escorts, models, and other similar employees, whether or not hired as employees, agents, or as independent contractors. Employees shall not include individuals whose work is unrelated to, the sexually oriented portion of the business, such as janitors, bookkeepers, and similar employees. Sexually Oriented Business employees shall not include cooks, serving persons, and similar employees, except where they may be managers or supervisors of the business. All persons making out-call meetings under this Chapter, including escorts, models, guards, escort runners, drivers, chauffeurs, and other similar employees, shall be considered Sexually Oriented Business employees.
21. **Specified Anatomical Areas:** means the human male or female pubic areas or anus with less than a full opaque covering, or the human female breast below a point immediately above the top of the areola, with less than full opaque covering.
22. **Specified Sexually Activities:** means
 - a. Acts of:
 - i. Masturbation
 - ii. Human sexual intercourse
 - iii. Sexual copulation between a person and a beast
 - iv. Fellatio
 - v. Cunnilingus

- vi. Bestiality
- vii. Pederasty
- viii. Buggery
- ix. Any anal copulation between a human male and another human male, human female, or beast.
- x. Manipulating, caressing, or fondling, by person, of:
 - (1) The genitals of a human
 - (2) The pubic area of a human
 - (3) The breast or breasts of a human female.
- xi. Flagellation or torture by or upon a person clad in undergarments, a mask or bizarre costume, or the condition of being fettered, bound or otherwise physically restrained on the part of the one so closed.

HISTORY

Adopted by Ord. [15-C](#) on 3/17/2015

5.11.050 License Required

It is unlawful for any person to operate a Sexually Oriented Business, as specified herein, without first obtaining a general business license and a Sexually Oriented Business license. The Sexually Oriented Business license shall specify the type of business for which it is obtained.

HISTORY

Adopted by Ord. [15-C](#) on 3/17/2015

5.11.060 Exemption From License Requirements

The provisions of this Chapter shall not apply to any sex therapist or similar individual licensed by the State to provide bona fide sexual therapy or counseling, licensed medical practitioner, licensed nurse, psychiatrist, or psychologist lawfully licensed under other provisions of the Perry City Code. Nor shall it apply to any educator licensed by the State for activities in the classroom.

HISTORY

Adopted by Ord. [15-C](#) on 3/17/2015

5.11.070 Business Categories: Number Of Licenses

The following regarding licenses:

1. It is unlawful for any business premises to operate or be licensed for more than one category of Sexually Oriented Business, except that a business may have a license for both out-call services and a semi nude dancing agency on the same premises.
2. The categories of Sexually Oriented Businesses are:
 - a. Out-call services
 - b. Adult businesses
 - c. Seminude entertainment business
 - d. Seminude dancing agency

HISTORY

Adopted by Ord. [15-C](#) on 3/17/2015

5.11.080 Employee Licenses

It is unlawful for any Sexually Oriented Business to employ or for any individual to be employed in the capacity of a Sexually Oriented Business employee, unless that employee first obtains a Sexually Oriented Business employee license.

HISTORY

Adopted by Ord. [15-C](#) on 3/17/2015

5.11.090 License Application: Disclosure Required

Before any applicant may be licensed to operate a Sexually Oriented Business or as a Sexually Oriented Business employee pursuant to this Chapter, the applicant shall submit, on a form to be supplied by the City license authority, the following:

1. The correct legal name of each applicant, corporation, partnership, limited partnership, or entity doing business under an assumed name.
2. If the applicant is a corporation, partnership, or business under an assumed name, the information required below for individual applicants shall be submitted for each partner and each principal of an applicant, and for each officer, director, and any shareholder (corporate or personal) of more than ten (10%) percent of the stock of any applicant. Any holding company, or any entity holding more than ten (10%) percent of an applicant, shall be considered an applicant for purposes of disclosure under this Chapter;
3. All corporations, partnerships, or non-corporate entities included on the application shall also identify each individual authorized by the corporation, partnership, or non-corporate entity to sign the checks for such corporation, partnership, or non-corporate entity.
4. For all applicants or individuals, the application must also state:
 - a. Any other names or aliases used by the individual
 - b. The age, date, and place of birth
 - c. Height
 - d. Weight
 - e. Color of hair
 - f. Color of eyes
 - g. Present business address and telephone number
 - h. Present residence and telephone number
 - i. Driver's license or identification number and Social Security Number
5. Acceptable written proof that any individual is at least eighteen (18) years of age.
6. Attached to the form, as provided above, two (2) color photographs of the applicant clearly showing the individual's face and the individual's fingerprints on a form provided by the Police Department. For persons not residing in the City, the photographs and fingerprints may be on a form from the law enforcement jurisdiction where the person resides. Fees for the photographs and fingerprints shall be paid by the applicant directly to the issuing agency.
7. For any individual applicant required to obtain a Sexually Oriented Business employee license as an escort or a semi nude entertainer, a certificate from the Bear River Health Department or a licensed M.D. stating that the individual has, within thirty (30) days immediately preceding the date of the original or renewal application, been examined and found to be free of any contagious or communicable diseases.
8. A statement of the business, occupation, or employment history of the applicant for there (3) years immediately preceding the date of the filing of the application.
9. A statement detailing the license or permit history of the applicant for the five (5) year period immediately preceding the date of the filing of the application, including whether such applicant previously operating or seeking to operate, in this or any other County, City, state, or territory, has ever had a license, permit, or authorization to do business denied, revoked, or suspended, or has had any professional or vocational license or permit denied, revoked, or suspended. In the event of any such denial, revocation or suspension, state the date, the name of the issuing or denying jurisdiction, and state in full the reasons for the denial, revocation, or suspension. A copy of any order of denial, revocation or suspension shall be attached to the application.
10. All criminal convictions or pleas of nolo contendere, except those which have been expunged, and the disposition of all such arrests of the applicant, individual, or other entity subject to disclosure under this Chapter, for five (5) years prior to the date of the application. This disclosure shall include identification of all ordinance violations, excepting minor traffic offenses (any traffic offense designated as a felony shall not be construed as a minor traffic offense), stating the date, place, nature of each conviction or plea of nolo contendere, and sentence of each conviction or other disposition, identifying the convicting jurisdiction and sentencing court, and providing the court identifying case numbers or docket numbers. Application for a Sexually Oriented Business or employee license shall constitute a waiver of disclosure of any criminal conviction or plea of nolo contendere for the purposes of any proceeding involving the business or employee license.
11. In the event the applicant is not the owner of record of the real property upon which the business or proposed business is or is to be located, the application must be accompanied by a notarized statement from the legal or equitable owner of the possessory interest in the property specifically acknowledging the type of business for which the applicant seeks a license for the property. In addition to furnishing such notarized statement, the applicant shall furnish the name, address, and phone number of the owner of record of the property, as well as the copy of the lease or rental agreement pertaining to the premises in which the service is or will be located.

12. A description of the services to be provided by the business, with sufficient detail to allow reviewing authorities to determine what business will be transacted on the premises, together with a schedule of usual fees for services to be charged by the licensee, and any rules, regulations, or employment guidelines under or by which the business intends to operate. This description shall also include:
 - a. The hours that the business or service will be open to the public, and the methods of promoting the health and safety of the employees and preventing them from engaging in illegal activity.
 - b. The methods of supervision preventing the employees from engaging in acts of prostitution or other related criminal activities.
 - c. The methods of supervising employees and patrons to prevent employees and patrons from charging or receiving fees of services or acts prohibited by this Chapter or other statutes or ordinances.
 - d. The methods of screening employees and customers in order to promote the health and safety of employees and customers and prevent the transmission of disease, and prevent the commission of acts of prostitution or other criminal activity.
13. It is also unlawful to knowingly submit false or materially misleading information on or with a Sexually Oriented Business license application or to fail to disclose or omit information of the purpose of obtaining a Sexually Oriented Business or employee license.

HISTORY

Adopted by Ord. [15-C](#) on 3/17/2015

5.11.100 License Fees

Each applicant for a Sexually Oriented Business or employee license shall be required to pay license fees as set forth in Perry City Fee Schedule Resolution. An application is not complete until all appropriate fees have been paid.

HISTORY

Adopted by Ord. [15-C](#) on 3/17/2015

5.11.110 License Bond

Each applicant for a Sexually Oriented Business license shall post, with the City's Zoning Administrator, a cash or corporate surety bond payable to Perry City in the amount of \$2,000.00. Any fines assessed against the business, officers, or managers for violations of City ordinances shall be taken from this bond if not paid in cash within ten (10) days after notice of the fine, unless an appeal is filed as provided by this Chapter. In the event the funds are drawn against the cash or surety bond to pay such fines, the bond shall be replenished to \$2,000.00, within fifteen (15) days, of the date of notice of any draw against it.

HISTORY

Adopted by Ord. [15-C](#) on 3/17/2015

5.11.120 Premises Location And Name

The following regarding licensing and premises location and name:

1. It is unlawful to conduct business under a license issued pursuant to this Chapter at any location other than the licensed premises. Any location to which telephone calls are automatically forwarded by such business shall require a separate license.
2. It is unlawful for any Sexually Oriented Business to do business in the City under any name other than the business name specified in the application.

HISTORY

Adopted by Ord. [15-C](#) on 3/17/2015

5.11.130 Issuance Conditions

The Zoning Administrator shall approve the issuance of a license to the application within thirty (30) days after receipt of a completed application, unless the official finds one or more of the following:

1. The applicant is under eighteen (18) years of age.
2. The applicant is overdue in payment to the City of taxes, fees, fines, or penalties assessed against the applicant or imposed on the applicant in relation to a Sexually Oriented Business.

3. The applicant has falsely answered a material question or request for information as authorized by this Chapter.
4. The applicant has violated a provision of this Chapter or similar provisions found in statutes or ordinances from any jurisdiction within two (2) years immediately preceding the application; a criminal conviction for a violation of a provision of this Chapter or similar provisions from any jurisdiction, whether or not it is being appealed, is conclusive evidence of a violation, but a conviction is not necessary to prove a violation.
5. The premises to be used for the business have been disapproved by the Box Elder County Health Department, the Brigham City Fire Department, the Perry City Police Department, the building official of Perry City, or the Zoning Administrator of Perry City as not being in compliance with applicable laws and ordinances of the City. If any of the foregoing reviewing agencies cannot complete their review within the thirty (30) day approval or denial period, the agency or department may obtain from the Zoning Administrator of Perry City an extension of time of no more than fifteen (15) days for their review. The total time for the City to approve or deny a license shall not exceed forty-five (45) days from the receipt of a completed application and payment of all fees. Businesses located outside of the boundaries of the City, but requiring a license under this Chapter, may be denied a license pursuant to this Chapter if the business does not have a valid business license to conduct business at the business location from the appropriate jurisdiction for that location. The following also applies:
 - a. Upon receipt of an application, all departments required to review the application shall determine within seven (7) days whether or not the application is incomplete in items needed for processing. Incomplete applications shall immediately be returned to the applicant with a specification of the items that are incomplete.
 - b. The time for processing applications specified in this Section shall begin to run from the receipt of a complete application.
 - c. The City, pursuant to the revocation procedures, may revoke any license issued pursuant to (3) above provided for herein, if the completed review determines that the license should have been denied.
6. The required license fees have not been paid.
7. All applicable sales and use taxes have not been paid.
8. An applicant for the proposed business is in violation of, or not in compliance with, this Chapter or similar provisions found in statutes or ordinances from any jurisdiction.
9. An applicant has been convicted or pled nolo contendere to a crime:
 - a. Involving prostitution; exploitation of prostitution; aggravated promotion of prostitution; aggravated exploitation of prostitution; solicitation of sex acts; sex acts for hire; compelling prostitution; aiding prostitution; sale, distribution, or display of material harmful to minors; sexual performance by minors; possession of child pornography, lewdness; indecent exposure; any crime involving sexual abuse or exploitation of a child; sexual assault or aggravated sexual assault; rape; forcible sodomy; forcible sexual abuse; incest; harboring a runaway child; criminal attempt, conspiracy, or solicitation to commit any of the foregoing offenses or offenses involving similar elements from any jurisdiction, regardless of the exact title of the offense; for which:
 - i. Less than two (2) years have elapsed from the date of conviction. If the conviction is of a misdemeanor offences, or less than five (5) years if the convictions are of two or more misdemeanors within the five (5) years; or
 - ii. Less than five (5) years have elapsed from the date of conviction if the offense is of a felony.
 - b. The fact that a conviction is being appealed shall have no effect on the disqualification pursuant to this Section.
10. The applicant has not complied with PMC 15.17 (Design Review) of the Perry City Zoning Ordinance.

HISTORY

Adopted by Ord. [15-C](#) on 3/17/2015

5.11.140 Term Of License

Sexually Oriented Business and employee licenses issued pursuant to this Chapter shall be valid from the date of issuance through December 31st of each succeeding year. The license fees required by Perry City Fee Schedule Resolution shall not be prorated for any portion of a year but shall be paid in full for whatever portion of the year the license is applied for.

HISTORY

Adopted by Ord. [15-C](#) on 3/17/2015

5.11.150 Notice Of Change Of Information

Any change in the information required to be submitted under this Chapter for either a Sexually Oriented Business license or Sexually Oriented Business employee license shall be given, in writing, to the Zoning Administrator and the Police Department within fourteen (14) days after such change.

HISTORY

Adopted by Ord. [15-C](#) on 3/17/2015

5.11.160 Transfer Limitations

Sexually Oriented Business licenses, granted under this Chapter, shall not be transferable. It is unlawful for a license held by an individual to be transferred. It is unlawful for a license held by a corporation, partnership, or other non-corporate entity to transfer any part in excess of ten (10%) percent thereof, without filing a new application and obtaining prior City approval. If any transfer of the controlling interest in a business licensee occurs, the license is immediately null and void, and the business shall not operate until a separate new license has been properly issued by the City as provided in this Chapter.

HISTORY

Adopted by Ord. [15-C](#) on 3/17/2015

5.11.170 Display

It is unlawful for any Sexually Oriented Business location within the boundaries of the City to fail to display the license granted pursuant to this Chapter in a prominent location within the business premises. It is unlawful for any individual licensed pursuant to this Chapter to fail to carry, at all times while engaged in licensed activities within the corporate boundaries of the City, their employee license on their person. If the individual is nude pursuant to PMC 15.29.030.6, such license shall be visibly displayed within the same room in which the employee is appearing. When requested by policy, City licensing or other enforcement personnel or health official, it is unlawful to fail to show the appropriate licenses while engaged in licensed activities within the corporate boundaries of the City.

HISTORY

Adopted by Ord. [15-C](#) on 3/17/2015

5.11.180 Statement In Advertisements

It is unlawful for any advertisement by the Sexually Oriented Business or employee to fail to state that the business or employee is licensed by the City and shall include the City license number.

HISTORY

Adopted by Ord. [15-C](#) on 3/17/2015

5.11.190 Effect Of License Revocation

When a license issued pursuant to this Chapter is revoked, the revocation shall continue for one (1) year from its effective date and the licensee shall not be issued a Sexually Oriented Business or employee license for one (1) year from the date of such revocation.

HISTORY

Adopted by Ord. [15-C](#) on 3/17/2015

5.11.200 Appeal Procedures

The denial, suspension, or revocation of any license issued pursuant to this Chapter may be appealed as set forth by Perry City Policy.

HISTORY

Adopted by Ord. [15-C](#) on 3/17/2015

5.11.210 Out-Call Services: Operation Requirements

It is unlawful for any business or employee providing out-call services contracted for in the City to fail to comply with the following requirements:

1. All businesses licensed to provide out-call services pursuant to this Chapter shall provide to each patron a written contract in receipt of pecuniary compensation for services. The contract shall clearly state the type of services to be performed, the length of time such services shall be performed, the total amount such services shall cost the patron, and any special terms or conditions relating to the services to be performed. The contract need not include the name of the patron. The business licensee shall keep and maintain a copy of each written contract entered into pursuant to this Section for a period not less than one year from the date of provision of services hereunder. The contracts shall be numbered and entered into a register listing the contract number, date, names of all employees involved in the contract, and pecuniary compensation paid.
2. All out-call businesses licensed pursuant to this Chapter shall maintain an open office or telephone at which the licensee or licensee's designated agent may be personally contacted during all hours out-call employees are working. The address and phone number of the license location shall appear and be included in all patron contracts and published advertisements. For out-call businesses, the premises of which are licensed within the corporate limits of the City, private rooms or booths where the patrons may meet with the out-call employee shall be provided at the open office or any other location by the service; not shall patrons meet out-call employees at the business premises.
3. Out-call services shall not advertise in such a manner that would lead a reasonable prudent person to conclude that specified sexual activities would be performed by the out-call employee.
4. All employees of out-call services who provide out-call services within the City shall be licensed in accordance with this Chapter, regardless of the primary location of the business.

HISTORY

Adopted by Ord. [15-C](#) on 3/17/2015

5.11.220 Semi Nude Dancing Agencies

The following regarding Semi Nude Dancing Agencies:

1. It is unlawful for any individual or entity to furnish, book, or otherwise engage the services of a professional dancer, model, or performer to appear in a state of semi-nudity for pecuniary compensation in or for any semi nude entertainment business or adult theater licensed pursuant to this Chapter, unless such agency is licensed pursuant to this Chapter.
2. It is unlawful for any individual or entity to furnish, book, or otherwise engage or permit any person to perform as a professional dancer, model, or performer in a state of semi nudity, or nudity, either gratuitously or for compensation, in or for any business licensed pursuant to this Chapter, unless such person is licensed pursuant to this Chapter.

HISTORY

Adopted by Ord. [15-C](#) on 3/17/2015

5.11.230 Signs

If the requirements contained in this section conflict with any other sign requirement in the Perry Municipal Code, the more restrictive requirements for signs shall prevail. Signs for Sexually Oriented Businesses located in M/I 1 (Manufacturing/ Industrial One) shall be limited as follows:

1. No more than one exterior sign shall be allowed.
2. No sign shall be allowed to exceed eighteen (18) square feet.
3. No animation shall be permitted on or around any sign or on the exterior walls or roof of such premises.
4. No descriptive art or designs depicting any activity related to or inferring the nature of the business shall be allowed on any sign. Said signs shall contain alphanumeric copy only.
5. Only flat wall signs and/or awning signs shall be permitted.
6. Painted wall advertising shall not be allowed.
7. Other than the signs specifically allowed by this Chapter, the Sexually Oriented Business shall not attach, construct, or allow to be attached or constructed any temporary sign, banner, light, or other device designed to draw attention to the business location.

HISTORY

Adopted by Ord. [15-C](#) on 3/17/2015

5.11.240 Obscenity And Lewdness: Statutory Provisions

The following provisions regarding obscenity and lewdness:

1. Notwithstanding anything contained in this Chapter, nothing in this Chapter shall be deemed to permit or allow the showing or display of any matter which is contrary to applicable federal or State statutes prohibiting obscenity.
2. Notwithstanding anything contained in this Chapter, nothing in this Chapter shall be deemed to permit or allow conduct or the showing or display of any matter which is contrary to the provisions of Section 76-9-702 U.C. and 702.5 U.C. "Lewdness." Provided, however, that for the purpose of Sexually Oriented Businesses the definition of "private parts" shall be construed to mean "nudity" as defined in this Chapter.

HISTORY

Adopted by Ord. [15-C](#) on 3/17/2015

5.11.250 Legitimate Artistic Modeling

The following regarding legitimate artistic modeling:

1. The City does not intend to unreasonably or improperly prohibit legitimate modeling which may occur in a state of nudity for purposes protected by the First Amendment or similar State protections. The City does intend to prohibit the operation of a Sexually Oriented Business, or prostitution and related offenses occurring under the guise of nude modeling. Notwithstanding the provisions of PMC 13.01, a licensed out-call employee may appear in a state of nudity before a customer or patron, providing that a written contract for such appearance was entered into between the customer or patron and the employee and sign at least twenty-four (24) hours before the nude appearance. All of the other applicable provision of this Chapter shall still apply to such nude appearances.
2. In the event of a contract for nude modeling or appearance signed ore than forty-eight (48) hours in advance of the modeling or appearance, the individual to appear nude shall not be required to obtain a license pursuant to this Chapter. During such unlicensed nude appearances, it is unlawful to:
 - a. Appear nude or seminude in the presence of persons under the age of eighteen (18).
 - b. Allow, offer, or agree to any touching of the contracting party or other person by the individual appearing nude.
 - c. Allow, offer, or agree to commit prostitution, solicitation of a minor, or committing activities harmful to a minor.
 - d. Allow, offer, commit, or agree to any sex act as validly defined by City ordinances or State.
 - e. Allow, offer, agree, or permit the party or other person to masturbate in the presence of the individual contracted to appear nude.
 - f. Allow, offer, or agree for the individual appearing nude to be within five (5') feet of any other person while performing or while nude or seminude.

HISTORY

Adopted by Ord. [15-C](#) on 3/17/2015

5.11.260 Location And Zoning Restrictions

It is unlawful for any Sexually Oriented Business to do business at any location within the City not zoned for such a business. Sexually Oriented Businesses licensed as adult businesses or seminude entertainment businesses pursuant to this Chapter shall only be allowed in areas zoned for their use.

HISTORY

Adopted by Ord. [15-C](#) on 3/17/2015

5.11.270 Location Of Business: Restrictions

The following regarding the location of businesses and restrictions:

1. Sexually Oriented Businesses shall only be permitted in areas zoned M/I 1 (Manufacturing/ Industrial One) under this title, subject to the following additional restrictions:
 - a. No Sexually Oriented Business shall be located:
 - i. Within 1,000 feet of any public or private school or educational institution, child day care facility, troubled youth residential facility, public or private park or plaza, library, or religious institution.
 - ii. Within 600 feet of any residential use or any agricultural or residential zoning boundary.

- iii. Within 600 feet of any other Sexually Oriented Businesses, except out-call services.
- iv. Within 350 feet of any gateway corridor. Gateway corridors include Highway 89, 1100 South Highway 91, 1200 West, and I-15. The distance shall be measured from the right-of-way boundary of improved street or the future right-of-way boundary of unimproved streets.
- b. Distance requirements between structures and uses specified in this Section shall be measured in a straight line, without regard to intervening structures or zoning districts, from the property boundaries of the school, public park, religious or cultural activity, residential use, or other Sexually Oriented Businesses, or from the right-of-way line of a gateway to the structure of the Sexually Oriented Business.
- c. Distance requirements from zoning districts for this Section shall be measured in a straight line, without regard to intervening structures of zoning districts, from the closest zoning boundary of a residential or agricultural district to the Sexually Oriented Business structure.

HISTORY

Adopted by Ord. [15-C](#) on 3/17/2015

5.11.280 Seminude Entertainment Business: Location Restriction

It is unlawful for any business licensed for seminude entertainment to be located within three hundred and thirty (330') feet of a business licensed for the sale or consumption of alcohol.

HISTORY

Adopted by Ord. [15-C](#) on 3/17/2015

5.11.290 Seminude Entertainment Business: Design Of Premises

The following regarding premise design for semi nude entertainment businesses:

1. It is unlawful for business premises licensed for seminude entertainment to:
 - a. Permit a bed, sofa, mattress, or similar item in any room on the premises, except that a sofa may be place in a reception room open to the public or in any office to which patrons are not admitted, and except that in an adult theater where such items are part of a performance and to which the patron has no access.
 - b. Allow any door on any room used for the business to be lockable from the inside, except for the door to an office to which patrons shall not be admitted, outside doors, and restroom doors.
 - c. Provide any room in which the employee or employees and the patron or patrons are alone together without a separation by a solid physical barrier at least three (3') feet high and six (6") inches wide. The patron or patrons shall remain on one (1) side of the barrier and the employee or employees shall remain on the other side of the barrier.
2. Adult theaters shall also require that the performance area shall be separated from the patrons by a minimum of three (3') feet, which separation shall be delineated by a physical barrier at least three (3') feet high.

HISTORY

Adopted by Ord. [15-C](#) on 3/17/2015

5.11.300 Adult Business: Design Of Premises

The following regarding the design of adult business premises:

1. In addition to the general requirements of disclosure for a Sexually Oriented Business, any applicant for a license as an adult business shall also submit a diagram, drawn to scale, of the premises of the proposed location of the licensed business. The design and construction, prior to granting a license or opening for business, shall conform to the following:
 - a. The interior of the premises shall be configured in such a manner that there is an unobstructed view from a manager's station of every area of the premises to which any patron is permitted access for any purpose, excluding restrooms.
 - b. Restrooms may not contain any video reproduction equipment or any of the business merchandise. Signs shall be posted requiring only one (1) person being allowed in the restroom per stall, and only one (1) person in any stall at a time, and requiring that patrons shall not be allowed access to manager's station areas.

- c. For businesses which exclude minors from the entire premises, all windows, doors, and other apertures to the premises shall be darkened or otherwise constructed to prevent anyone outside the premises from seeing the inside of the premises. Businesses that exclude minors from less than all of the premises shall be designed and constructed so minors may not see into the area from which they are excluded.
2. It shall be the duty of the licensee and the licensee's employees to insure that the views from the manager's station described in (1) of this Section remain unobstructed by any doors, wall, merchandise, display racks, or any other materials at all times that any patron is present in the premises, and to insure that no patron is permitted access to any area of the premises which has been designated as an area in which patrons will not be permitted.
3. The premises shall at all times be equipped and illuminated with overhead lighting fixtures of sufficient intensity to illuminate every place to which patrons are permitted access at an illumination of not less than one (1') foot-candle, measured at floor level. It shall be the duty of the licensee and the licensee's employees present on the premises to insure that the illumination described above is maintained at all times that any patron is present in the premises.

HISTORY

Adopted by Ord. [15-C](#) on 3/17/2015

5.11.310 Regulations And Unlawful Activities

It is unlawful for any Sexually Oriented Business or Sexually Oriented Business employee to:

1. Allow persons under the age of eighteen (18) years on the licensed remises, except that in adult businesses which exclude minors from less than all of the business premises, minors shall not be permitted in excluded areas.
2. Allow, offer, or agree to conduct any out-call business with persons under the age of eighteen (18) years.
3. Allow, offer, or agree to allow any alcohol to be stored, used, or consumed on or in the licensed premises.
4. Allow the outside door to the premises to be locked while any customer is in the premises.
5. Allow, offer, or agree to gamble on the licensed premises.
6. Allow, offer, or agree to any Sexually Oriented Business employee touching or being touched by any patron or customer, except that out-call employees and customers may touch, except that any touching of specified anatomical areas, whether clothed or unclothed, is prohibited.
7. Allow, offer, or agree to illegal possession, use, sale, or distribution of controlled substances on the licensed premises.
8. Allow Sexually Oriented Business employees to possess, use, sell, or distribute controlled substances while engaged in the activities of the business.
9. Allow, offer, or agree to commit prostitution, solicitation of prostitution, solicitation of a minor, or committing activities harmful to a minor on the licensed premises or, in the event of an out-call employee or business, the out-call employee committing, offering, or agreeing to commit prostitution, attempting to commit prostitution, soliciting prostitution, soliciting a minor, or committing activities harmful to a minor.
10. Allow, offer, commit, or agree to any specified sexual activity as validly defined by City ordinances or State statute in the presence of any customer or patron.
11. Allow, offer, or agree to any Sexually Oriented Business employee appearing before any customer or patron in a state of nudity.
12. Allow, offer, or agree to allow a patron or customer to masturbate in the presence of the Sexually Oriented Business employee or on the premises of a Sexually Oriented Business.
13. Allow, offer, or agree to commit an act of lewdness as defined in Section 79.9.702 U.C. and 702.5 U.C.

HISTORY

Adopted by Ord. [15-C](#) on 3/17/2015

5.11.320 Alcohol Prohibited

The following regarding alcohol prohibition for this Chapter:

1. It is unlawful for any business licensed pursuant to this Chapter to allow the sale, storage, supply, or consumption of alcoholic beverages on the premises.
2. It is unlawful for any person to possess or consume any alcoholic beverage on the premises of any Sexually Oriented Business.

HISTORY

Adopted by Ord. [15-C](#) on 3/17/2015

5.11.330 Violation: Injunction When

An entity or individual who operates or causes a Sexually Oriented Business to be operated without a valid license, or who employs or is employed as an employee of a Sexually Oriented Business, or who operates such a business or functions as such an employee in violation of the provisions of this Chapter is subject to a suit for injunction in addition to the civil and criminal violations provided herein and any other remedy available at law or in equity.

HISTORY

Adopted by Ord. [15-C](#) on 3/17/2015

5.11.340 Violation: License Suspension Or Revocation

The following regarding licensing suspension or revocation:

1. Perry City may issue a notice suspending or revoking a Sexually Oriented Business or employee license granted under this Chapter if a licensee or an employee of the licensee has:
 - a. Violated or is not in compliance with this Chapter.
 - b. Refused to allow any inspection of the premises of the Sexually Oriented Business specifically authorized by this Chapter or by any other statute or ordinance.
 - c. Failed to replenish the cost bond as provided in this Chapter (such a suspension shall extend until the bond has been replenished).
 - d. Given materially false or misleading information in obtaining the license.
 - e. Knowingly operated the Sexually Oriented Business or worked under the employee license during the period when the business licensee's or employee licensee's license was suspended.
 - f. A licensee has committed an offense that would be grounds for denial of a license for which the time period required has not elapsed.
 - g. On two (2) or more occasions within a twelve (12) month period, a person or persons committed in or on, or solicited for in or on the licensed premises, or an out-call employee solicited or committed on or off the premises, an offense which would be grounds for denial of a license of which a conviction has been obtained and the person or persons were employees, whether or not licensed, of the Sexually Oriented Business at the time the offenses were committed.
 - h. A licensee is delinquent in payment to the City for ad valorem taxes, or sales taxes related to the Sexually Oriented Business.

HISTORY

Adopted by Ord. [15-C](#) on 3/17/2015

5.11.350 Performers: Prohibited Activities

It is unlawful for any professional dancer, model, or performer, while performing in any business licensed pursuant to this Chapter, to:

1. Touch in any manner any other person, except as otherwise provided in this Chapter.
2. Throw any object or clothing off the stage area.
3. Accept any money, drink, or any other object directly from any person.
4. Allow another person to touch such performer, except as otherwise provided in this Chapter, or to place any money or object on the performer or within the costume or person of the performer.
5. Place anything within the costume or adjust or move the costume while performing so as to render the performer in a state of nudity.

HISTORY

Adopted by Ord. [15-C](#) on 3/17/2015

5.11.360 Patrons: Prohibited Activities

It is unlawful for any person or any patron of any business to touch in any manner any performer, except as otherwise provided in this Chapter; or to place any money or object on or within the costume or person of any performer; or to give or offer to give to any such performer any drinks, money, or object while such performer is performing; except that money may be placed on the stage, which shall not be picked up by the performer except by hand.

HISTORY

Adopted by Ord. [15-C](#) on 3/17/2015

5.11.370 Violation: Penalty And Responsibility

The following regarding penalties and responsibilities within this Chapter:

1. In addition to revocation or suspension of a license, as provided in this Chapter, each violation of this Chapter shall, upon citation by the City Zoning Administrator, require the licensee to pay a civil penalty in the amount of \$500.00. Such fines shall be deducted from the cost bond posted pursuant to this Chapter unless paid within ten (10) days of notice of the fine or the final determination after any appeal. In addition to the civil fines provided in this Chapter, the violation of any provision of this Chapter shall be a Class 'C' misdemeanor. Each day of a violation shall be considered a separate offense.
2. Every act or omission by an employee constituting a violation of the provisions of this Chapter shall be deemed the act or omission of the Sexually Oriented Business licensee and/or operator if such act or omission occurs either with the authorization, knowledge, or approval of the licensee's and/or operator's negligent failure to supervise the conduct of the employee and the Sexually Oriented Business licensee shall be punishable for such act or omission in the same manner as if the licensee committed the act or caused the omission.
3. A Sexually Oriented Business licensee and/or operator shall be responsible for the conduct of all employees while on the licensed premises and any act or omission of any employee constituting a violation of the provisions of this Chapter shall be deemed the act or omission of the licensee and/or operator for the purposes of determining whether the licensee's license shall be revoked, suspended, or renewed.

HISTORY

Adopted by Ord. [15-C](#) on 3/17/2015

5.11.380 Nudity: Defenses To Prosecution

It is a defense to prosecution or violation under this Chapter that a person appearing in a state of nudity did so in a modeling class operated:

1. By a proprietary school licensed by the state, or a college, junior college, or university supported entirely or partly by taxation.
2. By a private college or university that maintains and operates educational programs in which credits are transferable to a college, junior college, or university supported entirely or partly by taxation.

HISTORY

Adopted by Ord. [15-C](#) on 3/17/2015

6 Criminal Code

6.01 Criminal Code

6.01.010 Definitions

For purposes of this Title, the following definitions apply:

1. **Adult:** Adult means any person twenty one (21) years of age or older.
2. **City:** This term refers to Perry City.
3. **Emergency:** An emergency means an unforeseen circumstance or circumstances or the resulting situation that calls for immediate action to prevent serious bodily injury or loss of life. The term includes, but is not limited to, a fire, a natural disaster, or automobile accident, or any situation requiring immediate action to prevent serious bodily injury or loss of life.
4. **Establishment:** Any privately owned place of business to which the public is invited, including, but not limited to, any place of amusement, entertainment or recreation.
5. **Law Enforcement Officer:** Any agency providing law enforcement services to the City.
6. **Minor:** Persons under the age of eighteen (18) who are not married, or as otherwise defined by Utah Code Annotated § 15-2-1, as amended, are minors.
7. **Officer:** A police officer, sheriff, deputy sheriff, or any other law enforcement officer.
8. **Police Department:** The Perry City Police Department, or any other law enforcement agency such as the county sheriff or highway patrol.
9. **Public Place:** Any place to which the public or a substantial group of the public has access and includes, but not limited to, streets, highways, hospitals, office buildings, transportation facilities, shopping centers, malls, business, eating establishment, place of amusement, parks, public playgrounds, public buildings and appurtenant open spaces and parking lots, open vacant lots.
10. **Remain:** To linger, stay, or fail to leave a public place when requested to do so by a police officer or the person in control of the public place.

HISTORY

Adopted by Ord. [15-C](#) on 3/17/2015

6.01.020 Adoption By Reference Of The Utah Criminal Code

The provisions of Title 76, Utah Code Annotated, 1953, as amended, are adopted and incorporated by reference as ordinances of Perry City, except as provided in this section.

1. The title, chapter and section numbers of the Utah Code Annotated, 1953, as amended for the above provisions are adopted as the corresponding title, chapter and section numbers of the ordinances of Perry City.
2. Those provisions of Title 76 and Title 41, Utah Code Annotated, 1953, as amended, which are reserved exclusively to the state of Utah, counties of the state of Utah, or cities of a different class than Perry City are not adopted.
3. The Perry City Council shall determine the justice court to have jurisdiction, by contract, by Interlocal Agreement, or otherwise, over Perry City.
4. Perry City shall be substituted for other governmental entities named in said provisions as may be applicable.

HISTORY

Adopted by Ord. [15-C](#) on 3/17/2015

6.01.030 Mayor May Act To Remove Disruptive Person

The Mayor may remove or order the removal of any person who disrupts a meeting or procession, and such person may be charged as set forth in Utah Code Annotated §76-9-103.

HISTORY

Adopted by Ord. [15-C](#) on 3/17/2015

6.01.040 Illegal Advertisement And Tampering

Unless otherwise stated by law, the violation for any of the following is a class C misdemeanor:

1. Posting without permission prohibited. It is unlawful for any person to print, paint, write, mark, or otherwise post an advertisement, notice, card, or similar upon any wall, fence, tree, post, building, bridge, sidewalk, street, or other property, or cause the same to be done without the permission of the owner or agent for the same. If the property is owned by the City the Mayor may grant permission on behalf of the City.
2. Signs over streets and walkways. It is unlawful for any person to erect or construct any sign or similar advertising over, through, under, across, or otherwise interfering with any street, sidewalk, park, or similar public walkway without first making application and obtaining permission from the Mayor. No sign approved under this part shall be erect at a height less than eight (8') feet from the street, sidewalk, or walkway surface.
3. Tampering with official notice or proclamation. It is unlawful for any person to tamper with an official notice or proclamation as set forth in Utah Code Annotated §76-8-417.

HISTORY

Adopted by Ord. [15-C](#) on 3/17/2015

6.01.050 Discharge Of Weapon Or Device Prohibited: Fireworks Prohibited In Certain Circumstances

As authorized by Utah Code Annotated §10-8-47, it is hereby declared unlawful and a class B misdemeanor for any person to:

1. Discharge any firearm, weapon, or similar device that expels a dangerous projectile in the city limits, except in self-defense or at a location where the discharge of a weapon or device is permitted by the City, etc., as provided in PMC 8.09.
2. Sell, possess, distribute, or use fireworks, explosives, gunpowder, rockets, or similar pyrotechnics for flammable substance within the City limits contrary to the established rules or instructions for such device or when the state fire marshal or City fire marshal has publicly prohibited the same in response to a fire danger or similar hazard.

HISTORY

Adopted by Ord. [15-C](#) on 3/17/2015

6.03 Public Indecency

6.03.010 Public Indecency Definitions

1. **Definitions.** As used in this Section, the following terms shall have the following meanings:

- a. Public place means:

- i. Any public building, park, or stadium;
- ii. Any publicly-owned building or real property;
- iii. Any public street, sidewalk, alley or right-of-way;
- iv. Any area open to the sky to which the public or a substantial group of the public has access and includes, but is not limited to, parking lots, access-ways, entry-ways, private streets, sidewalks, landscaped areas, playgrounds or common areas;
- v. All buildings and enclosed places to which the public or a substantial group of the public has access, including such places of entertainment, taverns, restaurants, private clubs, cabarets, theaters, dance halls, banquet halls, party rooms or halls limited to specific members, restricted to adults or to patrons invited to attend, whether or not an admission charge is levied.

- b. Nudity means a state of dress in which the female breast below a point immediately above the top of the areola, or the male or female genitals, the buttocks, the pubic area or the anus are not fully covered by opaque clothing.

2. A person is guilty of public indecency if the person knowingly or intentionally, in a public place:

- a. Appears in a state of nudity;

- b. Exposes on his or her person:

- i. any device, costume, or covering which gives the appearance of or simulates the genitals, pubic hair, natal cleft, perineum anal region or pubic hair region.

- ii. any device worn as a cover over the nipples and/or areola of the female breast, which device simulates and gives the realistic appearance of nipples and/or areola; or
- c. Engages in any of the following acts:
 - i. an act of sexual intercourse or sodomy;
 - ii. masturbation;
 - iii. fondling the genitals of himself, herself or another person.
- 3. The prohibition set forth in subsection 3 above shall not apply to:
 - a. A woman exposing a breast in the process of breast-feeding an infant under two (2) years of age, including breast feeding in any location where the woman otherwise may be, irrespective of whether or not the breast is covered during or incidental to feeding as provided in Utah Code Annotated §§ 10-8-41 and 10-8-50;
 - b. Any child under ten (10) years of age; or
 - c. A licensed sexually-oriented business employee performing in a state of semi-nudity in an adult live entertainment business, in accordance with the requirements of the Sexually Oriented Business regulations of Perry City.

HISTORY

Adopted by Ord. [15-C](#) on 3/17/2015

6.03.020 Construction And Severability

It is the intention of the City that the provisions of this ordinance be construed, enforced and interpreted in such a manner as will cause the least possible infringement of the constitutional rights of free speech, free expression, due process, equal protection or other fundamental rights consistent with the purposes of this ordinance. Should a court of competent jurisdiction determine that any part of this ordinance, or any application or enforcement of it is excessively restrictive of such rights or liberties, then such portion of the ordinance, or specific application of the ordinance shall be severed from the remainder, which shall continue in full force and effect.

HISTORY

Adopted by Ord. [15-C](#) on 3/17/2015

6.03.030 Penalty

Public indecency is punishable as a class B misdemeanor.

HISTORY

Adopted by Ord. [15-C](#) on 3/17/2015

6.05 Juvenile Night Curfew

6.05.010 Minors Prohibited In Public Places; Responsibility Of Parents And Guardians

The following regarding minors in public places:

1. It is unlawful for any minor under the age of sixteen (16) to remain in any public place within the City between the hours of 10 p.m. and 5 a.m., except as provided in PMC 9.11.030.
2. It is unlawful for any minor sixteen (16) years of age or older to remain in any public place within the City between the hours of 12 midnight and 5 a.m., except as provided otherwise in this chapter.
3. It is unlawful for any parent, guardian or other person having legal care and custody of any minor to knowingly permit or by insufficient control allow a minor to violate this chapter.

HISTORY

Adopted by Ord. [15-C](#) on 3/17/2015

6.05.020 Exemptions

A minor under the age of eighteen (18) shall not be in violation of this chapter if, at the time the minor was stopped by a law enforcement officer, the minor was:

1. Sixteen (16) years or older and emancipated by marriage;
2. Accompanied by the minor's parent, guardian or other adult person having the care, custody or supervision of said minor;
3. In a motor vehicle involved in interstate travel;
4. On an errand at the direction of the minor's parent or guardian, without detour or stop;
5. Acting in response to an emergency;
6. Within one thousand (1,000') feet of the minor's primary residence;
7. Engaged in a lawful employment activity or going to or returning home from such an employment activity without any detour or stop; or
8. Returning home from, going to or being in attendance at any religious, family, or school function, organized dance, theater, sporting event, events associated with City or other local government or civic clubs, or other such associational activity; provided, however, that going to or from such activity shall be by a direct route and within a reasonable time of the commencement or termination of such event.

HISTORY

Adopted by Ord. [15-C](#) on 3/17/2015

6.05.030 Enforcement Body

Any law enforcement officer shall enforce this chapter with reasonable discretion if a minor is in violation of this chapter where such minor has committed no foreseeable criminal conduct, or vandalism, and has no potential to so, but the officer shall make record of the name and address of the minor. Any law enforcement officer shall strictly enforce this chapter if a minor is in violation under this chapter where such minor has committed any criminal conduct, mischief or vandalism; or has the intent to commit any such an act.

HISTORY

Adopted by Ord. [15-C](#) on 3/17/2015

6.05.040 Enforcement Procedures

The following regarding enforcement procedure:

1. Before taking any enforcement action under this Chapter, the officer shall attempt to ascertain the apparent offender's age, home address, and reason for being in the public place.
2. The officer shall not take enforcement action under this chapter unless the officer has probable cause to believe that no exemption under this chapter applies.

HISTORY

Adopted by Ord. [15-C](#) on 3/17/2015

6.05.050 Violations

A violation of this chapter shall be punishable as a class C misdemeanor.

HISTORY

Adopted by Ord. [15-C](#) on 3/17/2015

6.07 Juvenile Day Curfew

6.07.010 Daytime Curfew For Minors

Unless otherwise provided in this section, it is unlawful for any minors under the age of eighteen (18) years, who is subject to compulsory education, to be in any public place as defined in this chapter during the hours of 8:30 a.m. and 2:00 p.m. on weekdays when the minor's public or private school is in session. This section does not apply if:

1. The minor is accompanied by the minor's parent, guardian or other adult person having the care, custody and control of the minor.
2. The minor is on an emergency errand directed by the minor's parent, guardian or other adult person having the care, custody and control of the minor.
3. The minor is going to or coming from the minor's place of gainful employment, to or from a medical, dental or related appointment, or is participating in an approved alternate education program.
4. The minor has in the minor's possession a valid, school issued, off-campus permit granting permission to leave the school campus for lunch or a school related activity.
5. The minor has been declared by the local school board to be exempt from school attendance in conformity with Utah Code Annotated § 53A-11-102, as amended, or the minor's absence is authorized by other applicable federal, state or local law.
6. The minor is exempt by law from compulsory education.
7. The minor is attending, or without any detour or stop, going to or returning from an official school, religious, government-sponsored, or other activity which is supervised by an adult and sponsored by a civic organization, school district, or religious institution.

HISTORY

Adopted by Ord. [15-C](#) on 3/17/2015

6.07.020 Parent's Responsibility

Parental responsibility for this chapter is the same as provided in PMC 6.05.

HISTORY

Adopted by Ord. [15-C](#) on 3/17/2015

6.07.030 Enforcement And Penalty

Upon any violation of this chapter, a peace officer may issue a citation to the minor and may transport the minor home or to the school from which the minor is absent. If a citation is issued, the minor and parent shall appear in court as directed in the citation. The person shall be advised of the fact that the minor was cited for a violation of this chapter. The person shall be warned of his or her responsibility and liability as the minor's custodian. Any conviction for any citation issued under this chapter shall be as follows:

1. A minor's first offense for a violation of this chapter is an infraction.
2. A minor's second offense and any subsequent convictions for a violation of this chapter is a class C misdemeanor.
3. If the person has been warned as set forth this section, the next violation of this chapter shall constitute an infraction by the parent, guardian, or other adult person having the care, custody, and control of the minor.
4. If the person has previously been convicted of an infraction as set forth in this chapter, any further violation of this chapter by the minor shall constitute a class C misdemeanor by the parent, guardian, or other adult person having the care, custody and control of the minor.

HISTORY

Adopted by Ord. [15-C](#) on 3/17/2015

7 Public Service Ordinances

7.01 Billing For Services

7.01.010 Service Billings Payment And Delinquency

The City shall bill each water user for each calendar month for the water actually or constructively used and adjusted by actual meter readings. The bill for said water service may be combined with the City sewer service charges, garbage, and/or other City services and one bill only rendered to the user. Payment in full for such combined billings shall be made to Perry City on or before the first (1st) day of each calendar month covering the previous month's services. If any water user fails to pay the water and utility charge, the municipality may enforce charges and/or collection as follows:

1. Monthly Bills, Late Fees, Interest, and Termination of Services.

- a. Payment for all fees and charges shall be assessed each month and shall be due and payable as per the monthly billing notice (mailed to the Billing Address provided). Any payment that is more than thirty (30) days late shall be assessed a late fee of \$10.00. Any payment that is more than sixty (60) days late shall be assessed an additional late fee of \$20.00. Any payment that is more than ninety (90) days late shall be assessed an additional late fee of \$30.00 and result in termination of services until all delinquencies are paid in full.
- b. Perry City staff may waive one late fee per calendar year. Additional fee waivers may be granted by the Mayor or the Office Administrator.
- c. In the event of default or late payments, Perry City shall have the right to institute collection action (including legal proceedings) on all outstanding amounts. Any amounts turned over to an attorney or collection agency for collection shall be assessed an annual interest rate of eighteen (18%) percent. The Property Owner agrees to pay for all court costs and administrative expenses involved in collecting past due amounts including attorney's fees and collection costs of forty (40%) percent of the balance turned over to any attorney or collection agency.

HISTORY

Adopted by Ord. [19-A](#) on 2/28/2019

7.02 Questar Gas Franchise

7.02.010 Effective Date

This ordinance shall become effective upon the date of acceptance by Questar Gas as established above.

HISTORY

Adopted by Ord. [15-C](#) on 3/17/2015

7.02.020 Purpose

1. Questar Gas Company, a Utah corporation, (Questar Gas) desires to construct, maintain and operate a gas distribution system within the City of Perry (City); and
2. The City Council has determined that it is in the best interest of the citizens of the City to grant a franchise to Questar Gas to use the roads and streets within the City for such purpose; and
3. The City Council has therefore approved an ordinance granting to Questar Gas Company a franchise for the construction, operation and maintenance of a gas distribution system in Perry City, Box Elder County, State Of Utah.

HISTORY

Adopted by Ord. [15-C](#) on 3/17/2015

7.02.030 Grant Of Franchise

The City grants to Questar Gas a nonexclusive franchise (Franchise) to construct, maintain and operate in the present and future roads, streets, alleys, highways and other public rights-of-way within City limits, including any property annexed or otherwise acquired by the City after the effective date of this Franchise, (collectively, Streets) a distribution system for furnishing natural and manufactured gas to the City and its inhabitants for heating and other purposes. Questar Gas shall have the right to erect, construct, equip and maintain along, over and under the Streets a system of mains, pipes, laterals and related equipment (Facilities) as are reasonably necessary for supplying gas service in accordance with this Franchise.

HISTORY

Adopted by Ord. [15-C](#) on 3/17/2015

7.02.040 Consideration

In consideration of this Franchise, Questar Gas shall pay to City the sum of \$50.00 upon acceptance of this Franchise and shall provide gas service in accordance with the terms of this Franchise.

HISTORY

Adopted by Ord. [15-C](#) on 3/17/2015

7.02.050 Term

This Franchise is granted for an initial term of twenty (20) years. At the expiration of the initial term, the Franchise shall continue in effect upon the same terms and conditions for up to two additional terms (each of which is a renewal period) of fifteen (15) years each. The City may terminate the Franchise at the end of the initial term, or at the end of any renewal period, by giving Questar Gas written notice of the City's intent to so terminate not less than ninety (90) calendar days before the expiration of the initial term or any renewal period.

HISTORY

Adopted by Ord. [15-C](#) on 3/17/2015

7.02.060 Acceptance

Within sixty (60) days after the passage of this ordinance, Questar Gas shall file with the City an unconditional written acceptance of the Franchise declaring its acceptance of the Franchise and its intention to be bound by the terms and conditions of the Franchise.

HISTORY

Adopted by Ord. [15-C](#) on 3/17/2015

7.02.070 Construction And Maintenance Of Facilities

1. All Facilities shall be constructed and installed so as to interfere as little as possible with traffic over and public use of the Streets and to cause minimum interference with the rights and reasonable convenience of property owners who adjoin any of the Streets. All Facilities shall be constructed in accordance with established gas distribution construction practices and in a manner which protects the Facilities from all traffic loads. Without unreasonable additional cost to Questar Gas, all Facilities that are installed during the term of the Franchise shall be sited to be visually unobtrusive and to preserve the natural beauty and neighborhood aesthetics within the City limits.
2. Questar Gas shall repair or replace, at its own expense, any and all rights of way, pavements, sidewalks, street improvements, excavations, other facilities, landscaping, or other improvements, public or private, that it damages in the Franchise operations.

HISTORY

Adopted by Ord. [15-C](#) on 3/17/2015

7.02.080 Compliance With Ordinances - Conflict

1. Questar Gas shall comply with all City ordinances, regulations and requirements and shall pay all applicable excavation fees and charges that are or may be prescribed by the City with respect to the construction, maintenance and operation of all Facilities. However, these obligations shall apply only as long as such ordinances, regulations, requirements or fees are not preempted by or otherwise in conflict with any applicable statutory or constitutional law, rule or regulation, or the tariffs approved by regulatory bodies having jurisdiction over Questar Gas, including this Franchise and any lawful revisions made and accepted by Questar Gas during the term of the Franchise.
2. The City shall have the right to inspect the construction, operation and maintenance of the Facilities to ensure the proper compliance with applicable City ordinances, regulations and requirements. In the event Questar Gas should fail to comply with the terms of any City ordinance, regulation or requirement, the City shall give Questar Gas written notice of such non-compliance and the time for correction provided by ordinance or a reasonable time for correction if there is no time frame provided by the applicable ordinance, regulation, or requirement. After written notice and failure of Questar Gas to make correction, the City may, at its sole risk, make such correction itself and charge the cost to Questar Gas including any minimum cost provided by ordinance. Nothing in this Franchise limits Questar Gas' right to oppose any ordinance, either existing, proposed, or adopted from and after the effective date of this Franchise.

HISTORY

Adopted by Ord. [15-C](#) on 3/17/2015

7.02.090 Information Exchange

Upon request by either the City or Questar Gas, as reasonably necessary, Questar Gas and the City shall meet for the purpose of exchanging information and documents regarding construction and other similar work within the City limits, with a view towards coordinating their respective activities in those areas where such coordination may prove mutually beneficial. Any information regarding future capital improvements that may involve land acquisition shall be treated with confidentiality upon request to the extent that the City may lawfully do so.

HISTORY

Adopted by Ord. [15-C](#) on 3/17/2015

7.02.100 Relocation

1. Upon written notice to Questar Gas, the City may require the relocation and removal or reinstallation (collectively, Relocation) of any Facilities located in, on, along, over, across, through, or under any of the Streets. After receipt of such written notice, Questar Gas shall diligently begin such Relocation of its Facilities as may be reasonably necessary to meet the City's requirements. The Relocation of Facilities by Questar Gas shall be at no cost to the City if (i) such request is for the protection of the public health, safety and welfare pursuant to lawful authority delegated to the City; (ii) the Facilities have been installed pursuant to this or any other Questar Gas franchise and not pursuant to a property or other similar right, including, but not limited to, a right-of-way, grant, permit, or license from a state, federal, municipal or private entity; and (iii) the City provides a new location for the Facilities. Otherwise, a Relocation required by the City pursuant to such written notice shall be at the City's expense. Following Relocation of any Facilities, Questar Gas may maintain and operate such Facilities in a new location within City limits without additional payment. If a City project is funded by federal or state monies that include an amount allocated to defray the expenses of Relocation of Facilities, then the City shall compensate Questar Gas up to the extent of such amount for any Relocation costs mandated by the project to the extent that the City actually receives or is otherwise authorized to direct or approve payment of such federal or state funds.
2. Notwithstanding the preceding paragraph, Questar Gas shall not be responsible for any costs associated with an authorized City project that are not attributable to Questar Gas' Facilities in the Streets. Further, all such costs shall be allocated among all utilities or other persons whose facilities or property are subject to Relocation due to an authorized City project.

HISTORY

Adopted by Ord. [15-C](#) on 3/17/2015

7.02.110 Terms Of Service

Questar Gas shall furnish gas service without preference or discrimination among customers of the same service class at reasonable rates, in accordance with all applicable tariffs approved by and on file with regulatory bodies having jurisdiction over Questar Gas, including revisions to such tariffs made during the term of the Franchise, and in conformity with all applicable constitutional and statutory requirements. Questar Gas may make and enforce reasonable rules and regulations in the conduct of its business, may require its customers to execute a gas service agreement as a condition to receiving service, and shall have the right to contract with its customers regarding the installation and operation of its Facilities. To secure safe and reliable service to the customers, and in the public interest, Questar Gas shall have the right to prescribe the sizes and kinds of pipes and related Facilities to be used and shall have the right to refuse service to any customer who refuses to comply with Questar Gas' rules and regulations.

HISTORY

Adopted by Ord. [15-C](#) on 3/17/2015

7.02.120 Indemnification

Questar Gas shall indemnify, defend and hold the City, its officers and employees, harmless from and against any and all claims, demands, liens, liabilities, damages, actions and proceedings arising from the exercise by Questar Gas of its rights under this Franchise, including its operations within City limits, and Questar Gas shall pay the reasonable cost of defense plus the City's reasonable attorneys' fees. Notwithstanding any provision to the contrary, Questar Gas shall not be obligated to indemnify, defend or hold the City harmless to the extent that any underlying claim, demand, lien, liability, damage, action and proceeding arises out of or in connection with any act or omission of the City or any of its agents, officers or employees.

HISTORY

Adopted by Ord. [15-C](#) on 3/17/2015

7.02.130 Assignment

Questar Gas may assign or transfer its rights and obligations under the Franchise to any parent, affiliate, or subsidiary of Questar Gas, to any entity having fifty percent (50%) or more direct or indirect common ownership with Questar Gas, or to any successor-in-interest or transferee of Questar Gas having all necessary approvals, including those from the Utah Public Service Commission or its successor, to provide utility service within the City limits. Otherwise, Questar Gas shall not transfer, assign or delegate any of its rights or obligations under the Franchise to another entity without the City's prior written approval, which approval shall not be unreasonably withheld or delayed. Inclusion of the Franchise as an asset of Questar Gas subject to the liens and mortgages of Questar Gas shall not constitute a transfer or assignment requiring the City's prior written consent.

HISTORY

Adopted by Ord. [15-C](#) on 3/17/2015

7.02.140 Insurance

The Company shall responsibly self-insure or maintain insurance in an amount sufficient to cover its obligations and liabilities. In lieu of any insurance as may be required in any City ordinances.

HISTORY

Adopted by Ord. [15-C](#) on 3/17/2015

7.02.150 Effect Of Invalidity

If any portion of this Franchise is for any reason held illegal, invalid, or unconstitutional, such invalidity shall not affect the validity of any remaining portions of this Franchise.

HISTORY

Adopted by Ord. [15-C](#) on 3/17/2015

7.02.160 Amendment

This ordinance shall not be altered or amended without the prior written consent of Questar Gas.

HISTORY

Adopted by Ord. [15-C](#) on 3/17/2015

7.03 Parks, Trails, And Recreation

7.03.010 Superintendent

The Mayor, with the advice and consent of the City Council, may select a competent person to supervise the maintenance, operation, care, improvement and beautification of all City parks and public grounds who shall be called the Superintendent of Parks.

HISTORY

Adopted by Ord. [15-C](#) on 3/17/2015

7.03.020 Applicability

The provisions of this ordinance apply to all public parks and grounds located within the corporate limits of Perry City. Public grounds means any public property or public facility owned, operated or otherwise controlled by Perry City that is not a public roadway and includes such things as public buildings and landscaping around them, public infrastructure and facilities such as storm drainage areas, well houses, or pump/lift stations, planting strips, flower beds, open spaces, playgrounds, trails, walkways, riding arena or wildlife viewing areas. The provisions of this ordinance shall not be applicable to a peace officer or Perry City employee while acting within the scope of his duty or employment.

HISTORY

Adopted by Ord. [15-C](#) on 3/17/2015

7.03.030 Designated Park Hours

It shall be unlawful for any person, other than a peace officer on duty, or an employee of Perry City acting within the scope of his employment or an officer in the discharge of his official duties, to be in or about any park or public grounds within the corporate limits of Perry City between thirty (30) minutes after sunset and six o'clock (6:00) a.m., except in connection with an organized event or activity authorized by the Mayor and the Superintendent of Parks. The hours referred to in this part shall be deemed to be the time then in current use at the date in question, whether the same is Mountain Standard Time or Daylight Saving Time.

HISTORY

Adopted by Ord. [15-C](#) on 3/17/2015

7.03.040 Prohibited Activities

This part does not apply to the vehicles, equipment and employees of Perry City or independent contractors acting under Perry City's discretion. The following activities are prohibited in or upon any park or public grounds except as expressly authorized by the Perry City Council or where specific, designated approval has been obtained from the Mayor and Superintendent of Parks:

1. **Skating:** It shall be unlawful for any person to operate/ride a skateboard, roller blades, roller skates, or similar devices on any table, bench, landscaping, playground equipment or similar improvement.
2. **Shooting Games:** It shall be unlawful for any person to play and/or practice golf, paint balling, archery, shooting, hunting or any similar game or activity.
3. **Hitching Animals:** It shall be unlawful to hitch or fasten any horse or other animal to any structure, improvement or tree/plant except the use of a structure that is expressly designated for such purpose.
4. **Trailers:** It shall be unlawful to stop, park, use, load or unload any private trailer.
5. **Sleeping and Camping:** It shall be unlawful for any person to sleep overnight or camp except while engaging in an organized event or activity authorized by the Mayor and Superintendent of Parks.

6. **Injury and/or Vandalism to Public Property or Landscaping:** It shall be unlawful for any person to remove or willfully damage or deface, scratch, cut, injure or write upon any building, improvement, furniture, structure, rest room facility, fence, fountain, bench, bleachers, irrigation system or any other public property or parts thereof. It shall be unlawful to cut, remove or willfully damage any landscaping, tree, flower, plant, shrub, grass, soil, rock, sand, gravel or any other material.
7. **Alcohol Consumption or Possession:** It shall be unlawful for any person to have in his possession or to consume any alcohol or alcoholic beverage.
8. **Animals at large:** It shall be unlawful for the owner or care-taker of any dog or other animal to permit such animal at large. It shall be unlawful for any animal owner or care-taker having a leashed or controlled animal or any animal at large, to fail to clean up and remove any excrement from or to fail to repair any damages caused by such animal.
9. **Use of firearms, fireworks or explosives:** It shall be unlawful for any person to fire or discharge any firearms, fireworks, firecracker, or any explosive device or weapon except for a peace officer in the performance of his duty or specific written consent of City Fire Marshal and under his direction for fireworks displays approved by the Mayor and Superintendent of Parks.
10. **Littering and Smoking:** It shall be unlawful for any person to litter, leave, fail to clean up or deposit garbage, junk, or refuse of any kind in any place except for inside of the receptacles provided for that purpose. It shall likewise be unlawful to smoke or leave smoking debris.
11. **Annoying Behavior and Disorderly Conduct:** It shall be unlawful for any person to engage in any activity that causes or creates annoyances such as excessive noise (defined as 83 DBA measured 3 feet from the source), lewdness, disorderly conduct or other such harmful nuisances.
12. **Trespassing:** It shall be unlawful for any person to trespass on any public grounds where trespassing is expressly prohibited.

HISTORY

Adopted by Ord. [15-C](#) on 3/17/2015

7.03.050 Activities Requiring Permit

Any person holding an activity, event, meeting, gathering, picnic, musical, theatrical or other entertainment in any park or City Building or public grounds is responsible for first obtaining a permit and paying a fee and/or deposit, if applicable. Such fees and deposit amounts shall be included in a fee schedule adopted by a resolution of the Perry City Council and may be changed by resolution whenever deemed necessary.

HISTORY

Adopted by Ord. [15-C](#) on 3/17/2015

7.03.060 Penalty

Any person who violates any of the provisions of this ordinance is guilty of a Class C misdemeanor and shall be fined not less than \$100.00 for each violation. The sentencing judge may, upon the request of the City, also order that the offender:

1. Render community service to remedy damage caused by him or pay restitution for the same, and/or
2. Be prohibited from entering and/or using any park, public grounds and/or public facilities as dictated by the court for a period of time set by the court, or order that the offender be restrained from engaging in any prohibited activity in any park, public grounds or public facilities.

HISTORY

Adopted by Ord. [15-C](#) on 3/17/2015

7.03.070 Required Amenities For All Parks, Trailers, And Trailheads

The following regarding the required amenities for all parks, trails, and Trailheads:

1. **Park amenities:** Park amenities will be to the required standards set by the City Parks Superintendent. Specific improvements will be approved by the City Parks Superintendent and will be in accordance with Ordinance 07-D Parks and Public Grounds – Use Regulations. All parks will have:
 - a. Park signs designating the name of the park and rules;
 - b. Picnic tables;
 - c. Pavilion or bowery;

- d. Restroom facilities (not required for Mini-Parks);
 - e. Play structures (primarily constructed of plastic and powder-coated metal);
 - f. Benches (primarily constructed of aluminum, plastic or powder-coated metal);
 - g. Parking facilities (not required for Mini-Parks);
 - h. Walking paths (not required for Mini-Parks under one acre);
 - i. ADA accessibility;
 - j. Landscaping/lawn/trees/sprinkler system;
 - k. Lighting/electricity availability;
 - l. Water fountain;
 - m. Designated street crossings for entrance to park (painted lines and park crossing signs).
2. **Trail and Trailhead amenities:** Trail and Trailhead amenities will be to the required standards set by the City Parks Superintendent. Specific improvements will be approved by the City Parks Superintendent and will be in accordance with Ordinance 07-D Parks and Public Grounds – Use Regulations. Required amenities shall be as follows:
- a. Bike and Pedestrian Trails will consist of landscaping (where the City deems necessary), benches, trees, trail signs, asphalt/concrete surfaces (unless otherwise specified by the City), 10-foot wide (unless otherwise specified by the City) and will follow the following class system:
 - b. Class I Bike and Pedestrian Trails (path): Paved hard surface paths, with a minimum 10-foot wide tread, and require a minimum separation of 5-feet from the roadway. AASHTO standards should be used as design guidelines.
 - c. Class II Bike Lane: Striped lanes adjacent to the curb on a roadway, with width and other requirements as per UDOT and/or other standard regulations.
 - d. Class III Bike Routes: Existing streets with signage for on-street bicycle use.
3. Equestrian Trails: Dirt or stabilized dirt is a preferred surface. The equestrian trail should be at least three to six feet away from a hard surface trail for bikes and pedestrians and at least 5-foot wide tread for horses. Vertical clearance for equestrians should be at least ten feet, with a horizontal clearance of at least five feet.
4. Trailheads: Trailheads will consist of landscaping, restroom facility, benches, parking facility(ies), bicycle rack, drinking fountain, shelter, information station, and trail sign.

HISTORY

Adopted by Ord. [15-C](#) on 3/17/2015

7.03.080 Characteristics And Amenities For Mini-Parks, Neighborhood Parks, Community Parks, Trails, And Trailheads

The following regarding the characteristics and amenities for mini-parks, neighborhood parks, community parks, trails, and Trailheads:

1. **Mini-parks:** A specialized facility that serves a concentrated or limited population or specific group, such as tots or senior citizens. This facility should be located within neighborhoods and in close proximity to apartment complexes, townhouse developments, or housing for the elderly. When used for detention of storm water, mini-parks must maintain a minimum seventy five (75%) percent of dry area (i.e. not used for detention). Mini-parks less than one acre are not customarily included in the impact fee level of service for the City's parks because they are usually considered project improvements of a new development. In order for a park less than one acre to be considered in the impact fee level, it must be developed by the City and not as part of a new development. The following regarding mini-parks:
 - a. Typical Park Size: 5,445 sq. ft- 2.99 acres
 - b. Site Characteristics: Centrally located in neighborhoods and higher-density residential. The walking distance should not exceed one-quarter mile nor require the crossing of busy streets. Appropriate facilities include children's playground equipment, grassy play areas, picnic tables and shelters, and benches.
2. **Neighborhood Parks:** Areas designed for intense recreational activities such as field games, court games, crafts, playground apparatus, skating, picnicking, wading pools, etc. Neighborhood park sites should be suited for intense development, easily accessible to neighborhood populations, and geographically located for safe walking and bicycle access (service radius of one-half mile). A minimum twenty percent of the site area should be dry (i.e. not used for detention). These parks are included in the City's level of service and considered system improvements. The following regarding neighborhood parks:
 - a. Typical Park Size: 3.0 – 12.99 acres

- b. Site Characteristics: Centrally located to provide direct and safe walking/biking access. Appropriate facilities include open play areas for softball, soccer, youth baseball, Frisbee, etc., as well as restrooms, parking facilities, picnic areas, shelters, and a children's playground with seating available nearby. Sites should be relatively visible from adjoining streets.
- 3. **Community parks:** Areas of diverse recreational value including intense recreational facilities, such as athletic complexes and pools, as well as more passive uses such as picnicking, viewing, nature studying, and other types of recreational development. The size and amenities contained within each community park should be based on the planned population to be served. A minimum twenty percent of the site area should be dry (for a 10-year storm event). Community parks should serve the majority of residential areas with overlapping service area coverage. These parks are included in the City's level of service and are considered system improvements. The following regarding community parks:
 - a. Typical Park Size: 13.0 – 50.0 acres
 - b. Site Characteristics: Comprises both active and passive recreational activities with support facilities such as off-street parking and restrooms. Appropriate facilities include fields for formal baseball-softball, soccer, etc., along with picnic facilities, trail/pathway systems, and children's playgrounds. The park should be located on an arterial or collector street and have landscaped setbacks to buffer active use areas from residential areas as needed.

HISTORY

Adopted by Ord. [15-C](#) on 3/17/2015

7.03.090 Purpose And Application

To establish specific standards for all parks and trails in order to ensure appropriate high quality parks and trails are developed within the community, and ensure that maintenance patterns are standardized throughout the Perry City Parks and Trails System. Residents are encouraged to participate in "adopt a tree," "adopt a trail" and similar programs. This ordinance shall be immediately effective upon approval and shall be applicable to all subdivisions and areas for which there is not yet final approval by the City Council.

HISTORY

Adopted by Ord. [15-C](#) on 3/17/2015

7.03.100 Purpose And Application

To establish the location, requirements and specifications for development of trails, paths, and other public spaces which have been outlined and planned in the Perry City Parks, Trails, Open Space and Critical Lands Master Plan. This ordinance shall be immediately effective upon approval and shall be applicable to all subdivisions and areas for which there is not yet final approval by the City Council.

HISTORY

Adopted by Ord. [15-C](#) on 3/17/2015

7.03.110 Location Of Trails, Paths, Public Spaces, Waterway Corridor Setbacks

The following regarding the location of trails, paths, public spaces, and waterway corridor setbacks:

1. Land shall be reserved and improvements shall be installed: The Planning Commission, in its review of each subdivision, shall require that land be reserved and improvements installed for trails, paths, and other public spaces designated within the Perry City Parks, Trails, Open Space and Critical Lands Master Plan or in other areas where such amenities would be appropriate and would benefit the subdivision and its residents. The area shall be shown on the Final Plat and will be built to the City's specifications.
2. Areas to be left completely as Open Space include those for which one or more of the following conditions apply:
 - a. Areas within required waterway corridor setbacks; and/or
 - b. Areas designated as floodplain by FEMA (the Federal Emergency Management Agency), and/or
 - c. Slopes over thirty (30%) percent, and/or
 - d. Wetlands (unless exceptions apply as per Army Corps of Engineers regulations).
3. Setbacks for subdivisions (and other areas) developed along major waterways, including major canals, rivers, creeks and streams where trails are planned shall require a forty foot (on each side) Perry City right of way dedication (waterway corridor setback) for trail development.

4. Setbacks for subdivisions (and other areas) developed along minor waterways, including minor canals, ditches and streams where trails are planned shall require a fifteen (15') foot (on each side) Perry City right-of-way dedication (waterway corridor setback) for trail development.

HISTORY

Adopted by Ord. [15-C](#) on 3/17/2015

7.03.120 Trails, Paths, And Other Public Space Improvement Requirements

The following regarding trails, paths, and other public space improvement requirements:

1. In order for the City to obtain property for trails, paths, and other public spaces, the developer shall provide for a right of way dedication, which shall be dedicated to Perry City for trails, paths, or other public spaces and developers will be required to install all improvements to these areas and shall be built to City specifications.
2. Trails, paths, and other public spaces shall be developed appropriately to permit efficient drainage, provide safe access, and allow links to adjacent trails. Trails should provide a link to schools, recreation facilities, commercial areas, parks and significant natural features.
3. Trails should be provided to allow efficient internal pedestrian and non-motorized circulation as well as provide links to other cities' trails and regional trails. Construction of new trails will be required concurrently with the installation of other public improvements unless the Planning Commission determines otherwise, in which case, cash deposits shall be required pursuant to this Code for trail improvements. The developer or the developer's engineer shall provide cost estimates for trail development, as needed. The City Engineer(s) shall review all cost estimates for trail development.
4. Although required trails may not link to adjacent trails immediately, each trail is a vital part of the overall circulation plan.

HISTORY

Adopted by Ord. [15-C](#) on 3/17/2015

7.03.130 Purpose And Application

This parks, open spaces, and other public spaces location and purchase fee ordinance will establish placement and assess fees to purchase land for the development of parks, open space and other public spaces. This ordinance shall be immediately effective upon approval and shall be applicable to all subdivisions and areas for which there is not yet final approval by the City Council, excepting subdivisions and areas for which preliminary approval was given by the City Council on or before November 30, 2006.

HISTORY

Adopted by Ord. [15-C](#) on 3/17/2015

7.03.140 Location Of Parks, Open Space, And Other Public Spaces

The City shall require a minimum of six (6) acres of property for parks, open space or other public spaces for every 1,000 population throughout the City. The location of parks shall be determined by the City as identified in the Perry City Parks, Trails, Open Space and Critical Lands Master Plan. Developers will be required to work with the City to obtain park property within the development where placements of parks have been identified.

HISTORY

Adopted by Ord. [15-C](#) on 3/17/2015

7.03.150 Parks, Open Space, And Other Public Spaces Purchase Fees

The following regarding parks, open space, and other public spaces purchase fees:

1. **Regular 2% Cash Purchase Fee:** In order for the City to obtain property for parks, open space, and other public spaces, and as a condition of subdivision approval, the developer shall contribute to the City two (2%) percent of the appraised value of all land being developed which shall be used to purchase property for parks, open space and other public spaces in the City. This assessment shall be made on each phase of the development. Payment of cash will be made by the developer to the City before recording the plat.

2. **Optional 2% Land Donation:** In lieu of cash, the City may require the developer to donate two (2%) percent of the property being developed should the City desire a park, open space, or public space in that location; provided, not less than a contiguous minimum of ten thousand (10,000) square feet shall be so allocated.
3. **MAI Appraisal:** The amount of the Park Purchase Fee shall be determined by a third party MAI (Member of the Appraisal Institute) designated appraisal requested by the City. The developer shall pay a nominal fee as per the City's fee schedule (or as determined by the City Council) to defray the cost of the appraisal report. The developer may accept the City's MAI appraisal or may procure and submit to the City an MAI appraisal of the subdivision property. The City Council shall choose between MAI appraisals if more than one is available, subject to review in District Court.
4. **Exclusive Use of Funds:** The monies shall be exclusively used for park, open space, or other public space development (thus, monies shall not be placed in the general fund; but rather, in the appropriate capital facilities fund or other special fund and used accordingly).

HISTORY

Adopted by Ord. [15-C](#) on 3/17/2015

7.07 Culinary Water

7.07.010 General Provisions

7.07.010.1 Adoption Of Ordinance

Perry City having expanded its culinary water system hereby adopts the following Ordinance concerning such water system repealing all former ordinances in conflict herewith.

HISTORY

Adopted by Ord. [15-C](#) on 3/17/2015

7.07.010.2 Supervision

Supervision shall be the determined by the Perry City Council which may appoint a Water Superintendent and prescribe his duties and responsibilities.

HISTORY

Adopted by Ord. [15-C](#) on 3/17/2015

7.07.010.3 Water Connections

Water Connections to the Perry City culinary water system shall not be made without a water meter installed by or under the direction of Perry City and in compliance with this ordinance.

HISTORY

Adopted by Ord. [15-C](#) on 3/17/2015

7.07.020 Applications, Fees, And Charges

7.07.020.1 Application For Water Service Connection

Any person, firm or corporation within the municipal boundaries of Perry City, who desires a culinary water connection to the water mains of Perry City, and any such person, firm or corporation who purchase or otherwise acquires ownership of or an interest in a property already connected to the Perry City water system shall make application in writing and file an agreement with the City which shall be substantially the following form:

PERRY CITY APPLICATION FOR SERVICES
(Current Address of City Offices)

Address of Property:		Parcel #:	
Name of Property Owner:			
Address of Property Owner (# and Street):		(City, State, Zip):	
Preferred Billing Address: (Check One)			
Address of Property Owner		Address of Property	

- 1. Property Owner's Responsibility.** The Undersigned Property Owner hereby applies for culinary water, sanitary sewer, storm water, and garbage services from Perry City for the property described by the above listed address. By signing this Application, the Undersigned represents and acknowledges being the Property Owner of the real property located at the above provided address and accepts responsibility for the payment of all fees and charges associated with the services provided under this Application, until such a time as the Property Owner shall direct the services be discontinued. If renting or leasing the property, the lessee/resident may pay for said fees and charges, but the Property Owner remains ultimately responsible to pay for all fees and charges. The Undersigned agrees that in the event of transfer or sale of the property at the above address, the Undersigned shall ensure that all fees and charges assessed against the property for these services are paid in full at the closing of that transaction. The Undersigned hereby acknowledges that notice of this Application, if approved by Perry City, may be recorded in the Office of the Box Elder County Recorder.
- 2. Deposit and Application Fee.** A fee of \$200.00 (\$175.00 refundable deposit and \$25.00 non-refundable application fee) shall be paid by the Property Owner at the time services are requested. In the event the services are discontinued due to failure to pay the fees and/or charges, the deposit shall be forfeited for the amount of the \$50.00 re-connection fee and the outstanding balance of the account. The Property Owner shall be required to restore the deposit to the original \$175.00 amount prior to the restoration of services. If the balance is greater than the deposit, the entire balance and a new \$175.00 deposit shall be paid prior to the restoration of services. The \$25.00 non-refundable application fee paid shall be applied to the processing of this Application and/or the recording of the notice of assessment for service with the County Recorder. No Application for service shall be accepted unless, at the time the Application is submitted, the Property Owner: (a) is present; (b) produces photographic identification and proof of ownership; and (c) pays the security deposit and application fee.
- 3. Waiver/Refund of Deposits.** As per Resolutions 05-19 and 06-01, a waiver of all deposits (and a refund of all past deposits) shall be granted for any Property Owner or resident who can establish that they:
 - have already been a Property Owner and/or resident for at least three (3) years during the past ten (10) years; and
 - were in good standing and paid all of their utility payments to the City on time during that time period.
- 4. Monthly Bills; Late Fees; Interest; and Termination of Service.** Payment for all fees and charges shall be assessed each month and shall be due and payable as per the monthly billing notice (mailed to the Billing Address provided above). Any payment that is more than thirty (30) days late shall be assessed a late fee of \$25.00. Any delinquency in the payment of fees or charges outstanding for more than sixty (60) days may result in:
 - the termination of services until all delinquencies are paid in full (or until the said failure to conform is corrected); and/or
 - the assessment of an annual interest rate of eighteen (18%) percent. If a notice other than the monthly billing statement is served upon the Property Owner as a result of any delinquency, an additional fee of \$15.00 shall be assessed for any mailed notice (and a \$50.00 fee shall be assessed for any notice served in person upon the property or upon the Property Owner).
- 5. Collection Action; Incorporation by Reference of Perry Municipal Code.** In the event of default or late payments, Perry City shall have the right to institute collection action (including legal proceedings) on all outstanding amounts. Any amounts turned over to an attorney or collection agency for collection shall be assessed an annual interest rate of eighteen (18%) percent. The Property Owner agrees to pay for all court costs and administrative expenses involved in collecting past due amounts including attorney's fees and collection costs of forty (40%) percent of the balance turned over to any attorney or collection agency. In addition to the terms of this Application, the Undersigned agrees to be bound by the Ordinances, Resolutions, and Regulations (enacted or adopted by Perry City) applicable to the City's utility system and the provisions of this Application.

Property Owner Signature:		Date:	
Property Owner Signature:		Date:	

[A Notary (Jurat) Certificate is on the Back Side of this Page]

State of Utah)

§

County of Box Elder)

Subscribed and sworn to before me on this _____ day of _____, in the year 2 _____,
DAY MONTH YEAR

By _____ and _____
NAME OF DOCUMENT SIGNER NAME OF SECOND DOCUMENT SIGNER (IF ANY)

NOTARY PUBLIC SEAL

HISTORY
Adopted by Ord. [15-C](#) on 3/17/2015

7.07.020.2 Owner And Tenant Responsibilities

Property owners will be billed for the utility service. If tenants do not comply with the ordinance, rules, regulations, and resolutions in any form, the Property Owner will be held responsible.

HISTORY
Adopted by Ord. [15-C](#) on 3/17/2015

7.07.020.3 Deposit And Application Fee

A fee of \$200.00 (\$175.00 refundable deposit and \$25.00 non-refundable application fee) shall be paid by the Property Owner at the time culinary water and other utility services are requested. In the event the services are discontinued due to failure to pay the fees and/or charges, the deposit shall be forfeited for the amount of the \$50.00 re-connection fee and the outstanding balance of the account. The Property Owner shall be required to restore the deposit to the original \$175.00 amount prior to the restoration of services. If the balance is greater than the deposit, the entire balance and a new \$175.00 deposit shall be paid prior to the restoration of services. The \$25.00 non-refundable application fee paid shall be applied to the processing of the Application and/or the recording of the notice of assessment for service with the County Recorder. No Application for service shall be accepted unless, at the time the Application is submitted, the Property Owner:

- 1. Is present;
- 2. Produces photographic identification and proof of ownership; and
- 3. Pays the security deposit and application fee.

HISTORY
Adopted by Ord. [15-C](#) on 3/17/2015

7.07.020.4 Water Connection And Rates

The following regarding water connections and rates:

- 1. Water connections shall be made to the Perry City water system only by qualified plumbers and only upon the written approval, as to materials and means of connection, by the Perry City Water Superintendent.
- 2. All connections will be by 3/4 inch line for single dwellings. As specifically authorized by Resolution, of the Perry City Council, larger sizes may be authorized for commercial, school, church or other use.
- 3. Water connection fees after the effective date of this ordinance shall be as follows:

- a. 3/4 inch line - As set forth in PMC 4.09, Fee Schedule
 - b. 1 inch line - As set forth in PMC 4.09, Fee Schedule
 - c. 2 inch line - As set forth in PMC 4.09, Fee Schedule
 - d. *Larger size cost will be determined individually and by Perry City Council action.
4. Water Service Rates for single dwellings and commercial buildings shall be a certain minimum rate per month, usage not to exceed 15,000 gallons per month, a certain rate per each 1,000 gallons or part thereof in excess of 15,000 gallons used per month, as per PMC 4.09, Fee Schedule.
5. Multiple Housing Dwelling Units with more than one living unit serviced by one water meter shall be considered multiple housing under the ordinances of Perry City. Fees will be charged a certain monthly rate for each unit allowing 10,000 gallons minimum per unit per month as per PMC 4.09, Fee Schedule. Water cannot be disconnected for one unit when both are occupied. The property owner is responsible for all water, sewer, garbage and other charges. If, the unit is unoccupied, water can be disconnected upon the owner's request. (If one unit is occupied, the basic fee for each unit will be charged per month.)
6. The connection fees and water rated hereinabove provided for, shall be subject to change by Resolution of the City Council duly passed and adopted, provided however, no change of size or rate will be made which may impair the ability of Perry City to pay and discharge the bonds or other obligations incurred for the installation, maintenance or repair of the Perry City Water System.
7. It is hereby expressly provided that it shall be unlawful for the owner or other person having charge of, or occupying any property upon which a building shall have been or is being constructed for residential or commercial use, any part of which building is within two (200') hundred feet of a City water line in existence and when the City water line abuts the property line and used in the City for culinary purposes to not be connected to such line. When a water line is within the required distance and when property owner has received written and proper notice from Perry City, such owner, agent or other person having charge of or occupying all property coming within scope of this section must be connected to the culinary water line.
8. In the instance where Perry City does not have an existing water line in place at the time of occupancy of the building and the owner or other person having charge of the property has had to seek other means of obtaining culinary water and indeed has obtained culinary water by such means as a legalized private well, due to the inability of the City to provide such water at that time, the owner or other person having charge of said property will not be required to connect to Perry City water or pay water connection or impact fees until a City water connection is desired or at such time as the subject property is sold or conveyed in any manner. At that time, the owner or other person having charge of the property may make application for a culinary water connection and will be required to pay the appropriate fees that are in place at the time of application.

HISTORY
Adopted by Ord. [15-C](#) on 3/17/2015

7.07.020.5 Drought Emergency Water Rate Schedule

Section 2: Drought Emergency Water Rate Schedule. Upon the declaration of Council by majority vote, the following drought emergency water rates are hereby imposed as set forth by the City Engineer in his study dated August 9, 2021, adopted and incorporated herein:

Drought Emergency Culinary Water Rate:	Monthly Overage User Rate:
	\$2.00 per 1,000 gallons (10,001 – 20,000)
	\$4.00 per 1,000 gallons (over 20,000)

Drought emergency rates may only be imposed during a declared drought emergency and are only valid between the months of April through October during a calendar year.

HISTORY
Adopted by Ord. [21-O Emergency Drought Rates](#) on 10/4/2021

7.07.030 Regulations Including Prohibited Actions

7.07.030.1 Turning On Water After Being Turned Off: Prohibited

It shall be unlawful for any person, after the water has been turned off from any premises for nonpayment of water and sewer charges or other violation of the rules and regulations pertaining to the water system, to turn on or allow the water to be turned on or used without authority. A \$500.00 fine will be charged to the owner, occupant or any person tampering with the meter, i.e. turning on water, re-connection, etc. Fine amount may be changed by resolution.

HISTORY

Adopted by Ord. [15-C](#) on 3/17/2015

7.07.030.2 Separate Connections

Each dwelling, business, multiple dwelling building, church, school, or other user shall have a separate meter and service connection to the Perry City Water System unless permission has been granted, by the City Council in writing, after a recommendation of approval by the Planning Commission and a finding that the interests of the City can be protected and the applicant signs an appropriate agreement with the City. It shall be unlawful for any user to attach or to permit to be attached to his service connection any pipe or connection to any other user or property.

HISTORY

Adopted by Ord. [15-C](#) on 3/17/2015

7.07.030.3 Maintenance On Service Connections

All users of water services shall keep their service lines and connections in good repair and protected from damage, deterioration, or pollution. All pipes, fittings, valves, or other devices shall be of such material, quality and specifications as the City Council shall provide by Resolution and shall be installed as specified by regulations duly adopted by the City Council and shall be installed only after first obtaining approval and permit therefore from the Water Superintendent.

HISTORY

Adopted by Ord. [15-C](#) on 3/17/2015

7.07.030.4 Control Of Water Resources

The following regarding the control of water resources:

1. It shall be unlawful for any water user to waste water, or to allow it to be wasted, by defective stops, taps, valves, leaky joints or lines or to allow tanks or troughs to leak or overflow or to wastefully run water from hydrants, faucets or stops, or to use the water for purposes other than for those which he has paid, or to use the water in violation of the rules and regulations adopted by the City for controlling the water supply.
2. The City Council may at any time fix by Resolution the time of day culinary water may be used for lawn sprinkling or other irrigation purposes, and may divide the City into districts for that purpose if in the judgment of the City Council it may be necessary due to an emergency situation. In time of scarcity of water the City Council may at its sole discretion, limit the use of water as it deems appropriate.

HISTORY

Adopted by Ord. [15-C](#) on 3/17/2015

7.07.030.5 Waste Of Water

The following regarding waste of water:

1. Users of the municipal water system shall not permit water to run wastefully and shall exercise reasonable efforts to conserve the supply. If, in the judgment of the Water Superintendent or of any other officer of the municipality, the users of municipal water engages, in practices which result in the needless waste of water and continues to do so after reasonable notice to correct the waste has been given, the Superintendent or any officer may refer the matter to the City Council.
2. The City Council may thereupon consider terminating the right of the individual to use culinary water. If it elects to consider the matter of termination, it shall give notice to the water user of the intention to terminate his water connection at least five (5) days prior to the meeting of the governing body at which termination of water services is to be considered. The notice shall inform him of the time and place of the meeting and of the charges which lead to the consideration of said termination.
3. A water user whose right to utilize municipal water is being reviewed shall have opportunity to appear with or without counsel and present his reasons why his water service should not be discontinued.
4. After due hearing, the City Council may arrive at a determination. If the determination is to discontinue the wasteful water user's service connection, it shall notify him of the decision and of the period during which the service will remain discontinued.

HISTORY

Adopted by Ord. [15-C](#) on 3/17/2015

7.07.030.6 Non-Liability For Damages

Perry City shall not be held liable for any damage to any water user by reason of stoppage or interruption of water supply caused by delinquency of account, the scarcity of water, accidents, fires, or as the result of water system maintenance or extension operations, or from any other unavoidable natural or unnatural cause.

HISTORY

Adopted by Ord. [15-C](#) on 3/17/2015

7.07.030.7 Access To Places Supplied With Water

Free access shall at all ordinary hours be allowed to the Superintendent of waterworks, or other authorized persons, to all places supplied with water to examine the apparatus, the amount used and the manner of using the water or to cut off the same. (For state law as to right of entry on premises of water user, see U.S.A., 1953, Section 10-7-13).

HISTORY

Adopted by Ord. [15-C](#) on 3/17/2015

7.07.030.8 Cross-Connections Prohibited

It is unlawful for the owner or occupant of any premises using water supplied by the utility to cross-connect such water supply with an irrigation or other foreign source of water (that does not meet the purification standards maintained for the City water supply) with any appliance, appurtenance, sprinkling system, hose, pipe or other fixture in such manner that there is a possibility that water from such foreign source may flow, be siphoned or be pumped into the City water system. (See also Cross Connection Ordinance 91-01).

HISTORY

Adopted by Ord. [15-C](#) on 3/17/2015

7.07.040 Installation

7.07.040.1 Permit For Installations

It shall be unlawful for any person to engage in the connection or altering the connection of any water line to the culinary water system of the City without first having received a construction permit from the office of the City Recorder or from the Water Superintendent. Permits shall be issued only to qualified plumbers and only after compliance with the Ordinance and applicable resolutions and regulations.

HISTORY

Adopted by Ord. [15-C](#) on 3/17/2015

7.07.040.2 Damage To Waterworks Property

Any person who shall willfully and without authority from the Superintendent of waterworks removes or damages any meters, back flow valves, covers, distribution lines, or other culinary water system device of the waterworks system, constructed or maintained for the purpose of supplying culinary water to the inhabitants of the City shall be deemed guilty of a misdemeanor.

HISTORY

Adopted by Ord. [15-C](#) on 3/17/2015

7.07.040.3 Opening Or Closing Fire Hydrant

It shall be unlawful for any person to open or close any fire hydrant within the corporate limits of the City or to attempt to open or close, by the use of any wrench or other device any such hydrant without first having obtained from the Mayor and Council or the Superintendent of waterworks permission to do so; provided, that this section shall not apply to any volunteer fireman of the City.

HISTORY

Adopted by Ord. [15-C](#) on 3/17/2015

7.07.040.4 When Cost Of Installing Service Pipe To Be Paid By Applicant: Credit Upon Account

The following regarding the cost of installing a service pipe when paid by applicant:

1. Definitions:
 - a. Private Property Owner: A person wishing to extend water or sewer services to his own home or building. Not a developer or commercial business.
 - b. Developer: A person, firm or corporation wishing to extend water or sewer services to two or more residents or buildings on his property.
 - c. Street: A Perry City Street defined such by dedication or right of use.
2. Where any private property is not served by a service water pipe inc. front of or adjacent to such property and the owner desires a water service connection, such water service connection shall be furnished only on the condition that the owner pay all costs of installing the pipeline, the back filling and repairing of the streets through such property and in addition thereto pay for the meter installation as required by ordinance; provided that the applicant shall be required to lay the size of pipe which in the opinion of the City, may be necessary or needful to serve other potential water users in the future along such street, in which event the City shall pay the difference in cost between the size of pipe needed by the applicant and that specified by the Water Superintendent; provided further, that all costs of installation, fronting on an existing street, to pipe to the place of the applicant, which has been paid by the applicant, shall be entered as a credit upon the account of the applicant and all water bills thereafter charges against such account for a period of not more than ten (10) years or until the costs of installation have been paid in full, at which time the service line shall be considered the property of the City. Receipts for all materials paid by applicant which qualify for credit must be on file at the City Offices before credit will be given.
3. Thereafter the property owner, or his successor in interest, shall pay the regular charges for water consumed upon the premises, with no credit thereafter being allowed.
4. The Planning Commission may make incentive recommendations, under certain conditions they deem advisable to the City Council, concerning developers extensions of water and sewer service where the City might participate other than with the cost of additional pipe line size.
5. The same arrangement applies with the sewer collection line extension as detailed above for water, with two exceptions. Private property owners will be required to have the sewer extension line engineered and approved by the City Engineer and assume that cost; and in instances where the City's major collector lines are not within 200 feet or where the extension will not work with the present collection system, Perry City will have no responsibility for either extension of the line or associated cost.

6. With the extension of either water or sewer lines, the cost of fire hydrants, gate valves and manholes that are required by the City Engineer will be divided between the property owner and the City, and will not be reimbursed to the property owner.
7. Whenever any intervening property ("off-site") is benefited by the installation of any of the required facility, by a developer, the sub divider shall pay the cost of such facilities to the City, such cost to be determined by the City Engineer. Benefiting intervening property owners shall be charged the fee rates for sewer and water connections in effect at the time such connections are made. Half of such fees shall then be returned to the sub divider to reimburse the costs of the installation of the facilities, up to half of the total costs; such agreement for reimbursement shall extend for a maximum period of five years from initial date of agreement after which time no further reimbursement shall be made to the sub divider. The City may also elect to reimburse the sub divider for such "off-site" facilities in full or in part after the sub divider has furnished the City with acceptable evidence tat an agreed number of housing units are occupied. No interest shall accrue or become payable on such reimbursement. Engineering drawings showing benefited property shall be prepared by the City Engineer and copies forwarded to the sewer, water, and streets departments of the City.

HISTORY

Adopted by Ord. [15-C](#) on 3/17/2015

7.07.050 Jurisdiction Of City Outside City Limits

7.07.050.1 Prevention Of Pollution Or Contamination Outside Of The City

The following regarding the prevention of pollution and/or contamination outside of Perry City:

1. It shall be unlawful for any person, firm, corporation or entity to maintain or erect any buildings, closet, privy, outhouse or urinal, or any buildings, pens or stalls in which shall be kept any horses, cattle, sheep, swine or other animals or to permit any of such animals to be corralled, bedded or run at large within fifteen hundred (1,500) feet of any stream, reservoir, canal, ditch, pipe, drain, spring, or other source of water from which water for the waterworks system of the City shall be taken, within fifteen miles above the point where the water of such stream, reservoir, canal, ditch, pipe, drain, spring or other source of water is taken into the waterworks system.
2. It shall be unlawful for any person, firm, corporation, or entity to pollute or cause to be polluted, either directly or indirectly, any reservoir, stream, canal, ditch, pipe, drain, spring or other source of water from which water for the waterworks systems of this City shall be taken. Before any person shall be allowed to bring animals onto property or to construct any building or improvements which may or which could be construed to cause pollution or contamination of water sources of Perry City within fifteen hundred (1,500) feet of any, reservoir, canal, ditch, pipe, drain, spring and/or other sources of water of the waterworks shall be taken, they shall first make application to the building inspector of Perry City and the Box Elder County Health Department and shall provide evidence that such building or other improvement shall not cause pollution or contamination of water sources of Perry City.
3. It shall be unlawful for any person to maintain any camp or any other facility or source within one-half mile of any reservoir, stream, canal, ditch, pipe, drain, spring, or other source of water of source through which water is carried to the waterworks system of this City or to permit any refuse matter of any kind or character to be deposited in or near a reservoir, stream, canal, ditch, pipe, spring, or other source of water which is used in connection with the waterworks system of this City. (For state law as to extra-territorial jurisdiction of City, see Utah Code Annotated, 1953, Section 10-8-15).

HISTORY

Adopted by Ord. [15-C](#) on 3/17/2015

7.07.050.2 Supply Of Water Services To Persons Outside City Limits

The following regarding the supply of water services to persons outside of Perry City limits:

1. Perry City may furnish water from its water system to persons outside its corporate limits in accordance with the provisions of the following sections.
2. Any person located outside the City Limits desiring to be supplied with water services from the City water system and being willing to pay in advance the whole expense of extending the water system to his property, including the cost of extending the water main from its present location to the City limits, may make application to the City Council by petition containing:
 - a. A description of the proposed extension.
 - b. A map showing the location thereof.

- c. An offer to pay the whole expense incurred by the City in providing such extension and to advance such expense as said expense shall be certified by the Water Superintendent. The City and the person or persons seeking such extension may enter into an agreement providing in detail the terms under which the extension may be utilized by others in the future and the terms under which all or any portion of the costs of installing such extension may be refunded.
3. An acknowledgement that the City in granting said petition engages to supply only such water to the petitioner from which time to time the City Council deems excess to the requirements of water users within the City Limits.
4. An acknowledgement that such water line extension shall be the property of and subject to the control of Perry City and appropriate easements are granted to the City.
5. When an extension supplying more than one house or user outside the City Limits is connected to City water mains, the Water Superintendent may require a master meter to be installed near the point where the connection is to be made to the City Main. This installation will be at the expense of the persons served by such extension according to the regular rates for meter installation. Responsible parties must agree to pay all bills for water served through the meter at the applicable water rates.
6. A person, firm or corporation desiring water services outside the Perry City limits (and after date of this ordinance any person currently receiving water services) shall sign an agreement in substantially the following form and by doing so agree to be bound said agreement.

HISTORY

Adopted by Ord. [15-C](#) on 3/17/2015

7.07.050.3 Perry City Water User's Agreement For Surplus Water

The following is the form for the Perry City Water Users Agreement for Surplus Water:

PERRY CITY WATER USERS AGREEMENT FOR SURPLUS WATER

This agreement made and entered into this _____ day of _____, 20____, by and between PERRY CITY, a municipal corporation in the State of Utah, hereafter referred to as CITY, and _____, persons desiring to be furnished Perry City culinary water outside the corporate limits of Perry City, hereinafter referred to as Water User (who is the Property Owner of said property).

WITNESSETH

That for and in consideration of the mutual covenants, promises and conditions herein agreed to be kept by each party hereto, it is agreed that CITY shall, from water excess to the needs of City and its inhabitants, furnish to water user, Perry City culinary water through a _____ inch line and tap, subject however to the following conditions:

1. City finding and determining that it has water excess to the needs of City and its inhabitants, and in any event, no sale of Perry City water or Water Rights is intended nor by these presents made.
2. Water User shall sign an Application for a Perry City water hookup, pay the required fees, charges, and assessments, plus all cost of materials and labor in running the line from City mains to Water User's point of delivery, and shall thereafter pay to Perry City promptly when due the monthly water charges or assessments as now or hereafter to be fixed by Perry City.
3. That Water User by the execution of this agreement grants to Perry City and its agents the easement or right to come upon and cross over Water User's property in Box Elder County, Utah for the purpose of installing, repairing, replacing, removing, maintaining, reading, shutting off the water meter and accessories, or for such other purposes as may be necessary or incidental to the enforcement or supervision of this contract.
4. Water User's point of delivery and location of the water meter to be installed shall be _____(location).
5. That no hookup to the Perry City water system shall be made except by written permit from Perry City and subject to the supervision, inspection and approval by Perry City of the hookup lines, meters, fittings and incidental items.
6. This agreement shall be limited to the following defined location and no additional use shall be made without the express written consent of Perry City.
7. That this agreement may be immediately terminated by Perry City at any time City makes a determination that it has no culinary water excess to the needs of the City or its inhabitants, or a determination that because of the water distribution system, Water User can no longer be supplied with Perry City culinary water, or for the failure of Water User to pay promptly when due all water charges, assessments or fees to City.

8. In addition thereto without making any such determination that surplus water is or is not available, Perry City may, upon sixty (60) days advance notice, terminate this agreement for any reason it may so desire. The Water User fully understands and consents that Perry City grants no rights or usage to Water User by this agreement.
9. The Water User declares that he/she:
- a. Is the Property Owner; and Shall comply with Perry City Ordinances; and
 - b. Shall concurrently sign an Application for Services, as per Perry Municipal Code 12.07.020.1.

IN WITNESS WHEREOF the parties have executed this agreement the day and year first above written. PERRY CITY, a municipal corporation of the State of Utah

BY _____
Mayor

ATTEST: _____
City Recorder

Property Owner Signature Date Property Owner Signature Date

State of Utah) §
County of Box Elder)

Subscribed and sworn to before me on this _____ day of _____, in the year 2_____,
DAY MONTH YEAR
By _____ and _____
NAME OF DOCUMENT SIGNER NAME OF SECOND DOCUMENT SIGNER (IF ANY)

NOTARY PUBLIC SEAL

HISTORY
Adopted by Ord. [15-C](#) on 3/17/2015

7.07.060 Water Source Protection

7.07.060.1 Short Title And Purpose

- 1. This ordinance shall be known at the "Wellhead Protection Ordinance."
- 2. The purpose of this ordinance is to insure the provision of a safe and sanitary drinking water supply for the surrounding the wellheads for all wells which are the supply sources for the City water system and by the designation and maintained within such zones.

HISTORY
Adopted by Ord. [15-C](#) on 3/17/2015

7.07.060.2 Definitions

When used in this ordinance the following words and phrases shall have the meanings given in this Section:

- 1. **Hazardous waste or material** – any waste or material which because of its quantity, concentration or physical, chemical or infectious characteristics may:

- a. Cause or significantly contribute to an increase in incapacitating reversible illness; or;
 - b. Pose a substantial present or potential hazard to human health or the environment when improperly treated, stored, transported, disposed of or otherwise managed.
2. **Sanitary landfill** – A disposal site where solid wastes, including putrescible wastes, or hazardous wastes, are disposed of on land by placing earth cover thereon.
 3. **Wellhead** – the upper terminal of a well, including adapters, ports, seals, valves and other attachments.

HISTORY

Adopted by Ord. [15-C](#) on 3/17/2015

7.07.060.3 Establishment Of Wellhead Protection Zone

There is hereby established a use district to be known as a wellhead protection zone, identified and described as all the area within a circle the center of which is the center of any city water supply wellhead and the radius of which is 1500 feet.

HISTORY

Adopted by Ord. [15-C](#) on 3/17/2015

7.07.060.4 Permitted Uses

The following uses shall be permitted within wellhead protection zones:

1. Any use permitted within existing agricultural or single family residential districts, except that the minimum residential lot size for a lot any portion of which lies within the wellhead protection zone shall not be less than one acre; and
2. Any other open land use where any building located on the property is incidental and accessory to the primary open land use.

HISTORY

Adopted by Ord. [15-C](#) on 3/17/2015

7.07.060.5 Prohibited Uses

The following uses or conditions shall be and are hereby prohibited within wellhead protection zones, whether or not such use or condition may otherwise be ordinarily included as a part of a use permitted under PMC 7.07.060.4:

1. Surface use or storage of hazardous material, expressly including commercial use of agricultural pesticides;
2. Septic tanks or drain fields appurtenant thereto;
3. Impervious surfaces other than roofs of building, and streets, driveways and walks serving buildings permitted under PMC 7.07.060.4;
4. Sanitary landfills;
5. Hazardous waste disposal sites;
6. Storm water infiltration basins;
7. Underground storage tanks;
8. Sanitary sewer lines within 150 feet of a wellhead.

HISTORY

Adopted by Ord. [15-C](#) on 3/17/2015

7.07.060.6 Administration

The policies and procedures for administration of any wellhead protection zone established under this ordinance, including without limitation those applicable to non-conforming uses, exceptions, enforcement and penalties, shall be the same as provided in the existing zones ordinance for the City of Perry, as the same is presently enacted or may from time to time be amended.

HISTORY

Adopted by Ord. [15-C](#) on 3/17/2015

7.07.070 Water Conservation Plan

7.07.070.1 Introduction

The citizens of Perry are concerned about water use and the careful preservation of this valuable resource in our community. The City is growing rapidly in residential and commercial areas. The potential for growth and development is increasing and we realize that along with that growth will be increased use of the City’s water system. This plan is written to help address these concerns and promote the wise use of the water resources available to facilitate desired economic growth and support residential and commercial/industrial areas in the future. Perry City is committed to supporting the State of Utah in its efforts to conserve water by observing the Water Conservation Plan Act.

HISTORY

Adopted by Ord. [15-C](#) on 3/17/2015

7.07.070.2 Description Of Perry City And Its Water System

Perry City is located in the southeast part of Box Elder County. The City’s boundary is shown in Appendix B. The culinary water system, providing water to most homes, was put into operation in 1911. There were approximately 50 families living in Perry at that time. With the completion of the Pineview Canal, hundreds of acres of arid land could be irrigated making agriculture and dairy farming the leading industries. Perry is famous for the quality and variety fruit (especially peaches) produced here. In 2003, an area of commercial property west of I-15 and at approximately 1100 South was annexed into the City. Culinary and secondary water lines have been installed to the area to provide water for the development.

HISTORY

Adopted by Ord. [15-C](#) on 3/17/2015

7.07.070.3 Inventory Of Water Resources

Perry City has been withdrawing approximately 650 acre-feet of water annually from an underlying aquifer through wells and one spring. These sources supply all of the water required for our culinary system. A portion of the residents have secondary water connections for outdoor watering from a pressurized system administered by Pineview Irrigation. Pineview Irrigation is planning for the expansion of their irrigation system to include all of the incorporated boundaries of Perry City.

There are also numerous private wells used in commercial, agricultural, and residential applications. Some of the water for future residents will come from additional usage of the existing wells, as well as from the reduction of outdoor irrigation and the use of Pineview Irrigation in lieu of culinary water. The majority of shares in irrigation companies (Perry Irrigation Company and Three Mile Creek Irrigation Company) are owned by individual share holders, not Perry City.

The City remains an agricultural community with fields, orchards and pasture being irrigated with these private water shares. As development occurs, the developer is required to provide secondary water access to the residential lots and each lot buyer must purchase a connection for his property. Shares of irrigation companies are relinquished to Pineview Irrigation when agricultural land is developed to provide the connections to the pressurized system for the residential lots.

TABLE 1 - City-owned Shares of Irrigation Companies

NAME	ACRE/FEET

Perry Irrigation Co.	N/A
Three Mile Creek Irrigation	31.26
Pineview Irrigation	N/A

The shares of Three Mile Creek Irrigation owned by Perry City are not part of the culinary water system. They are strictly secondary water for outdoor watering but are not being used at this time. The City does use the pressurized Pineview Irrigation system for watering of parks, office landscaping, and City landscaping along Highway 89.

Contacts for Secondary Water Systems:

Pineview Irrigation: Dale Valcarce 1-800-750-6553

Three Mile Creek Irrigation: Paul Nelson 435 - 723-6461

Perry Irrigation Co.: Boyd Hirschi 435 - 723-5532

TABLE 2 - City-owned Water Rights

SOURCE #	NAME	WATER RIGHT #	CFS*	AF**
1	Well #1	29-162	0.55	--
2	Well #2	29-707	0.43	--
3	Anderson Well (Well #3)	29-1192	0.89	--
		29-1017	0.957	--
4	Stokes Springs	29-2869	0.29	--
		29-3571	0.50	--
5	East Bench Well (Well #4)	29-3728	3.00	--
6	Nielson Well (Well #5)	29-1297	1.783	--
	Walker Springs	29-3774	--	7.0
	Basin Springs	29-3570	0.50	--

* Cubic Feet Per Second

** Acre/Feet

HISTORY

Adopted by Ord. [15-C](#) on 3/17/2015

7.07.070.4 Present Water Use And Future Water Needs

Perry City currently supplies culinary water to approximately 1425 connections. These include 1385 Residential, 1 Industrial, 35 Commercial, and 4 Institutional connections. The annual report of water delivered to these connections is approximately 187,375,000 gallons (150,000,000 gallons for Residential; 1,094,000 gallons for Industrial; 35,398,000 gallons for Commercial; and 883,000 gallons for Institutional). This would calculate to 131 gpcd (gallons per capita per day) of water use for the culinary system.

The majority of the water used within the City is supplied by four wells and one developed spring. The City has a fifth well that is currently not needed but can be put into use in the future. There are three storage reservoirs in our system with the completion of a new 1,000,000 gallon reservoir in 1999. Our water storage capacity now is approximately 1,650,000 gallons.

The City is planning to acquire additional water rights and to expand its culinary water system in the future. A new reservoir is planned for the south end of the City. The City plans to purchase at least one irrigation well from one of the local irrigation companies. The City updated its Culinary Water Master Plan (Capital Facilities Plan) and Impact Fee Ordinances in 2007, which plan and ordinances identify other planned system upgrades.

There are three sources of secondary water available to residents within Perry City. Pineview Irrigation water, administered by the Weber/Box Elder Conservation District, built a reservoir in Perry in 2002. A pressurized distribution system is now in place serving 85% of residences, with water for lawns and gardens.

Two irrigation companies have existed for many years and provide for agricultural irrigation. They are the Three Mile Creek Irrigation and the Perry Irrigation Company. The City continues to protect the access to the ditches (and assists in preventing storm water encroachment and safety problems) for both of these companies when making planning decisions.

Perry City is growing rapidly and the water connections have doubled in number over the last seven years. Population according to the 2000 Census was 2,383. It is estimated that the current population (December, 2009/ January, 2010) is around 4750. This would be close to an average increase of 250 per year. Thus, the projected population in five years (December, 2014/ January, 2015) is 6000.

Apartment complexes, condominiums and cluster housing developments have been approved and built in some areas of the City. A few years of local accelerated growth has been recently followed by a nationwide trend in low construction rates, but it is anticipated that residential growth will start dramatically increasing again by January, 2011.

The majority of the land is still used in agriculture production, but the orchards and fields are slowly disappearing as more and more land owners are selling property to developers. Future water needs will be easily met by pumping larger quantities from existing wells and also putting other existing wells into service that are not being used at this time.

Highway 89 and Interstate I-15 run through the entire length of Perry City thus providing a large potential for population growth and economic development. Mostly undeveloped area fronts both sides of Interstate I-15 at this time. Three phases of one subdivision have been approved and partially developed for commercial development in the area (identified as "Pointe Perry"), which was annexed to Perry City in 2003.

The Pointe Perry area and the commercial property along the north boundary of the City west of Highway 89 will make up the land to be used for a much of the commercial development in the near future. One such "north boundary" area (south of 1100 South, identified as "Upland Square"), partially within Perry City and partially within Brigham City, will be at least partially developed within the next five years.

HISTORY

Adopted by Ord. [15-C](#) on 3/17/2015

7.07.070.5 Overview Of Water Problems And Goals

Water Problems Identified

Several problems have been noted by the City Administration. A Committee needs to be formed to prioritize and identify any additional problems with our water system and recommend goals for addressing these problems.

- Citizens lack awareness of conservation measures including xeroscaping, low water usage landscaping, water needs of various plants, and creative ways to minimize water use in the Summer months.
- Billing and meter reading errors occasionally occur. The costs of doing manual meter reading and computer entry of data could be reduced.
- Power Outages significantly affect the City's ability to deliver water into the system because the well pumps require electricity.
- Some portions of the water system are aging and need replacement or upgrading and/or maintenance of distribution lines and hydrants.

These problems present opportunities to increase the efficiency of the operation of the Perry City Water System and create awareness of the residents to water conservation issues. The City Newsletter can be used as a monthly reminder and educational tool to give residents information about ways to conserve and protect our water resources. Automatic meter reading and computer systems need to be acquired and installed to improve efficiency. Standby generators for each of the wells need to be purchased, installed and be available in case of power outages. At the present time, there is only one well that has a standby generator. A schedule of water system upgrading, replacement and maintenance needs to be developed and implemented.

Water Conservation Goals

In pursuit of solutions to the problems identified previously, and in the light of the variety of conservation measures available to solve these problems, the following goals have been identified:

- **GOAL #1.** Continue to Reduce the City's per capita water use rate, especially by using a "Water Conservation Committee." The rate is currently 131 gpcd (gallon per capita per day), and was 126 gpcd five years ago, representing a 3.7 % rate reduction over this time frame. This is only 50.4 % of the 260 gpcd State average. The goal for the next five years is to have at least another 2.5 % rate reduction (0.5 % per year).

These rate reductions have occurred (and will continue to occur) through education, reminders in the City Newsletter, charging for "overages," and alternatives to water-intensive landscaping. A "Water Conservation Committee" will be formed to conduct research into xeroscaping, low water use landscaping, creative conservation ideas, and find ways to make the public aware and encouraged to conserve water.

- **GOAL #2.** Increase the financial viability of the Perry City Water System, Especially by Transitioning to a "100 Per Cent Radio Read" and "Monthly Meter Read" System. Meeting this goal would include installation of automatic reading meters on all remaining connections. The City is in the process of achieving this goal within the next three years. The computer system for entering the meter data automatically has dramatically increased efficiency and saved money. Once all meters are "radio read," monthly meter reads will actually be less labor intensive, will save money, and will allow the city to more efficiently identify necessary improvements in the culinary water system.

At this time, it is unknown if water is leaking from the system due to aging distribution lines or lack of maintenance, but developing a schedule of regular upgrading of lines, replacements and maintenance would increase the system efficiency and ensure that water in the lines is not being wasted. Reading the meters more frequently would help identify any leakage that could be occurring.

- **GOAL #3.** Continue to Replace Aging Water Lines. The City's 2007 Capital Facilities Plan identifies several projects which can be completed with impact fees. The City recently worked with UDOT and used over \$400,000 in impact fees to upgrade 50 to 65 year old water lines along Highway 89 (which is essentially Perry City's "Main Street"). Another mile of aging water lines along Highway 89 will be replaced over the next three years.
- **GOAL #4.** Maintain or improve the landscaping of City Property and develop a policy for planting these areas with low water use landscaping. The City itself should be mindful of conservation measures and set an example for the residents, with beautiful public areas that are prudently watered and planted with landscaping that will conserve water.

HISTORY

Adopted by Ord. [15-C](#) on 3/17/2015

7.07.070.6 Current Conservation Practices

Perry City has not had the problem of dealing with water shortages. Although there have been drought conditions in the area, our wells have continued to produce adequate water supplies and have the capability of providing adequate water for the projected growth. Perry City owns two wells that are not currently in use. In the winter, the system only requires the operation of one well.

Over the last few years, Perry City has implemented conservation practices in order to maintain the adequate supply of culinary water for the future and ensure that our system will be able to meet the need for additional water as the City's population increases. The following Conservation practices have been implemented since submission of our original Water Management Conservation Plan adopted December 11, 1997:

- Completion and state acceptance of the Water Source Protection Plans for each well and spring in our system.
- Replacement of many of the water meters in our system with the automatic reading type.
- Completion of a new reservoir and a pressurized delivery system for secondary water to 85% of the residents. All new subdivisions are now required to provide connections to this system for every lot thus saving the culinary water that was previously used for outside watering.
- As of June 1, 2001, the water rates changed to provide an incentive for residents to connect to the secondary water system and conserve culinary water. Previously the rate was \$.75 per 1000 gallons for the amount over 15,000 gallons per month. The new rate that has been in effect now for eight years is \$.95 per 1000 gallons for the amount over 10,000 gallons per month.
- During 2006 and 2007, aging water lines were replaced on 900 West and on Highway 89, a new emergency water connection is now in place with Brigham City which allows Perry to connect to and use Brigham City water in the event of an emergency.

With the adoption of this Water Conservation Plan, the following practices will be established (or re-established) for the Perry City Water System:

1. **Water Conservation Contingency Plan.** This Plan will be implemented in the event of water supply shortages due to drought, equipment failure, political problems or natural disaster:
 - a. Level 1 - Normal Years (as defined by the drainage of the Bear River or Weber Basin)
 - i. Eliminate watering on City property after 10:00 a.m and before 6:00 p.m.

- ii. Initiate voluntary public conservation measures.
 - iii. Issue information to all customers on conservation procedures which can be implemented around their own property and within their own homes.
 - b. Level 2 - 75% of Normal
 - i. Eliminate watering of City Property.
 - ii. Educate the public on the water supply reductions.
 - iii. Initiate mandatory public conservation measures.
 - iv. Enforce outside watering restrictions including watering times and quantities.
 - c. Level 3 - 50% of Normal
 - i. Strictly enforce all conservation policies with significant fines for non-compliance.
 - ii. Physically restrict water supplies to (in order of priority):
 - (1) All outside irrigation systems
 - (2) Park properties and other non-essential support facilities
 - (3) Commercial businesses, restricting largest users first
 - (4) Residential areas
 - (5) Any other " non-life support" areas, ensuring that water supplies to hospitals and other health care facilities are maintained.
- 2. Water Education Program.** The following information on efficient outdoor and indoor water use is available to the residents of Perry City through occasional flyers delivered by Boy Scouts or Youth Council Members. In the future, this information will be included with the City water statement sent out on June 1st of each year with a reminder that the water meters are read at the end of June and conservation is encouraged.
- a. Outdoor Water Use, The following are suggestions for this specific area:
 - i. Water landscape only as much as required by the type of landscape, and the specific weather patterns of your area, including cutting back on watering times in the Spring and Fall.
 - ii. Do not water on hot, sunny, and /or windy days. You may actually end up doing more harm than good to your landscape, as well as wasting a significant amount of water.
 - iii. Sweep sidewalks and driveways instead of using the hose to clean them off.
 - iv. Wash your car from a bucket of soapy (biodegradable) water and rinse while parked on or near the grass or landscape so that all the water running off goes to beneficial use instead of running down the gutter to waste.
 - v. Check for and repair leaks in all pipes, faucets, hoses, couplings, valves, etc. Verify there are no leaks by turning everything off and checking your water meter to see if it is still running. Some underground leaks may not be visible due to draining off into storm drains, ditches, or traveling outside your property.
 - vi. Use mulch around trees and shrubs, as well as in your garden to retain as much moisture as possible. Areas with drip systems will use much less water, particularly when hot, dry or windy conditions exist.
 - vii. Keep your lawn well trimmed and all other landscaped areas free of weeds to reduce overall water needs of your yard.
 - b. Indoor Water Use. About two-thirds of the total water used in a household is used in the bathroom. Concentrate on reducing your bathroom water use. The following are suggestions for this specific area:
 - i. Do not use your toilet as a wastebasket. Put all tissues, wrappers, diapers, cigarette butts, etc. in the trash can.
 - ii. Check the toilet for leaks and see if the water level is too high. Put a few drops of food coloring in the tank. If the bowl becomes colored without flushing, there is a leak.
 - iii. If you do not have a low volume flush toilet, put a plastic bottle full of sand and water to reduce the amount of water per flush. However, be careful not to conserve to the point of having to flush twice to make the toilet work. Be sure the container you are using does not interfere with the flushing mechanism.
 - iv. Take short showers with the water turned up only as much as necessary. Turn the shower off while soaping up or shampooing. Install low flow shower heads and /or other flow restriction devices.
 - v. Do not let the water run while shaving or brushing your teeth (instead, fill the sink or use a glass).
 - vi. When doing laundry, make sure you always wash a full load or adjust the water level appropriately if your machine will do that. Most machines use 40 gallons or more for each load, whether it is two socks or a week's worth of clothes.
 - vii. Repair any leak within the household. Even a minor slow drip can waste up to 15 or 20 gallons of water a day.
 - viii. Know the location of your main water valve and be sure that it works. Shutting the water off yourself in the event of a pipe breakage or leak will not only save water, but will eliminate or minimize damage to your personal property.

- ix. Keep a bottle of water in the refrigerator for a cold drink instead of running water from the tap until it gets cold. You are putting several glasses of water down the drain for one cold drink.
- x. Plug the sink when rinsing vegetables, dishes or anything else; use only a sink full of water instead of continually running the water down the drain.

HISTORY

Adopted by Ord. [15-C](#) on 3/17/2015

7.07.070.7 Current Water Rates

Determining appropriate water rates is a complex task. In 2001, the Perry City Council adopted a new rate schedule as a conservation measure. The majority of the City could be on a pressurized, secondary water system to provide for outside watering. The costs of delivering the service were estimated according to the past capital and operating expenses. A survey was done of water rates for surrounding communities to be sure our City rates were not too much different. The revenue requirements were estimated by the City Water Department and it was found that the rate change was necessary for efficient operation of the City water system as well as to encourage conservation and to use of the secondary system for outside watering.

TABLE 3 - City Water Rates, Water Overage Rate Structure

FOR THOSE WITH PINE VIEW SECONDARY WATER			
BASE RATE	0-10,000 GALLONS	10,001-20,000 GALLONS	20,001-< GALLONS
\$15.00	Included	\$0.95	\$2.00 Per Thousand

FOR THOSE WITHOUT PINE VIEW SECONDARY WATER			
BASE RATE	0-15,000 GALLONS	15,001-30,000 GALLONS	30,001-< GALLONS
\$15.00	Included	\$0.95	\$2.00 Per Thousand

Additional Conservation Measures:

- 1. COMPREHENSIVE WATER CONSERVATION PLAN.** This plan has been developed for water management and conservation as required by law. The plan was adopted by the Perry City Council. The plan will be updated every five (5) years. The plan outlines conservation practices to be implemented during various stages of water shortage and contains specific goals that will reduce water use and encourage conservation.
- 2. UNIVERSAL METERING.** Perry City will continue to work on completing the installation of automatic reading meters on all residential, commercial, institutional and industrial water connections. Meters are read three times per year, at the end of March, June and September. A maintenance and replacement program will be established for the existing meters. Upon completion of installation of automatic readers on all connections, the meters will be read every month to insure accuracy and detection of water leaks or problems.
- 3. WATER CONSERVATION ORDINANCES.** Ordinances that follow the Best Management Practices (BMPs) that are being considered for adoption by the City Council include: time of day watering restrictions in hot weather, requirements for water efficient landscaping of commercial developments, and prohibition of "cross-connections" (with secondary water) and general waste of water.
- 4. SYSTEM WATER AUDITS, LEAK DETECTION AND REPAIR.** Standards for annual water system accounting that will quantify any system losses are being considered for adoption. These standards need to be set and specific goals need to be determined for the detection of leakage and the repair and/or replacement of any faulty parts in the system. More frequent reading of meters as stated in Number 2, will aid in leak detection.
- 5. OTHER BMP'S (Best Management Procedures) Applicable to Perry City Water System.** Perry City could benefit from the adoption of other measures that would ensure the continuation of adequate water resources:
 - a. Large landscape conservation programs & incentives
 - b. Water survey programs for residential customers

- c. Public information programs / school education programs
- d. Adoption of Plumbing standards

HISTORY

Adopted by Ord. [15-C](#) on 3/17/2015

Amended by Ord. [21-I Culinary Water Rates](#) on 6/10/2021

7.07.070.8 Cost Analysis

Perry City will strive to reach all goals of this plan as well as implement the Best Management Practices herein discussed as far as possible and practical with the small water system we have. Perry City does not have to purchase any water in order to fulfill the culinary water requirements of its residents. The basic cost savings would be in the improvement of efficiency of operation to save labor cost of repairs or replacements in the system. It is difficult to estimate these savings of costs. The residents are the ones who will directly benefit in cost savings by using less water. The City could potentially lose revenue as each resident reduces their use of water. Perry City already has a low amount of per capita usage due to the extensive availability of secondary water for outside watering.

Cost of Reaching GOAL #1. Costs would be minimal for reaching this goal. The City Newsletter is already being sent to all residents. The cost would only include the paper and the labor to write the material and make copies. Any committee formed to do research would serve on a volunteer basis but could utilize a small budget for the dissemination of information gathered. The water system will require funds for upgrading, maintenance, and replacements of lines and equipment, along with labor to do the inspection and installation of the replacements. These costs are unknown. It is also unknown to what extent there is a problem with leakage or faulty equipment.

Cost of Reaching GOAL #2. There are approximately 500 households needing replacement of water meters to the automatic reading type. These meters cost approximately \$120.00 which would be \$60,000. The cost of labor to do the change would be approximately \$20.00 to \$25.00 per meter. This would equal between \$10,000 and \$12,500. The computer software has already been purchased which will save extensive labor costs to enter the data into the computer. The labor cost saved by the significant reduction in the time it will take to read the meters should also be included but is unknown. The advantage of changing the meters would be in the efficiency of the system which will make it more cost effective. The accuracy of the readings and data entry would greatly improve with the automated system thus contributing to efficiency.

Cost of Reaching GOAL #3. As mentioned above, the water system will require funds for upgrading, maintenance, and replacements of lines and equipment, along with labor to do the inspection and installation of the replacements. These costs are unknown. It is also unknown to what extent there is a problem with leakage or faulty equipment.

Cost of Reaching GOAL #4. The landscaping of City areas will not be changed to meet this goal. But, in the future, as the City develops new public areas, the City maintenance department will only plant landscaping that will conserve water utilizing the benefit of information from the committee formed in Goal #1. The Perry City administration will instruct maintenance personnel in the Best Management Practices and supervise the personnel properly to see that these practices are implemented for the maximum conservation of water. These measures would not significantly increase costs of operating the system but would result in water savings.

Perry City's plan for reaching each of these goals involves mostly minimal costs to the City (but with some expensive system upgrades), while at the same time conserving water. It is difficult to determine any avoided costs, capital costs or annual costs for the accomplishment of any of these goals. The net benefit is also very difficult to measure in terms of money. There certainly will be tangible benefits for the saving of water but the exact amount is unknown.

HISTORY

Adopted by Ord. [15-C](#) on 3/17/2015

7.07.080 Power To Adopt Additional Regulations: Penalties

7.07.080.1 Power To Adopt Additional Regulations

The City Council shall have power and retains the right to adopt additional regulations controlling the manner and circumstances under which the water system may be used in addition to the regulatory provisions set forth expressly in this Ordinance. Such regulatory provisions may include regulations relating to the manner in which excavations shall be made for purposes of making the connections or repairs to the water service lines which may necessitate excavations on or near and under sidewalks and public ways.

HISTORY

Adopted by Ord. [15-C](#) on 3/17/2015

7.07.080.2 Penalties

Any person violating any of the provisions of this Ordinance for which a penalty is not otherwise specifically prescribed, shall be deemed guilty of a misdemeanor and may be punished by a fine in an amount of no more than \$299.00.

HISTORY

Adopted by Ord. [15-C](#) on 3/17/2015

7.09 Wastewater

7.09.010 General Provisions

1. Purpose and Policy. This Chapter sets forth uniform requirements for Users of the Perry/Willard Regional Wastewater Treatment Plant (PWR) for the City of Perry/Willard and enables the City to comply with all applicable State and Federal laws, including the Clean Water Act (33 United States Code [U.S.C.] section 1251 et seq.) The objectives of this Chapter are:

- a. To prevent the introduction of pollutants into the Publicly Owned Treatment Works that will interfere with its operation, contaminate its sludge, cause obstruction of sewer pipelines, or use excessive treatment capacity without due compensation;
- b. To prevent the introduction of pollutants into the Publicly Owned Treatment Works that will pass through the Publicly Owned Treatment Works, inadequately treated, into receiving waters, or otherwise be incompatible with the Publicly Owned Treatment Works;
- c. To provide for fees for the equitable distribution of the cost of operation, maintenance, and improvement of the Publicly Owned Treatment Works; and
- d. To enable PWR and the City to comply with their Utah Pollutant Discharge Elimination System permit conditions, sludge use and disposal requirements, Sanitary Sewer Management Plan and any other Federal or State laws to which the Publicly Owned Treatment Works is subject.

This Chapter shall apply to all Users of the City collection system or the PWR treatment facility. This Chapter provides for monitoring, compliance, and enforcement activities and provides for the setting of fees for the equitable distribution of costs resulting from use of the sewer system.

2. Administration. Except as otherwise provided herein, City and PWR shall administer, implement, and enforce the provisions of this Chapter. Any powers granted to or duties imposed upon the City or PWR may be delegated to a duly authorized employee.

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

- a. CFR – Code of Federal Regulations
- b. COD – Chemical Oxygen Demand
- c. EPA – U.S. Environmental Protection Agency
- d. MG – Million gallons
- e. IU – Industrial User
- f. mg/l – milligrams per liter
- g. UPDES – Utah Pollutant Discharge Elimination System
- h. POTW – PWR Publicly Owned Treatment Works
- i. TSS – Total Suspended Solids

HISTORY

Adopted by Ord. [19-J](#) on 9/26/2019

7.09.020 General Sewer Use Requirements

1. Prohibited Discharge Standards.

- a. General Prohibitions. No User shall introduce or cause to be introduced into the POTW any pollutant or wastewater which causes Pass Through or Interference. These general prohibitions apply to all Users of the POTW whether or not they are subject to categorical Pretreatment Standards or any other National, State, or local Pretreatment Standards or Requirements.

b. Specific Prohibitions. No User shall introduce or cause to be introduced into the POTW the following pollutants, substances, or wastewater:

- i. Pollutants which create a fire or explosive hazard in the POTW, including, but not limited to, waste streams with a closed cup flashpoint of less than 140 degrees F. (60 degrees C) using the test methods specified in 40 CFR 261.21;
 - ii. Pollutants which will cause corrosive structural damage to the POTW, but in no case Discharges with pH lower than 5.0, unless the works is specifically designed to accommodate such Discharges;
 - iii. Pollutants which will cause corrosive structural damage to the POTW, but in no case discharges with a pH of more than 12.5;
 - iv. Solid or viscous substances in amounts which will cause obstruction of the flow in the POTW resulting in Interference;
 - v. Any pollutant, including oxygen demanding pollutants (BOD, COD, etc.), released in a discharge at a flow rate and/or pollutant concentration which will cause Interference with the POTW;
 - vi. Heat in amounts which will inhibit biological activity in the POTW resulting in Interference, but in no case heat in such quantities that the temperature at the POTW Treatment Plant exceeds 40 °C (104 °F);
 - vii. Petroleum oil, nonbiodegradable cutting oil, or products of mineral oil origin, in amounts that will cause Interference or Pass Through;
 - viii. Pollutants which result in the presence of toxic gases, vapors, or fumes within the POTW in a quantity that may cause acute worker health and safety problems;
 - ix. Trucked or hauled pollutants, except at discharge points designated and approved by the POTW;
 - x. Noxious or malodorous liquids, gases, solids, or other wastewater which, either singly or by interaction with other wastes, are sufficient to create a public nuisance or a hazard to life, or to prevent entry into the sewers for maintenance or repair;
 - xi. Wastewater which imparts color which cannot be removed by the treatment process, such as, but not limited to, dye wastes and vegetable tanning solutions, which consequently imparts color to the treatment plant's effluent, thereby violating UPDES permit;
 - xii. Wastewater containing any radioactive wastes or isotopes except in compliance with applicable State or Federal regulations;
 - xiii. Storm Water, surface water, ground water, artesian well water, roof runoff, subsurface drainage, swimming pool drainage, condensate, deionized water, Noncontact Cooling Water, and unpolluted wastewater, unless specifically authorized;
 - xiv. Medical Wastes, except as specifically authorized;
 - xv. Wastewater causing, alone or in conjunction with other sources, the treatment plant's effluent to fail toxicity test;
 - xvi. Detergents, surface active agents, or other substances which that cause excessive foaming in the POTW;
 - xvii. Fats, oils, or greases of animal or vegetable origin in concentrations greater than 100 mg/l;
 - xviii. Pollutants, substances, or wastewater prohibited by this Section shall not be processed or stored in such a manner that they could be discharged to the POTW.
2. **Local Limits.** The POTW may, from time to time establish local limits for pollutants that have the potential to interfere with the treatment process or cause pass through into the environment. These limits will be approved by the City.
 3. **Right of Revision.** The City and PWR reserves the right to establish, by ordinance more stringent Standards or Requirements on discharges to the POTW consistent with the purpose of this Chapter. The City and PWR shall also have the right to deny new or increased contributions or to set additional conditions on such contributions to protect the POTW.
 4. **Dilution.** No User shall ever increase the use of water, or in any way attempt to dilute a discharge, as a partial or complete substitute for adequate treatment to achieve compliance with a discharge limitation unless expressly authorized by the City or PWR.

HISTORY

Adopted by Ord. [19-J](#) on 9/26/2019

7.09.030 Compliance Monitoring And Enforcement

1. **Right of Entry:** Inspection and Sampling. The City and PWR shall have the right to enter the premises of any sewer system User to determine whether the User is complying with all requirements of this Chapter or order issued by the City or PWR. Users shall allow ready access to all parts of the premises for the purposes of inspection, sampling, records examination and copying, and/or the performance of any additional duties.
 - a. Where a User has security measures in force which require proper identification and clearance before entry into its premises, the User shall make necessary arrangements with its security guards so that, upon presentation of suitable identification, City or PWR shall be permitted to enter without delay for the purposes of performing specific responsibilities.

- b. The City or PWR shall have the right to set up on the User's property, or require installation of, such devices as are necessary to conduct sampling and/or metering of the User's operations.
- c. The City or PWR may require the User to install monitoring equipment as necessary. The facility's sampling and monitoring equipment shall be maintained at all times in a safe and proper operating condition by the User at its own expense. All devices used to measure wastewater flow and quality shall be calibrated to ensure their accuracy.
- d. Any temporary or permanent obstruction to safe and easy access to the facility to be inspected and/or sampled shall be promptly removed by the User at the written or verbal request of the City or PWR. The costs of clearing such access shall be borne by the User.
- e. Unreasonable delays in allowing access to the User's premises shall be a violation of this Chapter and may result in the suspension of sewer use.

2. Enforcement Remedies.

- a. Notification of Violation. When the City or PWR finds that a User has violated, or continues to violate, any provision of this Chapter, the City or PWR may serve upon that User a written Notice of Violation.
- b. Cease and Desist Orders. When the City or PWR finds that a User has violated, or continues to violate, any provision of this Chapter, the City or PWR may issue an order to the User directing it to cease and desist all such violations.
- c. Administrative Fines. When the City or PWR finds that an oil or grease discharger has violated the limits set in 2.1.B (17), the City will impose a fine of two dollars (\$2.00) per pound of grease and oil discharged over the past three months. The pounds of oil and grease shall be calculated as follows:
 - i. $(\text{Total Estimated flow for three months in MG}) \times (\text{Measured Concentration} - 100 \text{ in mg/L}) \times (8.34)$
 - ii. If the User has additional records of discharge concentrations or flows they may provide that information to insure the accuracy of the fine.
- d. Emergency Suspension of Service. The City or PWR may immediately suspend a User's discharge, after informal notice to the User, whenever such suspension is necessary to stop an actual or threatened discharge, which reasonably appears to present, or cause an imminent or substantial endangerment to the health or welfare of persons. The City or PWR may also immediately suspend a User's discharge, after notice and opportunity to respond, that threatens to interfere with the operation of the POTW, or which presents, or may present, an endangerment to the environment.
- e. Remedies. The remedies provided for in this Chapter are not exclusive. The City or PWR may take any, all, or any combination of these actions against a noncompliant User.
- f. Programs Subject to the Conditions of this Chapter. The following programs shall be subject to the conditions of this Chapter:
 - i. Sewer System Cost Recovery System for High Strength Waste.
 - ii. Grease, Oil, and Sand Management Program.
 - iii. Perry/Willard City – PWR Inspection Program.

HISTORY

Adopted by Ord. [19-J](#) on 9/26/2019

7.09.040 Uniform Wastewater User Discharge Requirements (Pre-Treatment Regulations)

7.09.040.1 General Provisions

1. **Purpose and Policy.** This Chapter sets forth uniform requirements for Users of the Perry/Willard Regional Wastewater Treatment Plant (PWR) for the City of Perry/Willard and enables the City to comply with all applicable State and Federal laws, including the Clean Water Act (33 United States Code [U.S.C] section 1251 et seq.) The objectives of this Chapter are:
 - a. To Prevent the introduction of pollutants into the Publicly Owned Treatment Works that will interfere with its operation, contaminate its sludge, cause obstruction of sewer pipelines, or use excessive treatment capacity without due compensation;
 - b. To prevent the introduction of pollutants into the Publicly Owned Treatment Works that will pass through the Publicly Owned Treatment Works, inadequately treated, into receiving waters, or otherwise be incompatible with the Publicly owned Treatment Works;
 - c. To provide for fees for the equitable distribution of the cost of operation, maintenance, and improvement of the Publicly Owned Treatment Works; and
 - d. To enable PWR and the City to comply with their Utah Pollutant Discharge Elimination System permit conditions, sludge use and disposal requirements, Sanitary Sewer Management Plan and any other Federal or State laws to which the Publicly Owned Treatment Works is subject.

- e. This Chapter shall apply to all Users of the City collection system or the PWR treatment facility. This Chapter provides for monitoring, compliance, and enforcement activities and provides for the setting of fees for the equitable distribution of costs resulting from use of the sewer system.
2. **Administration.** Except as otherwise provided herein, City and PWR shall administer, implement, and enforce the provisions of this Chapter. Any powers granted to or duties imposed upon the City or PWR may be delegated to a duly authorized employee.
3. **Abbreviations.** The following abbreviations, when used in this Chapter, shall have the designated meanings:
- a. CFR - Code of Federal Regulations
 - b. COD - Chemical Oxygen Demand
 - c. EPA - U.S. Environmental Protection Agency
 - d. MG - Million Gallons
 - e. IU - Industrial User
 - f. mg.l - milligrams per liter
 - g. UPDES - Utah Pollutant Discharge Elimination System
 - h. POTW - PWR Publicly Owned Treatment Works
 - i. TSS - Total Suspended Solids

HISTORY

Adopted by Ord. [19-J](#) on 9/26/2019

7.09.040.2 General Sewer Use Requirements

1. Prohibited Discharge Standards.

- a. General Prohibitions. No User shall introduce or cause to be introduced into the POTW any pollutant or wastewater which causes Pass Through or Interference. These general prohibitions apply to all Users of the POTW whether or not they are subject to categorical Pre-treatment Standards or any other National, State, or local Pre-treatment Standards or Requirements.
- b. Specific Prohibitions.
 - i. No User shall introduce or cause to be introduced into the POTW the following pollutants, substances, or wastewater:
 - (1) Pollutants which create a fire or explosive hazard in the POTW, including, but not limited to, waste streams with a closed-cup flashpoint of less than 140 degrees F. (60 degrees C) using the test methods specified in 40 CFR 261.21;
 - (2) Pollutants which will cause corrosive structural damage to the POTW, but in no case Discharges with pH lower than 5.0, unless the works is specifically designed to accommodate such Discharges;
 - (3) Pollutants which will cause corrosive structural damage to the POTW, but in no case discharges with a pH of more than 12.5;
 - (4) Solid or viscous substances in amounts which will cause obstruction of the flow in the POTW resulting in Interference;
 - (5) Any Pollutant, including oxygen-demanding pollutants (BOD, COD, etc.), released in a discharge at a flow rate and/or pollutant concentration which will cause Interference with the POTW;
 - (6) Heat in amounts which will inhibit biological activity in the POTW resulting in Interference, but in no case heat in such quantities that the temperature at the POTW Treatment Plant exceeds 40 degrees C (104 degrees F)
 - (7) Petroleum oil, non-biodegradable cutting oil, or products of mineral oil origin, in amounts that will cause Interference or Pass Through;
 - (8) Pollutants which result in the presence of toxic gases, vapors, or fumes within the POTW in a quantity that may cause acute worker health and safety problems;
 - (9) Trucked or hauled pollutants, except at discharge points designated and approved by the POTW;
 - (10) Noxious or malodorous liquids, gases, solids, or other wastewater which, either singly or by interaction with other wastes, are sufficient to create a public nuisance or a hazard to life, or to prevent entry into the sewers for maintenance or repair;
 - (11) Wastewater which imparts color which cannot be removed by the treatment process, such as, but not limited to, dye wastes and vegetable tanning solutions, which consequently imparts color to the treatment plant's effluent, thereby violating UPDES permit;

- (12) Wastewater containing any radioactive wastes or isotopes except in compliance with applicable State or Federal regulations;
 - (13) Storm Water, surface water, ground water, artesian well water, roof runoff, subsurface drainage, swimming pool drainage, condensate, deionized water, Noncontact Cooling Water, and unpolluted wastewater, unless specifically authorized;
 - (14) Medical Wastes, except as specifically authorized;
 - (15) Wastewater causing, alone or in conjunction with other sources, the treatment plant's effluent to fail toxicity test;
 - (16) Detergents, surface-active agents, or other substances which that cause excessive foaming in the POTW;
 - (17) Fats, oils, or greases of animal or vegetable origin in concentrations greater than 100mg/l;
- ii. Pollutants, substances, or wastewater prohibited by this Section shall not be processed or stored in such a manner that they could be discharged to the POTW.
2. **Local Limits.** The POTW may, from time to time establish local limits for pollutants, that have the potential to interfere with the treatment process or cause pass through into the environment. These limits will be approved by the City.
3. **Right of Revision.** The City and PWR reserves the right to establish, by ordinance more stringent Standards or Requirements on discharges to the POTW consistent with the purpose of this Chapter, The City and PWR shall also have the right to deny new or increased contributions or to set additional conditions on such contributions to protect the POTW.
4. **Dilution.** No User shall ever increase the use of water, or in any way attempt to dilute a discharge, as a partial or complete substitute for adequate treatment to achieve compliance with a discharge limitation unless expressly authorized by the City or PWR.

HISTORY

Adopted by Ord. [19-J](#) on 9/26/2019

07.09.040.3 Compliance Monitoring and Enforcement

1. **Right of Entry: Inspection and Sampling.** The City and PWR shall have the right to enter the premises of any sewer system User to determine whether the User is complying with all requirements of this Chapter or order issued by the City or PWR. Users shall allow ready access to all parts of the premises for the purposes of inspection, sampling, records examination and copying, and/or the performance of any additional duties.
- a. Where a User has security measures in force which require proper identification and clearance before entry into its premises, the User shall make necessary arrangements with its security guards so that, upon presentation of suitable identification, City or PWR shall be permitted to enter without delay for the purposes of performing specific responsibilities.
 - b. The City or PWR shall have the right to set up on the User's property, or require installation of, such devices as are necessary to conduct sampling and/or metering of the User's operations.
 - c. The City or PWR may require the User to install monitoring equipment as necessary, The facility's sampling and monitoring equipment shall be maintained at all times in a safe and proper operation condition by the User at its own expense. All devices used to measure wastewater flow and quality shall be calibrated to ensure their accuracy.
 - d. Any temporary or permanent obstruction to safe and easy access to the facility to be inspected and/or sampled shall be promptly removed by the User at the written or verbal request of the City or PWR. The costs of clearing such access shall be borne by the User.
 - e. Unreasonable delays in allowing access to the User's premises shall be a violation of this Chapter and may result in the suspension of sewer use.
2. **Enforcement Remedies.**
- a. **Notification of Violation.** When the City or PWR finds that a User has violated, or continues to violate, any provision of this Chapter, the City or PWR may serve upon that User a written Notice of Violation.
 - b. **Cease and Desist Orders.** When the City or PWR finds that a User has violated, or continues to violate, any provision of this Chapter, the City or PWR may issue an order to the User direction it to cease and desist all such violations.
 - c. **Administrative Fines.** When the City or PWR finds that an oil or grease discharger has violated the limits set in 1. B. (17), the City will impose a fine of two dollars (\$2.00) per pound of grease and oil discharged over the past three months. The pounds of oil and grease shall be calculated as follows:
 - i. $(\text{Total Estimated flow for three months in MG})(\text{Measured Concentration}-100 \text{ in mg/L})(8.34)$
 - ii. If the User has additional records of discharge concentrations or flows they may provide that information to insure the accuracy of the fine.

- d. Emergency Suspension of Service. The City or PWR may immediately suspend a User's discharge, after informal notice to the User, whenever such suspension is necessary to stop an actual or threatened discharge, which reasonably appears to present, or cause an imminent or substantial endangerment to the health or welfare of persons. The City or PWR may also immediately suspend a User's discharge, after notice and opportunity to respond that threatens to interfere with the operation of the POTW, or which presents, or may present, an endangerment to the environment.
- e. Remedies. The remedies provided for in this Chapter are not exclusive, The City or PWR may take any, all or any combination of these actions against a non compliant User.
- f. Programs Subject to the Conditions of this Chapter. The following programs shall be subject to the conditions of this Chapter:
 - i. Sewer System Cost Recovery System for High Strength Waste.
 - ii. Grease, Oil, and Sand management Program.
 - iii. Perry/Willard City - PWR Inspection Program.

HISTORY

Adopted by Ord. [19-J](#) on 9/26/2019

7.11 Garbage Collection

7.11.010 Purpose

The City adopts the Perry City garbage collection fee ordinance which regulates when and how garbage fees may and can be collected.

HISTORY

Adopted by Ord. [15-C](#) on 3/17/2015

7.11.020 Billing For Nonpayment

All bills for garbage service shall be rendered monthly at established rates on the same bill with water, sewer and/or other City utilities. Each bill shall show separately the amount of the garbage service charges but the total thereof shall be considered one charge for the combined use of water, sewer, garbage and other services of the City. The portion of the bill rendered for garbage service cannot be paid separately from the other portions. All charges for garbage service contracted by the City shall be billed to the user on any day of the month following a one-month period of service and payment, therefore, shall be due and payable twenty (20) days after such date of billing and if not paid within sixty (60) days from date of billing, the garbage service may be discontinued with notice as follows:

1. The City Recorder may and is authorized and empowered to institute collection proceedings by all means available to the City, including suit in a court of proper jurisdiction pursuant to which judgment may be sought and obtained to collect all delinquencies and fees that may be due or become due and to seek judgment requiring the defendant to pay all costs of collection.
2. An overdue notice will be sent on or about the twentieth day of each month to those accounts sixty (60) days and over. A notice of shut-off letter will be sent to accounts ninety (90) days and over giving them seven (7) days to respond with payment or written arrangements for payment. If there is a question on the bill, the utility user must request a hearing within the seven-day period. At the end of the seven days, a red tag will be hand delivered to the residence giving an additional twenty-four (24) hours before disconnection.
3. The City Recorder or the Water Superintendent may notify the City Council of the ninety (90) days and over delinquency account and the City Council shall have authority to direct that all services to the premises involved be shut off until payment of the charges have been paid provided proper notice has been made.
4. Interest will be charged on accounts of thirty (30) days and over at the rate of one and one half percent. Fees may be changed by resolution of the City Council.
5. Before water service to said premises shall again be provided all water, sewer and garbage charges due must have been paid to the City office, together with such extra charges for turning on the water as the City Council may have established by resolution. At the date of the ordinance codified in this chapter fifty dollars (\$50.00) is the fee adopted.

HISTORY

Adopted by Ord. [15-C](#) on 3/17/2015

7.11.030 Discontinuance And Reestablishment Of Service

The City reserves the right to discontinue garbage (and/or other public utility) services on delinquent billing for any of the services billed on the monthly statement (including garbage) if proper notice has been given. Reestablishment of service may be withheld until all delinquent charges due from such part have been paid in full, together with a service charge for reconnection, which shall be determined by resolution of the City Council and may be amended from time to time by the Council.

HISTORY

Adopted by Ord. [15-C](#) on 3/17/2015

7.11.040 Regular Rates

There shall be adopted (by resolution) a schedule of rates and fees for garbage collection which may be revised from time to time (by resolution) as determined by the City Council to be necessary or desirable, which rates are found and determined to be just, reasonable and necessary charges for the garbage collection within the territorial limits of the City. Said fee schedule shall be codified as part of PMC 4.09.

HISTORY

Adopted by Ord. [15-C](#) on 3/17/2015

7.11.050 Special Rates

The City Council may from time to time fix by agreement or resolution special rates and conditions upon such terms as they may deem proper for users of garbage collection under special or exceptional circumstances.

HISTORY

Adopted by Ord. [15-C](#) on 3/17/2015

7.11.060 Board Of Equalization: Corrections Of Rates In Special Circumstances

The City Council is constituted as a board of equalization of garbage collection rates to hear complaints and make corrections of any assessments or charges deemed to be illegal, unequal or unjust.

HISTORY

Adopted by Ord. [15-C](#) on 3/17/2015

7.13 Storm Water Regulations

7.13.010 Purpose And Findings

1. **Purpose.** The purpose of the storm water regulations set forth in the municipal code is to comply with Phase II of the Clean Water Act (Act) and the applicable regulations of the Environmental Protection Agency (EPA) and the Utah Department of Environmental Quality (DEQ).
2. **Findings.** The City Council makes the following findings regarding storm water:
 - a. **Facilities.** The City operates a storm water system consisting of a network of man-made and natural facilities, structures and conduits, that collect and route storm water runoff.
 - b. **Endangerment.** Uncontrolled or inadequately controlled storm water runoff endangers public health and safety by causing, among other things: flooding, pollution, property damage, erosion, traffic and emergency response interruption, and impacts the ground water supply.
 - c. **Pollution.** Storm water runoff carries concentrations of oil, grease, nutrients, chemicals, heavy metals, toxic materials and other undesirable materials that can damage the integrity of ground waters and receiving waters, including the culinary water supply.
 - d. **Impervious surfaces.** Developed properties in the City contribute to the storm water system by converting natural ground cover into impervious surfaces.
 - e. **Maintenance.** Developed properties in the City make use of and benefit from the City's operation and maintenance of the storm water system.
 - f. **Regulations.** The Act, EPA, DEQ, and applicable rules mandate storm water regulations that apply to the City and otherwise.

- g. Operation. Effective maintenance, operation, regulation, and control of the storm water system is necessary for the health, safety, and general welfare of the City, its residents, and its businesses.

HISTORY

Reenacted by Ord. [2020-C](#) Reenacted and Renumbered as 7.13 on 2/27/2020

7.13.020 Applicability

The storm water regulations in the municipal code apply to all development one (1) or more acres of land, or any part of a common development plan regardless of the size of any of the individually owned or developed sites.

HISTORY

Reenacted by Ord. [2020-C](#) Reenacted and Renumbered as 7.13 on 2/27/2020

7.13.030 Definitions

The following words and phrases shall be defined in the municipal code relating to storm water as follows:

1. **"Best Management Practices or BMPs"** means a range of management procedures, schedules of activities, prohibitions of practices, maintenance procedures, and other management practices which have been demonstrated to effectively control the quality and/or quantity of storm water runoff and which are compatible with the planned land use. BMPs also include treatment requirements, operating procedures, and practices to control site runoff, spillage or leaks, sludge or water disposal, or drainage from raw material storage. A list of sample BMP's and their effectiveness ratings can be found in the most current version of the Storm Water Management Plan adopted by the City or as otherwise provided.
2. **"Catch Basin"** means a drain inlet designed to keep out large or obstructive matter.
3. **"City"** means the geographical boundaries of Perry City, Utah, and also refers to the classification of the jurisdictional area within a municipal separate storm sewer system (MS4).
4. **"Common Development Plan"** means development that is contiguous to an area where multiple separate distinct construction activities may be taking place at different times or different schedules under an overall plan. For example, if a developer buys a large parcel and subdivides lots, builds roads, installs pipes, and runs electricity with the intention of constructing homes or other structures, this would be considered a common development plan. If the land is parceled off or sold, and construction occurs on plots that are less than one (1) acre by separate, independent builders, this activity still would be subject to storm water permitting requirements. The common development plan also applies to other types of land development such as industrial or business parks.
5. **"Debris"** means any dirt, rock, sand, vegetation, trash, junk, or litter.
6. **"Detention Basin"** means an area designed to detain peak flows from storm water runoff and to regulate release rates of that water into the storm drainage system, also allowing debris to settle out. Detention basin outlets may also be connected to downstream storm drains. Flows entering detention basins are released via outlet piping.
 - a. Regional Detention Basins mean large detention basins owned and maintained by the City.
 - b. Local Detention Basins mean smaller basins typically in a development or subdivision that is constructed by the development or subdivision which, following construction and acceptance, the ownership, operation, and maintenance may either be conveyed and maintained by the City, association, or private owner(s) as determined by the City.
7. **"Development"** means any man made change to improved or unimproved real estate of any parcel to alter it from its natural condition by site preparation, grading, filling, and/or the construction of improvements or other impervious surfaces. It also includes a site plan, building permit, subdivision, or construction of facilities, buildings, or other structures.
8. **"Director"** means the person designated by the City to enforce storm water regulations.
9. **"Disturb"** means to alter the physical condition, natural terrain or vegetation of land by clearing, grubbing, grading, excavating, filling, building, or other construction activity.
10. **"Drain Inlet"** means a point of entry into a sump, detention basin, or storm drain system.
11. **"Source Protection Zone"** means an area that is protected as a source of culinary or drinking water determined by geo-hydrology and designed to protect groundwater aquifers and well from development or pollution.
12. **"Equivalent Residential Unit or ERU"** means the average amount of impervious surface, expressed in square feet, on developed single family residential parcels in the City. One ERU equals 2,800 square feet of impervious surface area.

13. **"Hazardous Material"** means any material, including any substance, waste, or combination thereof, which because of its quantity, concentration, or physical, chemical, or infectious characteristics may cause, or significantly contribute to, a substantial presence or potential hazard to human health, safety, property, or the environment when improperly treated, stored, transported, disposed of, or otherwise managed. Hazardous material includes, but is not limited to, any hazardous substance designated under 40 CFR Part 116 pursuant to Section 311 of the Clean Water Act.
14. **"Illicit Connection"** means an unlawful connection of:
- a. Any drain or conveyance, whether on the surface or subsurface, which may allow an illicit discharge to enter the storm drain system. Examples include, but are not limited to:
 - i. Any conveyance which allows non storm water discharge such as sewage, processed wastewater, or any other waste water (black or grey) to enter the storm drain system.
 - ii. Any connections to the storm drain system from indoor drains or sinks, regardless of whether said drain or connection had been previously allowed, permitted, or approved by a government agency.
 - b. Any drain or conveyance connected to or discharging to the storm drain system, which has not been:
 - i. Documented in approved plans, maps, or equivalent records of the City.
 - ii. Otherwise approved in writing by the City.
15. **"Illicit Discharge"** means any non storm water discharge to the storm water system. Illicit discharges include both:
- a. Direct connections, including but not limited to: wastewater piping either mistakenly or deliberately connected to the storm water system.
 - b. Indirect connections, including but not limited to: infiltration into the storm water system or spills collected by drain inlets.
16. **"Impervious Surface"** means any hard surface, other than the natural surface, that prevents or retards the absorption of water into the soil, or that causes water to run off the surface in greater quantities or at a greater rates of flow than the natural surface. Such impervious surfaces include, but are not limited to: roofs, concrete, asphalt, and similar improvements that prevent or impede the natural absorption of water into the soil.
17. **"Municipal Separate Storm Sewer System or MS4"** means a conveyance or system of conveyances including: road drainage systems, catch basins, curbs, gutters, ditches, man made channels, or storm drains.
18. **"Percolation"** means the ability of a soil to absorb water. Typically measured by a Standard Percolation Test in units of minute per inch.
19. **"Person"** means any individual, corporation, partnership, association, company, or political body, including any agency of the State of Utah and the United States government.
20. **"Pollutant"** means dredged spoil, solid waste, incinerator residue, filter backwash, sewage, garbage, sewage sludge, munitions, chemical wastes, biological materials, radioactive materials, heat, wrecked or discarded equipment, rock, sand, cellar dirt, industrial, municipal and agricultural waste, paints, varnishes, solvents; oil and other automotive fluids, non hazardous liquid and solid wastes and yard wastes, refuse, rubbish, trash, garbage, litter, or other discarded or abandoned objects, articles; and accumulations, that may cause or contribute to pollution such as floatables; pesticides, herbicides, and fertilizers; hazardous substances and wastes; sewage, fecal coliform and pathogens; dissolved and particulate metals; animal wastes; wastes and residues that result from constructing a building or structure (including but not limited to sediments, slurries, and concrete resins); and noxious or offensive matter of any kind.
21. **"Redevelopment"** means alterations of a property that change the impervious surface on the site more than ten (10) percent.
22. **"Retention Basin"** means a ground depression area designed to retain flows from storm water runoff, to encourage infiltration into surrounding sub surface soils, and may include overflow piping. A retention basin allows debris to settle from the storm water discharge and must be periodically cleaned and dredged.
23. **"Sanitary Sewer Overflow or SSOs"** means a discharge of untreated sanitary wastewater or SSOs.
24. **"Storm Drain"** means a closed conduit for conducting collected storm water.
25. **"Storm Water"** means any flow that occurs during or following any form of natural precipitation. Storm water includes only the portion of such flow that is composed of precipitation.
26. **"Storm Water Construction Activity Permit"** means a permit issued by the City before any person may excavate, grub and clear, grade, or perform any type of construction activity that will disrupt or cause a change in the natural landscape in the City of one (1) acre or more, or any part of a common development plan. This permit is required in conjunction with a SWPPP.
27. **"Storm Water Program"** means the overall approach by the City in administering, funding, creating and implementing policies that support the objectives of the Act, EPA, and DEQ relating to storm water management in conjunction with the ongoing maintenance and operation of the storm water system.
28. **"Storm Water Pollution Prevention Plan or SWPPP"** means the required plan as approved by DEQ and the City before any construction activity occurs as part of a development.

29. **"Storm Water System"** means the system of conveyances including, but not limited to: sidewalks, road drainage systems, catch basins, detention basins, curbs, gutters, ditches, man made channels, sumps, and storm drains generally owned and operated by the City or its designee, designed and used for collecting or conveying storm water. The storm water system is also referred to as MS4.
30. **"Storm Water Run-off"** means water generated by storm water flows over land.
31. **"Sump"** means a City approved formalized underground structure, surrounded by drain rock, that is used in rare special conditions to collect storm water, which allows the slow release of water into the surrounding sub soil.

HISTORY

Reenacted by Ord. [2020-C](#) Reenacted and Renumbered as 7.13 on 2/27/2020

7.13.040 Prohibited Obstructions

1. **Unlawful Obstructions.** It is unlawful for any person to:
 - a. Obstruct the flow of water in the storm water system.
 - b. Contribute to the obstruction of the flow of water in the storm water system.
 - c. Cover or obstruct any drain inlet.
2. **Exemptions.** The following obstructions are exempt:
 - a. Street and/or storm water improvement projects authorized by the City.
 - b. Flood control and prevention activities performed by the City.
 - c. Obstructions approved by the City and/or state as part of a SWPPP.
 - d. Obstructions occurring during clean up periods established by the City.

HISTORY

Reenacted by Ord. [2020-C](#) Reenacted and Renumbered as 7.13 on 2/27/2020

7.13.050 Prohibited Discharges

1. **Unlawful Discharges.** It is unlawful for any person to discharge non storm water discharges to the MS4 including spills, illicit connections, illegal dumping, and SSOs into the storm sewer system. All SSOs must be reported to the Division of Water Quality and to the MS4s local wastewater treatment facility.
2. **Exemption.** The following discharges are exempt:
 - a. Water line flushing.
 - b. Landscape irrigation.
 - c. Irrigation water.
 - d. Lawn watering runoff.
 - e. Diverted stream flows.
 - f. Rising ground waters.
 - g. Uncontaminated ground water infiltration.
 - h. Uncontaminated pumped ground water.
 - i. Discharges from potable water sources.
 - j. Foundation drains.
 - k. Air conditioning condensation.
 - l. Springs.
 - m. Water from crawl space pumps.
 - n. Footing drains.
 - o. Private individual residential car washing.
 - p. Flows from riparian habitats and wetlands.
 - q. Dechlorinated swimming pool or aesthetic pool/pond/fountain discharge.
 - r. Residual street wash water.

- s. Dechlorinated water reservoir discharge.
- t. Discharges or flows from emergency firefighting activities.

HISTORY

Reenacted by Ord. [2020-C](#) Reenacted and Renumbered as 7.13 on 2/27/2020

7.13.060 Prohibited Storage And Debris

It is unlawful for any person to maintain, store, keep, deposit, or leave any pollutant or hazardous material, or any item containing a pollutant or hazardous material, in a manner that may result in the discharge of the pollutant or hazardous material to the storm water system.

HISTORY

Reenacted by Ord. [2020-C](#) Reenacted and Renumbered as 7.13 on 2/27/2020

7.13.070 Best Management Practices

Any person connecting to the storm water system, developing a parcel of one (1) acre or more, or developing a common development plan shall employ the appropriate BMPs as adopted by the City. The BMPs may be structural and/or non structural, depending on the needs of the site. The BMPs employed shall be designed to ensure that the quality and quantity of storm water released to the storm water system meets the requirements of applicable law and the City's NPDES permit. Design shall ensure that the development shall not exceed the designed capacity of the storm water system or jeopardize the integrity of the storm water system.

HISTORY

Reenacted by Ord. [2020-C](#) Reenacted and Renumbered as 7.13 on 2/27/2020

7.13.080 Authority To Enter Or Inspect

1. **Access.** The director may enter all private properties for the purposes of inspecting, observing, measuring, sampling, repairing, or maintaining any portion of the storm water facilities lying within an actual or prescriptive easement. The director shall perform other duties necessary for the proper operation of the storm water system. All entry and maintenance shall be completed according to any special terms of any easement.
2. **Inspections.** Whenever necessary to make an inspection to enforce any provision of the municipal code, or whenever the City has cause to believe that there exists, or potentially exists, a condition which constitutes a violation of the municipal code, the City may direct its qualified personnel to enter the premises at all reasonable times to inspect, detect, investigate, eliminate, and enforce any suspected non storm water discharges, including illicit discharges, illegal dumping, or other violation. During the same time the City may inspect and collect records related to storm water compliance.
3. **Refusal.** In the event an owner or occupant refuses entry after a request to enter and inspect has been made, the City is hereby empowered to seek assistance from any court of competent jurisdiction in obtaining such entry.
4. **Access.** The access for the City to inspect storm water control measures on private property that is vested under this section and includes both construction phase and post construction access. Upon approval of the director, the City may allow the owner/operators or a qualified third party to conduct maintenance so long as:
 - a. That at least annual certification, in the form of inspection documentation which has been performed, is provided to the City.
 - b. The structural controls are adequately operating and maintained as such were designed to protect water quality as provided in the original maintenance agreement and plans submitted upon vesting and approval of the site.
 - c. A maintenance agreement is required on private property that is vested subsequent to the effective date of this Chapter, and includes both construction phase and post construction access and where owner/operators or a qualified third party to conduct maintenance as provided herein. Said maintenance agreement shall be promulgated in the form and manner as determined by the director so long as the agreement includes at a minimum:
 - i. Allows the City oversight authority of the storm water measures.
 - ii. A provision that the agreement acts as a covenant that runs with the land.
 - iii. Allows the City to inspect and perform necessary maintenance or corrective actions neglected by the owner/operators or the qualified third party.

iv. Allows the City to recoup the costs from the owner/operator as necessary to cover the expenses for necessary actions conducted by the City.

5. **Interpretation.** The City interprets this regulation as secondary and subservient to the United States Constitution and the Utah State Constitution as applied to property rights, land use, development, and similar rights. Specifically, the intent of this regulation is not to be applied to violate vested property rights nor to be a physical invasion of property rights as determined by the United States Supreme Court in *Loretto v. Teleprompter Manhattan CATV Corp.*, 458 U.S. 419 (1982). The City recognizes that the United States Supreme Court interprets property right in conjunction with the laws and constitutions of each state. Therefore, Utah law also plays an important role in defining property rights. For the purpose of determining when a property right is vested the City shall continue to apply the Utah Supreme Court ruling in *Western Land Equities, Inc. v. City of Logan*, 617 P.2d 388 (1980), that states a property owner is vested to follow the City regulations in effect at the time a land use application is filed. Furthermore, where there is vagueness in any land use regulation, including the storm water regulations, it shall be interpreted in favor of the property owner.

HISTORY

Reenacted by Ord. [2020-C](#) Reenacted and Renumbered as 7.13 on 2/27/2020

7.13.090 Requirement To Monitor And Analyze

If a test or inspection by the City, its designee, or other authorized agency indicates that a site is causing or contributing to storm water pollution, illegal discharges, and/or non storm water discharges to the storm water system or waters of the United States, and if the violation continues after notice of the same, the City or other authorized agency may require any person engaged in the illicit activity and/or the owner of operator of the site to provide, at their own expense, monitoring and analyses as required by the City or other applicable agency to ensure compliance with the municipal code.

HISTORY

Reenacted by Ord. [2020-C](#) Reenacted and Renumbered as 7.13 on 2/27/2020

7.13.100 Damage System

Any person who damages any portion of the storm water system or any irrigation system shall be responsible for repairing the damages. The damages shall be repaired by a licensed contractor and, where applicable, be repaired in accordance with the Public Works Standards for Development, Design, & Construction adopted by the City. It is unlawful to remove or alter any portion of the storm water system or irrigation system without permission from the director or owner of the irrigation system.

HISTORY

Reenacted by Ord. [2020-C](#) Reenacted and Renumbered as 7.13 on 2/27/2020

7.13.110 Authorized Access

It is unlawful for any person to open any storm water access hole, grate, lid, cover, inlet, head gate, valve, pipe or other otherwise access any storm water facility without express permission from the director.

HISTORY

Reenacted by Ord. [2020-C](#) Reenacted and Renumbered as 7.13 on 2/27/2020

7.13.120 Wetlands And Permits

Any development that may affect any wetland or potential wetland, regardless of whether such wetlands are identified or unidentified, shall provide to the City an accurate wetland delineation that has been completed within the past eighteen (18) months prior to City approval of the development. Any delineated wetland shall be accurately shown on all construction plans and any plat map relating to the development. Prior to issuance of any building permit, the developer shall accurately stake and install appropriate BMPs all on site delineated wetlands and shall maintain such until the notice of termination has been completed. The developer shall also provide to the City a copy of the EPA wetlands 404 permit, stream alteration permit, regulator letters, and other related permit or regulator documents required by any regulatory agency relating to the development.

HISTORY

Reenacted by Ord. [2020-C](#) Reenacted and Renumbered as 7.13 on 2/27/2020

7.13.130 Federal And State Compliance

Nothing in the storm water regulations shall be interpreted to relieve any person from an obligation to comply with an applicable federal, state, or local law.

HISTORY

Reenacted by Ord. [2020-C](#) Reenacted and Renumbered as 7.13 on 2/27/2020

7.13.140 Violation And Enforcement

Where a person has violated the municipal code storm water regulations the following procedure applies:

1. **Warning.** A verbal warning shall be issued and documented in the City records by the City Official who issued the warning. The City may skip this procedural step and immediately proceed with other more severe actions against the violator if:
 - a. The violator has committed the same violation in the past.
 - b. The violation, in the opinion of the City, creates a risk to persons, the environment or property.
 - c. The City deems the violation to constitute an risk.
2. **Written Violation.** Issue a written notice of violation to the person in violation and document the written violation in the City records by the City Official who issued the written notice of violation. Such notice may require without limitation one or more of the following as may be applicable:
 - a. The performance of monitoring, analyses, and reporting.
 - b. The elimination of illicit connections or discharges.
 - c. That violating discharges, practices, or operations shall cease and desist.
 - d. The abatement and/or remedy of storm water pollution or contamination hazards and the restoration of any affected property.
 - e. Payment to cover administrative, mitigation, monitoring, analyses, and reporting costs.
 - f. The implementation of source control or treatment BMPs.
3. **Prosecution.** The City may skip the written notice of violation procedure set forth in this section and immediately proceed with criminal and/or civil action against the violator if any of the following may have occurred:
 - a. The violator has committed the same violation in the past.
 - b. The violation, in the opinion of the City, creates a serious risk to persons, the environment or property.
 - c. The City deems the violation to constitute an emergency.
4. **Penalty.** The follows penalties apply for each violation:
 - a. Criminal. The violation by any person of any provision of a governing storm water regulation in the municipal code is a class B misdemeanor. Each day that a violation continues shall constitute a separate offense.
 - b. Civil. In addition to other penalties and remedies, any person violating or permitting the violation of any governing storm water regulation is subject to a civil fine not to exceed a \$1,000.00, per violation, per day, in addition to reasonable attorney's fees and costs incurred by the City for enforcement of storm water regulations.
 - c. Recovery. The City is entitled to be seek and receive recovery of damages equal to the cost to make all repairs and/or replace any materials in addition to any criminal or civil fines and/or penalties imposed.
 - d. State Penalties. A violation of storm water regulations may also be subject to any penalties that may be imposed by the State of Utah, under the authority of the Utah Water Quality Act, Title 19, Chapter 5 of the Utah Code Annotated.
 - e. Federal Penalties. A violation of storm water regulations may also be subject to prosecution, fines, and penalties imposed by the United States of America.
 - f. Permit. The Small MS4 General UPDES Permit, Permit No. UTR090000 defines the maximum penalties for violations of Permit conditions as follows:
 - i. The General UPDES Permit provides that any person who violates a Permit condition implementing provisions of the Act is subject to a civil penalty not to exceed \$10,000 per day of such violation. Any person who willfully or negligently violates Permit conditions or the Act is subject to a fine not exceeding \$25,000 per day of violation. Any person convicted under Utah Code Annotated §19 5 115(2) a second time shall be punished by a fine not exceeding \$50,000 per day.

- ii. The General UPDES Permit provides that any person who knowingly makes any false statement, representation, or certification in any record or other document submitted or required to be maintained under the Permit, including monitoring reports or reports of compliance or noncompliance shall, upon conviction be punished by a fine of not more than \$10,000, per violation, or by imprisonment for not more than six (6) months per violation, or by both in accordance with Utah Code Annotated §19 5 115(4).
 - iii. The General UPDES Permit provides that any person who falsifies, tampers with, or knowingly renders inaccurate, any monitoring device or method required to be maintained under this Permit shall, upon conviction, be punished by a fine of not more than \$10,000, per violation, or by imprisonment for not more than six (6) months per violation, or by both.
5. **Stop work order.** In addition to other fines and penalties, a stop work order may be issued by the director or designee upon the discovery of work being conducted without a required permit. No construction activity may be commenced or continued on any site for which a permit has been revoked or suspended until the permit has been reinstated or reissued.
6. **Injunctive Action.** The City may seek injunctive relief or take other lawful corrective action to install and/or maintain appropriate storm water control measures on any site required to have such measures in place and seek reimbursement for the same, including penalties, administrative costs, attorney's fees, and court costs.

HISTORY

Reenacted by Ord. [2020-C](#) Reenacted and Renumbered as 7.13 on 2/27/2020

7.15 Storm Water Utility

7.15.010 Purpose

The purpose of this Chapter is to comply with Act, EPA, and DEQ mandates that the City fund its storm water program in order to protect public health, safety, and welfare. The purpose of the funds collected under this Chapter shall be used at the sole discretion of the City for: implementing the objectives of the storm water program, establishing and implementing BMPs, improving the storm water system, employing staff and equipment, managing storm water runoff, protecting property and infrastructure, pollution prevention, protecting the water supply, protecting receiving waters, protecting the irrigation system, preserving wetlands and wildlife habitat, protecting flood plain and open space, and establishing a viable method of financing the construction, operation, and maintenance of the storm water system.

HISTORY

Adopted by Ord. [2020-C](#) on 2/27/2020

7.15.020 Storm Water Utility

1. **Policy.** A storm water utility is the most equitable and efficient method of funding the storm water program in the City and ensuring that each property pays its share of the amount that the property contributes to, benefits from, and otherwise uses the storm water system.
2. **Creation.** The City Council hereby creates and establishes a storm water utility as part of the overall storm water program.
3. **Funding.** The funds collected from the storm water utility shall be deposited in a enterprise fund and held in reserve to manage income, expenses, and other financial transactions related to the storm water program.
4. **Facilities.** The storm water enterprise fund operates independently of the general fund. The storm water enterprise fund shall have the same relationship to the City as other utilities or enterprise funds. The City storm water system is hereby transferred to the storm water enterprise fund in consideration for the storm water enterprise fund taking primary responsibility for planning, designing, constructing, maintaining, administering and operating the storm water system.
5. **Administration.** The storm water enterprise fund shall be administered by the City department designated by the Mayor. The department may use another City fund in conjunction with the storm water enterprise fund to accomplish the objectives of the storm water program.

HISTORY

Adopted by Ord. [2020-C](#) on 2/27/2020

7.15.030 Storm Water Utility Fee

1. **Imposed.** Each developed parcel of real property in the City shall be charged a monthly storm water utility fee in order to fund the federal mandate under Phase II of the Clean Water Act.
2. **ERU.** The fee shall be based on the number of equivalent service units (ERUs) contained in the parcel. The City Council finds that the ERU is the most accurate measurement for determining the amount that each parcel contributes to, benefits from, and otherwise uses the storm water utility. Based on the recommendation of the City Engineer, the City Council determines that one ERU equals 2,800 square feet of impervious surface area.
3. **Calculation.** Each single family residential parcel contributes approximately the same amount of storm water runoff. Therefore, each developed single family residential parcel shall pay a base rate of one (1) ERU. All non-single family residential parcels shall pay a multiple of this base rate, expressed in ERUs, according to the total measured impervious area on the parcel being imposed a fee.
4. **Fee.** The monthly storm water utility fee is established by ordinance or resolution as set forth in Section 4.09.030.
5. **Policies.** The director may adopt policies and procedures consistent with the municipal code to assist in the application, administration, and interpretation of storm water regulations.
6. **Appeals.** A person may appeal to the City appeal authority any storm water utility fee imposed upon the same based upon error in the method the rate was calculated, interpreted, or applied. The appeal shall be in writing, shall state any facts supporting the appeal, and shall be made within ten (10) days of the decision, action, or bill being appealed. All appeals shall be handled in accordance with the procedure in the municipal code for the appeal authority. The decision of the appeal authority shall be final.
7. **Enforcement.** Violations, enforcement, and penalties of this Chapter are set forth in Section 7.13.140.

HISTORY

Adopted by Ord. [2020-C](#) on 2/27/2020

Amended by Ord. [22-H](#) on 6/23/2022

7.15.040 Billing

1. **Policy.** The storm water utility is consistent with other interrelated services of the City that provide for the public health, safety, and general welfare in an environmentally responsible and financially sound manner.
2. **Billing.** Billing for the storm water utility shall be completed in conjunction with the regular monthly utility billing statement of the City.
3. **General Provisions.** The following general provisions apply:
 - a. For parcels where there is no utility bill for the property, there is no storm water utility fee imposed.
 - b. A utility fee is a civil debt owed to the City by the person paying for the City utility services provided to the property.
 - c. All properties receiving water service shall be charged the applicable utilities incurred under the municipal code regardless of whether or not the owner or occupant of the property requests the storm water utility.
 - d. Failure to pay any portion of the utility bill may result in termination of water service.
4. **Administration.** The mayor or their designee may modify, reduce, impose, or rebate erroneous billing charges not to exceed a three (3) month consecutive time period. The mayor or their designee may make special exceptions on billing charges based upon special circumstances on a case-by-case basis.

HISTORY

Adopted by Ord. [2020-C](#) on 2/27/2020

7.17 Storm Water Construction Activity Permit

7.17.010 Purpose And Intent

The purpose of this Chapter is to prevent the discharge of sediment and other construction related pollutants from construction sites. Sediment and debris from construction sites are a major source of pollution to waterways and water systems located within the City and surrounding areas. Each year storm water runoff carries tons of sediment from construction sites into local drainage systems, irrigation systems, canals, rivers, and lakes. Sediment from storm water runoff clogs and obstructs storm drains, culverts, and canals. Storm water sediment also damages private property, wetlands, wildlife habitat, and water quality.

HISTORY

Adopted by Ord. [2020-C](#) on 2/27/2020

7.17.020 Activity Permit Required

A Storm Water Construction Activity Permit is required in conjunction with the SWPPP before any person may excavate, grub and clear, grade, or perform any type of construction activity that will disrupt or cause a change in the natural landscape within the City that is one (1) acre or more, or any part of a common development plan. Development of a subdivision greater than or equal to one acre in size qualifies under this Section even if each of the individual lots in the subdivision are smaller than one (1) acre.

HISTORY

Adopted by Ord. [2020-C](#) on 2/27/2020

7.17.030 Activity Permit Issuance

1. **Process.** Any person or entity desiring a storm water construction activity permit must first submit a "Notice of Intent" (NOI) with DEQ. Upon DEQ approval of the NOI, any person desiring a storm water construction activity permit must file the SWPPP with the City along with any documentation necessary for the City to calculate the number of ERUs for each parcel upon completion of development. The storm water construction activity permit is approved and issued in conjunction with a building permit.
2. **Compliance.** Failure to submit a SWPPP required for the required storm water construction activity permit is grounds for denying a development application.
3. **Fee.** The storm water construction activity permit fee in the amount of \$650 shall be added to each building permit, unless another fee or fee schedule is established by ordinance or resolution.
4. **Approval.** Approval of the building permit includes issuance of the storm water construction permit. The City may impose conditions in connection with the approval of a building permit to enforce the SWPPP and include specific measures to prevent erosion, unlawful discharge, sediment accumulation, debris removal, and other storm water measures for the construction site.
5. **Effect.** Unless otherwise revoked or suspended for a violation, a storm water construction activity permit is effective for the full period of the construction activity. The construction activity will not be considered to be completed until the following events occur:
6. **Termination.** The storm water construction activity permit shall be considered terminated after the permittee notifies the City of completion of the project and a final inspection is performed to verify site stabilization. Permittee shall also verify the site is stabilized and give "Notice of Termination" to DEQ. The permittee shall keep and maintain all permit required improvements on the site until termination.
7. **Amendments.** In the event that the proposed construction activity for a site to which a permit pertains is materially altered from the SWPPP, an amended SWPPP shall be submitted for approval by permittee.

HISTORY

Adopted by Ord. [2020-C](#) on 2/27/2020

7.17.040 Storm Water Pollution Prevention Plan

A SWPPP is required for all sites disturbing one (1) acre or more or any part of a common development plan. The SWPPP shall contain the information required in the general permit and by DEQ. The City may require additions, changes, modification, and amendments to the SWPPP in order to conform to the Storm Water Management Plan adopted by the City or to remedy deficiencies occurring at the construction site during construction.

HISTORY

Adopted by Ord. [2020-C](#) on 2/27/2020

7.17.050 Erosion And Sediment Control

The permittee of a SWPPP shall install the erosion and sediment control measures required by the approved SWPPP prior to commencing other construction activity on the site where the SWPPP. The erosion and sediment control measures shall be properly installed and maintained in accordance with the SWPPP, specifications of a manufacturer, and best practices. The Permittee shall maintain such measures on the site until the City accepts termination.

HISTORY

Adopted by Ord. [2020-C](#) on 2/27/2020

7.17.060 Inspection And Entry

Issuance of a storm water activity permit authorizes the EPA, DEQ, City, or other applicable agency to enter the site and inspect compliance with the SWPPP. The permittee shall also make available upon request inspection of storm water records for the construction site.

HISTORY

Adopted by Ord. [2020-C](#) on 2/27/2020

7.17.070 Revocation Or Suspension Of A Permit

1. **Action.** A storm water construction permit issued under this Chapter may be revoked or suspended by the City upon the occurrence of any one of the following:
 - a. Failure of permittee to comply with the SWPPP or any related condition.
 - b. Failure of permittee to comply with the storm water regulations in the municipal code.
 - c. A determination by the City that the erosion and sediment control measures implemented by a permittee pursuant to the SWPPP are inadequate to prevent or minimize, to the greatest extent practicable, the discharge of sediment, debris or other pollutants from the construction site by storm water.
2. **Notice.** The City shall provide permittee written notice of noncompliance before revoking or suspending a permit. The notice shall:
 - a. State the location and nature of the noncompliance and shall also specify what action is required for the permittee to avoid revocation or suspension of the permit.
 - b. Allow the permittee a reasonable time to take the necessary corrective action to avoid revocation or suspension of the permit which time, in the absence of exceptional circumstances, shall not be less than ten (10) nor more than thirty (30) days.
 - c. Be delivered or mailed to the address listed for the permittee in the building permit application or the site of the construction activity, or both.
 - d. If the permittee fails to correct the problems identified in the notice during the time specified in the notice, the City may suspend or revoke the permit by recording a certificate of non compliance on the property where the violation occurred.
 - e. The permittee may appeal a suspension or revocation determination of any permit as provided in this Chapter.
3. **Circumstances.** The City may take any steps necessary to mitigate, remedy, or alleviate exceptional circumstances and recover the costs from the same from the permittee and person responsible for creating an exceptional circumstance. For purposes of this Chapter, exceptional circumstances include, but are not limited to:
 - a. Situations which involve a risk of injury to persons.
 - b. Damage to storm drain facilities.
 - c. Damage to other property or the environment.
 - d. Discharge of a pollutant into the environment.
4. **Order.** The City may issue a stop work order upon a violation of the storm water regulations, SWPPP, the revocation or suspension of a permit, or upon the discovery of work being conducted without a required permit. No construction activity may be commenced or continued on any site where a stop work order has been issued, or where a permit has been revoked or suspended until the permit has been reinstated or corrected.
5. **Reinstatement.** A permit may be reinstated upon:
 - a. Correction and compliance with all storm water regulations.
 - b. Correction of substandard performance.
 - c. Correction of non compliance issues.
 - d. Upon the filing of an amended SWPPP which corrects the deficiencies of the original SWPPP.

HISTORY

Adopted by Ord. [2020-C](#) on 2/27/2020

7.17.080 Connection Permit

1. **Permit.** A permit is require to make any connection, directly or indirectly, to the storm water system.
2. **Application.** In order for a person to connect to the storm water system the person must:
 - a. Submit a completed application form as provided by the City.
 - b. Incorporate BMPs that meet the requirements of the storm water regulations
 - c. Provide a maintenance plan, including any maintenance agreement outlining how the applicant will maintain the storm water improvements listed in the application.
 - d. The application may be submitted to the City in conjunction with building permit or subdivision approval, whichever is applicable.
3. **Approval.** The storm water connection permit application shall be reviewed by the City and may be issued, modified, or denied in conjunction with the building permit.
4. **Consideration.** In considering whether to issue a connection permit, the City shall determine:
 - a. Whether the application is complete.
 - b. Whether all development fees have been paid.
 - c. Whether the application complies with all storm water regulations and policies.
 - d. Whether the application conforms to City storm water system plans.
 - e. Whether the application incorporates effective BMPs.
 - f. The potential for the connection to introduce pollutants into the storm drain system.
 - g. Whether the proposed connection creates a safety hazard.
 - h. Whether the proposed connection affects the integrity of the storm sewer system infrastructure.
 - i. Whether the proposed connection endangers any ground water or drinking water supply.
 - j. Whether the applicant has submitted a maintenance plan and any maintenance agreement ensuring the proper maintenance and upkeep of the applicant's connection and on site storm water improvements.
5. **Failure.** Failure to construct or maintain storm water improvements in accordance with an approved storm water connection permit shall be a violation of this Chapter.
6. **Drawings.** Any person connecting to the storm water system shall provide the "as built" drawings showing the details and the location of the connection along with any location device. The plans shall be provided in a format acceptable to the City.

HISTORY

Adopted by Ord. [2020-C](#) on 2/27/2020

7.17.090 Exemptions

The following activities are exempt from the requirements of this Chapter:

1. **Public.** Activities of a public utility or government entity. Activities to remove or alleviate an emergency condition, restore utility service, restore transportation, or otherwise protect public health, safety, and welfare.
2. **Agriculture.** Bona fide agricultural and farming operations.

HISTORY

Adopted by Ord. [2020-C](#) on 2/27/2020

7.17.100 Enforcement And Appeals

Violations, enforcement, and penalties of this Chapter are set forth in Section 7.13.140. An aggrieved person may appeal to the City appeal authority by filing an appeal in writing, stating the facts supporting the appeal, within ten (10) days of the decision being appealed. All appeals shall be handled in accordance with the procedure in the municipal code for the appeal authority. The decision of the appeal authority shall be final.

HISTORY

Adopted by Ord. [2020-C](#) on 2/27/2020

7.19 Storm Drain Design And Construction

7.19.010 General Provisions

1. **Findings.** The City Council make the following findings:
 - a. The City has unique topographical challenges resulting from sensitive lands, geological limitations, hillsides and conditions that present slope failure or landslide risks.
 - b. Storm water and saturation can exacerbate slope failure and landslide risk along with causing hillside erosion.
 - c. The City must manage potential pollution sources that pose a danger to the health, safety, and welfare of the public in the City.
 - d. There exists high ground water in the City and precludes certain storm water control measures, limits ground storage, necessitates extensive storm water facility design, requires landscape and open space preservation, requires additional construction standards, and implementation of specific policies set forth in this Chapter.
2. **Purpose.** This Chapter establishes construction standards for development within the City relating to storm water to conform with the Act and applicable storm water mandate from the EPA and DEQ.
3. **Intent.** This Chapter is intended to follow the natural flow of storm water from initial rainfall hydrology, to conveying the rain water to the storm water system, to a basin, then discharging to a natural or other outlet location, along with best practices and penalties for violations.

HISTORY

Adopted by Ord. [2020-C](#) on 2/27/2020

7.19.020 Rainfall Hydrology

1. **IDF Rational Method.** The equations for the "Rational Method" of rainfall hydrology is based upon the "Intensity-Duration- Frequency" (IDF) curve. The City Engineer may develop a table and data for the Rational Method.
2. **Calculation.** For all development and subdivisions the equation for the Rational Method and IDF curve may be used, unless a hydrology computer model is required by the City Engineer.
3. **Rainfall Pattern.** For computer modeling the rainfall pattern used is based upon the "Farmer Flecher Distribution." This pattern is for a one (1) inch unit storm and must be multiplied by rainfall depth for storms of other magnitudes.
4. **Rainfall Totals.** Rainfall calculations shall use the rainfall pattern total obtained from the "NOAA Atlas" based upon a one (1) hour storm event.

HISTORY

Adopted by Ord. [2020-C](#) on 2/27/2020

7.19.030 Storm Water System

1. **Irrigation Policy.** Storm waters shall not be conveyed, used, or discharged in to any irrigation canals, ditches, or facilities that are not abandoned for irrigation use. Irrigation water may generally not be conveyed, used, or discharged in the storm water system except where allowed by the City. Nothing in this part shall be construed to limit the ability of the City to convert any part of an irrigation system to storm water use or vice versa or share tailwater.
2. **System Specifications.** All storm water systems and storm water basins either local, regional or otherwise, including detention and retention shall be designed and installed to accommodate a minimum one-hundred (100) year storm event, unless a higher minimum is required by the City Engineer. The storm water system shall be designed and constructed to withhold the eightieth (80th) percentile of a storm event before any discharge into any outlet. The storm duration used for the sizing of the storm water system shall be based upon the worst case scenario and not the time of concentration.
3. **Piping Specifications.** Storm water system piping shall be designed and installed to accommodate a minimum ten (10) year storm event, if the above ground conveyance, detention, or retention will support the difference to the one-hundred (100) year storm event, unless a higher minimum is required by the City Engineer. The storm duration used for the sizing of piping shall be based upon the worst case scenario and not the time of concentration.
 - a. Piping shall be Re-enforced Concrete Pipe (RCP), of appropriate class.
 - b. Minimum size for piping main lines shall be fifteen (15) inch diameter.
 - c. For specific piping specifications refer to the Public Works Standards for Development, Design, & Construction.

- d. Where determined by the City Engineer, larger system piping shall be installed to accommodate future development.
- 4. **System Costs.** The cost to provide an adequate storm water system to a development shall be born by the developer.
- 5. **Installation.** The storm water system shall be installed in accordance to the Public Works Standards for Development, Design, & Construction.
- 6. **Access.** The storm water system shall have clean out boxes, inlets, manholes, and other facilities installed as appropriate and in conjunction with changes in grade or alignment, at maximum distance of typically four hundred (400) feet between accesses, unless the Public Works Standards for Development, Design, & Construction specify otherwise.
- 7. **LID.** The system shall be designed to include the LID specifications required by law.

HISTORY

Adopted by Ord. [2020-C](#) on 2/27/2020

7.19.040 Storm Water Basins

1. **Policy.** It is the policy of the City:
 - a. To require the proper design, construction, and maintenance of adequate storm drainage basins for all development.
 - b. All development and redevelopment sites are required to have a storm water basin and system as provided in this Chapter.
 - c. An on site basin(s) is/are required on each parcel sought for development in the City.
2. **Water Source.** It is critical that any development in close proximity to a river, stream, well, aquifer, or source protection zone as defined by the state be set back as determined by the state, City Engineer, or other affected entity. All basin designs and calculations shall be reviewed by the City Engineer for approval.
3. **Basin Types.** The ownership of storm water basins is specified as follows:
 - a. Private Basin. A private basin is allowed where the development provides for a owner association responsible for the ownership, operation, maintenance, repair, and replacement of the private basin(s) subject to a written agreement with the City.
 - b. Local Basins. In subdivisions, a local detention basin shall be constructed by the developer as part of the development. Following acceptance of the construction, the ownership, operation, maintenance, repair, and replacement shall be the City or owner association subject to a written agreement with the City.
 - c. Regional Basins. Regional basins shall be owned, operated, maintained, repaired, and replaced by the City as constructed in accordance with the criteria provided by the City Engineer.
 - d. Access. Basin access shall be as follows:
 - i. Private basin. The owner association of a private basin shall provide to the City a construction and service access easement from a public road around the basin in sufficient size to make all necessary repairs by standard equipment used for such purpose.
 - ii. Other Basins. As part of site approval of any development the City shall be granted a construction and service access easement from a public road around the basin in sufficient size to make all necessary repairs by standard equipment used for such purpose.
4. **Basin Design and Construction.** Basins shall be constructed to enhance safety, health, and aesthetics of the area as follows:
 - a. Setback. Each basin shall be constructed where possible with a flat rim circling the basin which shall be setback from a property line, adjoining property, and from any structure an appropriate distance determined by the City Engineer to prevent erosion and to allow a backhoe and dump truck to circle the rim for maintenance and repair.
 - b. Percolation. No reduction is allowed for percolation in a basin based upon volume due to the nature of basins silting in over time and also possible frost conditions in conjunction with a storm event.
 - c. Engineering. Basins, whether detention or retention, must be designed and approved by a licensed civil engineer.
 - d. Location. Detention basins shall be located with convenient access for maintenance and repair by maintenance personnel. This generally means that the basin property has frontage along a public roadway.
 - e. Volume. Basin volume and design shall be approved by the City Engineer. Volume is measure to the basin overflow or spillway elevation. Volume in pipes, drains, or swells is not be considered in the volume calculation for a basin.
 - f. Fencing. A six (6) foot chain link fencing is required where standing water of more than three (3) feet may exist after a storm event. Fencing shall be installed in accordance with the Public Works Standards for Development, Design, & Construction.
 - g. Slopes. Side slopes of a basin shall be approximately 3:1 (horizontal to vertical) for proper landscaping, mowing, and access.

- h. **Bottom Slope.** The basin floor shall be designed so as to prevent the permanent ponding of water. The slope of the floor of the basin shall not be less than one (1) percent to provide drainage of water to the outlet grate and prevent prolonged wet, soggy or unstable soil conditions. The preferred minimum slope is two (2) percent.
- i. **Freeboard.** There should be at least one (1) foot of freeboard (berm above the high water mark).
- j. **Spillways.** Spillways shall:
 - i. Include a path with a maintained swell and drainage easement to a safe location.
 - ii. Be designed to avoid erosion.
 - iii. Overflow spillways are intended to introduce flows back into the main pipe and are typically downstream of the outlet control.
 - iv. Emergency spillways are intended to carry flows beyond the capacity of the overflow spillway to a safe downstream location.
 - v. All spillways shall be designed to protect adjacent embankments, nearby structures, and surrounding properties.
- k. **Outlet Control.** Basins shall include a calculated fixed orifice plate(s) mounted on the outlet of the basin as specified by the City Engineer. Where required by the City Engineer. Each basin shall have a locking screw type head gate(s) (such as a Waterman C 10 O.A.E.) set at a calculated opening height for the discharge and with a chain to fix the position.
- l. **Grates.** All grates on inlets and outlets must be unpainted, hot dipped galvanized metal with bars generally spaced at three (3) inches.
- m. **Low Flow Piping.** The inlet and outlet structures may be located in different areas of the basin, requiring a buried pipe to convey any base flows that enter and exit the basin, rather than a cross gutter or surface flow. The minimum pipe size and material for the low flow shall be twelve (12) inch diameter or as approved by the City Engineer.
- n. **Surface.** The ground cover surface area of a basin may either be seeded, sodded, or covered with fabric and cobble, as specified by the City. Where seeded, measures shall be taken to eliminate erosion until grasses are established. A minimum of four (4) inches of top soil must be installed prior to sod or seed placement. Cobble sizes shall be four (4) inches or greater in size overlying an weed barrier approved by the City Engineer. Grass or hydro seeding on all basins shall be installed on accordance with the Public Works Standards for Development, Design, & Construction. The basin shall be constructed with an automated sprinkler system previously approved by the City Engineer. Landscape shall be in accordance with the municipal code.
- o. **Embankment.** If a raised embankment is constructed for a basin, including construction of granular materials, it shall be provided with a minimum of six (6) inches of clay cover on the inside of the berm to prevent water passage through the soil.
- p. **Excavation.** If the basin is constructed primarily by excavation, then it may be necessary to provide an impermeable liner and land drain system when constructed in the proximity of basements or other below grade structures as determined by a geotechnical study.
- q. **Open.** All storm water basins shall be open at the surface for visible inspection, to ensure adequate size, functionality, and proper maintenance.
- 5. **Multi use Basins.** Basins shall be designed as multi use recreation facilities to include amenities such as pavilions, picnic tables, playground equipment, ball courts, or other amenities where deemed appropriate. Structures shall be designed for saturated soil conditions and bearing capacities are to be reduced accordingly. Restrooms shall not be located in areas of inundation. Inlet and outlet structures should be located as far as possible from all facilities. No wood chips or floatable objects shall be used in any basin design for the area is intended to be inundated.
- 6. **Preferred Basin.** Detention Basins are preferred over retention basins. Above grade basins are preferred over below grade basins.
- 7. **Prohibited.** The following are prohibited:
 - a. Groundwater injection well.
 - b. Basins with standing groundwater.
 - c. Non-landscaped basins.
- 8. **Retention Basins.** Retention basins are basins which hold and store water until it is evaporated or percolated, and may be used when the following conditions are met:
 - a. A retention basin must be specifically approved by the City Engineer after all other alternatives are exhausted.
 - b. Retention basins shall not be permitted within Zones 1, 2, or 3 of any source protection zone. Due to the silting in potential, no percolation rate may be used in the calculation of volume unless an approved oil separator and sand separator is installed upstream. The volume must be based upon the one hundred (100) year storm event with a three (3) hour duration based upon the IDF. The curve for such shall be approved by the City Engineer.
 - c. The basin is greater than five hundred (500) feet or fifty (50) feet times the number of lots in the entire development (whichever is greater) from the storm drain system, and otherwise is topographically incapable of draining to the storm water system.
 - d. The basin is not located within a hazardous area such as a steep slope, flood plain, high ground water area, or other hazard area.

- e. The percolation rate of the ambient soils must be considered using recommendation set forth in a site specific geo-technical study and account drain time and address future silting in of the basin.
- 9. **Standing Water.** Permanent standing water shall be eliminated in basin design in an effort to minimize mosquitos and associated viruses, except this does not apply to wetlands.
- 10. **Drainage.** Basins should completely drain within forth eight (48) hours of the primary storm event. Low flow bypass pipes may be required.
- 11. **Landscape.** Each basin shall be landscaped, designed to eliminate erosion, minimize drowning risk, and enhance aesthetics of the area. Landscape shall be with approved trees, plants, and landscape material as provided in the municipal code.

HISTORY

Adopted by Ord. [2020-C](#) on 2/27/2020

7.19.050 Discharge

- 1. **Policy.** It is the policy of the City to control storm water at the source and minimize the potential for flooding downstream.
- 2. **Run-off.** Run-off leaving a development shall not exceed, as much as practicable, the pre developed quantities and qualities. All development over one (1) acre shall prevent off-site discharge of precipitation from all rainfall events less than or equal to the eightieth (80th) percentile. The eightieth (80th) is generally calculated as .048 inches of rainfall.
- 3. **Allowable discharge.** The allowable discharge rate from any non regional basin shall:
 - a. Not exceed the pre hard surfacing discharge for the entire site for the 100 year storm event.
 - b. Not exceed the maximum discharge rate set by the City Engineer depending on the proposal, the facts and circumstances of the basin and historical flow, and the drainage within the surrounding area. If no maximum discharge rate is established then a standard discharge rate of 0.1 cubic feet per second per total acre within the development draining to the basin is applied.
 - c. Controlled discharge is allowed via an established orifice or adjustable head-gate as approved by the City Engineer and in accordance with this Chapter.
- 4. **Flow Concentration.** By nature of development, flows are concentrated to one or more locations where historically, sheet flow in lower concentrations may have left the site. Attempts shall be made to minimize the runoff concentrated quantity to the flows stated above by use of detention basins, down stream piping to safe areas or other methods as deemed necessary by the City Engineer.
- 5. **BMPs.** Best Management Practices (BMPs) shall be used to the maximum practicable to ensure healthy water quality based upon national standards for the same. BMPs are included in the Storm Water Management Plan adopted by the City as implemented by the City Engineer relating to each development.
- 6. **Overflows.** Attention shall be given to overflow locations and pathways to safe locations downstream for discharges. Drain easement shall be obtained as may be needed. Pipes and/or swales shall be sized to accommodate a one hundred (100) year flow.
- 7. **Irrigation.** No storm water discharge is permitted into any irrigation facility, except where existing historical drainage occurs and such shall be eliminated upon development. Nothing in this part prevents an abandoned irrigation facility from being converted to the storm water system. In order to comply with Utah Code Annotated §73-1-14 and §73-1-15, written permission should be obtained from the owner or operator of an irrigation facility before development occurs.
- 8. **Prohibited.** Due to high water table in the City standard sump drains, injection facilities, and underground storm water facilities or tanks of any kind are prohibited. No parking lot, including sidewalks and all other impervious surfaces, shall be used for storm water storage of any kind above or below surface.

HISTORY

Adopted by Ord. [2020-C](#) on 2/27/2020

7.19.060 Low Impact Development Standards

- 1. **Guide Adopted.** The DEQ published "A Guide to Low Impact Development within Utah" (Guide) dated December 2018, prepared by Michael Baker International, to implement Low Impact Development (LID) standards is hereby adopted by the City and incorporated herein by this reference.
- 2. **Report.** A storm water quality report following the template provided in the Guide, as may be further defined by the City Engineer, shall be submitted to the City Engineer for each development or subdivision.

3. **Standards.** The following standards may be further defined in the Public Works Standards and Technical Specifications. The following low impact development standards shall be implement into each development to the greatest extent practicable as approved by the City Engineer:
- Rain Gardens. Rain gardens are shallow bioretention areas with engineered or native soils.
 - Bioretention Cells. These are shallow bioretention areas with engineered soil. They typically differ from rain gardens by having a delineation such as a curb, wall, or other distinct boundary.
 - Bioswales. A bioswales are vegetated open channels designed to convey and treat storm water runoff.
 - Vegetated Strips. These landscaped strips are designed to receive and treat sheet flow from adjacent surfaces.
 - Box Filters. Box filters are typically used around trees as a bioretention systems appropriate in urban drainage areas where space is limited.
 - Green Roof. A green roof is a vegetated system that is designed to retain and treat rooftop runoff.
 - Pervious Surfaces. Pervious surfaces such as permeable pavement, concrete pavers, pervious concrete, modular open pavers, and other types of pervious surfaces provide structural support for light vehicle or pedestrian traffic while also providing open space for storm water infiltration.
 - Infiltration Basin. Infiltration basins are shallow depressions that use existing soils to retain and provide treatment for storm water runoff by capturing and infiltrating runoff over a specified draw-down time.
 - Infiltration Trench. An infiltration trench is a linear excavation backfilled with a combination of gravel, open graded stone, and sand layers that provides storage within the pore space of the specified layers.
 - Harvest System. A harvest and reuse system refers to any type of runoff collection system that captures rainfall, stores it temporarily, and reuses it for irrigation, landscaping, or other non potable uses.
 - Other. Other standards may be reviewed and approved by the City Engineer as technology further develops for low impact devices.
4. **Feasibility.** Compliance with this Section shall be made to the greatest extent feasible under the circumstances and conditions of the site and subject to:
- Issues related to ground water based upon geotechnical engineering.
 - Issues related to soil conditions based upon geotechnical engineering.
 - Issues related to sensitive lands as determined by the City Engineer.

HISTORY

Adopted by Ord. [2020-C](#) on 2/27/2020

7.19.070 Permits And Practices

In addition to the permits required by the municipal code, additional permits required for each development include:

- UPDES.** Utah Pollution Discharge Elimination System Permit is a general storm water permit for construction activities required for all development of one (1) acre or more and includes: area used for staging, stockpiling, or any other temporary construction activity. This permit is obtained from DEQ on line and requires a SWPPP.
- Stream Alteration.** A stream alteration permit is required for any development affecting certain watercourses and is obtained from the Utah Department of Natural Resources, Division of Water Rights. This permit overlaps the 404 wetlands permit, discussed below, because it is applicable to the area equal to the stream plus two times the bank full width (up to 30 feet). Any modifications to the stream or banks within this area must comply with the stream alteration permit.
- EPA 404 Permit.** This permit is filed with the US Army Corp of Engineers where wetlands or jurisdictional waters may be located. It is applicable for all wetlands within a development. This will apply to all wetlands depending upon the presence of water, soils type, low land classification, and vegetation. As part of this permit a wetlands delineation report must be completed. The scope of this permit applies to all jurisdictional waters of the United States up to and including the normal high water mark. Any mitigation that may be required, must be done prior to recording a final plat. Any wetlands identified must be indicated on the final plat.
- BMPs.** The Storm Water Management Plan contains a listing of BMPs that can be used on a site.
 - BMPs typically fall into the following categories:
 - Perimeter control.
 - Erosion controls.
 - Sediment control.
 - Materials handling and spill prevention.
 - Waste management.

- vi. Good housekeeping.
- b. The application of some BMPs include, but are not limited to:
 - i. Oil Separators (OWS). Oil Separators shall be required on all sites with parking facilities that exceed two (2) acres, automobile salvage or wrecking areas, or smaller sites anticipating oily discharges such as mechanic shops or similar facilities. Oil separators must be capable of removing particulate down to 150 microns. Possible products include, but are not limited to: BaySaver, Storm Cerptor, Vortechnic. Where oil separators are required, sizing and design of OWS must be reviewed by the City Engineer prior to installation. Consideration must be given to frequency and ease of maintenance of the structure. Basins shall have agreements in place with the City to periodically clean the separator in accordance with the manufacturer's specifications. Manufacturers recommendations for sizing shall be followed with calculations submitted to the City. The separator may either be installed upstream or downstream of the basin keeping in mind that flows on the outlet of the basin would be smaller.
 - ii. Inlet Protection (IP). The Storm Water Management Plan may allow straw bails, silt fences, or curb snakes (after asphalt is placed). Filter fabric under the grate shall not be permitted since drainage is greatly inhibited.
 - iii. Tracking Pads (CR). Sites must have a tracking pad to eliminate mud from being tracked onto the adjacent street. If mud is tracked, the contractor shall be responsible to sweep the streets as necessary.
 - iv. Surface Sweeping (SC). If mud or dirt is tracked onto a travel surface such as a road or parking area, the developer or owner shall be responsible for sweeping the surface to remove the mud and dirt.
 - v. Concrete Washout (CWM). A place must be located within the subdivision or on the site for concrete washout. No washout will be permitted on the street which would then continue to the storm drain. The washout area may need to be maintained and temporarily excavated until the building foundations and driveways are constructed, or some other arrangement made.
 - vi. Silt Fences (SF). Silt fences must be installed to prohibit the flow of sediments off of the site in accordance with manufacturers recommendations and the Storm Water Management Plan.
 - vii. Notice Sign. All development and subdivisions are required to at least one (1) notice sign that is clearly visible at each entryway to the subdivision indicating that the SWPPP must be obtained and followed. Said notice sign shall be maintained by the original development or subdivision applicant until termination. The specific wording on the sign relating to storm water, and other related requirements, may be prescribed and modified by the City as needed to meet challenges created by development and to give notice to requirements of law.

HISTORY

Adopted by Ord. [2020-C](#) on 2/27/2020

7.19.080 Violations And Penalties

Violations, enforcement, and penalties of this Chapter are set forth in Section 7.13.140.

HISTORY

Adopted by Ord. [2020-C](#) on 2/27/2020

8 Public Health And Safety

8.02 Inspection And Cleaning

8.02.010 Inspection And Cleaning

This Chapter shall be known as "Inspection and Cleaning" adopted as authorized by Utah Code §10-11-1, et seq., 1953 as amended.

HISTORY

Adopted by Ord. [18-E](#) on 3/28/2019

Repealed & Reenacted by Ord. [19-G](#) on 10/10/2019

8.02.020 Definitions

The following terms, as used in this chapter, shall mean as follows:

1. **ABANDONED:** Any nuisance left unattended upon public or private property.
2. **ABATE or ABATEMENT:** To repair, replace, rehabilitate, remove, destroy, demolish, correct, or otherwise remedy a condition that constitutes a public nuisance.
3. **CITY** means Perry City, Utah.
4. **INOPERABLE:** Any equipment, part, motor vehicle, boat, recreational vehicle, or trailer not currently licensed in accordance with state law and not operable for the use for which it was intended, or in excess of the number allowed and manner set by the municipal code.
5. **ILLEGAL OBJECT OR STRUCTURE:** Any object that does not comply with the municipal code or any other law, it also includes, but is not limited to: inoperable or junk equipment, part, motor vehicle, boat, recreational vehicle, or similar object. It also includes any structure that does not comply with the municipal code, building codes, Hazardous Building Abatement Code, rules and regulations of the applicable health or fire department, location may involve the use or production of any illegal drug, or other violations of law.
6. **GARBAGE or REFUSE:** Debris, trash, weeds, or junk that is spent, useless, or discarded materials and includes: used tires; parts of vehicles or machinery; old or unused machinery, appliances or parts thereof; waste or weed plant materials, trimmings, either growing or dead; litter; scrap building materials; waste food products; dead animals; unused or discarded bicycles, tricycles, or other types of equipment or parts thereof; scrap metal; wastepaper products, or lumber; accumulations of dirt, gravel, ashes or fire remains; salvage material or any other waste materials.
7. **NOTICE:** The written notice in accordance with UCA §10-11-2 served upon the owner or occupant of land where there is located noxious weeds, garbage, refuse, or unsightly or deleterious objects or buildings.
8. **NOXIOUS WEEDS:** Weeds defined by Rule R68-9 entitled "Utah Noxious Weed Act" and any other weeds determined to be an invasive species.
9. **PROPERTY:** A lot, parcel or plot of ground, whether occupied or not, and any premise including a building or structure, or the premises on which a building or structure is located, or undeveloped land.
10. **PUBLIC NUISANCE:** Conditions that create a fire hazard; hazardous material or objects; a source of pollution of any kind; conditions that foster rodents, insects, or other forms of life deleterious to human habitation; unsightly or deleterious structures or surroundings; lack of sanitation or conditions that foster disease; conditions that may involve illegal drug use; conditions that may injure public health or safety, conditions that are in violation of law.

HISTORY

Adopted by Ord. [18-E](#) on 3/28/2019

Repealed & Reenacted by Ord. [19-G](#) on 10/10/2019

8.02.030 Nuisance Declared

The following is hereby declared to be a nuisance subject to abatement:

1. The growth and spread of injurious and noxious weeds.
2. Garbage and refuse.
3. A public nuisance.
4. An illegal object or structure.

HISTORY

Adopted by Ord. [18-E](#) on 3/28/2019

Repealed & Reenacted by Ord. [19-G](#) on 10/10/2019

8.02.040 Nuisance Prohibited

It is unlawful and a violation of this Chapter for the owner or occupant of real property or estate, or its agent, to cause or permit upon such property, or right-of-way adjacent thereto, any nuisance under this Chapter.

HISTORY

Repealed & Reenacted by Ord. [19-G](#) on 10/10/2019

8.02.050 Occupant Duty

In accordance with Utah Code §10-11-2(2)(a)(ii)(B), in addition to the owner of recorder of any real property, the City hereby imposes a duty upon any occupant or other person who is not the owner of record of any real property to maintain the real property free of any nuisance set forth in this Chapter.

HISTORY

Repealed & Reenacted by Ord. [19-G](#) on 10/10/2019

8.02.060 Administration

1. **Municipal Inspector.** The Legislative Body hereby delegates authority to the Mayor to appoint or designate one or more municipal inspectors to administer the provisions of the Chapter.
2. **Administration.** Each municipal inspector is authorized to:
 - a. Examine and investigate real property for a declared nuisance.
 - b. If an inspector conducts an examination and investigation, the inspector is to deliver written notice of the examination and investigation in accordance with Utah Code § 10-11-2 (2).
 - c. Provide a reasonable abatement period, which is deemed to be not more than thirty (30) days.
 - d. The municipal inspector cannot abate conditions solely associated with the interior of a structure, unless required for the demolition and removal of the structure.
 - e. For a notice of injurious and noxious weeds, the municipal inspector is not required to make more than one (1) notice for each annual season of weed growth for weeds growing on property.
 - f. Eradicate nuisances in violation of this Chapter, initiate suit or other remedies allowed by law, and/or assess costs in accordance with Utah Code §10-11-3 and §10-11-4.

HISTORY

Repealed & Reenacted by Ord. [19-G](#) on 10/10/2019

8.02.070 Neglect Of Property Owners To Comply

In accordance with Utah Code §10-11-3, if an owner of, occupant of, or other person responsible for real property described in the notice delivered in accordance with Utah Code §10-11-2 fails to comply the municipal inspector may:

1. **Removal by City:** At the expense of the City, employ necessary assistance to enter the property and destroy or remove an item identified in a written notice. Prepare an itemized statement and mail to the owner of record according to the records of the county recorder a copy of the statement demanding payment within thirty (30) days after the day on which the statement is post-marked.
2. **Lien:** The city may file a notice of a lien, including a copy of the statement described above or a summary of the statement, in the records of the county recorder.
3. **Court:** The city may file an action in district court.
4. **County Treasurer Recovery:** The City may certify the past due costs and expenses to the county treasurer in accordance with Utah Code §10-11-4.

HISTORY

Repealed & Reenacted by Ord. [19-G](#) on 10/10/2019

8.02.080 Non-Exclusive Remedy

This Chapter shall not be construed to exclude any other remedy provided by law or equity.

HISTORY

Repealed & Reenacted by Ord. [19-G](#) on 10/10/2019

8.02.090 Penalty

In accordance with Utah Code §10-3-703, the following penalties apply:

1. **Criminal:** Any person who violates this Chapter is guilty of a class B misdemeanor and a fine not to exceed \$1,000.
2. **Civil:** Any person who violates this Chapter is subject to a civil fine not to exceed \$1,000, per day that the violation continues.

HISTORY

Repealed & Reenacted by Ord. [19-G](#) on 10/10/2019

8.04 Fireworks

8.04.010 Purpose And Definitions

1. **Purpose:** The purpose of this Chapter is to balance the lawful use of consumer fireworks while implementing certain limitations authorized in Utah Code Annotated §15A-5-202.5(1)(b) and Utah Code Annotated §53-7-225(5).
2. **Findings:** The City Council finds that Perry City, Utah, has hazardous environmental conditions that exist who pose a fire hazard and threaten public health, safety, and welfare. Specifically, the City Council finds that area located on mountainous foothills, brush-covered areas, and areas in the wildland urban interface area, which means the line, area, or zone where structures or other human development meet or intermingle with undeveloped wildland or land being used for an agricultural purpose presents a fire hazard that threatens the health, safety, and welfare of the public.
3. **Definition:** For the the purpose of this Chapter, "consumer fireworks" means a class C explosive defined in Utah Code Annotated §53-7-202. It also means a retail explosive material classed by the American Pyrotechnics Association (APA) under Standard 87-1 as 1.4G and/or 1.4S (formerly known as Common Fireworks) used as novelties and acceptable for sale to the public when manufactured, labeled, and sold in conformance with the regulations of the U.S. Consumer Product Safety Commission (CPSC) published in Title 16, CFR.

HISTORY

Adopted by Ord. [15-C](#) on 3/17/2015

Repealed & Reenacted by Ord. [19-G](#) on 10/10/2019

8.04.020 Limitations Actions

1. **Subsection 15A-5-202.5(1)(b) Action.** Controlled use of any ignition source is authorized subject to:
 - a. **Determination:** The City Council hereby delegates to the Fire Marshall authority to determine under Utah Code Annotated §15A-5-202.5(1)(b) when a hazardous environmental condition exists that necessitates controlled use of any ignition source, including: consumer fireworks, lighters, matches, sky lanterns, and other combustible or smoking materials.
 - b. **Prohibition:** Upon making a determination that a hazardous environmental condition exists that necessitates controlled use of any ignition source, the Fire Marshall shall issue a declaration that:
 - i. Identifies the ignition source materials that are prohibited, including: consumer fireworks, lighters, matches, sky lanterns, and other combustible or smoking materials.
 - ii. Provides a limited term of the prohibition.
2. **Public Nuisance:** An illegal firework, explosive, or negligent discharge of the same is hereby deemed a public nuisance subject to abatement.

3. **Negligent Discharge:** In accordance with Utah Code Annotated §53-7-225(5)(b), Law Enforcement or the Fire Marshall may determine when any person is negligently discharging any consumer firework in violation of state law and may confiscate the same.

HISTORY

Adopted by Ord. [15-C](#) on 3/17/2015

Repealed & Reenacted by Ord. [19-G](#) on 10/10/2019

8.04.030 Enforcement And Penalty

The City may enforce this Chapter by abatement, injunctive relief, and any other remedy provided by law or equity. A violation of this Chapter is subject either or both:

1. Criminal: An infraction and subject to a fine not to exceed \$100.
2. Civil: A civil fine not to exceed \$100.

HISTORY

Adopted by Ord. [15-C](#) on 3/17/2015

Repealed & Reenacted by Ord. [19-G](#) on 10/10/2019

8.06 Public Safety Cost Recovery Procedures

8.06.010 Title

The provisions of this chapter may be cited and referred to as the "Perry City Public Safety Cost Recovery Ordinance."

HISTORY

Adopted by Ord. [15-C](#) on 3/17/2015

8.06.020 Purpose

This chapter shall provide procedures for recovering expenses incurred by Perry City and/or Brigham City Emergency Services with whom Perry City contracts for their fire and ambulance services in connection with any response to a Hazardous Materials Emergency, an Aggravated Fire Emergency or an Aggravated Medical Response, as defined herein.

HISTORY

Adopted by Ord. [15-C](#) on 3/17/2015

8.06.030 Definitions

1. **"Hazardous Materials Emergency"** means a sudden or unexpected release of any substance that, because of its quantity, concentration or physical or chemical or infectious characteristics, presents a direct or immediate threat to public safety or the environment and requires action to mitigate the threat.
2. **"Aggravated Fire Emergency"** means
 - a. :a fire approximately caused by the owner or occupier of property or a structure, which presents a direct and immediate threat to public safety and requires immediate action to mitigate the threat, and the fire:
 - i. is caused or contributed to by the failure to comply with an order from any State, County, City or local agency, department or official; or
 - ii. occurs as a direct result of an act in violation of state law or the ordinances and/or regulations of Perry City or other local agency.
 - b. a fire that constitutes arson or reckless burning as defined by the Utah Code.
 - c. an alarm that results in a fire unit and/or fire personnel being dispatched to Perry City, and the person transmitting, or causing the transmission of the alarm, knows or should have known at the time of said transmission that no fire or fire related emergency exists.

3. **"Aggravated Medical Emergency"** means an alarm that results in a fire or ambulance (medical) unit and/or fire and ambulance personnel being dispatched to Perry City, and the person transmitting or causing the transmission of the alarm knows or should have known at the time of said transmission that no medical emergency exists.
4. **"Emergency Response Expenses"** means the actual costs incurred to Perry City and/or Brigham City and volunteer personnel, including worker's compensation benefits, fringe benefits, administrative overhead, costs of equipment, costs of equipment operation, costs of materials, costs of disposal and cost of any contract labor and materials, in responding or providing a response to a Hazardous Materials Emergency, and Aggravated Fire Emergency or an Aggravated Medical Emergency.

HISTORY

Adopted by Ord. [15-C](#) on 3/17/2015

8.06.040 Recovery Authorization And Procedure

Perry City is hereby empowered to recover Emergency Response Expenses incurred by virtue of its response to a Hazardous Materials Emergency, Aggravated Fire Emergency or an Aggravated Medical Emergency, from any person, corporation, partnership or other individual or entity who caused such a response, pursuant to the following procedure:

1. Perry City through the Brigham City Emergency Services Department shall determine responsibility for the emergency or response as defined above and Perry City shall notify the responsible party by mail of the department's determination of responsibility and the expenses to be recovered.
2. The notice shall specify that the determined responsible party may appeal the department's decision before a hearing officer designated by the Perry City Council and establish a date by which the notice of appeal shall be filed. The appeal date shall be no less than fifteen (15) days from the date of the notice.
3. In the event the determined responsible party appeals the determination, the hearing officer shall hold a hearing to consider any issues raised by the appeal, at which hearing the appealing party and the Emergency Services Department or other local government shall be entitled to present evidence in support of their respective positions.
4. After the hearing, the hearing officer shall make a recommendation to the Perry City Council, which shall issue a decision determining responsibility and assessing expenses. The Perry City Council may adopt, modify or remand the recommendation of the hearing examiner for further proceedings. The Perry City Council may, in its sole discretion, hear additional evidence prior to issuing its decision.

HISTORY

Adopted by Ord. [15-C](#) on 3/17/2015

8.06.050 No Admission Of Liability

The payment of Emergency Response Expenses determined owing under this chapter does not constitute:

1. an admission of liability or negligence in any legal action for damage; or
2. a criminal fine.

HISTORY

Adopted by Ord. [15-C](#) on 3/17/2015

8.06.060 Actions To Recover Expense

In the event the party or parties determined to be responsible for Emergency Response Expenses fail to make payment to Brigham City within thirty (30) days after a final administrative determination of any appeal, or thirty (30) days from the deadline for appeal in the event no appeal is filed, Perry City may initiate legal action to recover from the determined responsible party the Emergency Response Expenses determined to be owing, including the reasonable attorney's fees, and costs incurred by Perry City in such legal action.

HISTORY

Adopted by Ord. [15-C](#) on 3/17/2015

9 Uniform Animal Control

9.01 Definitions

9.01.010 Definitions

The following definitions of this title:

1. **Animal:** Any and all types of livestock, dogs and cats, and all other subhuman creatures, domestic and wild, male and female, singular and plural.
2. **Animal boarding establishment:** Any establishment that takes in animals and boards them for profit.
3. **Animal grooming establishment:** Any establishment maintained for the purpose of offering cosmetological services for animals at a profit.
4. **Animal shelter or shelter:** Any facility owned and operated by a governmental entity or an animal welfare organization duly organized in Utah for the purpose of preventing cruelty to animals and used for the care and custody of seized, homeless, quarantined, abandoned, stray, or unwanted dogs, cats, or other domestic animals.
5. **Animals at-large:** An animal shall be considered to be "at-large" when it is off the owner's property and not under immediate control, by means of a durable restraint device, capable of keeping the animal restrained; or an animal that is on the property of the owner and not securely confined by a leash, building, fenced area, or appropriate transport device.
6. **Bite:** Any actual puncture, tear, or abrasion of the skin inflicted by the teeth of an animal.
7. **Cat:** Any age feline, of the domestic type.
8. **Cattery:** An establishment for boarding, breeding, buying, grooming, or selling cats (five (5) or more) for profit.
9. **Cat colonies:** A group of two or more feral cats.
10. **Chicken:** Refers only to the female, or hen of the species. Roosters and crowing hens are prohibited in all residential zones.
11. **City or municipality:** The municipality of Perry City, Utah.
12. **Dangerous animal:** Any animal that, according to the records of the Perry City Animal Control Division, or other city or county law enforcement agency and/or officer:
 - a. Has inflicted serious injury on a human being, with or without provocation, on public or private property;
 - b. Has killed a domestic animal, with or without provocation, while off the owner's property;
 - c. Has previously been found to be "potentially dangerous", the owner having received notice of such, and is witnessed and documented that the animal aggressively bites, attacks or endangers the safety of humans or domestic animals; or
 - d. The animal is found to be in violation of any of the restrictions placed upon the animal by the Animal Control Division, pertaining to a potentially dangerous animal. As designated in this ordinance.
13. **Department:** The Perry City Police Department.
14. **Division:** The Animal Control Division within the Perry City Police Department.
15. **Dog:** Any canis familiaris over four (4) months of age. Any canis familiaris under the age of four (4) months is a puppy.
16. **Domesticated animals:** Animals accustomed to living in or about the habitation of man, including but not limited to cats, dogs, fowls, horses, swine, goats, sheep, mules, donkeys, lamas, and cattle.
17. **Enclosure:** As it relates to dogs, a fence or structure of at least six feet in height, forming or causing an enclosure suitable to confine a vicious dog in conjunction with other measures which may be taken by the owner or keeper, such as tethering the vicious dog.
18. **Astray or stray:** Any animal running at-large, whose owner cannot be found after a reasonable search; and, only relating to livestock, such is more specifically defined as set forth in Utah Code §4-25-1, 1952 as amended.
19. **Facility manager:** The manager of the animal impound facility or animal shelter facility used or contracted by the City.
20. **Feral cats:** Cats that exist in a wild state and determined not to have an owner and have reverted to wild state.
21. **Government working dog:** A dog trained to assist officials of government agencies in law enforcement exercises.
22. **Guard dog:** A working dog which must be kept in a fenced run or other suitable enclosure during business hours, and on a leash or under absolute control while working so that it cannot come into contact with the public.
23. **Holding facility or facility:** Animal impound, animal shelter, humane establishment, or any other similar facility used for holding animals.
24. **Impounded animal:** Any animal taken into custody by the division, another governmental entity, or a facility.
25. **Kennel:** Land or buildings used in the keeping of four (4) or more dogs, four (4) months or older.
26. **Leash or lead:** Any chain, rope or device used to restrain an animal.
27. **Licensed dog:** A dog wearing its current dog license tag.

28. **Livestock:** Any normally domesticated animal that is not a cat, or dog, such as: cattle, sheep, goats, mules, burros, horses, geese, ducks, turkeys, lamas, pigs, etc.
29. **Neutered animal:** An animal having had the testicles removed; a castrated animal.
30. **Officer:** An animal control officer, governmental official, law enforcement officer, or other individual authorized to enforce or act within the scope of this chapter.
31. **Owner:** Any person who is the legal owner, keeper, possessor, and/ or the actual custodian of animal. Ownership is established by a person registering as owner on a license or other legal document or being a person claiming ownership and taking possession of an animal.
32. **Pet:** A domesticated animal kept for pleasure rather than utility, including but not limited to birds, cats, dogs, fish, hamsters, mice, and their animals associated with man's environment.
33. **Pet shops:** Any establishment containing cages or exhibition pens, not part of the kennel or cattery, wherein dogs, cat, birds or other pets for sale are kept or displayed.
34. **Police Chief or Chief of Police:** The duly appointed Perry City Police Chief.
35. **Potentially dangerous animal:** Any animal that, with or without provocation, chases or approaches a person upon the streets, sidewalks, or any public grounds, in a threatening or menacing fashion, or apparent attitude of attack, or any animal with a known propensity, tendency or disposition to attack with or without provocation. In addition a potentially dangerous animal is any animal that, because of witnessed and documented action, is believed capable of causing injury, or otherwise posing a threat to the safety of humans or domestic animals.
36. **Quarantine:** The isolation of an animal under the observation of a licensed veterinarian or in the custody of the animal shelter in a substantial enclosure so that the animal is not subject to contact with other animals or unauthorized persons.
37. **Residence:** Any legally recognized dwelling (home, apartment, and/or condominium).
38. **Restraint device:** Any chain, leash, cord, rope, or other device commonly used to restrain an animal.
39. **Ridding school or stable:** An establishment which offers boarding and /or riding instruction of any horse, pony, donkey, mule or burro or which offers such animals for hire.
40. **Service animal:** An animal specifically trained and certified by a nationally recognized training establishment to assist physically challenged persons. Examples include but are not limited to: hearing-impaired, mobility-limited, or seeing-eye dogs.
41. **Spayed:** An animal having had the ovaries and uterus removed or extirpated and ovariohysterectomy.
42. **Vaccinated dog:** A dog inoculated with an approved, currently valid, anti rabies vaccine, and wearing a current dog license tag indicating proof of such vaccination.
43. **Vicious animal:** a vicious animal as described below: Inflicted severe injury on human being, with or without provocation, on public or private property;
- a. Has killed a domestic animal, with or without provocation, while off the owners' property; or
 - b. Has been previously found to be dangerous, the owner having received notice of such, and the animal again bites, attacks or endangers the safety of humans or domestic animals, or it is witnessed and documented that the animal is in violation of restrictions, placed upon it, as a potentially dangerous or dangerous animal pursuant to PMC 9.07.050 and PMC 9.07.060.
44. **Wild animal:** Any animal which is not commonly domesticate, or which is a wild or predatory nature, or any animal which, because of its size, growth propensity, vicious nature or other characteristics, would constitute an unreasonable danger to human life, or property if not kept, maintained, or confined in safe and secure manner. Those animals, however domesticated, shall include but are not limited to:
- a. Alligators, Crocodiles, Caiman;
 - b. Bears (ursidae). All bears including grizzly bears, brown bears and black bears;
 - c. Cat Family (felidae). All except the commonly accepted domesticated cats, and including cheetah, cougar, leopard, lion, lynx, panther, mountain lion, tiger, wild cat, and similar animals;
 - d. Dog Family (canidae). All except domesticated dogs, and including wolf, part wolf, fox, part fox, coyote, part coyote, dingo, and similar animals.
 - e. Porcupine (erethizontidae);
 - f. Primate (Non-human). All subhuman primates;
 - g. Raccoon (prosynnidae). All raccoons, including eastern raccoon, desert raccoon ring-tailed cat, and similar animals;
 - h. Skunks;
 - i. Venomous fish and piranha;
 - j. Venomous snakes and lizards;
 - k. Weasels (mustelidae). All including weasels, martens, wolverines, badgers, otters ermine, mink, mongoose, and similar animals;

- I. Despite the restrictions stated above, there shall be an exception granted to persons raising wild animals for their pelts and for commercial purpose.

HISTORY

Adopted by Ord. [15-C](#) on 3/17/2015

9.03 Administration

9.03.010 Animal Control Division Created

The Perry City Council hereby creates Animal Control Division within the Perry City Police Department for the purpose of resolving animal related occurrences in the municipality.

HISTORY

Adopted by Ord. [15-C](#) on 3/17/2015

9.03.020 Power And Authority Of Animal Control Officials

The chief of the Department may designate one or more officers as animal control officers, who shall take the oath of office, and shall be:

1. Vested with the power and authority to enforce this ordinance.
2. Animal control officers are hereby authorized and empowered to apprehend and take with them and impound any animal found in violation of this chapter and administer the provisions of the same.

HISTORY

Adopted by Ord. [15-C](#) on 3/17/2015

9.03.030 Interfering With Officers Prohibited

It is unlawful for any person to knowingly and intentionally interfere with any animal control officer in the lawful discharge of his/her duties as prescribed in this ordinance.

HISTORY

Adopted by Ord. [15-C](#) on 3/17/2015

9.03.040 Animal Shelter Provided

The Perry City Council shall provide for suitable premises, facilities, and supplies for an animal shelter wherein impounded animals can be adequately kept, or may contract for the same with another entity. Any shelter provided or contracted shall comply with the "Municipal Animal Shelter Pet Sterilization Act" set forth in Utah Code Annotated §10-17-101, et seq, 1953, as amended.

HISTORY

Adopted by Ord. [15-C](#) on 3/17/2015

9.03.050 Restrictions, Rules, And Regulations

Under the direction of the Chief of Police, the division may impose restrictions on dangerous or potentially dangerous or similar animals to protect the public or persons from the same. Under the direction of the Chief of Police, the division is hereby delegated authority and may promulgate such rules and regulations necessary and consistent with this chapter to more fully implement the same. Under the direction of the Chief of Police, the division is hereby delegated authority to promulgate rules and regulations applicable to pet shops, animal grooming establishments, or similar establishments for the safe and effective operation of the same.

HISTORY

Adopted by Ord. [15-C](#) on 3/17/2015

9.05 Licensing And Regulatory Permits

9.05.010 Licensing And Registration Of Dogs

It shall be unlawful for any person to own, keep, harbor, or maintain a dog over the age of four (4) months of age, without registering and obtaining a license for such dogs from the division or authorized vendor.

1. All dogs brought into the municipality shall require registering and licensing within thirty (30) days after they enter the municipality, or within thirty (30) days after having reached the age of four (4) months.
 - a. The annual fee for all dog licenses shall be from time to time set by resolution by the Perry City Council.
 - b. For any dog not registered within thirty (30) days after having been brought into the municipality, or within thirty (30) days of being four (4) months old, the owner thereof will be required to pay an additional license "late fee" which shall be set from time to time by resolution of the Perry City Council.
2. No dog shall be licensed as spayed or neutered without proof that the surgery has been performed.
3. Proof that the dog has a current rabies inoculation shall be presented at the time the license is applied for. Proof must be in writing and must include the licensed veterinarian who administered the vaccine.

HISTORY

Adopted by Ord. [15-C](#) on 3/17/2015

9.05.020 Exemptions For Licensing

PMC 9.05.010 does not apply to the following:

1. Persons 65 years of age or older may obtain a dog license for a spayed or neutered dog for a reduced fee. This shall be known as a "Senior Citizen License".
2. Licensed dogs, whose owners are non-residents, temporarily (up to thirty (30) days) within the municipality, provided, however, that licensed dogs whose owners remain within the municipality longer than thirty (30) days may transfer a current license from another local government authority to Perry City upon payment of a "transfer fee" and proof of current rabies vaccination.
3. Individual dogs within a properly licensed kennel or other such establishment.
4. Service animals.
5. Government working dogs.
6. Animals especially trained to assist government officials in the performance of their duties, and are owned or maintained by a government agency.
7. Notwithstanding the foregoing, nothing in this section shall be construed so as to exempt any dog from having a current rabies vaccination as prescribed in this chapter.

HISTORY

Adopted by Ord. [15-C](#) on 3/17/2015

9.05.030 Tag And Collar Required

Upon payment of the license fee, there shall be issued to the owner, a metallic tag for each dog so licensed. Every owner shall be required to provide each dog with a collar to which the license tag must be affixed, and shall see that the collar and tag are constantly worn. In the event a dog tag is lost or destroyed, a duplicate will be issued by the division upon presentation of a receipt showing payment of the license fee for the current year, and payment of a duplicate tag fee as set from time to time by the Perry City Council. The license shall not be transferable from one dog to another and no refunds shall be made on any dog license for any reason whatsoever.

HISTORY

Adopted by Ord. [15-C](#) on 3/17/2015

9.05.040 Removal Of Tag And Collar Unlawful

It shall be unlawful to deprive a registered dog of its collar and or its tags.

HISTORY

Adopted by Ord. [15-C](#) on 3/17/2015

9.05.050 Kennel Licenses

It shall be unlawful for any person to operate or maintain a kennel or cattery without first complying with federal, state, and local law and obtaining a kennel or cattery license from the division as follows:

1. Animal owners making application for a kennel license shall first seek approval from the City's land use authority and the local health department. The division may only issue a kennel license once the required local land use authority and local health department regulations are met, the necessary inspections are made and approved, and all permits issued. No kennel license shall be issued in violation of local land use or health regulations.
2. The applicant must comply with any other federal, state, or local laws.
3. All applications for permits to operate such establishments shall be submitted, together with the required permit fee, on a printed form provided by the division.
4. Upon notification from the local land use authority and health department that the kennel facility has been inspected and approved, division personnel will perform an additional and final inspection, and upon approval, issue a kennel license.
5. Kennel licenses shall also be valid for one year from the date of purchase.
6. The procedures relating to a kennel or kennel license set forth in this section and elsewhere in this chapter shall be the same for a cattery or cattery license and shall be administered accordingly.

HISTORY

Adopted by Ord. [15-C](#) on 3/17/2015

9.05.060 Number Of Cats And/Or Dogs Per Residence

No person or persons, at any one residence, shall at any time own, harbor, license or maintain more than five (5) cats and/or three (3) dogs, except as authorized by PMC 9.05.050.

HISTORY

Adopted by Ord. [15-C](#) on 3/17/2015

9.05.070 Display Of Permit

A valid permit shall be posted in a conspicuous place in each establishment, and said permit shall be considered as an appurtenant to the premises, and not transferrable to another location. The permittee shall notify the division within thirty (30) days of any change of its establishment, or operation which may affect the status of the permit. In the event of a change in ownership of the establishment, the permittee shall notify the division, immediately. Permits shall not be transferable from one owner to another.

HISTORY

Adopted by Ord. [15-C](#) on 3/17/2015

9.05.080 Renewal Of Permit

Any permit for a license issued, pursuant to this section, shall be renewed each year by January 31st, but may be renewed as early as the preceding December 1st. Any payment for a permit received after January 31st shall be accompanied by a late fee, in addition to the regular permit fee. Proof of a current rabies vaccination shall be provided for each dog. Regular permit fees and late fees shall be paid as provided in PMC 4.09 (Fee Schedules) (or according to the most recent City resolution). There shall be no proration of fees for a permit for a partial year.

HISTORY

Adopted by Ord. [15-C](#) on 3/17/2015

9.05.090 Exemptions

Research facilities, where bona fide medical or related research is conducted, humane shelters and other animal establishments, operated by state or local government, or which are licensed by federal law, are excluded from the licensing requirements of this ordinance.

HISTORY

Adopted by Ord. [15-C](#) on 3/17/2015

9.05.100 Inspections

All establishments required to obtain a permit under this ordinance shall be subject to periodic inspections, and the inspector shall make a report of such inspection with a copy to be filed with the division.

HISTORY

Adopted by Ord. [15-C](#) on 3/17/2015

9.05.110 Suspension Or Revocation Of Permit

1. A permit may be suspended or revoked or a permit application rejected on any one or more of the following grounds:
 - a. Falsification of the facts in a permit application.
 - b. Violation of any of the provisions of this ordinance or any other regulation governing the establishment, including noise, building and zoning ordinances, or maintaining or selling illegal species.
 - c. Conviction of a charge of cruelty to animals under state or local codes.
2. The procedure for revocation of a permit is governed by this part:
 - a. If an inspection of any facility operating with a kennel permit reveals a violation of this ordinance, the inspector shall notify the permit holder or operator of such violation by means of an inspection report from, or other written notice.
 - b. The notification shall:
 - i. Set forth the specific violation found.
 - ii. Establish a specific and reasonable period of time for the correction of the violation(s) found.
 - iii. State that any failure to comply with any notice issued in accordance with the provisions of this ordinance shall result in immediate suspension of the permit.
 - iv. State that an opportunity for an appeal from any notice of inspection finding shall be provided if a written request for hearing is filed with the Division of Animal Control within five (5) days of date of notice.
 - v. Upon request of a hearing, a minimum of five (5) days notice shall be given to the permittee advising him of the date and time of such hearing and listing the cause or causes for such suspension or revocation.
 - c. No new permit shall be issued to any person whose permit has been previously revoked except upon application for a new permit, accompanied by the required application fee and proof that all requirements of this ordinance have been met.
 - d. Any permit granted under this ordinance may be suspended or revoked by the division for violations listed in this chapter.

HISTORY

Adopted by Ord. [15-C](#) on 3/17/2015

9.05.120 Notice Served

Notice provided for under this ordinance shall be deemed to have been properly served when the original of the inspection report form or other notice has been delivered personally to the permit holder or person in charge of the kennel or cattery or such notice has been sent by certified mail to the last known address of the permit or license holder. A copy of such notice shall be filed with of division.

HISTORY

Adopted by Ord. [15-C](#) on 3/17/2015

9.07 Prohibited Acts

9.07.010 Nuisance Animal

All persons having custody of animals shall exercise proper care and control of his/her animal(s) in order to prevent them from becoming a nuisance.

1. An animal shall be deemed to be a nuisance if the animal:
 - a. causes damage to the property of anyone other than its owner.
 - b. causes unreasonable odors.
 - c. causes unsanitary conditions.
 - d. barks, whines, howls, or makes other disturbing noises for an extended period of time.
 - e. chases vehicles.
 - f. is an animal which has been impounded for being at-large, or its owner or possessor has been convicted for the animal being at-large on three separate occasions within a twelve month period.
 - g. is an animal previously declared potentially dangerous or dangerous and is found in violation of restrictions placed on that animal by the division.
2. In addition to other remedies allowed by law, this section also authorizes the animal control officer/shelter facility manager to abate a nuisance animal as prescribed by state or local law.

HISTORY

Adopted by Ord. [15-C](#) on 3/17/2015

9.07.020 Abatement Of Public Nuisance Animals

When it reasonably appears to the officer/manager that any animal is a nuisance as defined in this chapter, and that such nuisance should be abated, the officer/manager shall:

1. Abatement such animal by either relocating or euthanizing the animal after attempting to obtain the written consent of the animal's owner to abate the animal.
2. If the animal owner's consent cannot be readily obtained, the officer/manager may file a complaint with the governing court charging the maintenance of a nuisance animal.
 - a. The charge shall set forth the facts according to the best of the officer's/manager's information and belief, indicating that the owner is maintaining a nuisance, and the nuisance should be abated.
 - b. Until such time as the owner may appear before the court, the animal(s) may be taken into impound by the division and held there pending a decision by the court.
 - c. If the complaint is denied, a hearing will be set pursuant to the normal procedure of the court.
 - d. If the court finds that the complaint of maintaining a nuisance has been proven, the division will seek an order from the court setting out the method of abatement.
3. Abatement by relocation shall not be an option if the animal is a continuing threat of serious harm, such as a vicious dog. If relocation is ordered, the court may set whatever conditions are necessary to guarantee that the said animal shall not constitute a nuisance in the future.
4. In the event the court determines that the animal is a nuisance, the owner shall pay the cost of all impoundment fees, maintenance fees, or any other fee that may incur as a result of such impoundment.

HISTORY

Adopted by Ord. [15-C](#) on 3/17/2015

9.07.030 Control And Fencing

It is unlawful for any person owning or having the custody, possession, or control of any livestock to:

1. Allow, either negligently or with specific intent, the livestock to run at-large in or about a public property or roadway, where such is not permitted by law, or appropriately marked to otherwise permit the animal to be herded, pastured, or moved upon the land of another without permission.
2. All fencing of property where livestock are kept shall be of sufficient construction to prevent the escape of or injury to the animals being confined within the fencing.

3. The fencing shall be maintained so that no part of such fence, absent extraordinary circumstances, may be broken, damaged or in any way create the possibility of injury to the confined livestock or to allow the escape thereof.
4. Failure to properly confine any class of livestock shall constitute a violation of this section.

HISTORY

Adopted by Ord. [15-C](#) on 3/17/2015

9.07.040 Female Dogs/Cats In Heat

Except for planned breeding, any owner or person having charge, care custody or control of any female dog/cat in heat shall, in addition to restraining such dog/cat from running at-large, cause such dog/cat to be constantly confined in a building or secure enclosure so as to prevent it from attracting by scent or coming into contact with other dogs/cat and creating a nuisance.

HISTORY

Adopted by Ord. [15-C](#) on 3/17/2015

9.07.050 Possession Of Potentially Dangerous Animal

Any person who owns or maintains a potentially dangerous animal shall use all reasonable means at his or her disposal to restrict a potentially dangerous animal from injuring any other person or animal. The division, at the discretion of the Police Chief or his designee, impose specific restrictions regarding the housing of potentially dangerous animals.

HISTORY

Adopted by Ord. [15-C](#) on 3/17/2015

9.07.060 Possession Of Dangerous Animals

Any dangerous animal, while on the owner's property, must be securely confined indoors, or in a securely enclosed and locked pen or structure suitable to prevent the entry of young children and designed to prevent the animal from escaping. Such pen or structure for a dangerous animal shall have secure sides and top and shall also provide protection from the elements for the animal. The structure shall be such that the animal cannot burrow or dig under the sides of the enclosure. Dangerous animals, when outside the proper enclosure, must be under immediate control of a responsible adult by means of a restraint device and muzzled. The muzzle shall be made in such a manner that it will not cause injury to the animal or interfere with its vision or respiration, but shall prevent it from biting any person or animal.

HISTORY

Adopted by Ord. [15-C](#) on 3/17/2015

9.07.065 Custody Of Dangerous Animals

The division may take into immediate possession any dangerous animal if the officer determines that the animal is:

1. Not maintained in a proper enclosure.
2. Is outside of the dwelling of the owner, or outside of a proper enclosure and not under physical restraint of the person, or,
3. If there are any further violations of any legal restrictions previously placed on such animal by division as provided in this ordinance.

HISTORY

Adopted by Ord. [15-C](#) on 3/17/2015

9.07.070 Failure To Properly Confine Potentially/Dangerous Animal

Any owner of any potentially dangerous or dangerous animal who allows it to go at-large or who fails to hold the same in the manner specified for such animal by the division is guilty of a class B misdemeanor.

HISTORY

Adopted by Ord. [15-C](#) on 3/17/2015

9.07.080 Animals At-Large Prohibited

It shall be unlawful for any animal, as defined herein, to be allowed, either negligently or with specific intent, to run at-large. The following also apply:

1. Dogs may be at-large while participating in field trials and obedience classes organized and sanctioned by recognized dog clubs, while assisting their owner or trainer in legal hunting or in herding of livestock, while assisting a peace officer engaged in law enforcement duties, or while being trained for the above purposes, or while on the owner's private property, so long as such dogs are under the direct and effective sound or gesture control, and within sight of owners or such individuals noted above, to assure that such animals do not violate any provisions of this ordinance.
2. In accordance with Utah Code Annotated §10-8-64, the following general provisions apply to animals at-large:
 - a. The municipality is authorized to establish an animal control and impound facilities, impound animals running at-large, and provide for the sale of the same in the manner provided by administrative rules promulgated by the division for the sale of strays and trespassing animals.
 - b. The proceeds arising from the sale of such animals after the payment of all costs shall go to the City Treasurer to be disposed of according to law.

HISTORY

Adopted by Ord. [15-C](#) on 3/17/2015

9.07.090 Allowing Domestic Fowl To Trespass Prohibited

It is unlawful for the owner of any domestic fowls such as turkeys, ducks, geese, chickens, peacocks or any other variety of fowl to permit such fowls to trespass or go upon the premises of another or to run at-large on any public property or roadway. Fowl kept and maintained by public entities within the confines of public parks or aviaries are exempt, however such fowls shall not be allowed on public roadways.

HISTORY

Adopted by Ord. [15-C](#) on 3/17/2015

9.07.100 Staking Animals improperly On Unenclosed Premises

It is unlawful for any person to chain, stake out or tether any animal on any unenclosed premises in such a manner that the animal may go beyond the property line unless such person has permission of the owner of the affected property, or the person with whom he shares joint tenancy. No animals are to be staked along public roadway easements.

HISTORY

Adopted by Ord. [15-C](#) on 3/17/2015

9.07.110 Animal Waste

The person having custody of an animal shall be responsible for the immediate removal of any waste deposited by his animal on any public walk, recreation area, or private property other than that belonging to the owner of the animal.

HISTORY

Adopted by Ord. [15-C](#) on 3/17/2015

9.07.120 Wild Animals Prohibited

It shall be unlawful for any person to sell, offer for sale, barter, give away, keep or purchase any wild animal as defined in this chapter, except an animal shelter, zoological park, veterinarian hospital, humane society, shelter, bona fide laboratory, circus, sideshow, amusement show, or a facility for education or scientific purposes. In such cases, animals must be maintained by means of protective devices adequate to prevent such animals from escaping or injuring the public. Every facility controlling or maintaining such animal shall comply with all state and federal regulations regarding quarantine and vaccinations as directed for each species. All such wild animals or reptiles shall be kept under confinement on the premises of the owner and shall not be allowed to run at-large, and shall be maintained on the premises or private property of the owner in such a manner as to not endanger the life or limb of any persons lawfully entering such premises. Despite the restrictions stated above, the division shall grant an exception to persons raising wild animals for their pelts and for legal commercial purpose after local land use authority and health department approvals.

HISTORY

Adopted by Ord. [15-C](#) on 3/17/2015

9.09 Impoundment

9.09.010 Impoundment Authorized

The division shall place all animals which are taken into custody in a designated animal impound or shelter facility. The following animals may be taken into custody and impounded as deemed necessary:

1. Any animal being kept or maintained contrary to the provisions of the municipal code.
2. Any animal running at-large, with any reasonable means used to immobilize or capture such animal.
3. Any animal which is by this ordinance required to be licensed and is not licensed; an animal not wearing a tag shall be presumed to be unlicensed for the purpose of this section.
4. Sick or injured animals whose owner cannot be immediately located or whose owner requests impoundment and agrees to pay a reasonable fee for the services rendered.
5. Any abandoned, neglected animal, whose safety may be threatened should the animal not be readily placed into protective custody.
6. Animals which are not vaccinated for rabies in accordance with the requirements of this ordinance.
7. Any animal needing to be held for quarantine.
8. Any potentially dangerous or dangerous animal not properly confined as required by PMC 9.07.050 and PMC 9.07.060.
9. Any animal in the custody of any person or persons who are arrested or otherwise detained by any police officer.

HISTORY

Adopted by Ord. [15-C](#) on 3/17/2015

9.09.020 Impoundment Regulations And Record Keeping Requirements

The facility manager may promulgate and implement such rules and regulations necessary for an efficient and effective impound and shelter facility operation, and in accordance with state law. The impounding facility or shelter shall keep a record of each animal impounded.

HISTORY

Adopted by Ord. [15-C](#) on 3/17/2015

9.09.030 Redemption Requirements

The owner of any impounded animal or his authorized representative may redeem such animal upon payment of the required fees and before disposition in accordance with the regulations of the impounding facility or shelter. The following regarding fees:

1. Fees shall include:
 - a. Impound fees.
 - b. Daily board charge.
 - c. Veterinary costs incurred during the impoundment period.
 - d. License fee including appropriate rabies vaccination fee, if applicable.

- e. Transportation fee if transportation of an impounded animal by specialized equipment is required. "Specialized equipment" is that equipment, other than the usual patrol and operation vehicles of animal control, which is designed for specific purposes such as, but not limited to, livestock trailers and carcass trailers as determined by the Perry City Council or set by the contractor at a level which approximates the cost of utilizing the specialized equipment in the particular situation.
 - f. Any other expenses incurred to impound an animal in accordance with state or local laws, including any reasonable restitution for property damage created by the animal, or that occurs as a result of the impoundment.
2. The Perry City Council, at the recommendation of the facility manager, may review the fees imposed from time to time and adjust the same. Such fees shall take into account the type of animal impounded.

HISTORY

Adopted by Ord. [15-C](#) on 3/17/2015

9.09.040 Terms Of Impoundment/Destruction And Disposal Of Animals

The facility manager is delegated authority to administer the terms of impoundment substantially as follows, and subject to other rules and regulations of the facility:

1. Animals shall be impounded for a minimum of three (3) working days before further disposition unless the animal is wearing a license tag or other identification, in which case it shall be held a minimum of five (5) working days. Reasonable effort shall be made to notify the owner of any animal wearing a license or other identification. Notice shall be deemed given when sent to the last known address of the listed owner. Any animal voluntarily relinquished to the animal control facility by the owner thereof for destruction or other disposition need not be kept for the minimum holding period before release or other disposition as provided herein.
2. All animals, except those quarantined or confined by court order, or those subject to Utah Code §4-25-4, 1953 as amended, which are held longer than the minimum impound period, and all animals voluntarily relinquished to the impound facility, may be destroyed or disposed of as the facility manager shall direct. Any healthy dog or cat may be sold in compliance with the applicable adoption policy after payment of all applicable fees. Other small animals not included as livestock may also be sold as determined by the director.
3. Any licensed animal impounded and having or suspected of having serious physical injury or contagious disease, requiring medical attention may, at the discretion of the facility manager, be released to the care of a veterinarian with or without the consent of the owner.
4. When in the judgment of the facility manager (or an officer), it is determined that an animal should be destroyed for humane reasons or to protect the public from imminent danger to person or property, such animal may be destroyed without regard to any time limitation otherwise established in this ordinance, and without court order.
5. The facility manager or any of his agents (or an officer) may destroy an animal upon request of the owner without transporting the animal to contracted facilities. An appropriate fee shall be charged the owner for the destruction and any subsequent disposal of the carcass by the facility.

HISTORY

Adopted by Ord. [15-C](#) on 3/17/2015

9.09.050 Declaration And Disposal Of Vicious Animal

If an officer, the facility manager, or another authorized agent determines, as a result of a witnessed incident, that an animal is dangerous or potentially dangerous, and finds that the animal is in violation of vicious animal regulations and such deems it necessary for the safety of persons and/or animals in the community, such may:

1. Declare the animal to be a vicious animal.
2. Take possession of the vicious animal and place the animal in a proper quarantine holding facility.
3. After placing the animal in the holding facility seek the written consent of the animal's owner to destroy the animal in a humane manner.
4. If the animal owner's consent cannot be readily obtained seek a court order to destroy the animal in a humane manner.
5. In the event the court determines that the animal is a vicious animal, the owner shall pay the cost of all impoundments fees, disposal fees, or any other fees that may have been incurred.

HISTORY

Adopted by Ord. [15-C](#) on 3/17/2015

9.11 Rabies Control

9.11.010 Animal Rabies Vaccination Requirements

All dogs, cats or other animals susceptible to rabies for which a federally approved vaccine is available shall be vaccinated at four (4) months of age and again at fifteen (15) months of age by a licensed veterinarian or rabies clinic. Every dog shall be re-vaccinated every twenty-four and/or thirty-six (36) months, depending on the type of vaccination, and every cat re-vaccinated every twelve (12) months thereafter. Any unvaccinated dog or cat over four (4) months of age adopted or brought into the jurisdiction must likewise be vaccinated initially. Thereafter valid protection must be maintained.

HISTORY

Adopted by Ord. [15-C](#) on 3/17/2015

9.11.020 Exceptions For Transient Animals

The provisions of this chapter with respect to vaccinations shall not apply to any animal owned by a person temporarily remaining within the jurisdiction for less than thirty days. Such animals shall be kept under strict supervision of the owner. It is unlawful to bring any animal into the jurisdiction which does not comply with the animal health laws and import regulations.

HISTORY

Adopted by Ord. [15-C](#) on 3/17/2015

9.11.030 Vaccination Certification And Tags

The following regarding vaccination certification and tags:

1. It shall be the duty of each veterinarian, when vaccinating any animal for rabies, to complete a certificate of rabies vaccination, in duplicate, which includes the following information;
 - a. Owner's name and address
 - b. Description of the animal
 - c. Date of vaccination
 - d. Rabies vaccination tag number
 - e. Type of vaccine administered
 - f. Manufacture's serial number of vaccine
- g. A copy of the certificate shall be distributed to the owner of the animal, and the original retained by the issuing veterinarian. The veterinarian and the owner shall retain their copies of the certificate for the interval between vaccinations specified in this chapter.
- h. Additionally, a metal or durable plastic rabies vaccination tag, serially numbered shall be securely attached to the collar or harness of the animal. An animal not wearing such a tag shall be deemed to be unvaccinated and may be impounded and dealt with pursuant to this ordinance.

HISTORY

Adopted by Ord. [15-C](#) on 3/17/2015

9.11.040 Impounding Animals Without Valid Vaccination Tags

The following regarding impoundment of animals without a valid vaccination tag:

1. Any vaccinated animal impounded because of a lack of a rabies vaccination tag may be reclaimed by its owner by furnishing proof of a rabies vaccination and payment of all impoundment fees prior to release.
2. Any unvaccinated animal may be reclaimed prior to disposal by payment of impound fees and by obtaining a rabies vaccination within fourteen (14) days of release.
3. Any animal not reclaimed within the prescribed period of time shall be disposed of.

HISTORY

Adopted by Ord. [15-C](#) on 3/17/2015

9.11.050 Rabid Animal Reports

Any person having knowledge of the whereabouts of an animal known to have been exposed to, or suspected of having rabies, or of an animal or person bitten by such a suspect animal, shall notify the division, or the state or local health department.

HISTORY

Adopted by Ord. [15-C](#) on 3/17/2015

9.11.060 Quarantine And Disposition Of Biting Or Rabid Animals

The following regarding quarantine and disposition of biting or rabid animals:

1. An animal that has rabies or shows signs of having rabies, and every animal bitten by another animal affected with rabies, or that has been exposed to rabies shall be reported by the owner as set forth above, and shall immediately be confined in a secure place by the owner. The owner shall turn over the animal to the Animal Control agents upon demand.
2. The owner of any animal of a species subject to rabies, which has been bitten by another animal known to be capable of harboring the rabies virus, shall surrender the animal to an authorized official upon demand.
3. Any animal of a species subject to rabies that bites a person or animal or is suspected of having rabies may be seized and quarantined for observation for a period of not less than ten (10) days by the division. The owner of the animal shall bear the cost of the confinement. The animal shelter shall be the normal place for such quarantine, but other arrangements, including confinement by the owner may be made by the division, if the animal has current rabies vaccinations at the time the bite is inflicted, or if there are other special circumstances justifying an exception. A person who has custody of an animal under quarantine shall immediately notify the division if the animal shows any signs of sickness or abnormal behavior, or if the animal escapes confinement. It is unlawful for any person who has custody of a quarantined animal to fail or refuse to allow a health or animal control officer to make an inspection or examination of the animal during the period of quarantine. If the animal dies within ten (10) days from the date of the bite, the person having custody shall immediately notify the division. If at the end of (10) day period, an investigating officer of the division examines the animal and finds no sign of rabies, the animal may be released to the owner or, in the case of a stray, it shall be disposed of as provided in PMC 9.09.040.
4. Unvaccinated bitten animals:
 - a. In the case of an unvaccinated animal species subject to rabies, which is known to have been bitten by or exposed to a known rabid animal, such bitten or exposed animal shall be immediately destroyed.
 - b. If the owner is unwilling to destroy the bitten or exposed animal, the animal shall be immediately isolated and quarantined for six (6) months under veterinary supervision, the cost of such confinement to be paid in advance by the owner. The animal shall be destroyed if the owner does not comply herewith.
5. Vaccinated bitten animals:
 - a. If the bitten or exposed animal is currently vaccinated, as prescribed herein, the animal shall be re-vaccinated within twenty-four (24) hours and quarantined for a period of thirty (30) days following re-vaccination; or
 - b. If the animal is not re-vaccinated within twenty-four (24) hours, the animal shall be isolated and quarantined under veterinary supervision for 6 months.
 - c. The animal shall be destroyed if the owner does not comply with subdivisions 1 or 2 of this subsection (e), regarding exposure by known rabid animals.
 - d. It shall be unlawful for any person to remove any such animal from the place of quarantine without written permission of the facility manager.

HISTORY

Adopted by Ord. [15-C](#) on 3/17/2015

9.11.070 Duty To Report Bites

The following regarding the duty to report bites:

1. Any person having knowledge of any individual or animal having been bitten, by an animal, of a species subject to rabies shall report the incident immediately to the division.

2. The owner, of an animal, that bites a person and any person bitten by an animal, shall report the bite to the division within twenty-four (24) hours of the bite, regardless of whether or not the biting animal is of a species subject to rabies.
3. To the extent is section does not conflict with HIPPA provisions, a physician or other medical personnel, who renders professional treatment to a person bitten by an animal, the bite of which might cause rabies, shall report the fact that he has rendered professional treatment, to the division, within twenty-four (24) hours of his first professional attendance. He shall report the name, sex and address of the person bitten, as well as the type and location of the bite. If known, he shall give the name and address of the owner of the animal that inflicted the bite, and any other facts that may assist the division.
4. Any person treating an animal bitten, injured or mauled by another animal, shall report the incident to the division. The report shall contain the name and address of the owner of the wounded, injured or bitten animal, the name and address of the owner and description of the animal which caused the injury, and the location of the incident.
5. Any person not conforming to the requirements of this chapter shall be in violation of this ordinance.

HISTORY

Adopted by Ord. [15-C](#) on 3/17/2015

9.13 Other Animal Control Laws

9.13.010 Cruelty To Animals

A person commits cruelty to animals when he/she:

1. Causes one animal or fowl to fight with another.
2. Intentionally or carelessly administers or applies any poisonous or toxic drug or any material injurious to tissues or organs to any animal or livestock, or procures or permits the same to be done, whether the animals be his/her own property or that of another. This provision shall not be interpreted so as to prohibit the use of poisonous substances for the control of vermin, in furtherance of public health, when applied in such a manner as to reasonably prohibit access to other animals.
3. By intention or negligence or omission causes pain, suffering, terror or torment, or if intentionally or with negligence injures, mutilates, or causes disease or death to any animal or fowl.
4. Administers, applies, procures or permits the administration or application of any trapping mechanism, other than a live capture trap or exposes such a trapping mechanism to animals or livestock, with the intent to harm or take the animal, whether the animal be his/her own property or that of another. All set live capture traps shall be checked and emptied daily. This provision shall not be interpreted so as to prohibit the use of trapping mechanisms by those licensed, with the State, and whose traps have owner identification permanently affixed to them.
5. Neglects or fails to supply an animal under his/her control, custody or care with necessary space, shelter and protection from the elements.
6. Raises, trains, purchases or sells any animal or fowl for fighting or harbors fowl for fighting purposes or which has the comb clipped or the spur altered or who is in possession of an artificial spur.
7. Is present, as a spectator, at any animal contest wherein one animal or fowl is caused to fight with another, or rents any building, shed, room, yard, ground or premises for the purpose of holding such a contest between animals or knowingly suffers or permits the use of any building, shed, room, yard, ground or premises belonging to him or under his control for any of these purposes.
8. Abandons an animal.
9. Performs or causes to be performed any of the following operations.
 - a. Inhumanely removes any portion of the beak of any bird, domestic or wild.
 - b. Alters the gait or posture of any animal, by surgical, chemical, mechanical, or any other means, including soring.
 - c. Crops or cuts the ears, removes an animal's claws or sterilizes a dog or cat and is not a licensed veterinarian.
 - d. Inhumanely docks the tail of an animal or removes an animal's claws
10. Sell, purchases, owns, or has custody of any animal or fowl that have been dyed, painted, or otherwise artificially colored.
11. Offers chicks, duckling, goslings or their fowls for sale, raffles, offers as a prize, a premium, or an advertising device, or displays chicks, ducklings, goslings or other fowl to the public without providing and operating brooders or other heating devices that may be necessary to maintain the chicks, ducklings, goslings or other fowl in good health, and without keeping adequate food and water available to the birds at all times.
12. Carries or causes to be carried any animal in a manner harmful to that animal. Suitable racks, cars, crates or cages in which such animals may stand, move freely or lie down during transportation, or while awaiting slaughter, must be provided.
13. Leaves any animal confined in a vehicle unattended in excessively hot or cold weather.

14. Continuously drives or works a horse or other animal to a point of observable strain, and denies the animal rest periods. Working animals shall be offered water periodically.
15. Takes or kills any wild bird(s) or robs or destroys any nest containing eggs, or young of any bird in violation of state law.
16. Inhumanely hobbles livestock or other animals.
17. Leaves any livestock species used for drought, driving or riding purposes on the street without protection from the weather and without food and water for a period of time that would endanger the health or safety of the animal.
18. Recklessly rides or drives any horse or other livestock species on any street, highway or avenue within its jurisdiction.
19. Induces or encourages an animal to perform through the use of chemical, mechanical, electrical or manual devices in a manner in which will cause, or is likely to cause physical injury or unnecessary suffering.
20. Violates any other state law relating to cruelty of animals.

HISTORY

Adopted by Ord. [15-C](#) on 3/17/2015

9.13.020 Defenses

The following regarding defense:

1. It is a defense to prosecution under this section that the conduct of the actor towards the animal was by a licensed veterinarian using an accepted veterinary practice or directly related to a bona fide experimentation for scientific research; provided, that the animal is to be destroyed, the manner employed will not be unnecessarily cruel unless directly necessary to the veterinary purpose of scientific research involved.
2. Any person may kill or disable any animal while it is attacking, chasing or harassing any domestic animal having a commercial value, or any species of hoofed protected wildlife, while attacking domestic fowls, or while such animal is being pursued thereafter.
3. Any dog making a vicious and unprovoked attack on any person, except when the attack is in defense of the person, family, and/or property of the dog's owner, may be killed by any person while it is making such an attack.

HISTORY

Adopted by Ord. [15-C](#) on 3/17/2015

9.13.030 Injuries And Communicable Diseases

No person shall knowingly harbor or keep any animal with a serious injury, or afflicted with mange, ringworm, distemper, parvo, kennel cough, or any other contagious disease, unless such animal is being given adequate treatment to control or eliminate the disease.

HISTORY

Adopted by Ord. [15-C](#) on 3/17/2015

9.13.040 Seizure Of Animals

A person filing charges under this chapter may seize or arrange to be seized an animal found in the keeping or custody of a person being charged, and which is being used or will be used as evidence in the case resulting from such charge. The person making said seizure shall cause such animal to be delivered immediately to the division, or when necessary to a veterinarian for treatment. It shall be the duty of that division to humanely hold such animal until further court order regarding its disposal. The perpetrator of any such act shall be responsible for the costs of impound, board, and any medical expenses incurred during the holding period of the animal.

HISTORY

Adopted by Ord. [15-C](#) on 3/17/2015

9.13.050 Harboring Animals Prohibited Duty To Notify

It is unlawful for any person to harbor or keep within this jurisdiction any lost or strayed animal. Whenever any animal shall be found which appears to be lost or strayed, it shall be the duty of the finder to notify the Animal Shelter within seventy-two (72) hours. An animal control officer may take the animal into protective custody.

HISTORY

Adopted by Ord. [15-C](#) on 3/17/2015

9.13.060 Place Prohibited To Animals

The following regarding places prohibited to animals:

1. It shall be unlawful for any person to take or permit any animals, excluding service animals (such as hearing or seeing eye dogs) and government working dogs or similar animals, whether on a leash or in the arms of their owners, in any establishment or place of business where food or food products are sold or distributed, including but not limited to restaurants, grocery stores, meat markets, and fruit or vegetable stores.
2. Dogs, whether on a leash, or not on a leash, shall be completely prohibited from school premises and from posted picnic, pond, park, recreation, or play areas. This, however, shall not apply to service animals, government working dogs, or trained animals used by their owner for the purpose of public educational programs, law enforcement exercises, or authorized events.

HISTORY

Adopted by Ord. [15-C](#) on 3/17/2015

9.13.070 Disposal Of Dead Animals

In accordance with Utah Code Annotated §4-26-1, 1953, as amended, it is the responsibility of the owner or other person responsible for any domestic animal which dies to bury or otherwise dispose of it within two days after death. If the owner or other person responsible for such an animal cannot be found, it is the duty of the municipality within which the dead animal is found, or its contractor, at the expense of the municipality, to bury the dead animal. The municipality or its contractor which incurs expense under this section is entitled to reimbursement from the owner of the dead animal.

HISTORY

Adopted by Ord. [15-C](#) on 3/17/2015

9.15 Enforcement And Penalties

9.15.010 Power And Authority Of Animal Control Officers

In the performance of their duties, the animal control officer is hereby vested with the power and authority given by this ordinance within the office of the division. Badges of authority shall be issued by the municipality, and officers having received and been sworn to the oath of office. An office may enter and inspect the premises of any pet shop, animal grooming establishment, or similar establishment in the enforcement of this chapter.

HISTORY

Adopted by Ord. [15-C](#) on 3/17/2015

9.15.020 Penalties

Any person violating any provision of this chapter shall be guilty of an infraction and shall be punished as prescribed by the laws of the state of Utah. In the case that the violation meets the standards set forth in Utah Code Annotated §10-3-703 i or ii, the violation may be charged as a Class B misdemeanor and shall be punished within the confines of that class as prescribed by the laws of the state of Utah.

Each day a violation continues shall be deemed as a separate offense.

HISTORY

Adopted by Ord. [15-C](#) on 3/17/2015

Amended by Ord. [21-V Animal Control Enforcement and Penalty](#) on 1/27/2022

9.15.030 Applicability Of Procedures For All Peace Officers

The foregoing provisions of this chapter authorize any peace officer to issue a citation for a violation of this chapter. The procedure prescribed herein shall not otherwise be exclusive of any other method prescribed by law for the redress, abatement, citation, arrest, prosecution, or otherwise of a person for an offense under another law or regulation separate from this chapter.

HISTORY

Adopted by Ord. [15-C](#) on 3/17/2015

10 Transportation Code

10.01 General Provisions

10.01.010 Definitions

Whenever in this title the following terms are used, they shall have the meanings respectively ascribed to them in this section:

1. **"Alley"** means a public way, not designed for general travel, within a block primarily intended for service and access to abutting property by vehicles.
2. **"City"** means Perry City.
3. **"Crosswalk"** means that portion of a roadway at an intersection included within the connections of the lateral lines of the sidewalks on opposite sides of the street measured from the curbs or, in the absence of curbs, from the edges of the traversable roadway; also, any portion of a roadway at an intersection or elsewhere distinctly indicated for pedestrian crossing by lines or other markings on the surface.
4. **"Crosswalk line"** means a single white line, not less than six inches in width, painted on a street marking the outlying limits of a pedestrian crossing.
5. **"Dynamic braking devices"** (commonly referred to as "jacob brake", "engine brake", or "compression break") means any device used primarily on trucks for the conversion of the engine from an internal combustion engine to an air compressor for the purpose of braking without the use of wheel brakes.
6. **"Driver"** means every person who drives or is in actual physical control of a vehicle.
7. **"Intersection"** means:
 - a. The area embraced within the prolongation or connection of the lateral curb lines, or, if none, the lateral boundary lines or the roadway of two streets that join one another at, or approximately at, right angles, or the area within which vehicles, traveling upon different streets joining at any other angle, come in conflict.
 - b. Where a street includes two roadways 30 feet or more apart, then every crossing of each roadway of such divided street by an intersecting street shall be regarded as a separate intersection.
8. **"Driveway"** means a road or access in private ownership and used for vehicular travel by the owner and those having express or implied permission from the owner, but not used by other persons.
9. **"Emergency vehicles"** means vehicles that are designated or authorized as ambulances, or any emergency vehicles of the federal, state, county, or municipal government as may be operated on the streets of the City.
10. **"Jurisdiction"** means under the jurisdiction, authority, and control of Perry City or another government entity.
11. **"Motor vehicle"** means every vehicle, with the exception of implements of husbandry (farm equipment), that is self-propelled, but not operated upon rails.
12. **"Owner"** means a person who holds the legal title to a vehicle or, in the event a vehicle is subject to an agreement for the conditional sale or lease thereof with the right of purchase upon performance of the conditions stated in the agreement and with immediate right of possession vested in the conditional vendee or lessee, or in the event a mortgagor of a vehicle is entitled to possession, then such conditional vendee or lessee or mortgagor shall be deemed the owner for the purpose of this title.
13. **"Park"** means the standing of a vehicle, whether occupied or not, otherwise than temporarily, for the purpose of and while actually engaged in loading or unloading.
14. **"Pedestrian"** means any person afoot.
15. **"Person"** means every natural person, entity, organization, partnership, association, or corporation as based upon the context.
16. **"Police Chief"** means the duly appointed Police Chief of Perry City.
17. **"Police department"** means the Perry Police Department, or any law enforcement agency authorized to enforce the law.
18. **"Police officer or law enforcement officer"** means any duly sworn peace officer of the state of Utah.
19. **"Road or highway"** means the entire width between the boundary lines of every way publicly maintained when any part thereof is open to the use of the public for purposes of vehicular travel.
20. **"Roadside box"** means any mailboxes, newspaper box, or other roadside boxes along or adjacent to a road, highway, or public right-of-way.
21. **"Safety zone"** means that area within the crosswalk for the exclusive use of pedestrians, bounded on two sides by the crosswalk lines and on the other two sides by yellow lines or by physical barriers, or otherwise so protected, marked or indicated by adequate signs as to be plainly visible at all times while set apart as a safety zone.
22. **"Sidewalk or sidewalk area"** means that portion of a street or highway between the curb lines of the lateral lines of a roadway and the adjacent property lines.

23. **"Stop"** means complete cessation from movement.

24. **"Traffic control device"** means all signs, signals, traffic markings and devices of the state placed or erected by authority of the official having jurisdiction, for the purposes of regulating, warning or guiding traffic.

25. **"Traffic Engineer"** means the City Engineer for Perry City or another designated City official or contractor designated by the City to administer this title.

26. **"Vehicle"** means every device in, upon, or by which a person or property is or may be transported or drawn upon a highway, except devices used exclusively upon stationary rails or tracks.

HISTORY

Adopted by Ord. [15-C](#) on 3/17/2015

10.01.020 Applicability

All vehicles using the roads and highways within the City shall be subject to the provisions of this title. Every person propelling any pushcart, bicycle, scooter, motorcycle, moped, or like device, or riding an animal upon a roadway, and every person driving an animal-drawn vehicle, shall be subject to such provisions as are applicable to the drivers of vehicles, except those that by their nature have no application.

HISTORY

Adopted by Ord. [15-C](#) on 3/17/2015

10.01.030 Enactment Of State Motor Vehicle Code

The following regarding the Utah Criminal and Traffic Code:

1. **Adoption:** The Utah Criminal and Traffic Code, current edition, as compiled by the Utah Department of Public Safety and published in code book form, and as duly filed with the City, is hereby approved and adopted by this reference is if fully set forth herein. The provisions herein adopted are adopted as they now exist and as such may be amended, seceded, or enacted in the future.
2. **Reference:** Corresponding title, chapter, and section numbers as used in the Utah Criminal and Traffic Code, current edition, adopted herein correspond and shall be referenced as the same title, chapter and section numbers within the Perry Municipal Code.
3. **Limitations:** Those provisions of Utah Criminal and Traffic Code, current edition, which are reserved exclusively to the state of Utah, counties of the state of Utah, or cities of another class than Perry City are not adopted. Those provisions which are within the jurisdiction of the justice court designated or used by the City are specifically adopted and incorporated by reference. Those adopted provisions of the Utah Criminal and Traffic Code, current edition, which conflict with the Perry Municipal Code are superceded by the Perry Municipal Code.

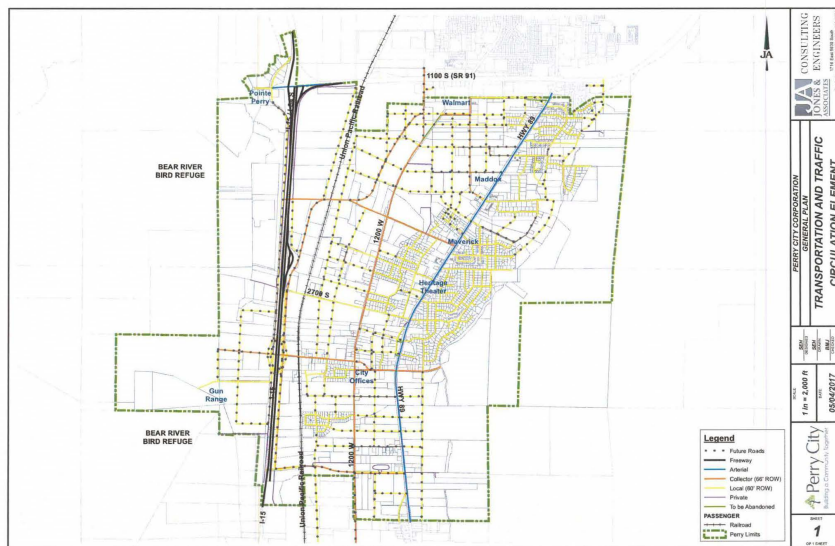
HISTORY

Adopted by Ord. [15-C](#) on 3/17/2015

10.02 Transportation And Traffic Circulation

10.02.030 Transportation And Traffic Circulation Element Plan

Click to view PDF of the [Perry City Transportation and Traffic Circulation Element Map](#).



HISTORY

Adopted by Ord. [17-F](#) on 6/22/2017

10.03 Street Name Sign Requirements, And Approval Procedures

10.03.010 Street Names

Unless not deemed to be practicable by the City Council, all City Streets shall have "numbered names," but the City Council may designate a secondary "numbered name" for any given street, either on its own motion, or after having received a petition for consideration from a citizen with signatures of all property owners on the street. As of March 5, 2015 all "non-numbered name" streets and street signs are accepted and acknowledged by Perry City.

Street names and numbers associated with new development shall be approved with the Final Plat Application for Subdivisions as outlined in PMC Title 14.

HISTORY

Adopted by Ord. [15-C](#) on 3/17/2015

Amended by Ord. [20-G Subdivisions](#) on 4/23/2020

10.03.020 Street Name Signs

For the benefit of emergency services, all Perry City Street name signs shall contain "numbered names." If a street in Perry City also has a "non-numbered name" then the street name sign may contain both the "numbered name" and the "non-numbered name" with the "numbered name" being on top and larger in size. The Perry City Council may in its discretion and upon its own motion, or after having received a petition for consideration from a citizen with signatures of all property owners on the street, may allow for variances of the requirements set forth herein.

HISTORY

Adopted by Ord. [15-C](#) on 3/17/2015

10.03.030 City Council Directing Traffic Engineer To Study Special Traffic Control Devices

The City Council, either on its own motion, or after having received a petition for consideration, may direct the Traffic Engineer to study certain traffic control devices and to provide options for the City Council to consider.

HISTORY

Adopted by Ord. [15-C](#) on 3/17/2015

10.03.040 Legislative And Financial Responsibility

The City Council may periodically update the ordinances regarding vehicles and traffic in the best interest of the public welfare, and shall fund the placement and maintenance of traffic control devices.

HISTORY

Adopted by Ord. [15-C](#) on 3/17/2015

10.05 Traffic Control Devices

10.05.010 Obedience To Traffic Control Devices

Subject to the exceptions granted drivers of authorized emergency vehicles, no person shall disobey the instructions of any applicable traffic control device placed in accordance with the provisions of this title unless otherwise directed by an appropriate law enforcement officer.

HISTORY

Adopted by Ord. [15-C](#) on 3/17/2015

10.05.020 Traffic Control Devices

The Traffic Engineer, or his designee, is authorized to administer the placement and maintenance of all traffic control devices upon City roads and highways as provided in this title, or otherwise regulate, warn, or guide traffic. Generally, all traffic control devices should conform to the Manual on Uniform Traffic Control Devices, most current edition, as published by the Federal Highway Administration under the direction of the U.S. Department of Transportation.

HISTORY

Adopted by Ord. [15-C](#) on 3/17/2015

10.05.030 Unauthorized Traffic Control Devices Prohibited

The following regarding prohibition and removal of unauthorized traffic control devices:

1. **Prohibition.** No person shall place, maintain or display upon or in view of any highway any unauthorized sign, signal, light, marking or other device:
 - a. That purports to be, imitates or resembles an official traffic control device, railroad sign or signal, or authorized emergency flashing light;
 - b. That attempts to direct the movement of traffic;
 - c. That hides from view or interferes with the effectiveness of any official traffic device or any railroad sign or signal; or
 - d. That is of such brilliant illumination and so positioned as to be in danger of blinding or dazzling a driver on any highway adjacent thereto.
2. **Removal.** Every such prohibited sign, signal, light or marking is declared to be a public nuisance which any police officer is empowered to remove or cause to be removed without notice to the owner.

HISTORY

Adopted by Ord. [15-C](#) on 3/17/2015

10.05.040 Authority To Designate Crosswalks, Safety Zones, And Traffic Lanes

The Traffic Engineer is hereby authorized to:

1. Designate and maintain, by appropriate devices, marks or lines upon the surface of the roadway, crosswalks at intersections where, in his opinion, there is particular danger to pedestrians crossing the roadway, and at other places as he may deem necessary;
2. To establish safety zones of such kind and character and at such places as he may deem necessary for the protection of pedestrians; and
3. To mark lanes for traffic on street pavements at places he may deem advisable, consistent with this title.

HISTORY

Adopted by Ord. [15-C](#) on 3/17/2015

10.05.050 Authority To Designate One-Way Highways

The Traffic Engineer, with the consent of the City Council, may designate by appropriate markings certain City roads and highways as one-way, requiring that all vehicles thereon move in one specific direction.

HISTORY

Adopted by Ord. [15-C](#) on 3/17/2015

10.05.060 Reserved

Reserved

10.05.070 Restrictions Upon Use Of Highways

The Traffic Engineer may impose restrictions on the operation of certain vehicles upon any jurisdictional road or highway in accordance with Utah Code Annotated §72-7-408, 1953, as amended, if an engineering inspection concludes that, due to deterioration caused by climatic conditions, a jurisdictional road or highway will be seriously damaged or destroyed unless certain vehicles are prohibited. Any such restriction shall be designated by appropriate signs.

HISTORY

Adopted by Ord. [15-C](#) on 3/17/2015

10.05.080 Weight And Size Limits

It is unlawful for any person to drive or move upon the roads or highways of the City any vehicle subject to jurisdictional size or weight limits when such vehicle exceeds the limitations thereof as provided by law, except where a permit or authority is granted by the appropriate jurisdiction.

HISTORY

Adopted by Ord. [15-C](#) on 3/17/2015

10.05.090 Vehicle Size And Weight Restrictions (Reserved)

Reserved

10.05.100 Dynamic Braking Devices Prohibited

Where posted, it is unlawful for any person to operate any motor vehicle with a dynamic braking device engaged, except for the aversion of imminent danger.

HISTORY

Adopted by Ord. [15-C](#) on 3/17/2015

10.05.110 Obstruction Of View Prohibited

Any tree, plant, shrub, sign, vehicle, fence or other obstacle of any kind that blocks the view of any traffic control device to the vision of oncoming motorists or to obscure the vision of oncoming traffic constitutes a traffic hazard and is a nuisance that may be abated. The City may remove traffic hazards nuisance or order the owner or occupant of the property where the traffic hazard is located to remove the traffic hazard within ten (10) days of the notification. Failure of an owner or occupant to remove the traffic hazard order to be removed by the City is a Class C misdemeanor, with a fine not to exceed \$500 per offense. In the alternative, a civil infraction, with a fine not to exceed \$500 per offense, may be issued.

HISTORY

Adopted by Ord. [15-C](#) on 3/17/2015

10.07 Vehicle Regulations

10.07.010 Interference With Control Of Vehicle Prohibited

No driver shall engage in any activity that interferes with the safe control and operation of his vehicle while the same is in motion. A violation of this Section is a class B misdemeanor, with a fine not to exceed \$500 per offense. In the alternative, a civil infraction, with a fine not to exceed \$500 per offense, may be issued.

HISTORY

Adopted by Ord. [15-C](#) on 3/17/2015

10.07.020 Negligent Collision

It is unlawful to operate a vehicle with such lack of due care as to cause the same to collide with any vehicle, person or object. A violation of this Section is a class B misdemeanor, with a fine not to exceed \$500 per offense. In the alternative, a civil infraction, with a fine not to exceed \$500 per offense, may be issued.

HISTORY

Adopted by Ord. [15-C](#) on 3/17/2015

10.07.030 Duty To Keep Proper Lookout

No person shall drive a vehicle on the streets of the City without keeping a reasonable and proper lookout for traffic. A violation of this Section is a class B misdemeanor, with a fine not to exceed \$500 per offense. In the alternative, a civil infraction, with a fine not to exceed \$500 per offense, may be issued.

HISTORY

Adopted by Ord. [15-C](#) on 3/17/2015

10.07.040 Noise Emanating From A Motor Vehicle

While operating, driving, or parking a motor vehicle it is unlawful for any unauthorized person to use or operate any stereo, radio, or other electronic device that create a noise in such manner that it disturbs peace, quiet, or create vibration for persons within the vicinity of said motor vehicle. It is a prima facie violation of this Section if sound emanating from the stereo, radio, or other electronic device in a motor vehicle is clearly audible from a distance of fifty (50) feet. A violation of this Section is a class B misdemeanor, with a fine not to exceed \$500 per offense. In the alternative, a civil infraction, with a fine not to exceed \$500 per offense, may be issued.

HISTORY

Adopted by Ord. [15-C](#) on 3/17/2015

10.11 Speed Limits

10.11.010 Establishing Speed Limits: Designation By Traffic Engineer

In accordance with Utah Code Annotated §41-6a-603, 1953, as amended, the Traffic Engineer is authorized to determine the reasonable and safe speed limit for each highway or section of highway under the City's jurisdiction as specified under Title 72, Chapter 3, Highway Jurisdiction and Classification Act. Any speed limit shall be established in accordance with the provisions of Utah Code Annotated §41-6a-602(1-3, 5).

HISTORY

Adopted by Ord. [15-C](#) on 3/17/2015

10.11.020 Reduced Speed School Zones

In accordance with Utah Code Annotated §41-6a-604, 1953, as amended, the Traffic Engineer is authorized to designate reduced speed school zones as defined in Utah Code Annotated §41-6a-303, 1953, as amended.

HISTORY

Adopted by Ord. [15-C](#) on 3/17/2015

10.13 Stopping, Parking, Trucks, And Other Regulations

10.13.010 Unauthorized Parking And Stopping Prohibited

It is unlawful for the owner or operator of a vehicle to park or stop said vehicle in violation of this chapter. The fact that an automobile is unlawfully parked is sufficient to constitute a rebuttable presumption that the registered owner was in control of the automobile at the time it was parked.

HISTORY

Adopted by Ord. [15-C](#) on 3/17/2015

10.13.020 Stopping And Parking Traffic Control Devices

The Traffic Engineer is hereby authorized to administer the placement and maintenance of all traffic control devices relating to stopping and parking. The Traffic Engineer is also authorized to designate parking and no parking areas. No traffic control device shall be placed or maintained by the City upon any highway under the jurisdiction of the Utah Department of Transportation.

HISTORY

Adopted by Ord. [15-C](#) on 3/17/2015

10.13.030 Curb Markings

The following are definitions regarding curb markings:

1. **Markings:** The Traffic Engineer is authorized to designate the appropriate curb markings, along with the other respective traffic control devices, to denote applicable stopping or parking regulations in the City. The traffic markings shall designate the appropriate zone and shall have the following meanings:
 - a. "Red" marking means no vehicle stopping or parking at any time.
 - b. "Yellow" marking which may include the stenciled words "Restricted Zone" means no vehicle stopping or parking, except as stated on the signs or markings giving notice thereof.
2. **Notice:** When appropriate signs or traffic curb markings have been erected or placed according to this section, no person shall stop or park a vehicle in any zone in violation of this section.

HISTORY

Adopted by Ord. [15-C](#) on 3/17/2015

10.13.040 Regulation Of Parking

1. **Generally.** The Traffic Engineer may, on placement of the traffic control device:
 - a. Prohibit or restrict the parking or loading of vehicles where, in his opinion, such parking or loading is dangerous to those using the road, highway, or where the parking of vehicles would unduly interfere with the free movement of traffic thereon.
 - b. Prohibit, restrict or regulate the parking or stopping of vehicles on any off-street parking facility or property that the City owns or operates.
2. **Brakes set.** When parking on a hill, slope, perceptible grade, or any location where a motor vehicle may roll it is unlawful for the driver to fail to turn the front wheels to the curb side of the street to and set the parking brake.
3. **Parallel parking.** It is unlawful for any driver to park a motor vehicle on any road or highway other than parallel with the edge of the roadway, headed in the direction of lawful traffic movement, with the right-hand wheels of the vehicle more than 18 inches away from the curb or edge of road, except where otherwise marked by a traffic control device.
4. **Disabled parking.** It is unlawful for any person to park in any stall or area designated for handicap or disabled parking, loading, or unloading.
5. **Disabled vehicles.** It is unlawful for any person to leave or cause to be left any disabled or inoperable vehicle on a jurisdictional road or highway for more than 48 hours. It is unlawful for any person to dismantle or disassemble any vehicle on any jurisdictional road or highway.
6. **Specific prohibition.** It is unlawful for any person to park in violation of Utah Code Annotated §41-6a-1401, 195, as amended, or in any manner that obstructs traffic.
7. **Public facilities.** Parking at any public facility or parking lot owned or operated by the City shall be as follows:
 - a. Parking is allowed only in designated stalls and as otherwise provided.
 - b. Double parking is prohibited.
 - c. No overnight parking is allowed without the consent of an authorized City official, except for City employees in the normal course of their employment.
8. **Penalty.** Any person in violation of this section is guilty of an infraction.

HISTORY

Adopted by Ord. [15-C](#) on 3/17/2015

10.13.050 Vehicles For Sale Or Used For Merchandise Sale

It is unlawful for the owner or operator of any vehicle to park a vehicle on a road or highway for the purpose of displaying it for sale. It is also unlawful for the owner or operator of any vehicle to park said vehicle on any road or highway for the purpose of advertising or for the selling of merchandise. Each vehicle parked in violation of this section constitutes a separate offense.

HISTORY

Adopted by Ord. [15-C](#) on 3/17/2015

10.13.060 Trucks And Trailers

10.13.060.1 Definitions

DIRECT ROUTE: The most feasible route from the closest unrestricted street consistent with the intent to limit the use of streets in the residential areas of Perry City by commercial, or other large vehicles, is the direct route.

HISTORY

Adopted by Ord. [19-K](#) on 1/9/2020

10.13.060.2 Regulation

No semi-truck tractor or semi-trailer or other truck, vehicle, or trailer with a rated capacity of more than 18,000 pounds gross vehicle weight rating shall be operated or parked on any street within a residential area or residential zoning district.

HISTORY

Adopted by Ord. [19-K](#) on 1/9/2020

10.13.060.3 Exceptions

The following are exceptions to 10.13.060.2:

1. Passenger buses under the jurisdiction of the Utah Transit Authority, and school buses carrying children to and from school, while training bus drivers, or while parked during school hours.
2. Vehicles owned by a public utility while necessarily in use in the construction, installation, or repair of any public utility.
3. Garbage trucks when engaged in the collection and/or transportation of garbage.
4. Commercial vehicles coming from an unrestricted street having ingress and egress by direct route to and from a restricted street when necessary for the purpose of making pickups or deliveries of goods, wares, or merchandise from or to any building or residence located in a restricted area.
5. Commercial vehicles coming from an unrestricted street having ingress and egress by direct route to and from a restricted street for the purpose of delivering materials to be used in the actual and bona fide repair, alteration, remodel, or construction of any building or property upon the restricted street for which a building permit (when applicable) has previously been obtained from Perry City.
6. Commercial vehicles traversing a direct route between Highway 89 and an approved gravel pit.
7. Any vehicle while being used expressly for agricultural purposes.

HISTORY

Adopted by Ord. [19-K](#) on 1/9/2020

10.13.070 Parking Limit

No trailer, recreational vehicle, or similar item shall be parked, stored, or abandoned on a City street or within a public right of way for more than 72 consecutive hours.

HISTORY

Adopted by Ord. [19-K](#) on 1/9/2020

10.13.080 Removal And Impound Procedures For Illegally Parked Or Abandoned Vehicles

Whenever any law enforcement officer finds a vehicle stopped or parked upon a road or highway in violation of this title, the officer is authorized to move the vehicle or require the driver or other person in charge of said vehicle to move it to a position not in violation of this title, or remove and impound the vehicle.

HISTORY

Adopted by Ord. [15-C](#) on 3/17/2015

Adopted by Ord. [19-K](#) on 1/9/2020

10.13.090 Penalty

The amounts set forth in the Uniform Fine Schedule adopted by the Administrative Office of the Court of the State of Utah is hereby adopted by this reference for all applicable fines. Any violation under this Title that is not specified in the Uniform Fine Schedule adopted by the Administrative Office of the Court of the State of Utah is an infraction with a fine not to exceed \$750.00. Any parking violation is an infraction with a fine of \$50.00 for non-commercial vehicles, and \$100.00 for commercial vehicles.

HISTORY

Adopted by Ord. [19-K](#) on 1/9/2020

Amended by Ord. [22-N](#) on 9/22/2022

10.15 Obstructions On The Public Right-Of-Way

10.15.010 Obstruction Of Road Or Highway Is A Public Nuisance

In accordance with Utah Code Annotated §76-10-803, 1953, as amended, any action or object that obstructs, or tends to obstruct, or renders dangerous any road, highway, or public right-of-way is hereby declared a public nuisance and may be abated accordingly. Any person who maintains or commits any public nuisance, the punishment for which is not otherwise prescribed, or who willfully omits to perform any legal duty relating to the removal of a public nuisance, is guilty of a class B misdemeanor.

HISTORY

Adopted by Ord. [15-C](#) on 3/17/2015

10.15.020 Roadside Box Standards

Purpose. The purpose of this section is to establish a policy for roadside boxes along roads, highways, and right-of-ways in the City.

1. **Installation.** A roadside box shall be constructed and installed in conformance with current standard regulations of the Department of Transportation and the U.S. Postal Service.
2. **Prohibition.** It is unlawful for the owner of any roadside box to install the roadside box in violation of this section or in a manner that endangers the public, obstructs traffic, or unduly encroaches on the public-right-of-way. Existing roadside boxes in violation of this section shall be removed and altered by the owner, at owner's expense, to conform to this section.
3. **Liability.** The owner of any box in violation of this section is liable for any damage, civil or criminal, for said violation.
4. **Penalty.** A violation of this section is an infraction.

HISTORY

Adopted by Ord. [15-C](#) on 3/17/2015

10.15.030 Liability For Repair Of Sidewalk

Whenever a sidewalk is out of repair by reason of the act or omission of any person, the same shall be repaired at his expense under the direction of the Superintendent of Streets and Sidewalks.

HISTORY

Adopted by Ord. [15-C](#) on 3/17/2015

10.15.040 Defects To Be Reported And Repaired

All defects in public streets coming to the knowledge of any officer or person in the employ of the City shall be by him at once communicated to the Superintendent of Streets and Sidewalks and he or some competent person detailed by him shall, without delay, repair or cause such defect to be immediately repaired. Until such repair is completed, he shall do whatever shall be necessary to protect the public from injury by reason of the defect.

HISTORY

Adopted by Ord. [15-C](#) on 3/17/2015

10.15.050 Building Material In Street

It shall be unlawful for any person to occupy or use any portion of the public street for the erection or repair of any building upon and abutting thereon, without first making application to and receiving from the City Council a permit for the occupation or use, for building purposes, of such portions of streets and for such periods of time and under such limitations and restrictions as may be required by the City Council; provided that no permit shall be granted to occupy more than fifteen feet of any street, measured from the curb line, and any such permit may be revoked by the City Council at any time when the holder thereof fails to comply with any rule or regulation under which it is granted or when in the opinion of the City Council, the public good requires such revocation.

HISTORY

Adopted by Ord. [15-C](#) on 3/17/2015

10.15.060 Obstructions Generally

It shall be unlawful for any person to put or place or cause to be put or placed anywhere upon a public street, sidewalk, or public right of way:

1. Any broken ware, glass, filth, rubbish or refuse matter, on the half of the street next to such premises;
2. Any wagons, old automobiles, lumber, wood, boxes, fencing, building material, merchandise or other things which shall obstruct such public streets, sidewalks, public right of way, or any part thereof, or the free use and enjoyment thereof, or the free passage over and upon the same, or any part thereof, without the permission of the City Council;
3. Any goods, wares, or merchandise, for sale or show or otherwise, beyond three feet of the front line of the lot where such goods, wares or merchandise may be exposed.
4. It shall be unlawful to:
 - a. place, pile, cause, or permit to be placed or piled any sand, gravel, lime, cement, mortar, plaster, concrete, or any other like substance or mixture.
 - b. to allow the same to remain on any portion of any paved street or sidewalk in the City.
 - c. Make, mix, cause, or permit to be made or mixed any mortar, plaster, concrete or any like substance or mixture on any portion of any paved street or sidewalk in the City without first obtaining a permit from the Superintendent of Streets and Sidewalks.

No person receiving or delivering goods, wares or merchandise in the City shall place or keep upon, or sue for to be placed or kept upon, any public street, sidewalk, or public right of way in the City any goods, wares or merchandise which he may be receiving or delivering, for a longer period than two hours.

HISTORY

Adopted by Ord. [15-C](#) on 3/17/2015

Amended by Ord. [20-W Obstructions](#) on 11/12/2020

10.15.070 Sales Attracting Crowds On A Sidewalk

It shall be unlawful for any merchant, auctioneer or other individual to sell or exhibit for sale any kind of property on or near to any street so as to cause people to gather in crowds on the sidewalk or to obstruct free passage thereon.

HISTORY

Adopted by Ord. [15-C](#) on 3/17/2015

10.15.080 Playing On Sidewalk Or In Street: No Driving On Sidewalk

It shall be unlawful for any person to obstruct any sidewalk or street by games of any kind, playing ball, marbles, jumping, rolling hoops, flying kites or roller skating, so as to annoy or obstruct the free travel of any pedestrian or vehicle. It shall be unlawful for any person to drive or operate any vehicle or load, ride, or drive any animal upon any sidewalk in the City.

HISTORY

Adopted by Ord. [15-C](#) on 3/17/2015

10.15.100 Coasting On Street

It shall be unlawful for any person to coast or slide with any sled, sleigh, toboggan or vehicle upon any public street, avenue, sidewalk or alley within the City; provided that the City Council, by public notice or proclamation, may authorize the use of certain streets for coasting during the winter season. During the period for which such notice or proclamation shall be issued, coasting and sliding upon such streets as may be designated by the proclamation or notice shall be permissible.

HISTORY

Adopted by Ord. [15-C](#) on 3/17/2015

10.15.110 Gates To Swing Inward

It shall be unlawful for any person to allow or cause any gate to open outward and upon the sidewalk.

HISTORY

Adopted by Ord. [15-C](#) on 3/17/2015

10.15.120 Billboards

It shall be unlawful for any person to erect and maintain any billboard for advertising purposes on, in or along any street in the City without first obtaining a permit therefore from the City.

HISTORY

Adopted by Ord. [15-C](#) on 3/17/2015

Amended by Ord. [18-F](#) on 3/28/2019

10.15.130 Irrigation Water

All owners or occupants of lots in the City requiring water from a main ditch for irrigation or other purposes are hereby required to dig suitable ditches, erect flumes or lay pipes and maintain the same to convey the water across the sidewalk to or from their respective lots. It shall be unlawful for any person to allow or cause any irrigation water to overflow or be directed upon the street or the public right-of-way where it causes any damage.

HISTORY

Adopted by Ord. [15-C](#) on 3/17/2015

10.15.140 Leaving Railroad Cars In Street

It shall be unlawful for any person to cause to be left standing or allow any boxcar or other railroad vehicle to remain on switches or other tracks, other than main lines, laid in the streets of the City; provided that boxcars may be left so standing while a switch engine or other power unit is in the immediate vicinity and in the process of switching other cars at such location.

HISTORY

Adopted by Ord. [15-C](#) on 3/17/2015

10.15.150 Public Parade Regulations

The following shall apply to public property adjoining parade routes and staging areas for parades and it shall be unlawful for any person to violate these provisions:

1. No person shall place, erect, use or employ any tent or other enclosed shelters, including vehicles and trailers, on public property along a parade route or staging areas at any time.
2. No person shall obstruct public sidewalks, paved portions of streets, or occupy any unsafe position or occupy a position which may cause damage to public or private property.

3. From and after 8:00 p.m. of the day before a parade and continuing until the conclusion of the parade, no person shall park a motor vehicle, trailer or tent trailer on the streets designated as the parade route. Only motor vehicles and trailers which are parade entries or parts thereof are allowed to be in the areas designated as staging areas. Any vehicle, motor vehicle, trailer or tent trailer parked in violation of this section is a public nuisance and may be towed from the prohibited area at the owner's expense.
4. The Mayor may authorize the City to reserve places for the observation of the parade and to erect and control seating on reserved public property.

HISTORY

Adopted by Ord. [15-C](#) on 3/17/2015

10.15.160 Dropping, Sifting, And/Or Leaking Loads

It shall be unlawful for any person to drive a vehicle or move the same upon any street within the City unless the vehicle is so constructed or loaded as to prevent its contents from dropping, sifting, leaking or otherwise escaping there-from. There shall at all times be a minimum of three inches between the top of the contents and the top of the sideboards and end gate of the vehicle.

HISTORY

Adopted by Ord. [15-C](#) on 3/17/2015

10.17 Snow Removal

10.17.010 Snow Removal From City Right-Of-Way

The City shall be responsible for snow removal on jurisdictional roads and highways. Snow may be pushed by the City off the travel-ways into the roadside drainage ditch channels or burrow areas in rural areas and toward the curb and gutter and onto the parking strip as far as possible in urban areas. Snow removal by the City may take place according to an operation plan which affords priority relatively as follows: major arterial road, medium collector roads, and then to residential roads. Additionally, higher priorities may be afforded to public facilities and areas with heavy user access.

HISTORY

Adopted by Ord. [15-C](#) on 3/17/2015

10.17.020 Snow Removal From Sidewalks And Private Driveways

The following regarding snow removal from sidewalks and private driveways:

1. It shall be unlawful for any person or entity owning, having charge or control of or occupying any real estate abutting on any street within the City to fail, refuse or neglect to remove all weeds and noxious vegetation from the curb line to the inside line of public sidewalks and further, to keep the sidewalk in front of such property free from litter, snow, ice and obstructions (see PMC 10.09).
2. The violation of the foregoing shall constitute a Class B Misdemeanor. Additionally, should the City choose to remove the weeds, vegetation, letter, snow, ice or obstructions, the real property owner shall be indebted to the City for the reasonable cost of such removal. In the event legal action is commenced to obtain reimbursement for said costs, the abutting property owner shall also pay all legal expenses incurred by the City in obtaining judgment for such costs.

HISTORY

Adopted by Ord. [15-C](#) on 3/17/2015

10.17.030 Parking Vehicles On Streets After Snowstorms

The following regarding parking:

1. No person shall park or allow to be parked a motor vehicle, trailer, camper, or any other obstruction on any street in Perry City at any time during a period of forty-eight (48) hours immediately following any snowfall on the streets of Perry City, especially when such parking would interfere with the City's efforts to remove snow or to conduct any other public works activity. In the event of sequential snowstorm activity, the time period will commence at the first snowfall and end forty-eight (48) hours after the conclusion of the latter storm. Any motor vehicle, camper, trailer or other object parked in violation of this requirement shall be presumed to be so parked by the owner unless the registered owner by competent evidence shows that the vehicle was so parked by some other individual and without the owner's permission or knowledge. Garbage cans shall be removed from City streets as soon as possible, to assist with snow removal.
2. Police officers are authorized to issue citations to individuals violating the foregoing paragraph. In the event of an apparent repeat offender or if the vehicle or object creates a serious maintenance or safety problem, then the vehicle, trailer, camper or other object may be impounded. The owner shall be responsible for all costs of towing, storage and any other incidental expenses incurred as a result of said impoundment.
3. A violation of this Section shall be considered to be a public nuisance. A person convicted of a violation of this Section is guilty of an infraction and shall be fined not more than \$500 per offense. In the alternative, a civil infraction, with a fine not to exceed \$500 per offense, may be issued.
4. It shall be a defense to any prosecution hereunder if the defendant can show that the vehicle for which the citation was issued was parked in front of the individual's residence and that the individual is a tenant, rather than an owner of the residence, and that the rental property has no off-street parking for the tenant and constitutes a nonconforming use which existed prior to the enactment of the City zoning ordinances.

HISTORY

Adopted by Ord. [15-C](#) on 3/17/2015

10.19 Encroachments

10.19.010 Notice To Remove: By Whom Given

If any street is encroached upon by a fence or building or otherwise, the Superintendent of Streets and Sidewalks shall, in writing, require the encroachments to be removed.

HISTORY

Adopted by Ord. [15-C](#) on 3/17/2015

10.19.020 Notice To Remove: To Whom Given, Posting, And Contents

Notice must be given to the occupant or owner of the land or person causing or owning the encroachments or be left at his place of residence, if he resides in the City; if not, it must be posted on the encroachment, specifying the breadth of the street, the place and extent of the encroachment and requiring the removal thereof within ten days thereafter.

HISTORY

Adopted by Ord. [15-C](#) on 3/17/2015

10.19.030 Failure To Remove After Notice: Removal By Superintendent Of Streets And Sidewalks

It shall be unlawful to leave, or cause to be left, any encroachment upon the streets of the City after the expiration of ten days from the service or posting of a notice to remove such encroachment. If the encroachment is such as to effectually obstruct and prevent the use of the highway for vehicles, the Superintendent of Streets and Sidewalks shall forthwith remove the same. If the encroachment is not denied but is not removed for five days after the notice is complete, the Superintendent of Streets and Sidewalks shall cause such encroachment to be removed at the expense of the owner, occupant or person controlling the same and recover his costs and expenses in an action for that purpose.

HISTORY

Adopted by Ord. [15-C](#) on 3/17/2015

10.19.040 Action To Abate

If the encroachment is denied and the owner, occupant or person controlling the matter or thing charged with being an encroachment refuses either to remove or permit the removal thereof, the City Council may direct the City Attorney to commence in the proper court an action to abate same as a nuisance, or may direct the Community Development Director or other official(s) to take other appropriate action allowed by law.

HISTORY

Adopted by Ord. [15-C](#) on 3/17/2015

10.21 Pedestrians

10.21.010 Responsibility Of Driver To Exercise Caution

Notwithstanding the provisions of this title, every driver of a vehicle shall exercise due care to avoid colliding with any pedestrian upon any roadway and shall give warning by sounding the horn when necessary and shall exercise proper precaution upon observing any child or any incapacitated person upon a roadway.

HISTORY

Adopted by Ord. [15-C](#) on 3/17/2015

10.21.020 Pedestrian Has Right-Of-Way At Crosswalk

The following regarding a pedestrian right-of-way:

1. **Vehicle to yield:** When traffic control signals are not in place or not in operation, the driver of a vehicle shall yield the right-of-way, slowing down or stopping if necessary, to a pedestrian crossing the roadway within the crosswalk when the pedestrian is upon the half of the roadway upon which the vehicle is traveling, or when the pedestrian is approaching so closely from the opposite half of the roadway as to be in danger.
 - a. A pedestrian shall not suddenly leave a curb or other place of safety and walk or run into the path of a vehicle that is so close that it is impossible for the driver to yield.
 - b. This section does not apply where the pedestrian is crossing at a place other than a crosswalk.
2. **No passing:** Whenever any vehicle is stopped at a marked crosswalk or at any unmarked crosswalk at an intersection to permit a pedestrian to cross the roadway, the driver of any other vehicle approaching from the rear shall not overtake and pass the stopped vehicle on either side.

HISTORY

Adopted by Ord. [15-C](#) on 3/17/2015

10.21.030 Pedestrian To Yield Of Right-Of-Way

The following regarding pedestrians yielding the right-of-way:

1. **No crosswalk.** Every pedestrian crossing a roadway at any point, other than within a marked crosswalk or within an unmarked crosswalk or at an intersection, shall do so only if:
 - a. No crosswalk exists within 350 feet of the desired point of crossing; and,
 - b. When crossing, the pedestrian shall yield the right-of-way to all vehicles upon the roadway.
2. **Tunnel or overhead crossing.** Any pedestrian crossing a roadway at a point where a pedestrian tunnel or overhead pedestrian crossing has been provided shall yield the right-of-way to all vehicles upon the roadway.
3. **Marked crossing.** Between adjacent intersections at which traffic control signals are in operation, pedestrians shall not cross at any place except in a marked crosswalk.

HISTORY

Adopted by Ord. [15-C](#) on 3/17/2015

10.21.040 Pedestrian Limited Access Area

The traffic engineer is authorized to restrict or prohibit pedestrian traffic in designated areas where public safety necessitates. In such designated areas, no unauthorized pedestrian may trespass. A violation of this Section shall constitute a Class "C" misdemeanor, with a fine not to exceed \$500 per offense. In the alternative, a civil infraction, with a fine not to exceed \$500 per offense, may be issued.

HISTORY

Adopted by Ord. [15-C](#) on 3/17/2015

10.23 Rule-Making, Enforcement, Penalties, And Applicability To Other Ordinances

10.23.010 Pedestrian Limited Access Area Traffic Engineer Rules And Regulations

The Traffic Engineer is hereby authorized to create and administer rules, regulations, and any policies and procedures to effect the administration of this title.

HISTORY

Adopted by Ord. [15-C](#) on 3/17/2015

10.23.020 Police Chief Rules And Regulations

The Police Chief is hereby authorized to create and administer rules, regulations, and any policies and procedures to effect the administration of this title.

HISTORY

Adopted by Ord. [15-C](#) on 3/17/2015

10.23.030 Enforcement

The police department is charged with the enforcement of this title. The police department, by its officers, shall issue citations or warnings for violations, make arrests for violations, investigate accidents, conduct studies, create reports, impose a reasonable fee for documents as set by rule, follow applicable policies and procedures, keep records and documents, make recommendation, and cooperate with other City official in the administration of this title in order to improve traffic safety.

HISTORY

Adopted by Ord. [15-C](#) on 3/17/2015

10.23.040 Violation And Penalties

The penalty for any violation of this title not specifically stated herein shall be set as defined by the Utah Criminal and Traffic Code. The penalty for any violation of this title not otherwise stated is a class B misdemeanor, with a fine not to exceed \$500 per offense. In the alternative, a civil infraction, with a fine not to exceed \$500 per offense, may be issued. Each violation of this title or each day of continuing violations under this title constitutes a separate offense.

HISTORY

Adopted by Ord. [15-C](#) on 3/17/2015

10.23.050 Applicability Of Other Ordinances

See also PMC 15.19, Streets, Trees, Parkways, and Parking.

HISTORY

Adopted by Ord. [15-C](#) on 3/17/2015

11 Buildings Codes And Standards

11.02 Administration

11.02.010 Purpose

The purpose of this Title is to adopt the applicable codes and regulations for buildings and fire, subject to state and local amendments or as provided herein.

HISTORY

Adopted by Ord. [15-C](#) on 3/17/2015

Repealed & Reenacted by Ord. [19-G](#) on 10/10/2019

11.02.020 Permit Required

A building permit or other permit as referenced in this Title or the codes adopted herein is required as specified in the applicable code or this Title.

HISTORY

Repealed & Reenacted by Ord. [19-G](#) on 10/10/2019

11.02.030 Reference

All references in any code adopted by this Title are the same references made part of the municipal code to the same extent and effect as if such code is fully set forth herein subject to any additions, deletions, or changes provided in this Title.

HISTORY

Repealed & Reenacted by Ord. [19-G](#) on 10/10/2019

11.02.040 Surcharge

There is hereby imposed a one-percent (1%) surcharge on all building permits issued by the City. Each quarter or as otherwise required by state law, the City shall file a report of all surcharges which have been collected on building permits and remit eighty percent (80%) of that total surcharge to the applicable state agency as required by state law.

HISTORY

Repealed & Reenacted by Ord. [19-G](#) on 10/10/2019

11.02.050 Fees

1. **Building Permit Fees.** The building permit fee for all building permits regardless of classification or type shall be in accordance with Appendix L set forth in the most current version of the International Residential Code.
2. **Plan Check Fees.** A plan check fee is hereby imposed on all building permit equal to Sixty-five percent (65%) of the amount for a building permit for the building.
3. **Plan Change Fee.** When a plan is changed or modified at any point after approval a change fee is assessed in the amount of five-percent (5%) of the total building permit fee.
4. **Other Fees.** The building official may assess other fees and charges for other services provided for which fees are not indicated not to exceed the actual cost of the service provided.
5. **Deposit.** A building permit for a new primary Structure(s) (residential single family, residential attached unit, commercial Structure, etc.) shall be accompanied by a deposit in the amount outlined in the City's Comprehensive Fee Schedule. The City may retain all or a portion of this deposit to replace Sidewalk damaged while the permit was open. This deposit may be released when yard landscaping is complete or one year after a Certificate of Occupancy has been issued. This deposit requirement may be waived by the Building Official if a deferral agreement has been issued for Sidewalk or the permit is issued on an existing Parcel without sidewalk and the installation of sidewalk is not a requirement for development.

HISTORY

Repealed & Reenacted by Ord. [19-G](#) on 10/10/2019

Amended by Ord. [20-G Subdivisions](#) on 4/23/2020

11.02.060 Appeals

Any affected person disputing a final determination, enforcement action, or interpretation by the City of any code adopted by this Title shall have a right of appeal to the City's administrative hearing officer. All appeals are governed in accordance with the municipal code. The administrative hearing officer shall have not authority to hear appeals regarding the administrative provisions of any Code, nor waive any code requirements.

HISTORY

Repealed & Reenacted by Ord. [19-G](#) on 10/10/2019

11.02.070 Enforcement And Penalties

1. **Enforcement.** In accordance with to Utah Code Annotated §10-9-1002, 1953 as amended, any enforcement official has the authority to institute an enforcement action for a violation of this Title, and specifically:
 - a. **Permits and Licenses.** All All departments and enforcement officials vested with authority to issue permits or licenses shall conform to the provisions of this Title. No permit or license shall be issued for any uses, building, or other purposes where a violation exists. Any permit issued in violation shall be null and void. Any violation after a permit is issued and during construction may be revoked.
 - b. **Building Official.** The Building Official shall not issue any permit unless the plans of and for the proposed erection, construction, reconstruction, alteration, and use fully conform to this Title.
2. **Penalties.** In accordance with Utah Code Annotated §10-9-1003, 1953 as amended, the City imposes the following penalties for a violation of this Title:
 - a. **Civil Penalty.** In addition to other remedies as authorized by law, any person, firm, or corporation (as principal, agent, employee, or otherwise) violating or permitting the violation of this Title shall pay a civil fine not to exceed \$1,000.00, per violation, per day, that a violation continues in addition to reasonable attorney's fees and costs incurred by the enforcement agency or City.
 - b. **Misdemeanor.** Any person, firm, or corporation (as principal, agent, employee, or otherwise) violating any code or who fails to comply with this Title shall be guilty of a class B misdemeanor, per violation, per day. Upon conviction, each violation is punishable by a fine not to exceed \$1000.00, and/ or imprisonment not exceeding 180 days.

HISTORY

Repealed & Reenacted by Ord. [19-G](#) on 10/10/2019

11.04 International Building Codes

11.04.010 Adoption

In accordance with Title 15A of the Utah Code Annotated and R156-56, the City hereby adopts the following Codes by this reference and incorporates the same herein to govern all construction performed in the City:

1. The most current Edition of the International Building Code (IBC), as promulgated by International Code Council as adopted by the Utah Uniform Building Code Commission (Commission) as modified by amendments adopted under state law together with standards incorporated into the IBC by reference.
2. The most current edition of the International Energy Conservation Code (IECC), as promulgated by International Code Council as adopted by the Commission, as modified by amendments adopted under state law together with standards incorporated into the IECC by reference.
3. The most current version of the International Residential Code (IRC), all promulgated by International Code Council as adopted by the Commission as modified by amendments adopted under state law together with standards incorporated into the IRC by reference.
4. The most current version of the National Electrical Code (NEC), as promulgated by National Fire Protection Association as adopted by the Commission as modified by amendments adopted under state law together with standards incorporated into the NEC by reference.
5. The most current edition of the International Plumbing Code (IPC), as promulgated by International Code Council as adopted by the Commission as modified by amendments adopted under state law together with standards incorporated into the IPC by reference.

6. The most current edition of the International Mechanical Code (IMC), as promulgated by International Code Council as adopted by the Commission as modified by amendments adopted under state law together with standards incorporated into the IMC by reference.
7. The most current edition of the International Fuel Gas Code (IFGC), as promulgated by International Code Council as adopted by the Commission as modified by amendments adopted under state law together with standards incorporated into the IFGC by reference.

HISTORY

Adopted by Ord. [15-C](#) on 3/17/2015

Repealed & Reenacted by Ord. [19-G](#) on 10/10/2019

11.04.020 Amendments

1. **IBC Amendments.** The IBC adopted in this Chapter is amended by the state-wide amendments contained in Title 15A of the Utah Code Annotated, and all such amendments are hereby incorporated by this reference.
2. **NEC Amendments.** The NEC adopted in Chapter is amended by the state-wide amendments contained in Title 15A of the Utah Code Annotated, and all such amendments are hereby incorporated by this reference.
3. **IPC Amendments.** The IPC adopted in Chapter is amended by the state-wide amendments contained in Title 15A of the Utah Code Annotated, and all such amendments are hereby incorporated by this reference.
4. **IMC Amendments.** The IMC adopted in Chapter is amended by the state-wide amendments contained in Title 15A of the Utah Code Annotated, and all such amendments are hereby incorporated by this reference.

HISTORY

Adopted by Ord. [15-C](#) on 3/17/2015

Repealed & Reenacted by Ord. [19-G](#) on 10/10/2019

11.04.030 Updates

The Codes adopted by this Chapter shall be automatically replaced and updated whenever the Division of Occupational and Professional Licensing or the Uniform Building Code Commission adopts a new Code or an updated version of an adopted Code pursuant to the authority granted to such in Title 15A of the Utah Code Annotated, as amended, or any successor statute. The municipal code shall automatically be update to include all amendments adopted by the State of Utah immediately upon adoption of any amendments under the Utah Code Annotated or by state administrative rule.

HISTORY

Adopted by Ord. [15-C](#) on 3/17/2015

Repealed & Reenacted by Ord. [19-G](#) on 10/10/2019

11.04.040 Availability

The City Recorder shall keep a copy of the Codes adopted in this Title in accordance with Utah Code Annotated § 10-3-711(2). Codes shall be available for use and examination by the public during regular business hours. Copies of any codes shall be available to the public upon the payment of reasonable fees.

HISTORY

Adopted by Ord. [15-C](#) on 3/17/2015

Repealed & Reenacted by Ord. [19-G](#) on 10/10/2019

11.04.050 Exemptions

All structures relating to agricultural uses as set forth in Utah Code Annotated §15A-1-204, as amended are exempt from the permit requirements of the IBC. Construction, expansion, maintenance, repair or replacement of any such agricultural buildings is still subject to the requirements of the municipal code, unless specifically stated as exempt.

HISTORY

Adopted by Ord. [15-C](#) on 3/17/2015

Repealed & Reenacted by Ord. [19-G](#) on 10/10/2019

11.06 International Fire Code

11.06.010 Adoption

In accordance with Utah Code Annotated §10-3-711, the City hereby adopts and incorporates herein by this reference the most current edition of the International Fire Code, as adopted by the State of Utah as published by the International Code Council, Inc., including all appendices.

HISTORY

Adopted by Ord. [15-C](#) on 3/17/2015

Repealed & Reenacted by Ord. [19-G](#) on 10/10/2019

11.06.020 Amendments

Any amendment, addition, deletion, or revision to the Code adopted by Brigham City Fire Department are hereby adopted and incorporated herein by this reference.

HISTORY

Adopted by Ord. [15-C](#) on 3/17/2015

Repealed & Reenacted by Ord. [19-G](#) on 10/10/2019

11.06.030 Administration

Brigham City Fire Department shall administer this Chapter and shall enforce the same.

HISTORY

Adopted by Ord. [15-C](#) on 3/17/2015

Repealed & Reenacted by Ord. [19-G](#) on 10/10/2019

11.08 Abatement Of Dangerous Buildings Or Premises

11.08.010 Adoption, Conflict, Scope

In accordance with Utah Code Annotated §10-3-711, the City hereby adopts and incorporates herein by this reference the most current edition of the Uniform Code for the Abatement of Dangerous Buildings. In the event that there is a conflict of law between the Uniform Code for the Abatement of Dangerous Buildings and this Chapter, then this Chapter shall govern. This Chapter applies to all vacant buildings, structures, and any other premises deemed a nuisance within the City.

HISTORY

Adopted by Ord. [15-C](#) on 3/17/2015

Repealed & Reenacted by Ord. [19-G](#) on 10/10/2019

11.08.020 Purpose And Intent

It is the purpose and intent of this Chapter to protect the public health, safety, and welfare by establishing a registration process for vacant buildings and nuisance premises by requiring responsible parties to implement a vacant building plan for such buildings or to remedy any public nuisance, prevent deterioration, unsightly blight and consequent adverse impact on the value of nearby property, and to establish minimum maintenance standards for vacant buildings. To such ends, it is the specific purpose and intent of this Chapter:

1. To provide a procedure for rendering a premise "closed for occupancy," boarding of a vacant building, or abatement of certain nuisance premises.
2. To provide alternative procedures for the abatement of dangerous buildings, which if adequately secured and maintained against entry in accordance with the requirements of this article, will not constitute an immediate danger to the life, limb, health, property or safety of the public.
3. To prevent vacant building from becoming a public nuisance.
4. To improve the aesthetic appearance of vacant buildings in order to protect surrounding properties.

HISTORY

Adopted by Ord. [15-C](#) on 3/17/2015

Repealed & Reenacted by Ord. [19-G](#) on 10/10/2019

11.08.030 Definitions

1. **BOARDED BUILDINGS:** A building in which all or some of the utilities have been disconnected and the windows and doors are boarded against entry at the ground and second level (if a second level exists). Entry doors may be locked or boarded and windows adjacent to entry doors are boarded against entry.
2. **BOARDING or BOARD:** The secured covering of opening to a building or structure to prevent entrance pursuant to the provisions and standards of this article due to the non-occupancy of the building or structure.
3. **CLOSED TO OCCUPANCY:** A building in which no person may eat, sleep, live or otherwise reside or occupy the building or any portion thereof. Buildings closed to occupancy may only be entered by the owner, owner's agent or other authorized persons to do repair work.
4. **DETERIORATE:** any building, structure, or premise that is in violation of the Uniform Code for the Abatement of Dangerous Buildings or any applicable nuisance regulation. Specifically, deteriorate refers to a condition within or upon any building, structure, or premise where there is inadequate maintenance, blight, deterioration, dilapidation, decay, damage, faulty construction or arrangement, chemical residues, inadequate light, air, or sanitation facilities, or otherwise, as determined by the health department, building official, fire marshal, or a code enforcement official so much so that the condition renders the building, structure, or premise to be unsafe for human habitation, use, or occupancy.
5. **NUISANCE PREMISE:** Means and is hereby declared to be any premises described in Utah Code Annotated §10-8-67, including but not limited to: offensive, unwholesome business or establishment in and within one mile of the limits of the corporation, pigsty, privy, barn, corral, sewer or other unwholesome or nauseous house or place.
6. **OWNER OF RECORD:** the name and address of the person, individuals, or corporation indicated on the records of the County Recorder for a subject parcel.

HISTORY

Adopted by Ord. [15-C](#) on 3/17/2015

Repealed & Reenacted by Ord. [19-G](#) on 10/10/2019

11.08.040 Registration Required

A building which has been vacant for more than six (6) months is required to be registered with the City's building official. The registration shall include the owner's name, address, email, and phone number.

HISTORY

Adopted by Ord. [15-C](#) on 3/17/2015

Repealed & Reenacted by Ord. [19-G](#) on 10/10/2019

11.08.050 Maintenance And Security

1. **Maintenance.** Vacant buildings shall be maintained with appropriate exterior coverings and treatments to prevent excessive weathering, decay, damage, or deterioration.
 - a. Wood, metal, paint, stains, and/or related materials shall not be allowed to deteriorate such that any such materials are unprotected and exposed to the weather, unless originally designed to withstand weather naturally.

- b. Any signs or items attached to the exterior of the building shall be removed, or properly secured and maintained to prevent a dilapidated appearance.
- 2. **Security.** Vacant buildings shall be secured against entry from anyone who has not expressly been given access.
 - a. All broken windows and doors shall be replaced with new windows and doors, or secured by boarding. Plexiglas, acrylic sheets, or other transparent items may be used in place of glass provided they are of sufficient thickness and properly secured to the building to prevent entry.
 - b. All open windows, doors, and other openings are to be boarded with screws or nails every six (6) inches, or secured as provided in the applicable building code.
- 3. **Occupancy Closed.** Vacant buildings or nuisance premises may be "Closed to Occupancy" by the health department, building official, fire marshal, or code enforcement. Such a building or premise "Closed to Occupancy" shall not be occupied until a proper repair, mitigation, and inspection has occurred and occupancy has been granted by the applicable agency.
- 4. **Conditions.** The owner or agent of a vacant building or potential nuisance premise shall not allow the premise to deteriorate.
 - a. All regular maintenance of protective ground cover and other vegetation must continue despite the vacant nature of the home.
 - b. All roofing and exterior surfaces shall be replaced when worn or damaged.
 - c. All openings, such as windows and door, shall be boarded as provided in this Chapter.
 - d. Nuisance conditions on the premises shall be mitigated as directed by the building official or applicable agency.
- 5. **Exemptions.** This Chapter does not apply to bona fide agriculture structures that are in operation.

HISTORY

Repealed & Reenacted by Ord. [19-G](#) on 10/10/2019

11.08.060 Utility Disconnection

No building or structure shall be demolished until all utilities have been properly disconnected. Buildings and structures which remain vacant for longer than two (2) years shall be disconnect from water and gas services to prevent damage to the property and adjoining properties, and prevent the wasting of resources in the event of a leak. Electricity may remain connected to a vacant for security purposes where there such is not a fire hazard.

HISTORY

Repealed & Reenacted by Ord. [19-G](#) on 10/10/2019

11.08.070 Abatement

All buildings, structures, or nuisance premises, or portions thereof, which are determined after inspection by the building official to be dangerous, are hereby declared to be public nuisances and shall be abated by repair, rehabilitation, demolition, or removal.

- 1. **Inspection.** When the building official has inspected or caused to be inspected any building, and has found and determined that such building is a dangerous building, the building official shall commence proceedings to cause the repair, rehabilitation, or demolition of the building.
- 2. **Notice.** The building official shall issue a notice and order directed to the record owner of the building, structure, or premise in accordance with Utah Code Annotated §10-11-1, et. seq.
- 3. **Other Remedies.** Nothing in this Chapter shall limit other remedies for nuisance abatement that may be provided at law or equity, including injunctive or extraordinary relief.

HISTORY

Repealed & Reenacted by Ord. [19-G](#) on 10/10/2019

11.08.080 Failure To Maintain

- 1. **Notice.** If the building official determines that a vacant building, structure, or nuisance premise is not being maintained in accordance with this Chapter, either in whole or in part, the building official shall send a notice to the Owner of Record in accordance with Utah Code Annotated §10-11-1, et. seq. If the Record of Owner fails to comply with the notice herein, the building official may cause the building or premise to be brought into compliance at the expense of the Owner of Record as follows.

- a. Retaining the services of a contractor to bring the building, structure, or premise into compliance;
 - b. Abatement;
 - c. Removal;
 - d. Demolition; and/or
 - e. Any other action to bring the building, structure, or premise into compliance.
2. **Registration.** Notice may be issued whether or not a vacant building, structure, or premise is registered with the City, and may be sent in conjunction with a notice to register the building as provided in this Chapter.
3. **Cost Recovery.** If the building official causes maintenance work to be done under this Chapter, the City shall charge the property owner:
- a. Reimbursement of the actual costs of the time incurred by each City staff member involved with the enforcement of this Chapter.
 - b. The actual costs of eliminating or mitigating the nuisance condition.
 - c. The costs shall be collected as provided in Utah Code Annotated §10-11-1, et. seq.

HISTORY

Repealed & Reenacted by Ord. [19-G](#) on 10/10/2019

11.08.090 Demolition And Appeal

In the event a structure or premise is found to be dangerous by the building official as provided in this Chapter, demolition is an available remedy.

1. **Cause for Demolition.** Demolition is a remedy in the following situations:
 - a. The building, structure, or premise may be beyond repair.
 - b. The estimated cost of repairs may exceed the value of the building, structure, or premise.
 - c. The building, structure, or premise is deemed dangerous by the building official, or has been destroyed.
 - d. The building, structure, or premise has multiple violations of this Chapter.
 - e. The owner or agent of the building, structure, or premise fails to comply after notice under this Chapter.
2. **Procedure.** The building official shall:
 - a. Post notice on the building, structure, or premise prohibiting entry without the permission of the building official.
 - b. Provide the Owner of Record with notice in accordance with Utah Code Annotated §10-11-1, et. seq.
 - c. **Appeal.** The Owner of Record shall have ten (10) days from the notice under Utah Code Annotated §10-11-1, et. seq, to file a written appeal with the City Recorder appealing the building official's determination to the City's Appeal Authority. In the event that the property owner does not appear at the hearing, the determination of the building official is upheld and the City shall mail the decision of Appeal Authority to the Owner of Record.
 - d. **Standard of Review.** The Appeal Authority shall determine if the determination of the building official is supported based upon the preponderance of the evidence. The parties are allowed to present evidence of the violations, repairs, condition, valuation, or other relevant information.
 - e. **Appeal to Court.** The Owner of Record shall have thirty (30) days to file an action in District Court for de novo review challenging the Appeal Authority's decision subject to the standard of review on this section.

HISTORY

Repealed & Reenacted by Ord. [19-G](#) on 10/10/2019

13 Comprehensive Planning

14 Subdivisions

14.01 General Provisions

14.01.010 Purpose And Scope

1. **Purpose:** Promote the health, safety, convenience and general welfare of the inhabitants of the City in the matter of Subdivisions or matters affected by Subdivisions through provisions designed to: Encourage and facilitate the orderly use, growth and development of the land within the City and to assure sites are suitable for Subdivision development and human habitation. Ensure adequate traffic circulation and open space. Facilitate the conservation of or production of adequate water, sanitation, drainage, and energy resources. Avoid developments that are scattered and premature causing insufficient public services and facilities, or necessitate an excessive expenditure of public funds for the supply of such services and facilities. Ensure utilization of the land in the best interest of the public welfare of the area concerned.
2. **Scope:** This Title is designed to inform the Subdivider and public of the requirements and conditions necessary to obtain approval of a Subdivision. To this end, all requirements, where possible, are expressly delineated in this Title, the City's Public Works Standards for Development, Design, & Construction (also known as the Public Works Standards, or Standards), or other applicable ordinances.

This Title shall apply to Lots or Parcels where public rights of way are dedicated and public Improvements and Infrastructure are installed regardless of whether the land is subdivided.

HISTORY

Adopted by Ord. [20-G Subdivisions](#) on 4/23/2020

14.01.030 Notice

1. The City shall follow the noticing requirements found in Utah State Code Annotated 52-4-202 and its successor statutes.
2. If notice given under authority of this Title is not challenged within thirty (30) days from the date of the meeting for which the notice was given, the notice shall be deemed adequate and proper.

HISTORY

Adopted by Ord. [20-G Subdivisions](#) on 4/23/2020

14.02 Administration

14.02.010 Final Platting And Recording Required

1. **Subdivision of Land:** No person shall subdivide any tract of land which is located wholly or in part within the corporate limits and jurisdiction of the City unless and until all requirements of this Title are met, fees paid, and approval is received.
2. **Final Plat Approval:** Lots shall not be transferred or sold, nor shall a building permit be issued for a structure thereon, until the final plan of a Subdivision shall have been approved and the Final Plat recorded in accordance with this Title and the provisions of state statute, and until the Improvements and Infrastructure required in connection with the Subdivision have been constructed or guaranteed as provided herein.
3. **Sales of Land Parcels:** No person shall sell or exchange, or offer to sell or exchange any Parcel of land which is in any part of a Subdivision or a larger tract of land or offer for a recordation in the office of the County recorder any deed conveying such a Parcel of land or any interest therein unless such Subdivision has been created pursuant to, and in accordance with, the provisions of this Title.
4. **Building Permits:** Building permits shall not be issued prior to approval and recordation of the Final Plat.

HISTORY

Adopted by Ord. [20-G Subdivisions](#) on 4/23/2020

14.02.020 Work To Be Done By Registered Professional

All plans must be prepared and stamped by licensed and/or certified professionals including, but not limited to, architects, landscape architects, land planners, engineers, surveyors, geotechnical engineers, transportation engineers or other professionals as deemed necessary by the City.

HISTORY

Adopted by Ord. [20-G Subdivisions](#) on 4/23/2020

14.02.030 Fees

1. **Subdivision Plan Application Fees:** All persons desiring to develop a Subdivision within the City shall file an application with the City and pay the associated fees. The City Council shall from time to time pass by resolution the fees to be charged. No Subdivision plans or applications may be considered by the Land Use Authority until such fees have been paid.
2. **Inspection Fees:** At the time of Final Plat Application submittal, the Subdivider shall pay all applicable inspection fees as established by the City.
3. **Direct Costs:** Following approval of the Final Plat Application, but prior to recording the plat, the Subdivider shall pay all applicable direct costs for those items not included in the Escrow Agreement(s) associated with the subject Subdivision, but that are still required as part of the Subdivision Improvements and Infrastructure. These direct costs include those items that are installed or completed by the City.
4. **Subdivision Final Plat Recording Fee:** The Subdivider shall deliver said Final Plat to the Office of the Box Elder County Recorder for recording and pay all associated County fees.
5. **Additional Fees:** The Subdivision plan application fees in the fee schedule are an estimate of the funds needed to cover the City's costs to administer local and state codes and provide adequate engineering review and inspections. In the case that the established fees do not cover the City's costs, the City may charge the applicant on an hourly basis for services provided. These fees shall be paid prior to final acceptance of the Subdivision Improvements and Infrastructure and release of escrow funds. The City may collect these funds directly from the escrow account.

HISTORY

Adopted by Ord. [20-G Subdivisions](#) on 4/23/2020

Amended by Ord. [21-U Amendments to Title 14 and 15 Regarding Subdivisions](#) on 1/27/2022

14.02.040 Subdivision Application

1. **Complete Information.** Each application for a Subdivision shall have all required information and fees paid before the City accepts it as a complete application. The City is not obligated to review incomplete Subdivision applications, and only complete Subdivision application shall be accepted and be eligible for approval. Required information shall be submitted in one complete application, notwithstanding the submitted information may be updated with subsequent submittals. There shall be no presumption of approval of any aspect of the process.
2. **Pending Applications.** No application shall be accepted if a similar application is pending on the same Parcel(s) of land.
3. **Table or Denial of Application.** The Land Use Authority may request specific information found to be incomplete in its review and table further action until the information is submitted. Denial shall include written findings of fact and decision. Denial may be based upon, but not limited to, comments from City staff or other regulating agencies, geological concerns, the inability of the City or utility providers to provide public services, or non-compliance with the requirements of the PMC or the Public Works Standards.
4. **Inadvertent Approval.** Should a Subdivision application, by inadvertence, be approved that shows on its face, or in any documents attached thereto or that are deemed to be a part thereof, that the Subdivision does not comply in one or more respects with the requirements of this Title or with the requirements of approved City standards in any way, and no variance or exception thereto has been approved, such plan approval shall not be deemed a waiver of such requirements, but on the contrary such requirements shall remain in full force and such subdivision shall comply therewith. Any discrepancy between the preliminary plan, as approved, and the final plans, which may not be noticed, shall still be the responsibility of the Subdivider and approval of the final plan in such case shall not be deemed a waiver of the requirements of this Title or any standards or specifications approved in connection herewith.

HISTORY

Adopted by Ord. [20-G Subdivisions](#) on 4/23/2020

14.02.050 Approval Procedure For Subdivisions

1. **Approval Process.** The approval process for a Subdivision shall generally be, in sequential order:

- a. Concept Review (Optional). A Subdivider may elect to submit a concept plan for review. The concept plan review shall include an informal conference involving the Subdivider, the Community Development Director, the City Engineer, Public Works Director, and Fire Marshall. Comments from the City staff and other participants during such informal review can guide the Subdivider in the preparation of subsequent applications. These comments shall not be binding and shall only be used for information in the preparation of subsequent applications and shall not create any vested rights to proceed with development in any way. Subdividers should anticipate that future review bodies may raise additional concerns and issues not addressed in the Concept Review. There is no requirement for level of detail or information for a Concept Review. However, the more information and detail provided will allow for more detailed feedback.
 - b. Preliminary Subdivision Application. The Planning Commission shall be the Land Use Authority. It will discuss and review the application and then make a decision to approve or deny it. Property owners within three hundred feet (300') of the subject Parcel(s) shall be notified of the application.
 - c. Engineering and Design Application. The Community Development Director shall be the Land Use Authority and, in coordination with, but not limited to, the City Engineer, shall review the application and make a decision to approve or deny the engineering and design application.
 - d. Final Plat Application. The Planning Commission shall be the Land Use Authority and shall discuss and review such application and then make a decision to approve or deny the Final Plat application.
2. **Subsequent Approval.** Approval of a step in the approval process for Subdivision shall not generally be given unless the applicable preceding approval(s) have been obtained, i.e. approvals will not generally be given out of the sequential order described in this Section. Approval of one step in the approval process for Subdivisions does not guarantee approval on subsequent applications relating to the Subdivision or development. Approval of a Subdivision as outlined in this Title satisfies the requirements for a Design Review as outlined in Title 15 of the PMC.
 3. **Exception.** When a proposed Subdivision does not involve the development of new public infrastructure, an exception may be granted by the Community Development Director and City Engineer to waive the need for the Engineering and Design Application.
 4. **Expiration.**
 - a. Each Subdivision application approval shall be valid for a period of not more than one (1) year. At the request of the Subdivider, the applicable Land Use Authority may grant up to two (2) six-month (6) extensions if substantial progress has been demonstrated by the Applicant.
 - b. Final Plats must be recorded in the office of the County Recorder not more than ninety (90) days from the date of approval of the Final Plat by the Land Use Authority.
 - c. Expired applications shall be deemed null and void and require the Subdivider to start the Subdivision approval process over.

HISTORY

Adopted by Ord. [20-G Subdivisions](#) on 4/23/2020

14.02.060 Phasing

The Final Platting of Subdivisions containing thirty (30) or more Lots shall be done in phases as provided herein:

1. As part of the Preliminary Subdivision Application, the Land Use Authority will approve the phasing plan and may require adjustments to the phasing plan to ensure Improvements and Infrastructure, density bonuses, and Open Space enhancements occur in an orderly and complete fashion. Less-desirable or expensive aspects of the Subdivision should not be delayed to the final phases of development and the City may require a pro-rated portion of these Improvements and Infrastructure be developed, or guaranteed in escrow, in earlier phases. Development shall be organized such that the phases will be contiguous and the required Improvements and Infrastructure will be continuous as deemed feasible and desirable by the Land Use Authority.
2. When all required Improvements and Infrastructure of a phase are complete (except for Sidewalk) and have received Conditional Acceptance from the City, the Subdivider may submit the Final Plat Application for the next phase.
3. Where it is prudent to install Improvements and Infrastructure that extend into the next phase, such work may be done when it is shown on the plans and approved accordingly.

HISTORY

Adopted by Ord. [20-G Subdivisions](#) on 4/23/2020

14.02.070 Application Requirements And Review Process

Notwithstanding the specific requirements outlined in this Section for each application, all proposed Subdivisions shall show compliance with all applicable Law.

1. **Concept Review (Optional).** The Subdivider shall contact the Community Development Director to arrange a time for a meeting to discuss the proposed Subdivision. The Subdivider shall submit a completed application and required fee.
2. **Preliminary Subdivision Application.** The Subdivider shall submit the following:
 - a. A completed Preliminary Subdivision Application form and required fee for all phases of the Subdivision (An exception to the requirement to include all phases in one application may be granted by the City Engineer).
 - b. A signed Owner-Agent Affidavit (if the Owner is being represented by another party).
 - c. A digital copy of the Preliminary Plat and design and Improvement and Infrastructure drawings that contain, at a minimum, the following:
 - i. Name of the Subdivision and the words "Preliminary Plat – Not to be Recorded" listed on the Preliminary Plat.
 - ii. Layout of Lots including Lot sizes and dimensions.
 - iii. Layout of roads including Street sections and location of adjacent roads.
 - iv. Preliminary storm water plan and feasibility study.
 - v. Common or public open space development plans including materials, furnishings, equipment, and preliminary landscape plan.
 - vi. Preliminary utility plan showing availability and feasibility of utility services.
 - vii. Existing structures and natural features such as drainages, waterways, waterbodies, special views, existing vegetation to preserve, and other unique features.
 - viii. Data tables showing: number of Lots/units, buildable area for each Lot, percentage of landscaping/open space, and density of units per acre.
 - ix. Preliminary landscape plan (if applicable).
 - d. For residential Subdivisions with a gross size/area equal to or greater than ten (10) acres, a Conceptual Conservation Subdivision Plan; this requirement is to provide the Subdivider the opportunity to assess the merits of a Conservation Subdivision for the proposed Subdivision and to communicate about the option with the Community Development Director.
 - e. For residential Subdivisions with a gross size/area equal to or greater than ten (10) acres the overall layout of the subdivision shall be designed by a Certified Planner or Landscape Architect; the plat and engineering drawings shall implement this plan.
 - f. Additional information as listed on the application form and as necessary to show feasible compliance with applicable codes and regulations.
 - g. The information submitted with the Preliminary Subdivision Application shall be for all phases of the Subdivision. The City Engineer may provide an exception to this requirement and only require information for future phases as he/she deems prudent.
3. **Preliminary Subdivision Application Review.** Within fourteen (14) days of receipt of a complete application, City Staff and other invited regulating agencies and utility providers, shall review the submittals. Comments and corrections from this review process shall then be forwarded to the applicant and the Land Use Authority. When the comments and corrections from the review have been satisfactorily addressed, the application will be placed on the Land Use Authority's next available meeting agenda.
4. **Engineering and Design Application.** After receiving approval of the Preliminary Subdivision Application and satisfactorily addressing all comments and corrections, the Subdivider shall submit the following:
 - a. A completed Engineering and Design Application form and required fee.
 - b. A signed Owner-Agent Affidavit (if the Owner is being represented by another party).
 - c. A digital copy of the updated Final Plat, and design and Improvements and Infrastructure drawings that contain, at a minimum, the following:
 - i. Show compliance with the Public Works Standards and PMC.
 - ii. Complete storm water plan with calculations.
 - iii. Plan and profile drawings for all roadways.
 - iv. Utility plans.
 - v. Detail drawings.
 - vi. Written approval from other agencies as applicable (e.g. secondary water provider, Army Corps of Engineers, Utah Department of Transportation, etc.)
 - vii. For additional requirements see Chapter 14.03 of this Title.
 - d. Additional information as listed on the application form and as necessary to show compliance with applicable codes and regulations.

5. **Engineering and Design Application Approval.** When the City Engineer deems the drawings to be complete and acceptable, he/she shall approve and stamp and date the final set. Following the City Engineer's approval, and after finding the submittal to be complete and acceptable, the Land Use Authority shall issue approval of the Engineering and Design Application.
6. **Pre-Construction Meeting.** After receiving Engineering and Design Application Approval and before starting construction, the Subdivider shall work with the Community Development Director to schedule a preconstruction meeting. In no case shall any Improvement or Infrastructure associated with a Subdivision be constructed, in whole or in part, whether or not such Improvements and Infrastructure have been approved or guaranteed, without first holding a preconstruction meeting. City representatives to be invited to the meeting shall include the City Engineer, Public Works Director, and Community Development Director. This meeting shall be for the purpose of reviewing the codes, standards, and expectation of work associated with constructing a Subdivision with the Subdivider and the Contractor(s).
7. **Final Plat Application Requirements.** After receiving approval of the Engineering and Design Application, the Subdivider shall submit the following:
 - a. A completed Final Plat Application form and required fee.
 - b. A signed Owner-Agent Affidavit (if the Owner is being represented by another party).
 - c. A storm water permit with the State of Utah if not previously submitted.
 - d. A digital copy of the Final Plat and a Mylar print for signatures.
 - i. The Final Plat shall be signed by the owner(s), the Mayor, the final Land Use Authority, the City Engineer, and the City Attorney.
 - ii. See PMC 14.04 for additional Final Plat requirements.
 - e. Final covenants, conditions, and restrictions (if applicable) which shall be recorded with the Final Plat.
 - f. Final agreements (if applicable) executed by all parties.
8. **Development Agreements (Land Use Agreement).** Agreements may voluntarily be entered into by the City and the Subdivider at any time during the Subdivision approval process in accordance with 15.01.070 of the PMC.
9. **Subdivision Improvement Agreement.** The Subdivider shall sign a Subdivision Improvement Agreement as provided by the City. Such agreement shall be recorded with the Plat.

HISTORY

Adopted by Ord. [20-G Subdivisions](#) on 4/23/2020

Amended by Ord. [21-U Amendments to Title 14 and 15 Regarding Subdivisions](#) on 1/27/2022

Amended by Ord. [22-J Subdivision Amendments](#) on 8/25/2022

14.02.080 Improvements, Infrastructure And Guarantee Of Performance

To assure the completion of required Improvements and Infrastructure as required by the approved plans, Public Works Standards, and the PMC, the Subdivider shall establish an approved escrow guarantee with either a federally insured financial institution or as cash deposited directly to the City. This completion assurance shall be established prior to recording the Subdivision plat. If the Subdivider installs the Infrastructure and Improvements and such Infrastructure and Improvements are inspected and approved by the city prior to recording the plat then only the warranty portion of the completion assurance shall be required.

1. **Cost Estimate.** The Subdivider shall submit an engineer's cost estimate for all Improvements and Infrastructure required within the Subdivision as part of the Design and Engineering Application. The cost estimate shall include quantities, units, and costs for all Improvements and Infrastructure required, and shall indicate which items have already been installed.
 The City Engineer shall review and approve the cost estimate and may adjust the costs to meet current industry standards. Those items that are deemed as a "direct fee" shall be removed from the escrow and shall be accounted separately.
2. **Guarantee Amount.** The guarantee shall be equal to one hundred fifteen (115%) percent of the cost estimated and approved by the City Engineer.
 - a. One hundred percent (100%) shall be for the cost of those Improvements and Infrastructure not yet installed;
 - b. Ten percent (10%) shall be for a required one-year (1) warranty period (see Subsection 9 hereof). The warranty amount calculated shall be based upon the total cost of all required Improvements and Infrastructure; and
 - c. Five percent (5%) contingency shall be required to account for additional quantities or items that may be needed during construction and/or increases in estimated pricing. The contingency shall be based upon the total cost of the uninstalled Improvements and Infrastructure.

3. **Liability.** The Subdivider and/or contractor shall indemnify and hold harmless the City and its officers, directors, members, partners, agents, employees, and consultants from all claims, damages, losses, and expenses, including attorney's fees, arising out of or resulting from the installation of the required Improvements and Infrastructure. The indemnity required hereby shall be included in the applicable Escrow Agreement.
4. **Default.** In the event the Subdivider is in default with any provision of this Section, or fails or neglects to satisfactorily install the required Improvements and Infrastructure within three (3) years from the date of approval of the Final Plat, or to pay all liens in connection therewith, or to correct deficiencies or damages to the Improvements and Infrastructure required for final acceptance (see Subsection 10 hereof), the City may declare the escrow forfeited and the City may install, repair, or cause the required Improvements and Infrastructure to be installed or repaired, using the proceeds from the collection of escrow to defray the expense thereof. The City may apply all sums deposited in escrow against the cost of completing all required Improvements and Infrastructure and to pay all expenses, including, but not limited to, all unreimbursed engineering expenses related to the development, a ten percent (10%) administration fee for the securing of contracts, and court costs and attorney fees. The default provisions required hereby shall be included in the applicable Escrow Agreement.
5. **Improvements and Infrastructure Required for Occupancy.** No occupancy permit shall be issued by the City unless the Improvements and Infrastructure adjacent to and directly servicing the Lot is complete and warranted as herein required. This shall include, but is not limited to, Streets, Utilities, and Sidewalk.
6. **Release of Funds.** The Subdivider shall be responsible for the quality of all materials and workmanship. If Improvements and Infrastructure are properly installed and verified via City inspections and testing, liens are paid, and other conditions are found to be satisfactory, then the City Engineer shall authorize the money held in escrow for the specific improvement completed (except for the 10% held during the hereinafter described warranty period) to be released. If the conditions of material or workmanship show unusual depreciation, or do not comply with the acceptable standards of durability, or if required inspections or testing have not been done, or if any outstanding liens are not paid, then the City may withhold releasing the money and the City may declare the Subdivider in default. The City shall have exclusive control over release of the escrow funds and they may be released only upon written approval by the City.
7. **Direct Costs.** The Subdivider shall pay the following direct costs at the time they submit the Final Plat Application:
 - a. Funds to create GIS data for new public Improvements and Infrastructure in the amount of 1% of the approved engineer's cost estimate for all Improvements and Infrastructure.
 - b. Funds for the City to seal coat the public Streets constructed in the development. The amount shall be provided by the Subdivider in an engineer's cost estimate and approved by the City Engineer.
8. **Conditional Acceptance of Improvements and Infrastructure.** The City Engineer shall issue conditional acceptance upon the following:
 - a. Completion of all required Improvements and Infrastructure.
 - b. The Final Plat Application has been approved and the Final Plat has been recorded.
 - c. The Subdivider makes a written request for inspection of Improvements and Infrastructure for the purpose of conditional acceptance.
 - d. Improvements and Infrastructure are inspected by the City and found to be acceptable and in compliance.
 - e. Reproducible as-built drawings have been submitted to and accepted by the City Engineer.
9. **Warranty Period.** The one (1) year warranty period shall begin upon the date conditional acceptance was issued. The City Engineer shall authorize the release of all funds related to the installation of the Improvements and Infrastructure and the five percent (5%) contingency. The warranty amount shall remain in place. During the warranty period and until final acceptance has been granted, the Subdivider shall be responsible to correct and repair any deficiencies found in the Improvements and Infrastructure.
 - a. **Exemption.** Sidewalk, curb and gutter, meter lids, and other adjacent Improvements and Infrastructure may be exempted from the warranty period when a building permit has been issued on the adjacent property and a deposit has been received from the permittee to cover replacement of damaged sidewalk, curb and gutter, meter lids, and other Improvements and Infrastructure sidewalk only. The Subdivider shall continue to be responsible for installation deficiencies.
10. **Final Acceptance of the Subdivision.** The City Council shall issue final acceptance of the Subdivision Improvements and Infrastructure when:
 - a. The Subdivider makes a written request for inspection of Improvements and Infrastructure for the purpose of final acceptance.
 - b. Improvements and Infrastructure are inspected by the City and found to be acceptable and in compliance.
11. Upon acceptance by the City Council, the City Engineer shall authorize release of all remaining escrow monies.

HISTORY

Adopted by Ord. [20-G Subdivisions](#) on 4/23/2020

Amended by Ord. [21-U Amendments to Title 14 and 15 Regarding Subdivisions](#) on 1/27/2022

Amended by Ord. [22-J Subdivision Amendments](#) on 8/25/2022

14.03 Engineering And Design Requirements

14.03.010 General Requirements

1. **Access.** All Lots shall be accessed by a fully improved City Street and shall meet the frontage requirements found in PMC Title 15. It shall be the responsibility of the Subdivider to provide the proper road access to his or her Subdivision as required in the PMC and the Public Works Standards. The mere existence of a Public Road or right-of-way to the proposed Subdivision does not mean that adequate access exists. It shall be the Subdivider's responsibility to construct and dedicate any and all Public Roads required by Perry City to provide access to the Subdivision.
2. **Design Standards.** All Subdivisions shall comply with the current adopted design standards set forth in the PMC and the Public Works Standards.
3. **Public Infrastructure and Improvements.** The Land Use Authority shall have authority to require adjustments to the utility plan associated with a proposed subdivision including adjustments to the type, manner, and location of utilities. Such adjustments to the utility plan may be required to provide connectivity among developments, provide for public safety, and minimize public infrastructure maintenance and liability.
4. **Additional Reports and Studies.**
 - a. Geotechnical reports as required by the Public Works Standards and the City Engineer.
 - b. Storm water pollution protection as required by the Public Works Standards and the PMC.
 - c. A traffic study may be required by the City Engineer depending on his/her judgment regarding the size of the Subdivision, complex traffic movements involved with the proposal, interaction of Streets with Highway 89, traffic volume in or near the Subdivision, history of crashes or expected crashes in the area, general safety, or anticipated traffic delays due to the Subdivision.
 - d. Wetland delineation and mitigation may be required as determined by the City Engineer.
 - e. Preservation of Natural Conditions. The design and development of Subdivisions shall preserve insofar as possible the natural terrain, natural drainage, existing topsoil, and trees as determined by the Land Use Authority for the Preliminary Subdivision Application.
 - f. Hazards. Land subject to hazardous conditions such as slides, mud flows, rock falls, faults, snow avalanches, possible mine subsidence, shallow water table, open quarries, floods, and polluted or non-potable water supply shall not be subdivided until the hazards have been properly mitigated or will be properly mitigated by the construction of the Subdivision.

HISTORY

Adopted by Ord. [20-G Subdivisions](#) on 4/23/2020

Amended by Ord. [21-U Amendments to Title 14 and 15 Regarding Subdivisions](#) on 1/27/2022

14.03.020 Subdivision Street Layout And Access

1. **General.** All Streets shall conform, as much as practicable, to the adopted master plan(s) and the Public Works Standards.
2. **Approval.** Overall Street layout and access shall be reviewed and approved as part of the Preliminary Subdivision Application. The Land Use Authority for preliminary approval and the Fire Code Official shall review and approve, as part of the Preliminary Subdivision Application, the Street layout for all phases of the Subdivision. The Land Use Authority shall have authority to require stub roads, additional accesses into the development, and adjustments to the Street layout, Street cross-section, and right of way widths. Such adjustments to the Subdivision plan may be required to provide connectivity among developments, provide for public safety and emergency access, minimize public infrastructure maintenance and liability, and align with the General Plan and adopted transportation plans.
3. **Required Access.** A minimum of two (2) separate ingress/egress routes for vehicular access, which are fully improved Public Roads, shall be required when either of the following exist:
 - a. The total number of equivalent residential units, or "ERUs", (including adjacent developments and neighborhoods) served by a single means of access will exceed thirty (30). Thirty (30) ERUs shall include all proposed residential units and all existing single-family Structures and Lots, empty building Lots, approved Accessory Dwelling Units, and each unit in a multi-family Structure (e.g. apartment building, duplex, etc.).
 - b. A development extends more than one thousand eight hundred (1,800) feet from a connecting Street.

- c. Access Spacing. Where more than one (1) means of access is required, the points of access shall be placed a minimum of five hundred (500) feet apart, measured from center of right-of-way to center of right-of-way. The accesses shall provide separate and distinct access to Highway 89, a City collector road, or a City arterial road. The Fire Code Official may require a greater minimum distance than five hundred (500) feet if:
 - i. An essential link exists between a legitimate governmental interest and the requirement; and
 - ii. The requirement is roughly proportionate, both in nature and extent, to the impact of the proposed development.
- d. Exceptions. The Land Use Authority for the Preliminary Subdivision Application may waive these access requirements when any of the following exist:
 - i. Unique topographic circumstances exist or the property is "landlocked" (physically restrained from other access points) from adjacent, existing developments in a manner to prevent practical compliance with the access requirements. A waiver of these regulations may require the final Land Use Authority, with the recommendation of the City Engineer and the Fire Code Official, to apply additional development requirements to enhance public safety standards.
 - ii. Where no point of second access is available within five hundred feet (500'), and where all ERUs are provided with an approved sprinkler system, a second access shall not be required until the number of ERUs reaches sixty (60).

HISTORY

Adopted by Ord. [20-G Subdivisions](#) on 4/23/2020

14.03.030 Alleys And Shared Driveways

Alleys or shared Driveways shall have a minimum width of twenty feet (20'). Alleys or shared Driveways may be utilized in the rear of Business Lots and may be accepted in residential blocks. Alley or shared Driveways access may constitute "frontage" as required by the PMC for Multi-family Dwellings, Apartments, or commercial developments when determined to be desirable by the Land Use Authority for the Preliminary Subdivision Application. Where backing space is needed for parking in an Alley or shared Driveway the minimum width shall be the same as what is required in the PMC for parking aisles.

HISTORY

Adopted by Ord. [20-G Subdivisions](#) on 4/23/2020

14.03.040 Easements

A minimum ten foot (10') public utility easement shall traverse the front of each Lot. The Land Use Authority may require additional easements to accommodate utility planning.

HISTORY

Adopted by Ord. [20-G Subdivisions](#) on 4/23/2020

14.03.050 Lots And Parcels

1. The Lot arrangement, design and shape shall be such that Lots will provide satisfactory and desirable sites for Structures, and be properly related to topography and conform to requirements set forth herein. Side lines of Lots shall be approximately at right angles, or radial to the Street line whenever possible and desirable.
2. Lots shall not contain peculiarly shaped elongations solely to provide necessary square footage or frontage, which would be unusable for normal purposes.
3. For Subdivisions containing more than three residential building Lots, no Lots shall directly access an arterial or minor arterial Street, 1200 West (Perry Street) or Highway 89.
4. All Lots shown on the Final Plat must conform to the minimum requirements of the zoning code for the zone in which the Subdivision is located, except for Remainder Parcels. Remainder Parcels may be used for agricultural purposes but shall not be eligible for habitation, commercial uses, or primary structures. In addition, Remainder Parcels may not be eligible for building permits and may not be eligible for other permitted uses. All limitations and restrictions shall be clearly noted on the Final Plat. Remainder Parcels shall be described on the Final Plat, however an exception may be granted by the City Engineer.
5. Each Lot shall have frontage on an improved Public Road as required in the zoning code and the Public Works Standards unless a private Alley or shared Driveway has been approved for Multi-family Dwellings, Apartments, or commercial purposes.

6. All remnants of land left over after subdividing, shall be attached to adjacent Lots or made part of common area governed by a Homeowners Association, rather than allowed to remain as unusable Parcels. All lands within the boundaries of the Subdivision shall be accounted for, either as Lots, right of way, or as Remainder Parcels.
7. Lots having double frontage shall not be approved except where necessitated by topographic or other unusual conditions or where the Lots are adjacent to a road that does not permit direct access (exception: corner Lots).
8. Contiguous Parcels owned by different parties may be embraced in one Final Plat, provided that all Owners join in the dedication and acknowledgments.

HISTORY

Adopted by Ord. [20-G Subdivisions](#) on 4/23/2020

14.03.055 Flag Lots

In order to encourage the more efficient use of land, Flag Lots not having frontage on a Street as required by the PMC, but having access to such Street by means of fee title access strips, may be allowed in any zone when, determined by the Land Use Authority to be preferable, and subject to the following conditions:

1. The Flag Lot(s) is approved as part of the Preliminary Subdivision Application.
2. The Land Use Authority determines that it is not feasible or desirable to extend a Street to serve such Lot or Lots at the time. Criteria to be used in determining feasibility or desirability of a Street shall include, but not be limited to, topography, boundaries, and/or an area in which a road would not open a significant area for further development.
3. A Flag Lot shall comprise of a staff portion contiguous with the Flag portion thereof. Both the staff and Flag portions of the Lot must be under the same ownership.
4. The staff portion/access of a Flag Lot shall front on and be contiguous to a Public Road.
5. The minimum width of the access for a Flag Lot shall be sixteen feet (16') for one (1) Flag Lot and a minimum of 30 feet (30') (fifteen feet (15') for each Flag Lot) for two (2) Flag Lots located next to each other. The maximum width of the access shall be sixty feet (60'), the maximum length shall be three hundred feet (300'), and the maximum grade shall be fifteen percent (15%).
6. No Structure or construction, except for Driveways shall be allowed on the access for a Flag Lot. Surfaces on the access shall have a minimum twelve foot (12') finished road surface capable of supporting a twenty (20) ton weight capacity with a surface approved by the City Engineer and Fire Marshall.
7. All property boundaries of a Flag Lot shall be considered 'Sides' for purposes of setbacks.
8. The area of any Flag Lot, exclusive of the staff portion, shall meet the minimum requirements of the Flag Lot's zoning.
9. Each Flag Lot shall access a Public Road by means of its own access strip. No more than two (2) Flag Lot accesses may be contiguous to each other. The Lot address shall be displayed in a prominently visible location at the Public Road entrance to the access strip.
10. A turnaround at the end of the access shall be installed and the same shall be approved by the Fire Marshall.

HISTORY

Adopted by Ord. [20-G Subdivisions](#) on 4/23/2020

14.03.060 Utilities To Be Underground

All Utilities, including those that are normally overhead shall be placed underground in all Subdivisions. The Subdivider shall establish final utility grades prior to Utilities being placed underground. Exception: wireless communication equipment.

HISTORY

Adopted by Ord. [20-G Subdivisions](#) on 4/23/2020

14.03.070 Fences

1. Fences will be required on the perimeter of each new Subdivision where the property abuts an open canal, stream or river, or commercial or industrial zoned or used property or other dissimilar use.
2. Fences will be a minimum six feet (6') high and of a type as approved by the Land Use Authority.
3. Fabric, slats, and other types of plastic materials will not be permitted on the fence.

HISTORY

Adopted by Ord. [20-G Subdivisions](#) on 4/23/2020

14.03.080 Garbage Collection

Subdivisions shall provide and construct a dumpster with dumpster enclosure for garbage collection for all Multi-family Dwellings, apartments, and commercial/industrial developments. The Land Use Authority may grant an exception to this requirement for Multi-family Dwellings individually accessing public city streets when such exception is clearly preferable and advantageous to the city.

HISTORY

Adopted by Ord. [22-J Subdivision Amendments](#) on 8/25/2022

14.04 Final Plats And Other Required Plans

14.04.010 Final Plat Requirements

The Final Plat shall be drawn to a scale of one inch (1") equals one hundred feet (100') or larger and shall be drawn to the following standards:

1. The Final Plat shall be prepared and certification made as to its accuracy by a registered Land Surveyor licensed to do such work in the State of Utah. Every detail of the Final Plat shall be legible. A poorly-drawn or illegible Final Plat is cause for its denial.
2. Setback dimensions from proposed property boundaries to existing Structures shall be shown.
3. For all curves in the Final Plat, sufficient data shall be given to enable the re-establishment of the curves on the ground. The curve data shall include the radius, central angle, tangent, and arc length.
4. Excepted and Remainder Parcels shall be marked, "Not included in this Subdivision."
5. All public lands and Streets shall be clearly identified.
6. Streets shall be identified by coordinate numbers, approved by the County Recorder, that conform to the City's addressing system. The naming of Streets is optional and shall be in addition to the numbering of Streets. Street names shall be approved by the Land Use Authority.
7. All Easements shall be designated as such and dimensions given.
8. All lands within the boundaries of the Subdivision shall be accounted for, either as Lots, walkways, Streets, or as Remainder Parcels.
9. Bearings and dimensions shall be given for all Lot lines, except that bearings and lengths need not be given for interior Lot lines where the bearings and lengths are the same as those of both end Lot lines.
10. Parcels not contiguous shall not be included in one (1) Final Plat, neither shall more than one (1) Final Plat be made on the same sheet. Contiguous Parcels owned by different parties may be embraced in one (1) Final Plat, provided that all owners join in the dedication and acknowledgments.
11. Lengths shall be shown to hundredths of a foot. Angles and bearings shall be shown to seconds of arc.
12. Surveys shall tie to a minimum of two (2) duly established section corners. Additional ties may also be required to the State grid system or other publically recorded control system as required by the County Surveyor or County Recorder.
13. Final Plat notes and restrictions, shown as an "R" on each Lot, that includes applicable information regarding:
 - a. Specialized development standards;
 - b. The existence of CCR's (where applicable);
 - c. Special utility or district requirements;
 - d. When the Subdivision is located adjacent to existing agricultural property or use the following statement shall be included: "Perry City is a right-to-farm community. This Subdivision is located adjacent to agricultural property and/or agricultural land uses. Lot owners are hereby notified that agricultural operations may take place and work hours may begin early and end late. Agricultural operations may contribute to noise, smells, and other impacts that may be objectionable to some residents. Agricultural operations shall be allowed to continue as provided by law and no agricultural use shall be subject to restriction on the basis that it interferes with activities of future residents of this Subdivision."
 - e. Any other restrictive language or notes approved by the City to give notice to prospective buyers and others of special terms, restrictions, and conditions related to the Subdivision.
14. The information on the Final Plat shall include, at a minimum:
 - a. The name of the Subdivision, true north arrow and basis thereof, and date;

- b. Name of the Owner(s) of record, the surveyor of the Subdivision, and the Owner of the land immediately adjoining the land to be subdivided;
- c. The acreage and square footage of each Lot carried to three decimal places;
- d. Township, range, section and quarter section if a portion;
- e. Graphic scale;
- f. Ties to a minimum of two section corners with bearings and distances;
- g. Survey monuments;
- h. Signature blocks for:
 - i. The Owner(s) dedication
 - ii. The City Engineer
 - iii. The Mayor
 - iv. The final Land Use Authority
 - v. The City Attorney

HISTORY

Adopted by Ord. [20-G Subdivisions](#) on 4/23/2020

14.04.020 Engineering And Design Drawings

Poorly-drawn, incomplete, or illegible engineering and design drawings is cause for denial. All drawings shall be drawn to a scale not less than one inch (1") equals one hundred feet (100'), and shall indicate the basis of bearings, true north, the name of the Subdivision, township, range, section, and quarter section, and Lot numbers of the Subdivision. The Land Use Authority may waive certain informational and design requirements when they clearly do not apply and are irrelevant to a proposed Subdivision. Design and engineering drawings and documents shall include information sufficient to show compliance with all applicable requirements of the PMC, Public Works Standards, and the following:

1. The location of the Subdivision, as forming a part of a larger tract or Parcel where the plan submitted covers only a part of the original Parcel(s). The entire parent Parcel shall be shown including all phases and property reserved for future development;
2. The location, width and other dimensions of all existing or Final Platted Streets and other important features, such as Watercourses, exceptional topography, and Structures within the tract;
3. Existing sanitary sewers, storm drains, water supply mains, bridges, and other utilities within the tract, or within two hundred feet (200') thereof;
4. The location, width and other dimensions of proposed Streets, Alleys, shared Driveways, Easements, Parks and other Open Spaces, with proper labeling of spaces to be dedicated to the public, or to be reserved for common use and benefit of Subdivision residents;
5. Engineering drawings, including typical cross-sections and plans and/or written statements regarding the width and type of proposed Streets; location, size and type of proposed water mains, sanitary sewers, or other sewage disposal facilities, storm drainage facilities, detention basins, and other proposed Improvements and Infrastructure;
6. A grading and drainage plan indicated by solid-line contours superimposed on dashed-line contours of existing topography;
7. The general location of existing trees over six inches (6") in diameter measured at four and one-half feet (4.5') above the ground, and in the case of heavily-wooded areas, an indication of the outline of the wooded area and location of trees which are to remain;
8. Proposed future Street layout and drainage plan for any portion of the property to be developed in a later phase;
9. Areas within the one hundred (100) year flood plain, Water courses including culverts, water areas, Streams, areas subject to occasional flooding, wetlands, marshy areas or swamps, or any other flood-prone area as listed by the Federal Emergency Management Agency;
10. Storm water calculations and retention/removal plan certified by a licensed engineer and design drawings of the infrastructure necessary to accomplish the plan;

HISTORY

Adopted by Ord. [20-G Subdivisions](#) on 4/23/2020

14.04.030 Parks, School Sites And Other Public Spaces

In subdividing property, consideration shall be given to sites for schools, Parks, playgrounds and other areas for public use. Any provision for such spaces should be indicated on the preliminary plans, to determine in what manner such areas will be dedicated to, or acquired by, the appropriate agency.

HISTORY

Adopted by Ord. [20-G Subdivisions](#) on 4/23/2020

14.05 Improvements And Infrastructure

14.05.010 General Requirements

All Improvements and Infrastructure related to a Subdivision shall be installed according to the requirements of the PMC and the Public Works Standards. The Subdivider shall be responsible for extending all Utilities and Improvements and Infrastructure to the Subdivision if they are not already adjacent to or on the site including curb, gutter, and sidewalk on streets operated by the Utah Department of Transportation. When Perry City is to take ownership of public Infrastructure and Improvements, the City shall require the subdivider to install such improvements in a manner that does not cause excessive liability or maintenance costs for the City at the convenience or advantage of the subdivider.

HISTORY

Adopted by Ord. [20-G Subdivisions](#) on 4/23/2020

Amended by Ord. [22-J Subdivision Amendments](#) on 8/25/2022

14.05.015 Utilities Required

The following utilities are required to be provided by the subdivider to each lot:

1. **Culinary Water:** The water source shall be Perry City unless an alternative permanent source is approved by the City Engineer and the Bear River Health Department.
2. **Sewer:** The sewer service provided shall be Perry City unless a septic system is approved by the City Engineer and the Bear River Health Department for a subdivision with three or fewer lots. Public sewer lift stations are not permitted.
 - a. Public sewer lift stations may be granted by exception by the Subdivision Land Use Authority and the City Engineer when a lift station is deemed clearly preferable to the interest of the City and gravity sewer is not feasible.
3. **Secondary Water:** Secondary water service shall be provided by Pineview Irrigation Systems or an alternative permanent source is by the City Engineer. An exception to this requirement may be granted by the City Engineer when:
 - a. Pineview Water Systems provides written notice that they will not service the subdivision, and;
 - b. The required fee for subdivisions without secondary water is paid with prior to recording the Plat.

HISTORY

Adopted by Ord. [21-U Amendments to Title 14 and 15 Regarding Subdivisions](#) on 1/27/2022

14.05.020 Inspections

All Improvements and Infrastructure shall receive inspections by the City Public Works Department and/or City Engineer as required in the Public Works Standards and as necessary to verify conformance with the PMC and the Public Works Standards. Failure to obtain the necessary inspections shall result in a fine as outlined in this Title. Failure to obtain the necessary inspections may also necessitate removal and re-installation of the Improvements and Infrastructure at the Subdivider's sole cost, as such removal and re-installation are determined by the Public Works Department and/or City Engineer.

HISTORY

Adopted by Ord. [20-G Subdivisions](#) on 4/23/2020

14.05.030 Storm Water

Storm water plans shall meet the requirements of the Public Works Standards and the PMC. The City Engineer shall determine the appropriate implementation strategy for meeting the City's storm water-related standards; this may include decisions regarding ownership and access to storm water ponds, and where and how the water shall flow as part of the City's overall storm water system.

HISTORY

Adopted by Ord. [20-G Subdivisions](#) on 4/23/2020

14.05.040 Deferral Agreements

Developments adjacent to a Rural Road or another road where the surrounding area is lacking public Improvements and Infrastructure may receive a deferral for certain required Improvements and Infrastructure. An agreement approving a deferral of Improvements and Infrastructure (deferral agreement) may be approved during the Preliminary Application phase by the Land Use Authority. Deferral agreements should only be approved when it is clearly unreasonable or undesirable for the Improvements and Infrastructure to be installed with the development.

The deferral agreement shall:

1. Be noted on the Final Plat;
2. Upon execution, be recorded with the County Recorder's Office by and at the cost of the Subdivider. The Subdivider shall provide evidence of the recordation to the City as expeditiously as possible;
3. Require the property Owner to acknowledge full understanding of the terms of the deferral agreement, including having taken the opportunity to consult with his/her legal counsel regarding them;
4. Require the property Owner to install or pay for the deferred Improvements and Infrastructure on demand at a future time determined by the City; and
5. Waive the right of protest if the City were to establish a Special Assessment Area to pay for the Improvements and Infrastructure.

HISTORY

Adopted by Ord. [20-G Subdivisions](#) on 4/23/2020

14.05.050 Construction Waste

Subdivider shall be responsible to leave the site in an orderly and clean condition following construction. Construction waste, debris, excess fill material, or any other similar material shall not be left or abandoned on the site or on other nearby properties. Neither Conditional Acceptance nor Final Acceptance shall be granted if this provision is not fulfilled.

HISTORY

Adopted by Ord. [21-U Amendments to Title 14 and 15 Regarding Subdivisions](#) on 1/27/2022

14.06 Variances And Appeals

14.06.010 Variances And Appeals Generally

Any Person may petition for a Variance or appeal a decision pertaining to this Title to the Hearing Officer according to PMC 15.05.020. Appeals shall be made within thirty (30) days of the approval of the application.

1. An adversely affected party shall present to the appeal authority every theory of relief that it can raise in district court.

HISTORY

Adopted by Ord. [20-G Subdivisions](#) on 4/23/2020

14.07 Reimbursement Agreements And No Access Clauses

14.07.010 General Requirements

The City, may, but shall not be obligated to, attempt to recover reimbursement funds for the public Improvements and Infrastructure from any property owner or subsequent Subdivider.

HISTORY

Adopted by Ord. [20-G Subdivisions](#) on 4/23/2020

14.07.020 Applicability

Reimbursement via reimbursement agreements and no access clauses may only be requested for those privately funded Improvements and Infrastructure costing more than fifty thousand dollars (\$50,000). The reimbursement provided for in this Chapter shall only apply to and be required of those Parcels of Real Property that are immediately adjacent and/or parallel to the Improvements and Infrastructure or that directly benefit from the Improvements and Infrastructure and who did not participate in the original cost of the Improvements and Infrastructure. The reimbursement provided for in this Chapter shall not apply to properties served by stubbed Improvements and Infrastructure.

HISTORY

Adopted by Ord. [20-G Subdivisions](#) on 4/23/2020

14.07.030 Reimbursement Agreements

1. Application Requirements. The application for a reimbursement agreement shall be completed in conjunction with the Engineering and Design Application and shall only apply to the current phase of the Subdivision. Applications will not be received for any phase that has previously received Engineering and Design Approval. The application shall include, at a minimum, the following:

- a. Payment of application fee, which shall be the cost of the City to prepare the agreement. If costs are incurred by the City following approval of the agreement, the applicant shall pay fees to the City to cover such costs. The City may collect such fees from the reimbursement funds.
- b. Description of the privately funded public Improvements and Infrastructure that benefit (or may in the future benefit) other property not owned by the Applicant.
- c. The name and address of the Person that paid for the installation of the public Improvements and Infrastructure.
- d. A legal description of the Parcel or Parcels of Real Property that may utilize or benefit from the privately installed public Improvements and Infrastructure.
- e. An Engineer's written estimate of the cost of the applicable public Improvements and Infrastructure. The estimate shall be the same estimate used to establish the escrow account for guarantee.
- f. The signature of the applicant.

2. Approval Process.

- a. Submit Reimbursement Agreement Application. When a properly completed application for reimbursement agreement has been filed with the City along with the required filing fee, the City Community Development Director or designee shall review the application for sufficiency and shall notify the applicant of any deficiencies or corrective action needed with respect to the application.
- b. Application Approval. The authority to execute a reimbursement agreement shall be granted by the Land Use Authority in conjunction with approval of the Design and Engineering Application.
- c. Reimbursement Agreement Drafted. The Community Development Director shall draft a reimbursement agreement and provide a final signed copy to the applicant. The agreement shall include, at a minimum, the following:
 - i. Descriptions of all affected properties;
 - ii. Description of privately funded public Improvements and Infrastructure for which reimbursement is available;
 - iii. Expiration date of agreement;
 - iv. Methodology for which the cost determination was made including dollar amounts;
 - v. Methodology for applying for reimbursement;
 - vi. To whom reimbursement shall be made;
 - vii. Listed on the top or cover sheet, the following statement: Notice is hereby given to all persons having an interest in the real property identified herein, that pursuant to Perry City Municipal Code Chapter 14.07 any persons developing the land described herein or constructing any Improvements and Infrastructure thereon are subject to an obligation to make reimbursement for a pro rata share of privately funded public Improvements and Infrastructure and may not utilize privately funded Improvements and Infrastructure for the described real property without receiving clearance from Perry City that the pro rata share of privately funded public Improvements and Infrastructure obligation has been satisfied.

- viii. Signature blocks for the applicant, Mayor, and Community Development Director
- d. **Finalize Agreement.** Upon satisfactory completion of the Improvements and Infrastructure, and after receiving Conditional Acceptance, the applicant shall work with the Community Development Director to finalize and execute the reimbursement agreement. The applicant shall provide actual costs for the installed Improvements and Infrastructure and the Community Development Directors may update the reimbursement amount(s) accordingly.
- e. **Record Agreement and Notices Given.** Following Conditional Acceptance of the Improvements and Infrastructure, the agreement shall be recorded as follows:
 - i. The agreement shall be recorded by the applicant in the office of the County Recorder.
 - ii. The applicant shall be responsible for all fees associated with recording the document. The Applicant shall mail a copy of the notice and recorded agreement to those property owners who it is anticipated will be impacted by the agreement.

HISTORY

Adopted by Ord. [20-G Subdivisions](#) on 4/23/2020

14.07.040 No Access Clauses

A no access clause shall be noted on the plat and shall have the effect of precluding access to the noted Improvements and Infrastructure until such time as the Person desiring access has reimbursed the Person identified as the receiver of reimbursement funds.

1. **Approval.** No access clauses shall be approved with the final plat and be noted on the plat.
2. The Subdivider shall submit costs and proposed reimbursement amounts to the City Engineer who shall review the costs. The City Engineer shall determine the final reimbursement amounts to be recorded on the plat.
3. **Required Information:** The plat shall note, at a minimum, the following:
 - a. Identification of the restricted Improvements and Infrastructure.
 - b. Identification of the Person designated to receive the reimbursement funds along with contact information.
 - c. The dollar amount required to allow access.
 - d. The expiration date of the clause.
4. The applicant shall mail a copy of the notice and recorded agreement to those property owners who it is anticipated will be impacted by the clause.

HISTORY

Adopted by Ord. [20-G Subdivisions](#) on 4/23/2020

14.07.050 Collection Of Reimbursement

1. **Applicant.**
 - a. If the applicant is designated as the collector of the funds, then upon receipt of any reimbursement, a copy of proof of received funds shall be provided to the Community Development Director and recorded on the property to show fulfillment of the obligation.
 - b. The applicant shall be under an affirmative duty to notify the City promptly in writing of any subsequent development of land covered by the agreement or clause of which the applicant has knowledge or reason to believe is using or benefiting from the privately funded public Improvements and Infrastructure. Such notification shall be made to the City within one hundred twenty (120) days of the development or use being commenced.
2. **City.** The City shall not be responsible to collect funds related to no access clauses. The City may be allowed to collect funds for reimbursement agreements. If the City is designated as the collector of the funds, the amount shall be forwarded to the designated recipient at the last known address listed in the agreement or as may otherwise be provided per the terms of the agreement. The City shall not be responsible for locating any beneficiary, survivor, assignee, or other successor in interest entitled to reimbursement. Any collected funds unclaimed within two (2) years after the date of collection shall be forwarded to the Utah State Unclaimed Properties Office in the name of the applicant or the known assignee or beneficiary of those funds. Provided the City actually forwarded the funds to the designated recipient as provided herein and has reasonable proof of doing so, then the designated recipient shall have no claim against the City for not actually receiving the funds. The designated recipient or its successors or assigns shall not have any claim to interest, penalties or fees related to the funds while the funds are in the City's possession or for the timing in which the funds are forwarded to the designate recipient.

HISTORY

Adopted by Ord. [20-G Subdivisions](#) on 4/23/2020

14.07.060 Calculation Of Reimbursement

The reimbursement amount shall be established by determining the percentage of use or benefit received by the Parcel or Parcels of real property immediately adjacent and/or parallel to the privately installed Improvements and Infrastructure or those properties that directly benefit from the Improvements and Infrastructure.

Each land owner/Subdivider that subsequently becomes responsible for reimbursement shall pay a pro rata share of the total cost of the privately funded Improvements and Infrastructure. The final reimbursement amount and the method used to determine the reimbursement amount shall be determined by the City Engineer.

HISTORY

Adopted by Ord. [20-G Subdivisions](#) on 4/23/2020

14.07.070 Limitations

1. No Person shall be entitled to reimbursement for privately funded public Improvements and Infrastructure that do not provide a direct benefit to other land.
2. Reimbursement for privately funded public Improvements and Infrastructure shall be limited to public Improvements and Infrastructure lying within the boundaries of Perry City or public Improvements and Infrastructure that are owned by the City.

HISTORY

Adopted by Ord. [20-G Subdivisions](#) on 4/23/2020

14.07.080 Duties Of Land Owners/Subsequent Subdividers

1. Any Person intending to develop or subdivide any land or to construct any Structures or other Improvements and Infrastructure upon any land that is identified in an approved reimbursement, agreement or no access clause, shall be under an affirmative obligation to notify the City when applying for a building permit or land use approval or authorization for any development or construction, of the existence of the reimbursement agreement or clause and to make suitable arrangements for payment of the required share of the privately funded public Improvements and Infrastructure that benefit that Person's property.
2. Any Person who makes any development or construction or connects to or otherwise utilizes or directly benefits from any privately funded public Improvements and Infrastructure covered by a reimbursement agreement or no access clause that has been filed with and approved by the City, shall be obligated to make reimbursement for the required portion of the privately funded public Improvements and Infrastructure utilized by or benefitting that Person's project, development or property prior to obtaining a building permit or commencing construction.

HISTORY

Adopted by Ord. [20-G Subdivisions](#) on 4/23/2020

14.07.090 Termination

A properly completed application and recorded agreement or clause for reimbursement shall be chargeable against and binding upon applicable property owners and subsequent Subdividers of Real Property for a period of five (5) to twenty (20) years from the date of recording, as outlined in the agreement or clause except in the case of an application that has been funded by public obligation (e.g. debt of the City) and in that case for the length of the obligation or thirty (30) years, whichever occurs first. The length of time an agreement or clause will be valid shall be determined by the City in consultation with the City Engineer and City Attorney. In most cases the City prefers a shorter duration, especially when the City will be involved with administering a reimbursement agreement.

HISTORY

Adopted by Ord. [20-G Subdivisions](#) on 4/23/2020

14.07.100 Violation

Any Person that receives the benefit of privately funded public Improvements and Infrastructure and is under obligation to provide reimbursement pursuant to the terms of this Chapter and fails or refuses to do so or otherwise violates this Chapter, shall be guilty of a class C misdemeanor. In addition to any fine, incarceration or other penalty that may be imposed for conviction of a class C misdemeanor. A Person convicted of violation of this Chapter shall be ordered by the court to make restitution in the amount of the pro rata share of the privately funded public Improvements and Infrastructure as to which that Person received the benefit.

HISTORY

Adopted by Ord. [20-G Subdivisions](#) on 4/23/2020

14.07.110 Indemnification

The City shall not be held liable for reimbursements that are not received by the applicant for any reason; neither shall the City be liable for any related damages.

HISTORY

Adopted by Ord. [20-G Subdivisions](#) on 4/23/2020

14.07.120 Appeal

If the applicant, or adjacent land owner or Subdivider charged for reimbursement disagrees with the apportionment or other aspect of a Reimbursement Agreement or No Access Clause, the decision may be appealed to the Hearing Officer.

HISTORY

Adopted by Ord. [20-G Subdivisions](#) on 4/23/2020

14.08 Penalty

14.08.010 Penalty

1. Any Person, who shall transfer or sell, or cause to be transferred or sold, any Lot or land in a Subdivision, which Subdivision has not been approved by the City, and recorded in the office of the County Recorder, shall be guilty of a Class C misdemeanor for each Lot or Parcel of land so transferred or sold, and the description of such Lot or Parcel of land by metes and bounds in the instrument of transfer, or other document used in the process of selling or transferring, shall not exempt the transaction from such penalties or from the remedies provided in this Title. The City may enjoin such transfer or sale or agreement by action for injunction brought in any court of equity jurisdiction, or may recover the penalty by civil action in any court of competent jurisdiction, together with costs and attorney fees incurred in enforcing this Title. Any Person violating any of the provisions of this Title shall be guilty of a Class C misdemeanor.
2. Any Person violating any of the provisions of this Title or the Public Works Standards, or failing to obtain the necessary inspections and tests required for public Improvements and Infrastructure shall be assessed a fine up to \$750. Fines may be applied daily and separately for each violation.
3. The City may bring an action against an Owner to require the property to conform to the provisions of this Title, the zoning ordinance or any other applicable Law. The action may include an injunction, abatement, merger of title, or any other appropriate action or proceedings to prevent, enjoin, or abate the violation. The City need only establish the violation to obtain the injunction.

HISTORY

Adopted by Ord. [20-G Subdivisions](#) on 4/23/2020

14.09 Vacating Or Altering A Subdivision Final Plat, Vacating A Street, Right Of Way, Or Easement, And Parcel Adjustments

14.09.010 Vacating, Altering, Or Amending A Final Plat

1. Vacating, altering, or amending a Final Plat shall be done in accordance with Utah Code Annotated 10-9a-608, or its successor statute. This includes changing a Subdivision boundary, dedicated right of way, the number or layout of Lots, easements, the Subdivision name, and any other aspect of a recorded Final Plat. If an amendment proposes significant changes to the existing Subdivision, then the Community Development Director may require the changes to be made through the vacation of the existing Final Plat and/or approval of the changes being done through the process required for new Subdivisions; this should be done to ensure that significant changes receive proper review and adequate fees are obtained to cover costs to the City.
2. The Land Use Authority for vacating, altering or amending a Final Plat shall be the same as that for the Final Plat Application.
3. Combining Parcels not in a recorded Subdivision does not require approval of the City.

HISTORY

Adopted by Ord. [20-G Subdivisions](#) on 4/23/2020

14.09.020 Vacating A Street, Right of Way, Or Easement

1. Vacations shall be done in accordance with Utah Code Annotated 10-9a-609.5 or its successor statute.
2. The Land Use Authority shall be City Council.
3. Making adjustments or modifications to an existing street, right of way, or easement while not eliminating the street, right of way, or easement, and while still maintaining access, does not constitute a vacation.

HISTORY

Adopted by Ord. [20-G Subdivisions](#) on 4/23/2020

14.09.030 Parcel Boundary Adjustments Not In A Recorded Subdivision

Prior to executing a Parcel Boundary Adjustment not in a recorded subdivision the property owner shall notify the City and provide the dimensions and setbacks of the proposed parcel boundaries.

HISTORY

Adopted by Ord. [20-G Subdivisions](#) on 4/23/2020

14.10 Exemptions For Bona Fide Agricultural Purposes And Utilities

14.10.010 Purpose And Intent

Utah Code 10-9a-605 (2) exempts agricultural lands from plat requirements under the certain conditions therein.

HISTORY

Adopted by Ord. [20-G Subdivisions](#) on 4/23/2020

14.10.020 Qualification Of Land For Agricultural Partitions

Agricultural land may be divided or partitioned under this Chapter only under the following circumstances:

1. The property must have been solely in agricultural use and actively devoted to agricultural use as defined by Utah Code 59-2-502, and must continue to be used solely for agricultural use in the future;
2. All of the Lots or Parcels must meet the minimum Lot size requirements of the applicable zoning district.

HISTORY

Adopted by Ord. [20-G Subdivisions](#) on 4/23/2020

14.10.030 Agricultural Partition Parcels As Buildable Lots

An agricultural partition Lot is buildable for only bona-fide agricultural purposes. A Parcel created in accordance with this Chapter is not considered a buildable Lot for residential, commercial, industrial, or any other non-agricultural purposes.

HISTORY

Adopted by Ord. [20-G Subdivisions](#) on 4/23/2020

14.10.040 Public Improvements And Infrastructure

The City shall not require any public Improvements and Infrastructure to be installed as a condition of approval for agricultural partitions.

HISTORY

Adopted by Ord. [20-G Subdivisions](#) on 4/23/2020

14.10.050 Use Of Property Created Under This Part For Non-Agricultural Purposes

If a Lot or parcel created by this part is used for a non-agricultural purpose, the City shall require the Lot or Parcel to comply with the requirements of the Subdivision and land use provisions of the PMC.

HISTORY

Adopted by Ord. [20-G Subdivisions](#) on 4/23/2020

14.10.060 Utilities

A Subdivision of land for utility purposes (unmanned facilities such as: substations, regulator stations, towers, etc.) creating a Parcel(s) under 8,000 square feet in size may be exempted by the Land Use Authority for certain provisions of this Title and/or provisions of PMC 15.07.110 relating to Lot size, frontage, setbacks, and Improvements and Infrastructure.

HISTORY

Adopted by Ord. [20-G Subdivisions](#) on 4/23/2020

14.10.070 Parent Parcels

The parent Parcel from which the agricultural or utility Lot(s) is created shall be labeled as a Remainder parcel and shall not be part of an approved Subdivision until such time as it complies with the provisions of this Title and other relevant sections of the PMC and has received the applicable land use approval(s).

HISTORY

Adopted by Ord. [20-G Subdivisions](#) on 4/23/2020

14.10.080 Land Use Authority

The Community Development Director shall be the Land Use Authority for exempted agricultural and utility Subdivisions.

HISTORY

Adopted by Ord. [20-G Subdivisions](#) on 4/23/2020

15 Land Use

15.01 General Land Use Provisions

15.01.010 Outline

The following outline applies to the land use regulations of the city:

1. **Short title.** This title shall be known as the Perry City "Land Use Ordinance" which shall include all land use maps, tables, charts, and diagrams adopted by the city council in its capacity as the legislative body.
2. **Contents.** Included in the "Land Use Ordinance" are Zoning, Subdivisions, Conservation Subdivisions, Landscaping, Area Requirements, Signs, Fences, Home Occupations, Parking, Design Review, Land Use, Conditional Uses, Excavation, Reclamation, Nonconforming Uses and Noncomplying Structures, Planning Commission Rules, Land Use Authorities and Appeal Authorities, Zoning Administration, Land Use Definitions, and other written land use provisions, maps, and information pertinent to and for clarification of the above, and as per Utah Code Annotated 10-9a-103(16), which states: "a planning, zoning, development, or subdivision ordinance of the municipality, but does not include the general plan."

HISTORY

Adopted by Ord. [15-C](#) on 3/17/2015

Amended by Ord. [18-E](#) on 3/28/2019

15.01.020 Purpose And Interpretation

1. **Purpose and intent.** This title is designed and enacted for the purpose and intent of promoting the health, safety, order, prosperity and welfare of the present and future inhabitants of Perry City.
2. **Interpretation.** In interpreting and applying the provisions of the Land Use Ordinances, the requirements contained herein are declared to be the minimum for the purposes set forth.
3. No provision of this title or the municipal code shall be interpreted to nullify more restrictive provisions of any covenants, agreements, ordinances, codes, or laws.
4. **Severability.** Should any section, clause or provision of any "Land Use Ordinance" (as defined herein) be declared by the courts to be invalid, the same shall not affect the validity of the remaining portions of the written Land Use Ordinance provision(s) as a whole or any part thereof; the written Land Use Ordinance provision(s) to thus continue to be in full force and effect, other than the part(s) so declared to be invalid.

HISTORY

Adopted by Ord. [15-C](#) on 3/17/2015

15.01.030 Departmental Organization

1. **Department organized.** The Community Development Department is created and shall consist of a Community Development Director, Building Official, Building Inspector(s), City Engineer, City Planner, Community Development Clerk and others, as designated by ordinance or by the city administrator. The Community Development Director shall be the director or head of said department. Unless otherwise designated, the City Engineer shall be the Assistant Community Development Director and may be assigned to chair, supervise or manage certain projects and meetings.
2. **Staff.** The Community Development Department shall serve as staff for the applicable land use or appeal authority of the city and shall place the appropriate issues and applications on the applicable agenda, and shall provide information to the City Recorder for items to be placed on the City Council agenda.
3. **Assistance.** The Public Works Director, the City Attorney, and/or other City officials may provide support to the Community Development Department on issues as necessary.

HISTORY

Adopted by Ord. [15-C](#) on 3/17/2015

15.01.040 Enforcement And Penalties

Any Person violating, causing, or permitting violations of the provisions of this Title shall be guilty of misdemeanor (Class C, unless otherwise identified). Such Person shall be deemed to be guilty of a separate offense of each Day during which any portion of any violation of this Title is permitted or continued by such Person. A Land Use Authority or Appeal Authority may, if allowed by Law, delay or refuse to act on a land use application until action required regarding a prior land use application is completed or may use any other remedies allowed by land use Law. The City may, by action of the City Council, also institute injunction, mandamus, abatement or any other appropriate action or actions, proceeding or proceedings to prevent, enjoin, abate or remove any associated unlawful erection, construction, reconstruction, alteration, or maintenance or use.

HISTORY

Adopted by Ord. [15-C](#) on 3/17/2015

Amended by Ord. [20-T Signs](#) on 5/12/2021

15.01.050 Pending Rule And Effect

Any existing land use ordinances or regulations of the city are hereby superseded and amended to read as set forth herein. Any projects or development that were approved under previous ordinances or processes shall be binding and accountable under the ordinances in place upon the date of application of said project or development, except where expansion or site amendment is required. The provisions of Utah Code Annotated 10-9a-509(1)(a) are specifically authorized such that appropriate land use officials may temporarily prohibit approval of an application (according to the terms of the referenced statute), pending action on the relevant pending ordinance. "Formally initiating proceedings to amend city ordinances" or "when a pending ordinance exists" shall be defined as when a pending ordinance is first specifically referred to on an official city agenda or is in written form available to the public. If the "pending ordinance" has the date it became "pending" listed on it, that date shall be the official date.

HISTORY

Adopted by Ord. [15-C](#) on 3/17/2015

15.02 Development Agreements

15.02.010 Purpose And Intent

The purpose of this chapter is to provide procedures and minimum standards for the review, consideration, and possible approval of development agreements by the City Council. The purpose of development agreements is to allow exceptions or changes to the current code for a specific development, respond to unique aspects of a property or development, further city priorities, bind the Subdivider to agreed upon Improvements and Infrastructure and other development parameters, and above all, create better developments than what could be had without a development agreement. A development agreement may only be approved, if in the opinion of the City Council, such agreement is found:

1. To recognize the intended character of the subject property by tailoring development standards and requirements that provide more desirable land use planning and regulatory standards than would be possible under the city's existing ordinances: and
2. To advance the policies and adopted plans of the City.

HISTORY

Adopted by Ord. [Ordinance 21-S](#) on 1/13/2022

15.02.020 Applicability

1. Unless expressly required elsewhere in this Title, a development agreement is an optional land use regulatory tool that may be used at the sole discretion of the City Council.
2. All persons entering into a development agreement with the city must have a legal or equitable interest in the property that is the subject of the development agreement.
3. The City Council may require additional provisions and requirements depending on the nature and scope of the parcel(s) affected and the particular purposes and intent(s) of the development agreement.
4. Development agreements are permitted only within the Development Overlay zone.

HISTORY

Adopted by Ord. [Ordinance 21-S](#) on 1/13/2022

15.02.030 Minimum Requirements

All development agreements entered into by the city shall, at a minimum, comply with the following standards:

1. Be in writing.
2. Provide an accurate legal description of the subject property and the names of all legal and equitable owners.
3. Provide a concept plan including, but not limited to, the location and arrangement of all allowed uses, traffic circulation, buildings, general open space enhancements, and required dedications and improvements.
4. Provide the terms of the agreement including an expiration date and any extension requirement(s).
5. Identify all allowed uses for the subject property and the procedures required for the approval of each use.
6. Identify development standards that will be implemented, including the timing and obligations associated with the necessary services and other Improvements and Infrastructure.
7. Provide for the installation of required public Infrastructure and Improvements.
8. Identify enforcement mechanisms determined necessary to ensure compliance.
9. Provide for the recording of the approved development agreement in the office of the Box Elder County Recorder.
10. Include any requirements and conditions identified by the City Council determined necessary to advance the policies and interests of the city or to protect the public health, safety and welfare, of the city and its residents.
11. Include a clause stating that in the event a development agreement expires or is terminated as a result of noncompliance by the property owner or developer, the Development Overlay zoning designation shall be removed, the agreement shall be void, and the underlying zoning district alone shall be in force.

HISTORY

Adopted by Ord. [Ordinance 21-S](#) on 1/13/2022

15.02.040 Procedures

1. The City Council, as the legislative body, shall consider a development agreement at a regular council meeting in conjunction with a zoning request for the Development Overlay zone (DO). The proposed agreement shall be submitted with the application for the DO zone and be subject to the public hearing and review process required for the zoning request. The zoning request for the DO zone with a development agreement may be processed prior to other associated land use applications, any time prior to the Design and Engineering application for subdivisions, or in conjunction with a site plan application.
2. After consideration of the proposed agreement the City Council may approve or deny the agreement with or without additional requirements and conditions and with associated findings. If approved, the Mayor, applicant, and city attorney shall sign and execute the agreement as approved.
3. Within fourteen (14) business days of approval the signed agreement shall be recorded by the applicant in the Office of the County Recorder. The applicant shall provide a copy of the recorded agreement to the City prior to any further applications being submitted or construction on the development occurs. The recorded agreement constitutes the official document of the city.
4. In reviewing a proposed development agreement the City Council may consider, but shall not be limited to considering, the following:
 - a. Public impacts and benefits.
 - b. Adequacy in the provision of all necessary public Improvements and Infrastructure.
 - c. Appropriateness and adequacy of environmental protection measures.
 - d. Protection and enhancements of the public health, welfare, and safety, beyond what is provided by the existing land use ordinances.
 - e. The general plan and other adopted plans and policies.
 - f. The extent of code changes, exceptions or advantages (such as density bonuses) granted to the developer and the counter balancing amenities or other benefits provided in return to the city.

HISTORY

Adopted by Ord. [Ordinance 21-S](#) on 1/13/2022

15.02.050 Effect Of Approval

1. An approved and recorded development agreement shall be controlling for the subject property and shall modify the city's land use ordinances to the extent specifically identified by the development agreement.
2. Only those city land use ordinance provisions specifically identified by the development agreement shall be modified. All other land use ordinances shall remain in full force and effect.
3. A development agreement shall not prevent the city from applying any new provisions or regulations to the subject property that do not conflict with those contained within the development agreement.

HISTORY

Adopted by Ord. [Ordinance 21-S](#) on 1/13/2022

15.02.060 Binding Nature Of Development Agreements

All development agreements shall be binding on the city, the applicant, and on all successors and assigns for the term of the agreement.

HISTORY

Adopted by Ord. [Ordinance 21-S](#) on 1/13/2022

15.02.070 Expenses

The city may require the applicant to reimburse the city for all reasonable expenses, including staff time, incurred by the city related to the preparation and adoption of a development agreement.

HISTORY

Adopted by Ord. [Ordinance 21-S](#) on 1/13/2022

15.02.080 Enforcement

Violation of a development agreement by an applicant or developer shall constitute a violation of this Title. The city may utilize all legally available enforcement mechanisms necessary to achieve compliance with this chapter and a development agreement including, but not limited to, the withholding of necessary land use or building related approvals or permits.

HISTORY

Adopted by Ord. [Ordinance 21-S](#) on 1/13/2022

15.02.090 Non Compliance

In the event a development agreement is terminated as a result of noncompliance by the subject property owner, the subject property shall have the DO zone removed.

HISTORY

Adopted by Ord. [Ordinance 21-S](#) on 1/13/2022

15.03 Planning Commission Rules Of Procedure

15.03.010 Governing Statues And Ordinances

The Perry City Planning Commission (herein referred to as "Planning Commission") shall be governed by the provisions of the Utah Municipal Code, Title 10, Chapter 9a, Sections 301 through 305 (Planning Commission), 1953, as amended, and by the other sections in Title 10, Chapter 9a, and by all other applicable state statutes and City ordinances (including PMC 15.05 and PMC 15.03), and shall be an advisory body to the City Council, and shall serve as a "land use authority" and as a "quasi-legislative body," as per PMC 15.05.

HISTORY

Adopted by Ord. [15-C](#) on 3/17/2015

15.03.010.2 Authority Limited To What Is Specifically Identified

The Planning Commission may only exercise authority which is specifically identified in the state statutes or in the City ordinances, and may not exercise any authority over business licensing, animal regulations, nuisances, or zoning enforcement, etc., unless specifically authorized by ordinance (this does not preclude participation in a conditional use permit process). The Planning Commission shall not act as an Appeal Authority and shall not act as a "final" land use authority (except in a limited capacity for limited review permits).

HISTORY

Adopted by Ord. [15-C](#) on 3/17/2015

15.03.010.3 Functions Of The Planning Commission

The Planning Commission shall have the following duties and responsibilities:

1. Propose, review, and recommend amendments and updates of the Perry City General Plan to the City Council.
2. Propose, review, and recommend amendments of the Zoning Ordinance and Zoning Map, the Subdivision Ordinance and other ordinances related to building and land use to the City Council.
3. Receive and review annexation proposals and forward recommendations to the City Council.
4. Propose, review, and recommend amendments of the Perry City Annexation Declaration Policy to the City Council.
5. Receive and review subdivision requests and forward recommendations to the City Council.
6. Receive and review design review/site plan applications and forward recommendations to the City Council.
7. Receive and review limited review permit applications, as per PMC 15.05.040(3a) and PMC 15.05.040(3b), including receiving and reviewing site plans for all residential building construction not located in an approved subdivision.
8. Receive and review conditional use permit applications and forward recommendations to the appropriate land use authority as required.
9. Provide information as requested by the City Council on various building problems and requests.
10. Exercise other actions authorized in the Perry Municipal Code or which are necessary to enable the Planning Commission to perform its functions or to complete directives from the City Council.

HISTORY

Adopted by Ord. [15-C](#) on 3/17/2015

Amended by Ord. [18-E](#) on 3/28/2019

15.03.020 Members Of The Planning Commission

15.03.020.1 Number Of Members And Manner Of Appointment

The Planning Commission shall consist of up to seven (7) permanent members. The members shall be appointed by the Mayor with the advice and consent of the majority of the City Council. Members of the City Council may submit names of candidates for the Mayor to consider for appointments.

HISTORY

Adopted by Ord. [15-C](#) on 3/17/2015

Amended by Ord. [17-P](#) on 1/25/2018

15.03.020.2 Residency Requirement

All members of the Planning Commission shall be residents of Perry City for at least thirty (30) days when appointed and during the time of appointment. If a member of the Planning Commission moves outside of the Perry City boundaries (and/or is no longer in compliance with PMC 15.03.030.6), said member shall be immediately and automatically removed as a member of the Planning Commission without the need to comply with any of the provisions of PMC 15.03.030.8 and PMC 15.03.030.9.

HISTORY

Adopted by Ord. [15-C](#) on 3/17/2015

Amended by Ord. [17-P](#) on 1/25/2018

15.03.020.3 Powers And Duties Of Alternate Planning Commission Members

Alternate members shall serve in the event a permanent member is unable to attend. A permanent member should contact an alternate member to take his/her place on the Planning Commission if he/she is going to be absent. An alternate member who is seated with the Planning Commission shall have the same powers to participate in discussions and vote as the permanent member he/she replaces. Alternate members are encouraged to attend each meeting and if not seated with the Planning Commission, may be recognized by the Chair to give comments before a motion is entertained. An alternate member does not vote unless seated in the place of a permanent member.

HISTORY

Adopted by Ord. [15-C](#) on 3/17/2015

15.03.030 Terms, Vacancies, Training, And Removal Of Members

15.03.030.1 Terms And Vacancies

Each member of the Planning Commission shall be appointed for a four (4) year term, which runs from the date of appointment and ends four years later. No member shall serve more than eight (8) consecutive years of service. Any vacancy in the membership of the Planning Commission before the end of a four (4) year term (by reason of death, resignation, removal, disqualification, or other reason) shall be filled for a four (4)-year term by appointment from the Mayor and approval by the City Council, as per PMC 15.03.020.1.

HISTORY

Adopted by Ord. [15-C](#) on 3/17/2015

Amended by Ord. [17-P](#) on 1/25/2018

15.03.030.2 Commencement Of Terms: Time Of Appointment

Members of the Planning Commission, who are appointed for a full term, shall commence their terms of office at the first available meeting in January. Members of the Planning Commission, who are filling vacancies, shall commence their terms of office at the next available meeting after appointment. Before or during the last meeting of November each year, the Mayor (and City Council) shall complete the appointment process for vacancies of members of the Planning Commission whose terms expire in December, as per PMC 15.03.020.1.

HISTORY

Adopted by Ord. [15-C](#) on 3/17/2015

15.03.030.3 Initial Training Qualifications For Permanent Planning Commission Members

Each permanent member of the Planning Commission shall, before being appointed, or within one (1) year after being appointed, show proof of having taken the two day Certified Community Planner Seminar organized by the Utah Local Governments Trust or twelve (12) hours of equivalent training.

HISTORY

Adopted by Ord. [15-C](#) on 3/17/2015

15.03.030.4 Continuing Training Qualifications For Planning Commission Members

The Planning Commission shall hold at least two (2) trainings per calendar year. These two (2) trainings will be in addition to any mandatory trainings required for the Planning Commission by any applicable governing authority (e.g. State of Utah, etc.). The City shall cover all costs of training (and travel, etc.).

HISTORY

Adopted by Ord. [15-C](#) on 3/17/2015

Amended by Ord. [17-P](#) on 1/25/2018

15.03.030.5 Not A City Official

No member of the Planning Commission, when appointed or during the time of appointment, may be a member of the Governing Body, City Staff, employee, independent contractor, or serve in any capacity as staff for or a member of another land use authority or Appeal Authority of Perry City (but may be an elections worker, volunteer, or committee member).

HISTORY

Adopted by Ord. [15-C](#) on 3/17/2015

15.03.030.6 No Land Use/Real Estate Compensation (On Owner Or Commission Basis)

No Member of the Planning Commission, when appointed or during the time of appointment, may receive any compensation in the field of selling, developing, building, appraising, insuring, and/or financing real estate, but may be employed with another governmental agency or business entity, as a non-owner (and non-full time commission basis) expert or employee who assists in these processes (with a maximum of one non-full time "commission basis" member of the Planning Commission to serve at any given time).

HISTORY

Adopted by Ord. [15-C](#) on 3/17/2015

15.03.030.7 No Compensation (From The City) For Members Of The Planning Commission

Each member of the Planning Commission shall serve without compensation, except that each member is entitled to have the costs of training, including per diem and mileage costs, reimbursed or paid for by Perry City (and other reasonable expenses approved by the City Council).

HISTORY

Adopted by Ord. [15-C](#) on 3/17/2015

15.03.030.8 Procedures For Removal (For Cause) Of Planning Commission Members

A member of the Planning Commission may resign at any time and may be removed for cause by the City Council upon written charges (and after a meeting regarding the issue). Such written charges may include high crimes and misdemeanors, dereliction of duties, failure to attend at least half of the scheduled meetings (in a six month period), willful violation(s) of City ordinances(s) and/or state or federal law, insubordination or disrespectful conduct, egregious violations of rules of ethical conduct, failure to complete required training curriculum as required by the Governing Body, or violation of the other qualifications and conditions set forth herein. The written charges shall be provided at least five (5) days before the meeting and the member of the Planning Commission may choose whether the meeting shall be open to the public or closed to just the member of the Planning Commission, his/her representative (if any), the Governing Body, their representative (if any), and a minutes clerk. If no choice is made by the member, the meeting shall be closed, as set forth herein.

HISTORY

Adopted by Ord. [15-C](#) on 3/17/2015

Amended by Ord. [17-P](#) on 1/25/2018

15.03.030.9 Decision Regarding Removal Of A Planning Commission Member

A decision (to remove or not to remove, with or without conditions) by the City Council regarding a member of the Planning Commission shall either be rendered in the presence of the member at the meeting or may be taken under advisement and issued within twenty (20) days thereafter.

HISTORY

Adopted by Ord. [15-C](#) on 3/17/2015

Amended by Ord. [17-P](#) on 1/25/2018

15.03.040 Designation Of Officers And Staff

15.03.040.1 Officers And Staff And Their Duties

The officers of the Planning Commission shall consist of a Chair and a Vice Chair. The staff of the Planning Commission shall consist of the Community Development Department and the City Attorney (or an Assistant City Attorney).

HISTORY

Adopted by Ord. [15-C](#) on 3/17/2015

15.03.040.2 Chair, Vice Chair, And Acting Chair Of The Planning Commission

During its first meeting in December each year, the Planning Commission, by a majority of the quorum in attendance, shall recommend for appointment, from among the qualified members of the Planning Commission (who have at least two (2) years of service remaining or who are being re-appointed), a Vice Chair/Chair-Elect, for a two-year term. The Vice Chair/Chair-Elect shall serve one (1) year as Vice-Chair, followed by one (1) year as Chair. Each such recommendation for officer appointment shall be acted upon by the Governing Body as a group, at a meeting in December or as soon thereafter as possible, the Mayor and City Council Members each having one (1) vote, and with the Mayor's vote and at least three (3) City Council Members' votes being required to appoint, reject, or take other action. If the recommendation is rejected, the Planning Commission shall make another recommendation, and if rejected a second time, the Mayor and City Council shall make an appointment (without further recommendation).

HISTORY

Adopted by Ord. [15-C](#) on 3/17/2015

Amended by Ord. [17-P](#) on 1/25/2018

15.03.040.3 Officer Terms, Vacancies, And Duties

Candidates for officer vacancies may be appointed in the same manner. The terms of office for officers shall be from January 1 to December 31, but shall "hold over" until their successors are appointed. The Chair, or in his/her absence or incapacity, the Vice Chair, shall approve all agendas, and shall preside over the meetings he/she attends, and shall execute all official documents of the Planning Commission for said meetings. If the Chair and Vice Chair are both absent and/or incapacitated, an Acting Chair, selected (from among the members participating) by a majority of the quorum in attendance, shall fulfill the referenced functions. The Chair, Vice Chair, and Acting Chair may execute documents and act on behalf of each other and shall always vote, as per PMC 15.03.050.2.

HISTORY

Adopted by Ord. [15-C](#) on 3/17/2015

Amended by Ord. [17-P](#) on 1/25/2018

15.03.040.4 Community Development Department To Act As Staff To The Planning Commission

The Community Development Director ("Director"), as the head of the Community Development Department ("Department"), shall ensure that the City engineer(s), planner(s), and inspector(s), etc., provide adequate staffing and equal access to municipal resources for each member of the Planning Commission. The Director shall also work with the City Recorder to provide a Community Development Clerk and/or Minutes Clerk to assist the City planner(s) and other staff with accepting all applications and preparing all agendas and minutes for the Planning Commission, and to maintain records of the Planning Commission, including all applications and files of proceedings and actions taken in connection therewith.

HISTORY

Adopted by Ord. [15-C](#) on 3/17/2015

15.03.040.5 Community Development Department To Provide Minutes, Agendas, And Information Regarding Land Use Applications To The Planning Commission

The Department shall, not less than three days prior to any meeting of the Planning Commission, transmit to each member of the Planning Commission an agenda (with the time of the meeting), a copy of the minutes of the previous meeting(s), and information pertinent to the requests to be acted upon by the Planning Commission at the meeting (including records of actions taken by the Department and/or other land use authorities, etc.). If the three day agenda deadline is missed, then the meeting is automatically cancelled. If the three day information deadline is missed, then the agenda item may be discussed, but not acted upon. The Department shall be responsible for posting the agenda and notifying interested parties of upcoming the Planning Commission meetings. The Department shall ensure that all granted/approved plats and other relevant land use documents are recorded in the County Recorder's Office, at the expense of the property owner or appropriate interested party.

HISTORY

Adopted by Ord. [15-C](#) on 3/17/2015

15.03.050 Procedures For Meetings

15.03.050.1 Planning Commission Quorum

The procedures for meetings for the Planning Commission shall be as set forth in the following sections. A majority of current appointed Planning Commission members constitute a quorum. A quorum is required to start or convene a meeting, to continue a meeting, and to act on any application or issue. A quorum is not required for Planning Commission work sessions.

HISTORY

Adopted by Ord. [15-C](#) on 3/17/2015

Amended by Ord. [17-P](#) on 1/25/2018

Amended by Ord. [19-N Planning Commission Rules of Procedure](#) on 1/9/2020

15.03.050.2 Planning Commission: Decisions By Majority (Roll Call) Vote

Except for a decision to adjourn a meeting, which decision may be made either by the "Voice" method of voting prescribed by Robert's Rules of Order or a "Roll Call" vote, all votes shall be by "Roll Call," and the Chair, Vice Chair, or Acting Chair shall always vote (and shall always vote last). A majority affirmative concurring vote of the quorum in attendance (excluding members recused, as per PMC 15.03.050.3) is required for any motion or vote to be approved. The Planning Commission shall operate in compliance with applicable federal, state, and municipal laws and regulations.

HISTORY

Adopted by Ord. [15-C](#) on 3/17/2015

Amended by Ord. [17-P](#) on 1/25/2018

15.03.050.3 Members To Vote On All Issues And To Recuse/Abstain When Conflicts Arise

All members: (1) may ask applicants and interested parties questions; and (2) shall vote on all issues, except where they recuse themselves (also known as abstaining) for a conflict of interest or other ethical issue. Reasons to recuse include: (1) a financial conflict of interest; or (2) a situation in which a member was previously a member of another land use authority or Appeal Authority which acted on the issue (or on a related issue) now before the Planning Commission; or (3) another significant legal or ethical issue. A member may either vote or recuse regarding approval of minutes for a meeting he/she did not attend. To "recuse" means to leave the meeting (unless the issue is approval of the minutes) for the relevant issue and to not participate in any discussion, motions, or voting (unless the member is an applicant, in which case said member may be present and participate as an applicant). For most other ethical issues, disclosure (without recusing/abstaining) may be adequate. As per PMC 15.03.050.4, the City Attorney (or Assistant City Attorney), as parliamentarian, shall decide any issues as to how the rules of ethics shall be applied, subject to a procedural appeal/petition. See also PMC 15.03.060, entitled "Ethics and Conflicts of Interest."

HISTORY

Adopted by Ord. [15-C](#) on 3/17/2015

15.03.050.4 Rules Of Procedure; City Attorney To Decide Rules Application

Roberts Rules of Order, newly revised, shall govern meeting conduct, unless other appropriate rules of procedure are adopted, or unless such rules conflict with other provisions of the Municipal Code. The Chair (or Vice Chair or Acting Chair) of the Planning Commission may administer oaths and compel the attendance of witnesses. The City Attorney (or Assistant City Attorney), as parliamentarian, shall decide any issues as to how the rules of procedure shall be applied, subject to a procedural appeal/petition.

HISTORY

Adopted by Ord. [15-C](#) on 3/17/2015

15.03.050.5 Time Of Planning Commission Meetings

Meetings of the Planning Commission shall be held at least once per month, unless a meeting is cancelled due to lack of business. The Planning Commission may meet on first and third Thursdays, or at any other time, as needed. All meetings shall follow the requirements of the Open and Public Meetings Act, "The Sunshine Law," Title 52, Chapter 4 of the Utah Code Annotated, 1953, as amended. Special meetings may be called by the Chair or by a majority of the other members of the Planning Commission at any time, provided that at least twenty-four (24) hours notice has been given each member and the press before a special meeting is held. In addition to the regular meetings, the Planning Commission may schedule field trips, work sessions, and executive sessions, etc., as allowed by law.

HISTORY

Adopted by Ord. [15-C](#) on 3/17/2015

Amended by Ord. [19-N Planning Commission Rules of Procedure](#) on 1/9/2020

15.03.050.6 Protecting Due Process Rights: Constitutional Takings

Each application or petition shall be conducted as provided in the ordinance, and the Planning Commission shall respect the due process rights of each of the participants. Particular care shall be taken with regards to exactions, condemnations, "constitutional takings," and similar issues. See PMC 15.05.040(E)(1) regarding avoiding unnecessary or excessive delays.

HISTORY

Adopted by Ord. [15-C](#) on 3/17/2015

15.03.050.7 Reliance Upon City Council (Or Other City) Rules Of Procedure

The Planning Commission and the City Attorney may rely upon the City Council Rules of Procedure or other Perry City Rules of Procedure in interpreting a Planning Commission rule of procedure or to provide for a rule where no other rule exists.

HISTORY

Adopted by Ord. [15-C](#) on 3/17/2015

15.03.060 Ethics And Conflict Of Interest

15.03.060.1 Definition: Conflict Of Interest

Any private benefit obtained directly or indirectly, creating material or personal gain or providing an advantage to self, relatives, friends, or groups and associates which hold some share of the Planning Commission member's loyalty. Mere membership in a group shall not be considered a conflict of interest unless such membership would prevent an objective consideration of the matter at hand by the Planning Commission member.

HISTORY

Adopted by Ord. [15-C](#) on 3/17/2015

15.03.060.2 Action Required

Any Planning Commission member who experiences a conflict of interest, should declare his/her interest publicly, abstain from voting on the action and excuse him/herself from the room during consideration of the action (but may fulfill the role of applicant if he/she is an applicant). He/she should not discuss the matter privately with any other Planning Commission member, as per PMC 15.03.050.3. The vote of a Planning Commission member experiencing a conflict of interest who fails to disqualify himself/herself shall be disallowed. No Planning Commission member should engage in any transaction in which he/she has a financial interest, directly or indirectly, with the agency or jurisdiction that he/she serves unless the transaction is disclosed publicly and determined to be lawful.

HISTORY

Adopted by Ord. [15-C](#) on 3/17/2015

15.03.060.3 Determination

A Planning Commission member who has any question about a conflict should raise the matter with the other Planning Commission members and the City Attorney in order to determine whether a conflict of interest exists (see also PMC 15.03.050.3 and PMC 15.03.050.4).

HISTORY

Adopted by Ord. [15-C](#) on 3/17/2015

15.03.060.4 Ethics Rules

The Planning Commission shall abide by the provisions of the American Planning Association and shall adhere to the ethical rules set forth by state law (see Utah Code Annotated §§67-16-1 et seq. and §§10-3-1301 et seq., 1953, as amended), by City ordinance, or by other professional codes of ethics and conduct to:

1. Serve the public interest.
2. Support citizen participation in planning.
3. Recognize the comprehensive and long-range nature of planning decisions.
4. Expand choice and opportunity for all persons.

5. Facilitate coordination thorough the planning process.
6. Avoid conflicts of interest.
7. Render thorough and diligent planning service.
8. Not seek or offer favors.
9. Not disclose or improperly use confidential information for financial gain.
10. Ensure access to public planning reports and studies on an equal basis.
11. Ensure full disclosure at public hearings.
12. Maintain public confidence.

HISTORY

Adopted by Ord. [15-C](#) on 3/17/2015

15.03.060.5 Ethical Guidelines Chart

The Planning Commission shall also abide by the provisions of this Ethical Guidelines Chart:

Function or Role	Can Public Clamor be Considered?	Discretion in Acting on Agenda Item	Ex Parte Communication Allowed?
Quasi-Legislative	Yes	A Lot	Yes (No Disclosure Necessary)
Administrative	No, Must Follow Ordinances/Standards	Not Much	Yes (Disclosure Is Necessary)
Quasi-Judicial*	No, Must Follow Ordinances/Standards	Not Much	No (Never Allowed)

*Conditional Use or Other "Special Use" Permit/Application (see PMC 15.05.040(4a).

HISTORY

Adopted by Ord. [15-C](#) on 3/17/2015

15.03.070 Procedures To Be Followed By Applicants

15.03.070.1 Deadline For An Application To Be On An Agenda

In order to be on a Planning Commission agenda, an application or request, with all necessary documentation and fees, shall be filed with the Community Development Department by the duly established deadline. The Community Development Director shall be empowered to make a procedural exception regarding the application deadline if the Director determines that a City official caused a delay or that there is an unusual emergency which is outside of the control of the applicant.

HISTORY

Adopted by Ord. [15-C](#) on 3/17/2015

Amended by Ord. [19-N Planning Commission Rules of Procedure](#) on 1/9/2020

15.03.070.3 Application Form

Requests must be submitted on an application form provided by the City.

HISTORY

Adopted by Ord. [15-C](#) on 3/17/2015

15.03.070.4 Information To Be Included On The Application

The following information to be included on the application:

1. The applicant's name, address, and phone number.
2. The City street address of the subject property (may be obtained from the County or City).
3. A statement of the request with all supporting evidence or facts.
4. A plot plan showing the lot dimensions and area, and the location, uses, dimensions, and set backs of all existing and proposed buildings.
5. A filing fee payable to Perry City.
6. If applicable:
 - a. A legal description and current ownership plat of the property (may be obtained from the County Recorder or from the City).
 - b. A list of landowners and their addresses for all property within three hundred (300) feet of the property in question.
 - c. Anything else required by PMC 15.05.040, especially by PMC 15.05.040(2)(a).

HISTORY

Adopted by Ord. [15-C](#) on 3/17/2015

15.03.080 Rules Governing Public Input

15.03.080.1 Chair To Recognize Speakers

No one speaks until recognized by the Chair (or Vice Chair or Acting Chair).

HISTORY

Adopted by Ord. [15-C](#) on 3/17/2015

15.03.080.2 One Individual Speaks At A Time

Only one person speaks at a time. The members of the audience will not interrupt or attempt to ask or answer questions until the Chair recognizes them.

HISTORY

Adopted by Ord. [15-C](#) on 3/17/2015

15.03.080.3 Time Limit To Speak

Once recognized by the Chair, the speaker may speak for or against the application or issue for three (3) minutes (more for complex issues). The Chair will recognize no person more than two (2) times in order to give more people the opportunity to address the issue.

HISTORY

Adopted by Ord. [15-C](#) on 3/17/2015

15.03.080.4 Limit Redundant Comments

The Chair will attempt to limit redundant comments and moderate the discussion.

HISTORY

Adopted by Ord. [15-C](#) on 3/17/2015

15.03.080.5 Motion To Limit (Or End) Discussion

In the event public discussion of any agenda item becomes too lengthy, the Chair or any member of the Planning Commission may call for a vote on the pending matter or make a motion to limit (or end) time for discussion. Upon receiving a second to the motion to limit (or end) time for discussion, reasonable time limits (or an end) may be imposed upon the public discussion by a majority of the Planning Commission members present and voting (three "yes" votes required to pass any matter).

HISTORY

Adopted by Ord. [15-C](#) on 3/17/2015

15.03.080.6 Public Hearing And Public Comments Rules

The following are rules regarding public hearings and public comments, which may be posted on the agenda in a manner similar to the following:

1. Please speak only once (maximum of three (3) minutes) per agenda item.
2. Please speak in a courteous and professional manner.
3. Do not speak to specific member(s) of the Planning Commission, staff, or public (please speak to the Chair or to the Planning Commission as a group).
4. Please present possible solutions for all problems identified.
5. No decision may be made during this meeting if the item is not specifically on the agenda (with action on Public Hearings to be potentially taken later in the meeting).

HISTORY

Adopted by Ord. [15-C](#) on 3/17/2015

15.03.090 Planning Commission Votes

15.03.090.1 Procedure From Calling Agenda Item To Time Of Vote

The following procedures shall be observed for regular Planning Commission agenda items, as well as for ordinances and resolutions:

1. The Chair (or Vice Chair or Acting Chair) of the Planning Commission shall read the agenda item and shall have Planning Commissioner(s), staff, or others make any necessary presentations.
2. If a motion and second are required and made on the item, the process shall proceed; otherwise, further action on the item is not required (in accordance with Robert's Rules of Order and rules established by resolution or ordinance).
3. Following a motion and second, the Planning Commission may further discuss the motion.
4. After discussion by the Planning Commission, the Chair (or Vice Chair or Acting Chair), may allow public comment, by invitation only, to discuss the item, and the Planning Commission may then further discuss the item.
5. Once discussion is completed, the Chair shall call for a vote on the motion.

HISTORY

Adopted by Ord. [15-C](#) on 3/17/2015

15.03.090.2 Planning Commission Abstaining Votes: For Any Vote Other Than Minutes Or Procedural

In the event of a vote on any motion, land use application, ordinance, or other issue besides a vote on minutes or a simple procedural or scheduling item (referred to herein collectively as “vote”) during a Planning Commission meeting which results in 1 or more Planning Commission members abstaining or refusing to vote (referred to herein collectively as “abstain(s)” or “abstention(s)”), each abstention shall not count as a yes vote or as a no vote, as long as a conflict of interest, personal bias, or other ethical disclosure (does not have to be specific) is declared before or at the time of the vote; otherwise, the abstention shall count as a no vote. Two examples are as follows:

1. In the event of a 2 yes, 1 no, and 2 abstentions (with ethical disclosures) vote, the vote shall not be counted as a “final, failed vote”; but rather, shall be an “open-ended, failed vote,” due to a lack of the minimum 3 yes votes or 3 no votes, as per PMC 15.03.050.2.
2. In the event of a 3 yes, 3 no vote, said tie vote shall be an “open-ended, failed vote,” due to the lack of a majority vote, as per PMC 15.03.050.2 and PMC 15.03.090.3.
3. In the event of a 2 yes, 2 no vote, said tie vote shall be an “open-ended, failed vote,” due to a lack of the minimum 3 yes votes or 3 no votes, and due to the lack of a majority vote, as per PMC 15.03.050.2 and PMC 15.03.090.3.

HISTORY

Adopted by Ord. [15-C](#) on 3/17/2015

15.03.090.3 Reconsideration Of An Open-Ended, Failed Vote

In the event of a 3 yes, 3 no tie vote, or in the event of any other vote which does not receive a majority vote of at least 3 yes votes or 3 no votes (referred to herein collectively as an “open-ended, failed vote”), the vote may only be reconsidered in a “timely fashion,” defined as follows:

1. At the same meeting and/or at a Planning Commission meeting within 36 days of said meeting, or if approved by a motion of the Planning Commission within said 36 days to be placed on a later Planning Commission meeting agenda (within 36 days of said motion); and if
2. The issue is properly placed on the agenda for said meeting; and if
3. All other legal requirements are met, including the number of members of the Planning Commission present and voting (not counting abstentions) is equal to or greater than the number of members present and voting at the prior meeting (not counting abstentions).

HISTORY

Adopted by Ord. [15-C](#) on 3/17/2015

15.03.090.4 Open-Ended, Failed Vote Becomes A Final Vote If Not Timely Reconsidered

If the open-ended, failed vote is not reconsidered and voted on with a “final, approved vote” in a “timely fashion,” it shall be deemed a final, failed vote and it shall: (1) be immediately forwarded to the appropriate higher authority, as per PMC 15.03.090.6; and (2) not be reconsidered at any subsequent Planning Commission meeting, except as PMC 15.03.090.5.

HISTORY

Adopted by Ord. [15-C](#) on 3/17/2015

15.03.090.5 Final Vote: Limited Reconsideration After The Meeting Is Over

In the event of a vote which receives a majority with 3 or more yes votes (“final, approved vote”) or with 3 or more no votes (“final, failed vote”), the vote shall be deemed a “final vote” at the conclusion of the meeting and shall thus not be reconsidered, unless the Planning Commission votes to reconsider at a subsequent meeting (before a higher authority has acted), with a finding that:

1. The prior vote was illegal or in violation of a contract or other legal obligation, or that the new vote is required by law; and
2. The issue is properly placed on the agenda by three (3) or more members of the Planning Commission; and
3. A higher authority has not yet acted on the recommendation; and
4. All other legal requirements are met, including the requirements of PMC 15.03.090.3(3).

HISTORY

Adopted by Ord. [15-C](#) on 3/17/2015

15.03.090.6 Immediate Forwarding Of Final Votes To Higher Authority

All final votes shall be immediately forwarded to the appropriate higher authority, except for items for which the Planning Commission is the final land use authority.

HISTORY

Adopted by Ord. [15-C](#) on 3/17/2015

Amended by Ord. [18-E](#) on 3/28/2019

15.03.090.7 Remand From Higher Authority For Further Action

If a higher authority remands an item to the Planning Commission for further consideration, the scope of the item remanded shall not be treated as "reconsideration"; but rather, as a new item.

HISTORY

Adopted by Ord. [15-C](#) on 3/17/2015

15.03.090.8 Retention Of Recommendations Of Staff

All recommendations of the city staff that are not specifically excluded or overruled by a Planning Commission vote shall be deemed accepted and part of said vote.

HISTORY

Adopted by Ord. [15-C](#) on 3/17/2015

15.03.100 Decisions

15.03.100.1 Recording Votes, Including Abstaining Votes

Other than for minor procedural votes, the vote of each member shall be recorded as "For" ("Yes"), "Against" ("No"), or "Abstaining". When Planning Commission Members abstain from voting on any request in which they have a vested interest, conflict of interest, etc., the reason for abstaining may be included in the minutes.

HISTORY

Adopted by Ord. [15-C](#) on 3/17/2015

15.03.100.2 Reasons And Conditions Of Decisions

The Planning Commission shall include the reasons for their decision and may modify or set conditions upon any decision being made.

HISTORY

Adopted by Ord. [15-C](#) on 3/17/2015

15.03.100.3 Recording Decisions In Minutes

Each decision, including the vote and supporting reasons, shall be recorded in the minutes for the meeting at which the decision is made.

HISTORY

Adopted by Ord. [15-C](#) on 3/17/2015

15.03.100.4 Notice Of Decision To Applicants

If requested or if required by law, the Community Development Department shall mail notice of the Planning Commission's decisions to an applicant, a copy of which shall be entered into the Planning Commission's records. Such notice may state a summary of the request, decision of the Planning Commission, reasons for the decision, and any conditions attached to that decision. Such notice may be a copy of the minutes of the relevant meeting(s).

HISTORY

Adopted by Ord. [15-C](#) on 3/17/2015

15.05 Land Use Charts, Land Use Authorities, And Appeal Authorities

15.05.010 Legislative Intent Of This Title

15.05.010.1 Primary Intent Of This Land Use Ordinance Title

The primary intent of this title is to designate the land use authorities and land use appeal authorities for all types of land use applications, and to otherwise clarify and make changes with regards to the procedures for and handling of land use issues by the City.

HISTORY

Adopted by Ord. [15-C](#) on 3/17/2015

15.05.010.2 Intent With Regards To Legislative Land Use Powers

All of the legislative land use powers of the City Council shall be retained (they cannot be delegated). The City Council shall thus retain the right to amend or repeal this "Land Use Authorities/Appeal Authorities" ordinance at any time, if necessary. Some quasi-legislative "rule-making" authority for public works standards has already been delegated, but is subject to legislative review and action (at any time) by the City Council.

HISTORY

Adopted by Ord. [15-C](#) on 3/17/2015

15.05.010.3 Intent With Regards To Administrative Land Use Powers

All primary administrative land use powers of the City Council shall be retained; namely, final approval of design review/site plan processes, subdivision plats (new, amended, and vacated), dedicating and vacating streets, and similar actions. The secondary administrative land use powers of the City Council shall be delegated to the City Staff (with final review by or appeals to the Appeal Authorities), such as escrow releases and Certificates of Existence for Nonconforming Uses and Non-complying Structures.

HISTORY

Adopted by Ord. [15-C](#) on 3/17/2015

15.05.010.5 Land Use Powers Of The Planning Commission

The Planning Commission has the land use powers identified in the governing legislation (state law; see PMC 15.03.010.1) and in PMC 15.03 and PMC 15.05, especially PMC 15.03.010.2 and PMC 15.03.010.3. Except when acting on limited review permits, the Planning Commission makes recommendations to the City Council or Appeals Board, etc.

HISTORY

Adopted by Ord. [15-C](#) on 3/17/2015

15.05.010.6 Miscellaneous Intent; Compliance With Law

Unless qualified residents are not available, most of the Members of the Appeal Authorities shall be Perry City residents, and all of the Members of the Appeal Authorities shall be appointed by the Mayor (and approved by the City Council). All applicants, interested parties, land use authorities, other City officials, and Appeal Authorities, shall operate in compliance with applicable federal, state, and municipal laws and regulations.

HISTORY

Adopted by Ord. [15-C](#) on 3/17/2015

15.05.020 Appeal And Variance Authorities

15.05.020.1 Appeal And Variance Hearing Officer

1. Creation and Appointment

- a. Pursuant to Utah Code Section 10-9a-701 et seq., there is created in the City an Appeal and Variance Authority. The City Council shall appoint by resolution one or more appeal and variance hearing officers (also referred to as "Hearing Officer") who will serve as the appeal authority for appeals of administrative land use and business license decisions and variances.

2. Authority and Jurisdiction

- a. A Hearing Officer shall have the following powers:
 - i. Hear and Decide Appeals: Unless otherwise specifically provided in the PMC a hearing officer shall hear and decide all appeals alleging that there is error in any final written decision of the Community Development Director, city engineer, Planning Commission, City Council, or other Land Use Authority in administering or interpreting this code.
 - ii. Authorize Variances: A hearing officer may authorize a variance to any person or entity desiring a waiver or modification of a land use requirement as applied to a parcel of property that he or she owns, leases, or in which he or she holds some other beneficial interest upon application by the owner for a variance.

HISTORY

Amended by Ord. [18-E](#) on 3/28/2019

15.05.020.2 Appeals

1. Parties Entitled to Appeal:

- a. The City, an applicant, or any other person or party adversely affect by a final written decision of the Land Use Authority administering or interpreting the land use provisions of the PMC.

2. Time to File Appeal:

- a. A Hearing Officer may only consider appeals properly filed pursuant to this section within ten (10) days of the date the disputed final written decision was issued.

3. Application:

- a. Appellants shall file their appeals in writing by submitting an appeal application to the City. An appeal application is complete if it includes, at a minimum, the following:
 - i. A completed application form provided by the City;
 - ii. Payment of applicable fees;

iii. A written statement that:

- (1) Concisely explains the appellants' standing to appeal;
- (2) Identifies the alleged error that is grounds for the appeal;
- (3) Provides reasons the appellant claims the applicable decision was made in error;
- (4) Provide reasonable theories of relief.

4. Stay of Proceedings Pending Appeal:

- a. An appeal stays all proceedings, unless the officer or decision making body that made the decision being appealed certifies to the Hearing Officer after the notice of appeal is filed with the City that, by reason of the facts stated in the certificate, the stay would in the officer's or decision making body's opinion cause imminent peril to life or property. In such case, proceedings shall not be stayed unless a hearing officer of the district court grants a restraining order on application, notice, and due cause shown.

5. Notice of Hearing:

- a. After receiving an appeal application from the City, the Hearing Officer shall fix a reasonable time and place for hearing the appeal during a public meeting. Thereafter, the City shall publish an agenda and provide notice according to the Utah Land Use, Development, and Management Act, and PMC.

6. Response and Representation:

- a. Prior to the hearing, the appellee may submit to the City a response to the appeal application that shall be provided to the Hearing Officer and appellant. At the hearing, the parties may appear in person or by agent or attorney.

7. Hearing and Decision Procedures:

- a. The Hearing Officer shall cause minutes to be kept of all proceedings before him or her and shall keep record of all other official actions, including written decisions. The Hearing Officer's minutes and official records shall be immediately filed with the City as a public record and shall be retained according to applicable law.
 - i. The Hearing Officer shall file with the City a written decision on each appeal that reverses or affirms, in whole or in part, the administrative decision being appealed.
 - (1) The written decision shall set forth the facts and law upon which the decision is made.
 - (2) If a Hearing Officer reverses any part of the administrative decision being appealed, the hearing officer shall remand the administrative decision to the officer or decision making body that made the decision for further proceedings consistent with the hearing officer's decision.
 - (3) The City shall notify the parties of the decision in writing within ten (10) days of the decision.
 - ii. The Hearing Officer may formally adopt other policies and procedures that do not otherwise conflict with this section or other applicable laws.

8. Standard of Review:

- a. The Hearing Officer, acting in his or her quasi-judicial capacity, shall review all appeals based on the record and the following requirements:
 - i. The Hearing Officer shall not receive public comment and the parties may not present new evidence unless such evidence was improperly excluded.
 - ii. The Hearing Officer shall determine the correctness of the decision at issue and shall uphold the decision unless it is not supported by substantial evidence in the record or is otherwise illegal.
 - iii. The appellant has the burden of proving the appealed decision was made in error.

9. Judicial Review of Hearing Officer's Decision:

- a. The City or any person affected by any Hearing Officer's decision may appeal to the district court by filing a plenary action for relief; provided, petition for such relief is presented to the court within thirty (30) days after the filing of such decision with the City.
- b. The Hearing Officer may stay his or her decision for thirty (30) days or until the district court decides any appeal of the Hearing Officer's decision.

HISTORY

Amended by Ord. [18-E](#) on 3/28/2019

15.05.020.3 Variances

Any person or entity desiring a waiver or modification of a land use requirement of this title as applied to a parcel of property that he or she owns, leases, or holds some other beneficial interest may apply to the Hearing Officer for a variance after receiving a final written administrative decision or interpretation of the land use requirement from the Community Development Director or designee.

1. Application:

- a. The Hearing Officer may only consider a variance request after a complete variance application has been submitted to the City that includes:
 - i. A completed application form provided by the City;
 - ii. Payment of applicable fees;
 - iii. Other relevant information identified by the Community Development Director or otherwise required to explain and justify the variance request (e.g. elevations, materials, site plans, and photographs).

2. Notice of Hearing:

- a. After receiving a variance application from the City, the Hearing Officer shall fix a reasonable time and place for hearing the variance request during a public meeting. Thereafter, the City shall publish an agenda and provide notice according to the Utah Land Use, Development, and Management Act, and PMC.

3. Response and Representation:

- a. Prior to the meeting, the City may submit to the Hearing Officer and the applicant a response to the variance application. At the meeting, the parties may appear in person or by agent or attorney.

4. Hearing and Decision Procedures:

- a. The Hearing Officer shall not receive public comment regarding a variance request.
- b. The Hearing Officer shall cause minutes to be kept of all proceedings before him or her and shall keep record of all other official actions, including written decisions. The Hearing Officer's minutes and official records shall be immediately filed with the City as a public record and shall be retained according to applicable law.
- c. The Hearing Officer shall file with the City a written decision on each variance that grants or denies, in whole or in part, the variance request. The written decision shall set forth the facts and law upon which the decision is made. The City shall notify the applicant of the decision in writing within ten (10) days of the decision.
- d. The Hearing Officer may formally adopt other policies and procedures that do not otherwise conflict with this section or other applicable laws.

5. Standard of Review:

- a. The Hearing Officer may grant a variance from a land use requirement only if:
 - i. Literal enforcement of the requirement would cause an unreasonable hardship for the applicant that is not necessary to carry out the general purpose of the land use ordinance;
 - ii. There are special circumstances attached to the property that do not generally apply to other properties in the same zone;
 - iii. Granting the variance is essential to the enjoyment of a substantial property right possessed by other property in the same zone;
 - iv. The variance will not substantially affect the general plan and will not be contrary to the public interest;
 - v. The spirit of the land use ordinance is observed and substantial justice is done.
- b. In determining whether or not enforcement of the land use requirement would cause unreasonable hardship, the Hearing Officer may not find an unreasonable hardship unless the alleged hardship:
 - i. Is located on or associated with the property for which the variance is sought;
 - ii. Comes from circumstances peculiar to the property, not from conditions that are general to the neighborhood.
- c. In determining whether or not enforcement of the land use requirement would cause unreasonable hardship, the Hearing Officer may not find an unreasonable hardship if the hardship is self-imposed or economic.
- d. In determining whether or not there are special circumstances attached to the property, the Hearing Officer may find that special circumstances exist only if the special circumstances:
 - i. Relate to the hardship complained of;
 - ii. Deprive the property of privileges granted to other properties in the same zone.
- e. In granting a variance, the Hearing Officer may impose additional requirements on the applicant that will:
 - i. Mitigate any harmful effects of the variance, or;
 - ii. Serve the purpose of the standard or requirement that is waived or modified.
- f. The applicant bears the burden of proving that all of the conditions justifying a variance have been met.

g. The Hearing Officer shall not grant:

- i. A variance that is greater than the minimum variation necessary to relieve the unreasonable hardship the applicant can demonstrate;
- ii. A temporary variance;
- iii. A use variance.

6. Variances run with the land.

- 7. The City or any person adversely affected by any Hearing Officer decision may appeal to the district court by filing a plenary action for relief; provided the petition for such relief is presented to the court within thirty (30) days after the filing of such decision with the City.
- 8. The Hearing Officer may stay his or her decision for thirty (30) days or until the district court decides any appeal of the Hearing Officer's decision.

HISTORY

Amended by Ord. [18-E](#) on 3/28/2019

15.05.030 Appeals To District Court Or To The Ombudsman

15.05.030.1 Appeals To District Court

No person may challenge in (appeal to) District Court any land use decision of the municipality in accordance with state law, or under a regulation made under authority of state law, until that person has complied with Utah Code Annotated §§10-9a-701 and -801, 1953, as amended, and otherwise exhausted all administrative remedies set forth in the land use ordinances (which includes having a decision from the appropriate Appeal Authority), within the time limits and according to the standards prescribed by law, as follows:

- 1. No adversely affected parties shall present a theory of relief in District Court that was not first presented to the appropriate Appeal Authority; and
- 2. Adversely affected parties are precluded from pursuing duplicate or successive appeals before the same or separate Appeal Authorities as a condition of the adversely affected party's duty to exhaust administrative remedies; and
- 3. This land use ordinance does not provide for any specified type of land use decision(s) to be appealed directly to District Court; but rather, a land use decision may not be appealed directly to District Court (without a prior appeal to an Appeal Authority) unless specifically required by state or federal law; and
- 4. An appeal to District Court may only be made within 30 calendar days of the final decision or action of the appropriate Appeal Authority, which is the final decision or action of the City (see PMC 15.05.020(3)(d), as to when an Appeal Authority decisions become effective). If the thirtieth day is a Saturday, Sunday, or holiday, then an appeal can be made on the next day the Court Clerk's office is open.

HISTORY

Adopted by Ord. [15-C](#) on 3/17/2015

15.05.030.2 Appeals To The Property Rights Ombudsman's Office

Appeals to the Property Rights Ombudsman's Office may be taken (by an applicant or by a City official) at any time allowed by state law. The City, together with all of its employees, departments, land use authorities, Appeal Authorities, etc., shall fully comply with the lawful requests and directives of the Property Rights Ombudsman's Office.

HISTORY

Adopted by Ord. [15-C](#) on 3/17/2015

15.05.040 Land Use Authorities

1. General Provisions.

- a. Land use authorities.

i. All applications for building permits, land use permits, site plans, conditional use permits, or other land use related permits shall be duly filed with the Community Development Department ("Department"), who shall forward the same to the appropriate land use authority(ies) as designated and set forth in this title. The designated land use authority(ies) shall review and take action as provided in this title, especially as set forth in PMC 15.05.040(4)(a). Such review and any subsequent action by any land use authority on any application or request shall assure compliance with the requirements of the municipal code (and state and federal law).

b. Legislative Action.

i. Any request to amend the land use ordinances or maps (including zone changes), or request to amend the general plan or maps, or request for other legislative action, shall also be duly filed with the Department, who shall forward the same to the Planning Commission or City Council, etc., as is appropriate, and as provided for in PMC 15.05.050.1. Appointment to the appeals board (by the mayor, with advice/consent)

2. Applications; fees; errors; enforcement.

a. Land use applications.

i. In accordance with Utah Code Annotated §10-9a-509.5, 1953, as amended, the municipality shall (in a timely manner) determine, among other things, whether an application is complete for the purposes of subsequent, substantive land use authority review. For applications requiring review by the planning commission, see PMC 15.03.070.4.

(1) Completeness: In accordance with Utah Code Annotated §10-9a-509(1)(c), 1953, as amended, a land use application is generally considered submitted and complete when the application is provided:

(A) In a form that complies with the requirements of applicable ordinances; and

(B) With all pertinent information provided; and

(C) All applicable fees have been paid; and

(D) All of the applicable landowners (or their representatives) agree to the application; and

(2) Deadline to be on the Agenda: In order be on a land use authority agenda, an application or request, with all necessary documentation, shall be filed with the Department at least fourteen (14) days prior to the meeting, by 2:30 p.m. The Community Development Director ("Director") shall be empowered to make a procedural exception and allow the 14-day time period to be reduced to as few as 10 days (prior to the meeting, at 2:30 p.m.) if the Director determines that a City official caused a delay or that there is an unusual emergency which is outside of the control of the applicant; and

(3) Basis for Approval or Denial: A duly submitted and complete application that conforms to the requirements of the zoning map, other land use maps, and applicable land use ordinances in effect upon complete application is entitled to approval, except as provided in Utah Code Annotated §10-9a-509(1), 1953, as amended; and the municipality may not impose requirements not adopted in municipal code or by other applicable law; and

(4) Pending Ordinance Rule: As per PMC 15.01.050, the provisions of Utah Code Annotated Section 10-9a-509(1)(a) are specifically reserved, such that the City may temporarily prohibit approval of an application, pending action on the relevant pending ordinance. "Formally initiating proceedings to amend City ordinances" or "when a pending ordinance exists" shall be defined as "when a pending ordinance is first specifically referred to on an official city agenda or is in written form available to the public." If the "pending ordinance" has the date it became "pending" listed on it, that date shall be the official date; and

(5) Bound by Law: In accordance with Utah Code Annotated §10-9a-509(1)(c), 1953, as amended, the municipality is bound by the terms and standards of applicable land use ordinances and shall comply with mandatory provisions of those ordinances; and

(6) Request for Determination: An applicant may request a written determination on an application as set forth in Utah Code Annotated §10-9a-509.5, 1953, as amended (the "reasonable diligence" or "rip cord" rule). See also PMC 15.05.040(5)(a).

b. Development and permit fees.

i. The City may impose development fees and permit fees to offset development costs, as follows:

(1) Development Fees: Development fees are to offset the costs of processing any application or applicable action. Such fees shall be recommended by the City Staff and/or Planning Commission for adoption by ordinance or resolution by the City Council and reviewed from time to time for appropriate increase or decrease. Collection of fees shall be the responsibility of the City Recorder (or under the direction of the City Recorder); and

(2) Building Permit and Other Land Use Fees: The municipality may impose building permit, plan review, appeal, variance, and other land use application fees in accordance with Utah Code Annotated §10-9a-510, 1953, as amended. The payment of a filing fee shall not guarantee a certain result, nor shall fees be refunded due to the lack of a favorable result, nor shall fees be refunded on the sole basis that an applicant prevails on appeal; and

- (3) Fee Waivers, Refunds, and Reductions: Except for impact fees or as otherwise limited by ordinance or resolution, the Director shall have the limited authority to grant waivers, refunds, or reductions (collectively referred to as “waivers”) for any fee (for which the Director is responsible) by the greater of 5.00 per cent or \$50.00 per permit, subject to legislative review by or petition to the City Council. The Director may only waive a fee if he/she determines that a City official caused the need for the waiver or that there is an unusual situation which is outside of the control of the applicant and which warrants the waiver. Waivers beyond these amounts may only be considered by the City Council, with a staff recommendation being provided by the Department (see PMC 15.05.050.1, Item 8).
- c. Errors and/or omissions by the city do not legalize violations: Limited exception (for certificate of limited nonconforming use/structure).
- i. Any inaction, failure, mistake, or other error/omission of any land use authority, building official, zoning enforcement official, or designee does not legalize a violation of the municipal code, unless: 1) a Court orders said relief, or 2) a Certificate of Limited Nonconforming Use or Certificate of Limited Noncomplying Structure is approved by the Appeals Board. Such a Certificate may only be approved after an application and review of the pertinent facts and standards (see Title 66 for standards, as well as case law for “permits by mistake” or “zoning estoppel”). The Administrative Law Judge or the District Court may require that a Certificate be approved (as part of an appeal). The City and the Appeal Authorities shall not have authority to enlarge, expand, or modify a Certificate of Limited Nonconforming Use or Certificate of Limited Noncomplying Structure (and such a structure may not be rebuilt if destroyed).
- d. Invalid permits and licenses: Errors and/or omission by applicants.
- i. Officials and employees of the City who are vested with the duty or authority to issue permits or licenses shall conform to the provisions of this title (PMC 15.05) and the other Titles of Land Use Ordinances. Any such permit or license that is issued as follows shall be null and void (not valid):
- (1) When such is in conflict with the provisions of the Land Use Ordinances; or
 - (2) Upon false or fraudulent information provided by the applicant; or
 - (3) When a “complete” permit is not acted upon or work performed within the established time period (the time period is six (6) months if there is no other time period established), any vested rights thus being terminated.
- e. Violations deemed nuisance.
- i. Any structure made or existing (or any use of land) in violation of any provision of the Land Use Ordinances, is a public nuisance and may be abated by enforcement action or by other appropriate proceedings.
- f. Appeals, enforcement, and penalties.
- i. The City has authority as follows:
- (1) Appeal to District Court or to the Property Rights Ombudsman’s Office: See PMC 15.05.030.1, and PMC 15.05.030.2, and PMC 15.05.040(5)(c); and
 - (2) Enforcement: In accordance with Utah Code Annotated § 10-9a-802, 1953, as amended, if violations of the land use ordinances (enacted under the authority of state law) occur or are about to occur, the municipality or any adversely affected owner of real estate within the municipality may, in addition to other remedies provided by law, institute or seek relief as provided in Utah Code Annotated §10-9a-802, 1953, as amended; and
 - (3) Zoning Enforcement Officials: The Mayor shall designate the officers charged with enforcement of the land use ordinances of the municipality and, absent the Mayor designating such, the Director, or his/her designee, is charged with the enforcement of the land use ordinances of the municipality; and
 - (4) Complaints: Whenever a violation of this ordinance occurs (or is alleged to have occurred) any person may file a written complaint. Such complaint stating fully the causes and bases thereof shall be filed with the Director, who shall record properly such complaint and timely investigate and take action thereof as provided by this ordinance; and
 - (5) Penalties: In accordance with Utah Code Annotated §10-9a-803, 1953 as amended, the municipality imposes the following penalties for any violation of any land use ordinance enacted under the authority of Title 10, Chapter 9a of the Utah Code Annotated, 1953, as amended, or otherwise enacted to regulate land use as follows:
 - (A) Civil Penalty: In addition to other remedies as authorized by law, any person, firm, or corporation, whether as principal, agent, employee, or otherwise, violating or permitting the violation of any land use provision established by law, shall pay a \$250.00 penalty per violation for the first day of the violation, and \$500 per violation per day for additional days, in addition to reasonable attorney’s fees and costs incurred by the municipality, in any enforcement action; or

(B) Misdemeanor: Any person, firm, or corporation, whether as principal, agent, employee, or otherwise, violating or permitting the violation of the provisions of any land use provision established by law, shall be guilty of a class C misdemeanor and punishable as provided by law; and such person, firm, or corporation, who intentionally violates this land use ordinance, shall be deemed to be guilty of a separate offense for each and every day during which any portion of any violation of the land use ordinances is committed, continued, or permitted by such person, firm, or corporation, and shall be punishable as herein provided.

3. Limited review permits and temporary emergency exceptions.

a. Denial by department of limited review permits.

i. If the Department denies a limited review permit, this becomes a final decision and the Planning Commission does not review the permit, but this decision of the Department may be appealed to the Appeals Board, as per PMC 15.05.040(E)(2). See PMC 15.03.010.3(7) and PMC 15.05.040(4)(a) (Item 3A) for more information regarding limited review permits.

b. Approval of limited review permits (involving planning commission).

i. If the Department approves a limited review permit (or chooses to defer the decision to approve or deny to the Planning Commission), this single meeting review is limited to the Planning Commission doing the following (and the Planning Commission decision may be appealed to the Appeals Board, as per PMC 15.05.040(5)(c)):

- (1) Receiving a copy of the application for the limited review permit (some of the applications being special commercial building permits for signs, fences, etc., which are effectively "miniature design review" processes); and/or
- (2) Asking the Department questions; and/or
- (3) Either (a) upholding approval of the application; or (b) denying the application, by citing one or more current or pending ordinances or written land use provisions other than the General Plan (by neither specifically upholding approval nor denying the application at the one meeting, the Planning Commission automatically upholds approval); and/or
- (4) Starting a process to update any applicable ordinance or written land use provision for future applications.

c. Temporary emergency exceptions.

i. The Mayor (or the Mayor Pro Tem in his/her absence, inability, or refusal to act) has the authority to recommend, with or without an application (and with or without a recommendation from the Community Development Department or City Staff), in a public meeting, temporary emergency exceptions from any term or condition of the land use ordinance for a period of not to exceed three (3) months in duration. This time period may be recommended for extension up to three (3) additional months by the Mayor (or the Mayor Pro Tem), for a total duration for any one tract of land not to exceed six (6) months. In order to be effective, each such three (3) month temporary emergency exception shall:

- (1) Be based upon the Mayor (or the Mayor Pro Tem) determining that: (a) said temporary emergency exception is justified because of some unusual emergency, disaster, or "act of God" situation; and (b) the health, safety, convenience, order, and welfare of the inhabitants of the municipality shall not be materially affected (in an adverse way) if said exception is granted; and
- (2) Be reviewed and approved by the City Council, to verify that said temporary emergency exception is a legal and appropriate use of authority under the circumstances. The Mayor (or the Mayor Pro Tem) may recommend a temporary emergency exception in the same meeting that the City Council considers final approval of said temporary emergency exception (and the Mayor and City Council shall have broad discretion in this regard).

4. Tables designating land use authorities to act on applications.

a. Land use authorities: Administrative/Quasi-Judicial land use applications.

i. See the following tables. The process ends when the double line is reached, unless there is an appeal. Each recommendation from staff or an initial land use authority is forwarded to the next higher land use authority, whether the recommendation is to deny or to approve. See PMC 15.05.020(3)(a) and PMC 15.05.020(6)(b) regarding the authority of the Appeal Authorities.

Type of Standard Application* (Administrative)	Initial Land Use Authority	Final Land Use Authority	Appeal Authority (Quasi- Judicial)

1. Routine Permits(including building permits, Business Licenses, utility easements, regular traffic signs/markings, design review not involving a site plan change, temporary use/obstruction of city right of way, etc.); Escrow Release Requests	--	CC Dep./Staff	Hearing Officer
2. Non-Routine Permits(including changes to street names/signs, special traffic signs/markings); Temporary Emergency Exceptions	CC Dep./Staff or Mayor	City Council	Hearing Officer
3A. Limited Review Permits, including certain commercial bldg. permits, res. site plans not in a subdivision, signs, etc. ***	CC Dep./Staff	Plan. Com. Ltd. Review***	Hearing Officer
3B. Design Review involving a (New or Amended) Site Plan**; Recommendations to Public Agencies or Neighborhood Planning Issues***	Plan. Com. **	City Council	Hearing Officer
4. Subdivisions/Street Dedications** (new, amend, vacate, dedicate, etc.)	Plan. Com. ** Public Hearing	City Council	Hearing Officer

* Or for an amendment, modification, enlargement, or revocation of said type of application, unless otherwise indicated.

** Preliminary and final recommendations may be combined for simplified site plans and one to three lot residential subdivisions. For the design review/site plan process, a public hearing is not required, but is an option (for the Planning Commission). See PMC 14.01.020 and PMC 14.01.030 for optional processes for subdivisions.

*** This is a limited one meeting review (for limited review permits). See PMC 15.05.040(3)(a)/PMC 15.05.040(3)(b) for further information regarding this process. A recommendation as to a public right of way or other neighborhood planning issue may be given to UDOT or another public agency (or to otherwise take action on an issue, with or without a formal application).

Type of Standard Application* (Administrative)	Initial Land Use Authority	Final Land Use Authority	Appeal/Revocation Authority (Quasi-Judicial)
5A. Zoning Location and Boundary Policy**	Planning Commission**	**City Council	Hearing Officer
5B. Conditional Use Permits (including Excavation, etc.); Special Exceptions for Subdivisions and Residential (incl. lot line adj., flag lots)	CD Dep./Staff	Planning Commission****	Hearing Officer
5C. Nonconforming Uses, incl. Certif. of Exist. for Limited Nonconforming Uses/Structures (Sec. 15.05.040(B)(3)), Modify "Regular" Nonconforming Uses/ Structures, etc.; Other Special Exceptions and Special Applications	Planning Commission****	City Council****	Hearing Officer
5D. Certificate of Existence for Nonconforming Uses/ Noncomplying Structures (and Certif. of Legal Compliance)	--	CD Dep./Staff	Hearing Officer
6A. Limited Appeals to Interpret Land Use Ordinances and Maps**; Variances***; Procedural Appeals (See PMC 15.05.040(5)(a))	--	--	Hearing Officer

6B. Nuisance Enforcement/Zoning Enforcement	--	CD Dep./Staff	Hearing Officer

* Or for an amendment, modification, enlargement, or revocation of said type of application, unless otherwise indicated.

** Either an applicant or a land use authority may request an interpretation of a land use ordinance or map, as per item (6)(A) above (see PMC 15.05.040(5)(e)), including a special process for the interpretation of zoning locations and boundaries for "split parcels," etc., as per item 5A above (see PMC 15.07.030 and PMC 15.07.040).

*** As per Utah Code Annotated §10-9a-702(3), 1953, as amended, this is for an applicant desiring "a waiver or modification of the requirements of a land use ordinance as applied to a parcel of property that he owns, leases, or . . . beneficial interest . . ."

**** The proposed amendment, modification, or enlargement of a Nonconforming Use or Noncomplying Structure requires a public hearing by the Special Uses and Appeals Board. The review, suspension, or revocation of a Conditional Use Permit does not require a public hearing.

b. Community development department as a land use authority.

i. If the Community Development Department is acting as a land use authority, the Community Development Director shall make or consent to the final decision on behalf of the Community Development Department (see PMC 15.05.060.5).

5. Appeals to appeal authorities.

a. Petition to avoid unnecessary or excessive delays: Procedural appeals.

i. An interested party, including a City official, may petition (without filing fee) the next "higher" land use authority listed on the tables above to speed up the process (or to place the application on its agenda), if unnecessary or excessive delays or "tabling" has occurred (or may appeal to the Hearing Officer if the next "higher" land use authority does not provide relief or if the "final" land use authority is the authority causing the delay). Unnecessary or excessive delays or "tabling" may be considered to be a decision or action to not recommend approval (or to not approve). In the alternative, the next "higher" land use authority (or the Hearing Officer) may, on its own motion, provide such relief. The next "higher" land use authority or the Hearing Officer may also hear and decide similar procedural petitions/appeals (if a seemingly unnecessary public hearing has been scheduled, or if a rule of procedure has been misapplied, etc.). See Utah Code Annotated §10-9a-509.5, 1953, as amended, regarding the "reasonable diligence" or "rip cord" rule.

b. When final land use authority decisions become final: Time to appeal.

i. Decisions of a final land use authority become effective and final immediately (assuming the land use authority issues an oral decision at a public meeting); otherwise, decisions of a final land use authority become effective and final as soon as they are made available in writing or to the public. If no appeal to the appropriate Appeal Authority has been taken within 10 calendar days of the effective date, then the decision of the final land use authority may no longer be appealed. If the tenth day is a Saturday, Sunday, or holiday, then an appeal can be made on the next day the City office is open.

c. Right to a regular appeal of a land use authority decision to an appeal authority: Automatic stay pending the appeal authority decision.

i. An Appeal to an Appeal Authority may be taken by any person aggrieved or affected by any land use decision of any officer, department, board, bureau, commission, or council of the municipality. Upon the filing of a valid petition (by an aggrieved party) for appeal or review by an Appeal Authority, the decision of the land use authority is automatically stayed and suspended until the Appeal Authority has acted on the appeal (except that there is no automatic stay for temporary emergency exceptions). The Appeal Authorities shall thus "serve as the final arbiter[s] of issues involving the [administration] or application of land use ordinances," as per Utah Code Annotated §10-9a-701(3)(a)(ii), 1953, as amended.

d. Right of land use authorities to interpret (subject to appeal).

i. The following rules as to the interpretation of written land use provisions and procedural rules:

(1) Each land use authority shall have the right to interpret a written land use provision, subject to being overruled by a higher land use authority (and subject to an appeal to the Hearing Officer), but with reasonable deference to be given to a lower land use authority and to an applicant; and

(2) Any interpretation of a written land use provision or procedural rule by any land use authority or by the designated individual for any land use authority may be appealed, as applicable, according to the terms of PMC 15.05.040(5)(a), Procedural Appeal, or PMC 15.05.040(5)(e), Limited Appeal (to Interpret), with the Hearing Officer being the final arbiter, subject only to judicial review or review by the Property Right's Ombudsman's Office, as per PMC 15.05.030.

e. Limited appeal to interpret written land use provisions: Binding.

i. The authority of the Hearing Officer to interpret land use ordinances and maps (or other written land use provisions) is essentially an “interlocutory appeal” limited to the interpretation of the specific written land use provisions in question, unless the underlying land use application has received a final decision and has been simultaneously appealed (and is thus also ripe for adjudication on the merits). Such limited appeal shall be taken before a formal decision or within 10 calendar days of the effective date of the decision (with an automatic stay, as described above). The Hearing Officer shall thus “serve as the final arbiter of issues involving the interpretation . . . of land use ordinances,” as per Utah Code Annotated §10-9a-701(3)(a)(ii), 1953, as amended. The interpretation of specific written land use provisions is binding upon all applicants, land use authorities, and Appeal Authorities for all similar future cases, unless a new ordinance, map, or other written land use provision has been enacted or is pending, or unless a Court has applied a different interpretation.

6. Public Notice.

a. Public notice requirements for public hearings, if established in state law.

i. If, for a certain type of land use application: (i) a public hearing is required by State law; and (ii) the public notice requirements for said public hearing are established by State law; then a public hearing shall be held after public notice is given, said public notice to at least meet the minimum requirements of State law.

b. Public notice requirements for public hearings, if not established in state law.

i. If, for a certain type of land use application: (i) a public hearing is not required by State law, but (ii) is required by City ordinance (or desired by the land use authority); then the public notice requirements for said public hearing shall be as follows:

(1) Publish at least once, and at least 8 days in advance, in a newspaper of local circulation;

(2) Place on the agenda of the land use authority; and

(3) Mail notice, by placing it into the regular U. S. mail at least 10 days in advance, to:

(A) The applicant(s), who may or may not be the current landowner(s) of the property(ies) in the application,

(B) The current landowner(s) of the property(ies) in the application, and

(C) All current “nearby landowner(s)” (of property(ies) within 300 feet of the property(ies) in the application), but inadvertent failure to send notice to 10 percent (or fewer) of the nearby landowner(s) shall not invalidate said public notice.

HISTORY

Adopted by Ord. [15-C](#) on 3/17/2015

Amended by Ord. [18-F](#) on 3/28/2019

15.05.050 Legislative Land Use Action

15.05.050.1 Summary Of Legislative Land Use Action

See the following tables. The process ends when the double line is reached (unless there is an appeal to District Court, or unless the City Council decides to take action on the Public Works Standards or Architectural Design Guidelines). If the City Council has initiated or requested a legislative process, each recommendation from a “quasi-legislative body” is forwarded to the next level, whether the recommendation is in favor of or against the legislative proposal.

Administrative "Rule-Making" Action** (Quasi-Legislative)	Initial Recommend.	Final Recommendation	Final Adoption	Legislative Review (At any time)	Judicial Review
<i>7A. Public Works Standards</i>	--	CD Dep./Staff	PWS Rev. Comm.	City Council	District Court
<i>7B. Architectural Design Guidelines</i>	CD Dep./Staff or Ind. Contractors	Planning Comm. (Public Hearing)	PWS Rev. Comm.	City Council	District Court

Type of Action** (Legislative)	Initial Recommend.	Final Recommendation	Legislative Body (Final Action)	Judicial Review

8. Moratoria; Fee Waivers; Development Agreements; Boundary Adjust. (w/Other City); Non-Land Use Ordinances/Resolut	--	CD Dep./Staff	City Council****	District Court
9. Business License, Room Tax, or Energy Sales/Use Tax Ordinances (Special Non-Land Use Ordinances)	--	CD Dep./Staff	City Council (Public Hearing)	District Court
10. Land Use Ordinances/Resol. *; Zoning Map, incl. Changes; General Plan, incl. Attachments and G. P. Map; Annexation Policy Plans***; Annexation Petitions***	CD Dep./Staff	Planning Comm. (Public Hearing)	City Council****	District Court

* A "land use ordinance," according to Utah Code Annotated §9a-103(16), 1953, as amended, "a planning, zoning, , or subdivision ordinance of the municipality, but does not include the general plan."

** Or for an amendment to said type of action, unless otherwise indicated.

*** For an annexation policy plan or annexation petition, check special procedures required by state law for public hearings, notices, etc., including public hearings, if required for the City Council.

**** A public hearing is held for boundary adjustments and certain non-land use ordinances, as required by law.

HISTORY

Adopted by Ord. [15-C](#) on 3/17/2015

Amended by Ord. [18-F](#) on 3/28/2019

15.05.050.3 Definition Of Quasi-Legislative Body

A "quasi-legislative body" may be any of the following when acting in a role of proposing, recommending, or adopting public works standards, architectural guidelines, land use ordinances and maps, the general plan, or other written land use provisions, as per the table above:

1. The Community Development Department; or
2. The City Attorney (or Assistant City Attorney); or
3. Other City Staff; or
4. An independent contractor providing land use planning, engineering, or other similar services; or
5. The Planning Commission; or
6. The Public Works Standards Review Committee; or
7. The Hearing Officer.

HISTORY

Adopted by Ord. [15-C](#) on 3/17/2015

Amended by Ord. [18-F](#) on 3/28/2019

15.05.050.4 Incorporation By Reference Of Applicable Provision Of Chapter 43.04

The provisions of PMC 15.05.040 which are consistent with PMC 15.05.050 are incorporated herein by reference.

HISTORY

Adopted by Ord. [15-C](#) on 3/17/2015

15.05.060 Land Use Powers Of The City Attorney, City Administrator, Governing Body, And Community Development Department

15.05.060.1 Land Use Powers And Duties Of The City Attorney And Assistants

PMC 15.03 and PMC 15.05, as well as other Chapters in the Land Use Ordinances and Municipal Code, detail the powers of the Community Development Department, the Planning Commission, other land use authorities, the Appeal Authorities, etc. These titles also provide for specific delegations of procedural and advisory powers to the City Attorney, which may be delegated by the City Attorney to an Assistant City Attorney(s) and/or Acting Assistant City Attorney(s). In particular, PMC 15.03.050.4, PMC 15.05.020(4)(b), and PMC 15.05.020(5)(c) detail the City Attorney's responsibility to act as a parliamentarian and as part of the City Staff. The City Attorney shall also review proposed plats, agreements, and applications, as provided for in Title 14 (Subdivisions) and elsewhere in the municipal code, state law, or federal law. The City Attorney may also provide an oral or written legal opinion to any land use authority or Appeal Authority at any time, subject to other provisions of the municipal code. Finally, the City Attorney may, without paying a filing fee, petition for a "procedural appeal," "regular appeal," or "limited appeal" (to interpret written land use provisions) at any time he/she determines that an appeal is warranted in the best interest of justice, and shall specifically state the reasons for the appeal in the petition.

HISTORY

Adopted by Ord. [15-C](#) on 3/17/2015

15.05.060.2 No Land Use Powers For The City Administrator And Assistants

The City Administrator (and any Assistant City Administrator) shall not have any powers to decide land use issues and shall not be a member of any land use authority, Appeal Authority, quasi-legislative body, or legislative body of the City but, if concurrently appointed as the City Attorney, shall fulfill the land use duties and authority of the City Attorney.

HISTORY

Adopted by Ord. [15-C](#) on 3/17/2015

15.05.060.3 Limited Land Use Powers For The Mayor And City Council

The Mayor and City Council shall only exercise the land use powers expressly set forth in the municipal code (and in state and federal law).

HISTORY

Adopted by Ord. [15-C](#) on 3/17/2015

15.05.060.4 Land Use Powers Of The Planning Commission

The Planning Commission has the land use powers identified in the governing legislation (state law; see PMC 15.03.010.1) and in PMC 15.03 and PMC 15.05, especially PMC 15.03.010.2 and PMC 15.03.010.3. Except when acting on limited review permits, the Planning Commission makes recommendations to the City Council or Appeals Board, etc.

HISTORY

Adopted by Ord. [15-C](#) on 3/17/2015

15.05.060.5 Department May Only Be Overruled By A Designated Higher Authority

No member of the Governing Body, City Administrator, City Attorney, or other City official may overrule, set aside, modify, or otherwise direct any decision of the Community Development Department, except as expressly set forth in the municipal code (and in state and federal law). The Department may thus only be overruled by a higher land use authority or by an Appeal Authority for administrative or quasi-judicial actions (or by a higher legislative body for legislative or quasi-legislative actions). In particular, and as indicated in PMC 15.05.040(4)(a) (items (1), (5)(D), and (6)(B)), most routine permits, applications, and enforcement actions, for which the Department is the final land use authority, may be appealed to an Appeal Authority. Moreover, a "limited" appeal to interpret the written land use provisions, or a procedural appeal, may be made to the Administrative Law Judge. Other actions of the Department, such as consideration of subdivisions and site plans, are recommendations, and may be reversed or overruled by the Planning Commission and/or City Council as "higher" land use authorities, etc., as per PMC 15.05.040(4)(a), etc.

HISTORY

Adopted by Ord. [15-C](#) on 3/17/2015

15.06 Land Use Chart

15.06.010 Land Use Chart

The letter 'P' shown in individual cells within the Land Use Chart denotes Permitted Uses within the specified zoning districts. Open or blank cells indicate uses that are not permitted within the respective zoning district. Uses not listed are not permitted. Please see PMC 15.07.020.4 for uses and regulations pertaining to the Civic(CVC) and Recreation (REC) zones.

Uses not shown in the table, but ruled by the Land Use Authority to be similar to uses in the Land Use Chart may be approved in the same manner and in the same zones as the similar use is permitted.

USE	A	AL	R1A	RE1/2	R1/2	R1/3	R1	R2	ES	C	C1	IC	NC2	NC3	MIL	MI	AE
Accessory Buildings	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P
Aggregate Extraction ¹																	P
Agriculture ^A	P	P	P	P										P			
Amusement Center ^B										P	P	P	P		P	P	
Apiaries	P																
Art Gallery with Production										P	P	P	P				
Asphalt Plant																	
Assisted Living Facility/Rest Home/Sanitarium										P	P	P	P				
Auction Establishment															P	P	
Bank/Financial Institution										P	P	P	P				
Bar/Tavern																	
Cabinet Shop (Manufacturing with Retail and Showroom)												P			P	P	
Campground																	
Cannabis Production Establishment ²																P	
Cemetery/Mausoleum																	
Check Cashing Service/Car Title Loans/Payday Loans																	

Concrete Batch Plant																		
Contractor's Yard (With Outdoor Storage of Equipment and/or Vehicles)															P	P		
Convent, Monastery or Other Group Dwelling for Religious Communities																		
Crematory															P	P		
Dairy/Feed Lot																		
Day Care Center (Not Home Based)										P	P		P					
Drive-in Movie Theater																		
USE	A	AL	R1A	RE1/2	R1/2	R1/3	R1	R2	ES	C	C1	IC	NC2	NC3	MIL	MI	AE	
Educational Facility										P	P		P					
Fertilizer or Soil Conditioner Manufacturing																		
Firearms Retail and/or Sales										P	P	P	P		P	P		
Gas Station										P	P	P	P		P	P		
Golf Course																		
Government Uses	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P
Hog Farms																		
Home Occupation ³	P	P	P	P	P	P	P	P	P	P	P		P					
Hospital										P	P	P	P					
Hotel/Motel										P	P	P	P					
Indoor Shooting Range										P	P	P			P	P		
Indoor Sports/Dance Facility										P	P	P	P		P	P		
Kennel (Dog/Cat) - Commercial ⁴										P	P				P	P		
Kennel (Dog/Cat) - Private ⁴																		
Liquor Store																		
Machine Shop															P	P		
Manufactured Home (Mobile/Trailer Home) Park																		
Manufacturing, Heavy ^D																P		
Manufacturing, Light ^C															P	P		
Meat Processing																P		
Medical Cannabis Pharmacy ²															P			
Medical Clinic ^E										P	P	P	P					
USE	A	AL	R1A	RE1/2	R1/2	R1/3	R1	R2	ES	C	C1	IC	NC2	NC3	MIL	MI	AE	
Mortuary										P	P		P					
Museum										P	P		P					
Night Club																		
Nursery (Plants for Retail Sale)	P	P								P	P	P	P		P	P		
Outdoor Storage (Commercial)															P	P		

Parcel Delivery Service															P	P	
Pawn Shop																	
Performing Arts Center										P	P	P	P				
Personal Services ^F										P	P	P	P				
Pest Control with Storage of Chemicals															P	P	
Place of Worship	P	P	P	P	P	P	P	P		P	P	P	P				
Professional Office ^G										P	P	P	P		P	P	
Produce Stand ⁵													P	P			
Reception Center										P	P	P	P				
Reception Center/Gym										P	P	P	P				
Research and Development Facilities										P	P	P	P		P	P	
Residential: Accessory Dwelling Units ⁶	P	P	P	P	P	P	P	P		P	P		P				
Residential: Apartments ⁷																	
Residential: Multi-family Dwelling Units ⁷			P	P	P	P	P	P					P				
Residential: Single-family	P	P	P	P	P	P	P	P	P								
USE	A	AL	R1A	RE1/2	R1/2	R1/3	R1	R2	ES	C	C1	IC	NC2	NC3	MIL	MI	AE
Retail ^H										P	P	P	P		P	P	
Riding Academy	P																
Rock, Gravel, Soil, and Similar Landscape Products for Retail Sale															P	P	
Sexually Oriented Business																P	
Social Clubs/Lodges										P	P						
Soil Composting, Manufacturing and Sales															P	P	
Storage of Commercial Vehicles and Trailers																P	
Storage of Recreational Vehicles															P	P	
Storage Units															P	P	
Tattoo Parlor															P	P	
Taxidermist										P	P				P	P	
Theater (Film or Stage)										P	P	P	P				
Tobacco/Vape Shop																	
Towers/Wind Turbines/Other Similar Structures ⁸	P	P								P	P	P	P	P	P	P	P
Travel Trailer (RV) Court																	
Truck Stop															P	P	
Urban Livestock ⁹					P	P	P	P	P	P	P		P				
Utility Substations (Unmanned) ^I	P	P	P	P	P	P	P	P	P	P	P	P	P		P	P	
Vehicle Impound Lot																	
Vehicle Rental/Moving Truck Rental															P	P	

Vehicle Repair - Auto Body																P	P	
Vehicle Repair - Mechanical																P	P	
Vehicle Sales ^J									P	P	P	P						
Vehicle Sales with Vehicle Repair - Mechanical									P	P	P							
Vehicle Service Station - Oil, Lube, Tires, Brakes									P	P	P					P	P	
Vehicle Wash									P	P	P	P				P	P	
Veterinary Clinic/Animal Hospital									P	P	P	P				P	P	
Warehousing/Large Scale Distribution																P	P	
Wrecking/Salvage Yard																		

Notes:

1. The following uses from the use table include, but are not limited to, the additional specific uses indicated below:

^A**Agriculture:** Nursery (Wholesale/Grower), Grazing, Row Crops, Orchards, Livestock (cows, horses, sheep, goats, poultry, etc.), Agricultural Structures including barns, corrals, coops, feed storage

^B**Amusement Center:** Ice rink, Skating Rink, Arcade, Bowling, Miniature Golf

^C**Manufacturing, Light:** Fabrication Processes, Milk Processing Plant, Milling and Machinery Facilities, Planing Mill, Printing and/or Bookbinding, Welding Shop, Carpenter Shop/Cabinetry, Food Product Manufacturing/Wholesale, Packaging, Bottling, Warehousing/Distribution, Data Processing, Appliance Repair, Frozen Food Lockers, Furniture Repair/Upholstery Shop, Textiles, Stone Cutting/Carving, Ornamental Iron Manufacture/Repair, Sign Manufacture, Small Engine Repair/Fix-it Shop, Upholstery Shop

^D**Manufacturing, Heavy:** Manufacturing or Storage of Explosives/Chemicals, Ore Smelting/Refining

^E**Medical Clinic:** Doctor's Office, Outpatient Procedure Facility

^F**Personal Services:** Massage, Holistic Medicine, Hair and Nail Services, Chiropractor, Spa, Pet Grooming

^G**Professional Office:** Dental Office, Employment Agency, Insurance Agency, Design Professional, Legal Office, Photo Studio, Real Estate Agency, Accountant Office

^H**Retail:** Convenience Store, Restaurant with or without alcohol, Hardware Store, Pharmacy, Department Store, Florist Shop, Catering Establishment, Office Supply, Dry cleaning, Laundromat

^I**Utility Substation:** Power Substation, Data Equipment, Regulator Station

^J**Vehicle Sales:** Boat Sales, Motorcycle Sales, ATV Sales, Trailer Sales, Farm Implement Sales

2. The following regulations shall apply to the uses listed on the table above:

¹**Aggregate Extraction:** See [15.31 Excavation And Reclamation of PMC](#).

²Cannabis:

1. Definitions. In addition to the definitions set forth in Utah Code §4-41a-102 (Cannabis Production Establishments), and Utah Code §26-61a-102 (Utah Medical Cannabis Act), the following definitions apply:

- "Cannabis Production Establishment" means an establishment defined in Utah Code §4-41a-102, and includes a cannabis cultivation facility, a cannabis processing facility, or an independent cannabis testing laboratory.
- "Medical Cannabis Pharmacy" means an entity that acquires or intends to acquire, possesses, and sells or intends to sell cannabis in an medicinal dosage form, a cannabis product in a medicinal dosage form, or a medical cannabis device, to a medical cannabis cardholder, as defined under Utah Code §26-61a-102.
- "Primarily Residential Zone" means, for the purposes of this section, and any applicable state law the following zoning districts: AL, R1A, RE1/2 R1/2, R1/3, R1, R2, ES, MU-R, NC2, NC3.

2. Standards.

a. Cannabis Production Establishment. The following standards apply:

- No emission of dust, fumes, vapors, odors, or waste into the environment from any facility involving the growing, processing, or testing of cannabis.
- Each Cannabis Production Establishments shall:

- (1) Not be located in a Primarily Residential Zone.
- (2) Meet the municipal code regulations, site development standards, and sign requirements for any main building and accessory building.
- (3) Obtain and comply with all state requirements set forth in accordance with Utah Code §4-41a-101, et. seq.
- (4) Comply with location requirements set forth in Utah Code §4-41a-201.
- (5) Obtain and comply with business license regulations.

b. Medical Cannabis Pharmacy. The following standards apply:

- i. Not be located in or within 600 feet of a Primarily Residential Zone.
- ii. No cannabis products shall be visible from outside of any structure.
- iii. Meet the municipal code regulations, site development standards, and sign requirements for commercial development.
- iv. Obtain and comply with all state requirements in accordance with Utah Code §26-61a-101, et. seq.
- v. Comply with location requirements set forth in Utah Code §26-61a-301.
- vi. Obtain and comply with business license regulations.

³**Home Occupation:** A [Home Occupation](#) may be approved with the following uses:

1. Firearms sales, repair, and assembly;
2. Barber shop, beauty salon, hair salon;
3. Home Daycare;
4. Home Preschool;
5. Educational Facility;
6. Artists;
7. Authors;
8. Professional office services (excluding medical, dental, and other health professional offices) including, but not limited to:
 - a. Advertising;
 - b. Architectural or engineering services;
 - c. Consulting services;
 - d. Data processing, computer programming and service;
 - e. Desktop publishing;
 - f. Insurance sales or broker;
 - g. Interior design;
 - h. Real estate sales, broker, or appraiser; and
 - i. Contractor or handyman office.
9. Culinary or home craft, or garden product sales;
10. Sales representative;
11. Alternative medicine and holistic healing including: foot zoning, aromatherapy, reiki, chiropractic, massage, and other similar uses as determined by the Licensing Authority except for Sexually Oriented Businesses as defined in PMC.
12. Any use or business not listed in this Subsection regarding Home Occupations is prohibited.

⁴**Kenel:** See [Chapter 9.05 Licensing And Regulatory Permits of PMC](#).

⁵**Produce Stand:**

1. Does not apply to strictly agricultural activities (sale of a farmers own produce on the farmers own land).
2. Shall obtain approval of a Site Plan application and obtain a Business License.
3. One Produce Stand per parcel or lot is permitted.
4. All structures and storage areas shall meet the same setbacks as the Primary Building, Driveway locations and construction shall be approved by the appropriate jurisdiction. Access controls and driveway approaches may be required to insure safety.
5. Tents, canvas or plastic covers, and other similar structures may be used for Produce Stands if they are not located on the property for more than one hundred eighty (180) days per year. The type and construction of all structures associated with the Produce Stand shall be approved by the appropriate Land Use Authority or official.
6. Produce Stands not used for a period of two (2) consecutive years shall be removed from the property at the owner's expense or used in accordance with the regulations of the applicable zoning district.

7. The property shall be kept clear of pallets, boxes, and other like materials.
8. Up to ten percent (10%) of the display area may be used for the sale of items such as snack foods, craft items, pre-packaged foods such as dried fruit, nuts, fruit preserves, baked goods, and promotional non-food items related to the agricultural industry. All processed foods are subject to applicable food laws and must be obtained from approved sources.

⁶Residential: Accessory Dwelling Unit:

1. Purpose. The City recognizes that accessory dwelling units (ADUs) in zones that allow a single-family residence can be an important tool in the overall housing plan for the City. The purpose of the ADU standards of this code are to:
 - a. Allow opportunities for property owners to provide social or personal support for family members where independent living is desirable.
 - b. Develop housing units in single-family neighborhoods that are appropriate for people at a variety of stages in the life cycle.
 - c. Provide affordable housing opportunities.
 - d. Preserve the character of single-family neighborhoods by providing standards governing development of ADUs.
 - e. Support more efficient use of existing housing stock and infrastructure.
2. Definitions: An ADU is a self-contained, smaller, secondary home on the same lot as a primary dwelling. ADUs are independently habitable and provide the basic requirements of shelter, heating, cooking, and sanitation. There are two types of ADUs:
 - a. Garden Cottages are detached structures (i.e. converted detached garages or new construction).
 - b. Accessory Apartments are attached to or part of the primary dwelling (i.e. converted living space, attached garages, basement or attics, additions, or a combination thereof).
3. General Regulations And Development Standards: The following regulations must be met in order to have an ADU (either a Garden Cottage or Accessory Apartment):
 - a. Primary Residence Required: The property owner, which shall include titleholders and contract purchasers, shall keep the property as their primary residence for habitation and on the tax rolls. Application for an ADU shall include evidence of such through an affidavit.
 - b. Number Permitted: One one (1) ADU shall be created within a single family dwelling or lot. Said area shall clearly be a subordinate part of the dwelling or lot.
 - c. Parking: At least one (1) off-street parking space shall be provided for the ADU.
 - d. Appearance: The Accessory Apartment shall be designed so that, to the degree reasonably feasible, the appearance of the building remains that of a single family dwelling.
 - e. Utility Meters and Addressing: It shall be prohibited to install separate utility meters. The primary dwelling and ADU shall have the same address number, but shall refer to the ADU as unit B.
 - f. Building Code Compliance Required: All ADUs hereafter created in Perry City shall comply with the current standards of the City's adopted Fire, Building, and Health Codes.
 - g. Size: The total area of a Garden Cottage shall be no more than 40% of the square footage of the primary dwelling.
 - h. Height: All ADUs shall be limited to a single story (above a garage, basement, or attic).
 - i. Setbacks: Garden Cottages shall have the same setback requirements as accessory buildings.
 - j. Entrances: All ADUs shall have a separate, accessible entrance or stairway. All entrances for an Accessory Apartment shall be located on the side or in the rear of the dwelling.
 - k. Transferability: Upon sale of the home and ADU, the approval for an ADU shall expire; that is, the approval is not transferable. The new owner will need to gain approval of a new permit and provide a new affidavit.
 - l. Density: ADUs are exempt from the residential density standards of this Code.
 - m. Home Occupation: Home Occupation businesses which may be approved in an ADU shall be restricted to a home office use which creates no customer traffic and no storage of product on the property where the ADU is located. No Home Occupation shall be established within an ADU without the express written permission of the property owner.
 - n. ADUs may be rented but shall not be rented on a transient basis (period less than 30 days).
 - o. The primary dwelling and ADU must be on the same parcel or lot, shall not be subdivided, and shall not be sold separately.
 - p. Mobile homes, manufactured homes, RV's, trailers, campers, tents and/or any other temporary structure and/or vehicle shall not qualify as an ADU.
 - q. Impact Fee: The impact fee for Garden Cottages shall be 20% the cost of the adopted fee for a single family home. Accessory Apartments shall not be charged an impact fee.

- 4. Permitted Use Review: An ADU meeting the general regulations and development standards, as specified in this section, may be allowed in any zone that allows a single-family residence and on any parcel or lot where a single family residence has been legally established an is now a non-conforming use in the zone. Review and approval of ADUs shall be performed by the Community Development Director or designee.
- 5. Affidavit: Applicants for ADUs shall provide an affidavit stating that the owner of the property will maintain the property as their primary dwelling as outlined in this section and comply with all other requirements of this title. Upon approval of the ADU, the affidavit shall be recorded in the Box Elder County Recorder's Office against the property (in the event the property owner decides to sell the home) to alert the future owner of the regulations for the ADU. Upon sale of the property, the new owner shall be required to obtain approval of a new permit and record a new affidavit to reauthorize the ADU.

⁷**Residential: Multi-family Dwellings:** Multi-family Dwellings may be developed according to the allotments indicated in the Multi-family Dwelling and Apartment Density Map, which can be found at the following link (Map). Existing and proposed dwelling units are counted towards the limits shown on the Multi-family Dwelling and Apartment Density Map. When the allotted number of units in the area has been reached no more units will be permitted in the area. The overall density of Multi-family Dwellings shall not exceed sixteen (16) units per acre. This ratio shall be calculated according to the acreage of the Multi-family Dwelling development area excluding any area of the development utilized for single family development, commercial development, open space, public streets, or other improvements.

- 1. For the purposes of this subsection, Multi-family Dwelling and apartment units shall not include Accessory Dwelling Units.
- 2. Multi-family Dwelling and Apartment units shall not be permitted when they are prohibited or otherwise restricted by private Conditions, Covenants, and Restrictions.

⁸**Towers:** See
[Chapter 15.34 Regulations For Large Scale Utility Lines, Wireless Telecommunications Towers, Microwave Towers, and Miscellaneous Infrastructure of PMC](#)

⁹**Urban Livestock:**

- 1. Regulations. Urban livestock may be kept on single-family residential lots.
 - a. Allowance. Where permitted, the type and quantity of domestic farm animals allowed on a property shall be determined by the allotted animal points specified based on the acreage of the property, as show in tables (a) and (b) of this section. The applicant shall not exceed the number of animal points allowed per lot size. One (1) hive of bees with no more than one (1) swarm per hive is allowed. Other similar animals may be allowed within these limits as approved by the Community Development Director.

Type of Animal	Number of Animal Points
Chickens, rabbits, pheasants, ducks, pigeons	3 points each
Turkeys, gese	10 points each
Goats	50 points each
Roosters, donkeys, pigs, cows, horses, ostriches, sheep, llamas	Not allowed
Any non-domesticated animal, including exotic pets	Not allowed
Nuisance animals (i.e. raccoons, skunks, etc.)	Not allowed

b.

Lot Size (in Square Feet)	Number of Animal Points Allowed
8,000 to 14,520	18 points
14,521 to 21,780	45 points
In excess of 21,780	45 points, plus 1 point for every 500 square feet of lot size beyond 21,780, up to a maximum of 90 points

- 2. Additional requirements.
 - a. Goats must be miniature, dwarf, or pygmy. Goats must also be dehorned and male goats must be neutered.

- b. All beehives must be set back a minimum of ten (10) feet from any property line and twenty five (25) feet from a primary dwelling on an adjacent property.
 - c. Should a beehive become populated with Africanized honeybees, it must either be immediately destroyed or "re-queened" using industry accepted procedures resulting in a swarm that is not Africanized.
 - d. Except for bees, all urban livestock shall be kept in a fashion so as to be contained and to prevent them from exiting the property at any time.
 - e. Urban livestock must be cared for in a humane manner with adequate feed, water, and shelter at all times. Coops and pens must be kept clean and well-maintained.
 - f. Coops and pens shall:
 - i. be located in the backyard of the property;
 - ii. be treated as an accessory building pursuant to PMC 5.07.110;
 - iii. be subject to easement restrictions.
 - g. Urban livestock must be kept in a manner that will not disturb the use and enjoyment of neighboring properties due to noise, odor, or other adverse impacts.
 - h. Storage of excess feed shall be kept in a manner so that it is not available to other pets, wild birds, rodents, or potential predators. Feed must be kept in a rodent and predator proof container.
 - i. Litter and droppings must be disposed of, composted, or used as fertilized in an environmentally responsible manner. Dead animals, remains, and discarded or rotting eggs shall be removed as soon as possible, but no longer than twenty-four (24) hours, and shall be disposed of properly. Byproducts must not produce odors or unclean conditions.
 - j. Slaughtering of urban livestock is strictly prohibited.
 - k. Urban livestock shall not be permitted where they are prohibited or otherwise restricted by private Conditions, Covenants, and Restrictions.
3. Additional requirements for chickens and/or fowl.
- a. Chickens and/or fowl must be kept securely in a coop overnight. The coop must be enclosed, well-constructed, weather resistant, well-ventilated, predator resistant, and provide a minimum of two (2) square feet of area per chicken and/or fowl. If the chickens and/or fowl are kept in the coop at all times, then the coop must have at least six (6) square feet per chicken and/or fowl. Portable coops (chicken tractors) are allowed, but must meet the requirements of stationary coops outlined above.
 - b. If chickens and/or fowl are allowed to roam, in addition to coops, and adjoining fenced outdoor area, sufficient to contain chickens on the owner's property, shall be provided allowing a minimum of three (3) square feet per chicken and/or fowl. A securely fenced rear yard is acceptable for the run. Chickens and/or fowl must be kept in a manner that they are not allowed to roam to neighboring properties or public rights-of-ways.
4. Violation And Enforcement. Any violation of the provisions of this section, either by failing to do those acts required herein or by doing any act prohibited herein, shall be considered a Class C Misdemeanor unless otherwise specifically stated in this section; and/or shall be a civil violation punishable by fine in the amount of up to \$50.00 per day the violation continues after being notified of the violation as follows:
- a. Upon report or complaint of violation, the City shall cause a letter or an enforcement officer be sent to notify the owner and the owner must come into compliance immediately.
 - b. If the violation continues the City and the City's enforcement officers and personnel may enter the premises to remove and dispose of the urban livestock.
 - c. All costs by the City to bring the violation into compliance, including the notice of violation and the removal and disposal of the urban livestock, shall be payable by the land owner.

HISTORY

Adopted by Ord. [19-L](#) on 1/9/2020

Adopted by Ord. [20-L Accessory Dwelling Units](#) on 7/23/2020

Adopted by Ord. [20-Q Urban Livestock](#) on 8/27/2020

Amended by Ord. [22-C Accessory Dwelling Unit Amendments](#) on 4/28/2022

Adopted by Ord. [22-F](#) on 10/13/2022

15.07 Zoning, Including Procedures, Land Use Chart, Area Requirements, And Zoning Maps

15.07.005 Intent And General Provisions

15.07.005.1 Filing Of Zoning Ordinance And Zoning Map

This Zoning Ordinance and Zoning Map shall be filed in the custody of the City Recorder of Perry City and may be examined by the public subject to reasonable regulations established by the City Recorder.

HISTORY

Adopted by Ord. [15-C](#) on 3/17/2015

15.07.010 Zoning Districts

15.07.010.1 List Of Zones

The territory of the City of Perry is divided into the following zoning districts or potential districts. For the Land Use Chart, which shows the restrictions and limitations within these districts or potential districts(excepting the Civic and Recreation Zones), refer to PMC 15.07.100. Please see PMC 15.07.020.4 for regulations pertaining to the Civic (CVC) and Recreation (REC) Zones, respectively.

AE	AGGREGATE EXTRACTION
A	AGRICULTURAL
AL	AGRICULTURAL LIMITED
R1A	RURAL RESIDENTIAL
RE	1/2 RURAL RESIDENTIAL
R1/2	LOW DENSITY RESIDENTIAL
R1/3	LOW DENSITY RESIDENTIAL
R2	MEDIUM DENSITY RESIDENTIAL
C	COMMERCIAL
C1	COMMERCIAL
IC	INTERSTATE COMMERCIAL
NC2	NEIGHBORHOOD COMMERCIAL
NC3	NEIGHBORHOOD COMMERCIAL
MU-C	MIXED-USE COMMERCIAL
MU-O	MIXED-USE OFFICE
MU-R	MIXED-USE RESIDENTIAL
MI	MANUFACTURING/INDUSTRIAL
MIL	MANUFACTURING/INDUSTRIAL LIMITED
ES	ENVIRONMENTALLY SENSITIVE
CVC	SECNSITIVE CVC RECREATION
DO	DEVELOPMENT OVERLAY

HISTORY

Adopted by Ord. [15-C](#) on 3/17/2015

Amended by Ord. [17-K](#) on 12/14/2017

Amended by Ord. [Ordinance 21-S](#) on 1/13/2022

15.07.020 Zone Descriptions

15.07.020.1 Agricultural (A)

The purpose of the Agricultural Zone is to promote and preserve conditions favorable to intensive agriculture. This zone is intended to include activities normally and customarily related to the production of livestock, crops, and related agricultural products and to protect the zone from the intrusion of uses detrimental to the continuation of intensive agricultural activities.

HISTORY

Adopted by Ord. [15-C](#) on 3/17/2015

15.07.020.2 Agricultural Limited (AL)

The purpose of the limited agricultural zone is to promote and preserve in appropriate areas conditions favorable to light agriculture. This zone is intended to include activities normally and customarily related to the conduct of agriculture and to protect the zone from intrusions of uses, which will have an adverse effect on the continuation of light agricultural activities.

HISTORY

Adopted by Ord. [15-C](#) on 3/17/2015

15.07.020.3 Rural Residential (R1A And RE1/2)

The purpose of the rural residential zone is to provide for and protect residential development in a semi-rural environment. The keeping of limited numbers of livestock and the raising of crops can be considered normal activities in the rural residential zone. The following clarifications apply to the R1A and RE1/2 zones:

1. One (1) large animal will be allowed per 40,000 sq. ft. of property on a parcel, with one additional large animal for every 20,000 sq. ft. of property. All initial 40,000 sq. ft. must be one continuous parcel. All sq. ft. must be contiguous (touching). (Example: Two large animals are allowed on 70,000 sq. ft. of property. Additional animals are not allowed on portions of property less than 20,000 sq. ft.). Large animals are considered: horses, cattle, and llamas. Large animals must be contained in a corral or stock fence. Corrals or stock fences must have a sixteen (16) foot minimum rear setback and eight (8) foot minimum side setback on a lot or parcel. If there is a main building, corrals or stock fences shall be sixteen (16) feet to the rear of the building and other applicable setbacks will apply. If there is no main building, corrals or stock fences must have a thirty (30) foot minimum front setback.
2. One (1) mid-size animal will be allowed per 20,000 sq. ft. of property on a parcel. All initial 20,000 sq. ft. must be one continuous parcel. All sq. ft. must be contiguous (touching). (Example: two mid-size animals are allowed on 50,000 sq. ft. of property. Additional animals are not allowed on portions of property less than 20,000 sq. ft.). Midsize animals are considered sheep and goats. Mid-size animals must be contained in a corral or stock fence. Corrals or stock fences must have a sixteen (16) foot minimum rear setback and eight (8) foot minimum side setback on a lot or parcel. If there is a main building, corrals or stock fences shall be sixteen (16) feet to the rear of the building and other applicable setbacks will apply. if there is no main building, corrals or stock fences must have a thirty (30) foot minimum front setback.
3. Nine (9) small animals/fowl will be allowed per 20,000 sq. ft. of property on a parcel. (Example: Eighteen (18) small animals/fowl are allowed on 50,000 sq. ft. of property). Small animals/fowl are considered: turkeys, ducks, geese, pigeons, and rabbits. Small animals/fowl must be contained to the property. For chickens, refer to Perry City Municipal Ordinance 14-L.

HISTORY

Adopted by Ord. [15-C](#) on 3/17/2015

Amended by Ord. [16-B](#) on 5/12/2016

15.07.020.4 Civic (CVC) And Recreational Zones (REC)

1. Public zone areas allow for public or quasi-public land uses that fall into two general categories: Civic use and Recreation use. The following zones are established as public zoning districts:

- a. Civic (CVC)
- b. Recreation (REC)

2. Exemption from local zoning requirements. A landowner in the Public zone areas may satisfactorily prove exemption from local zoning requirements. For example, a State of Utah-owned public university. However, private projects on lands owned by this type of owner may be subject to City development standards and permitting requirements.

Civic Zone

- a. Zone name: Civic Zone

- b. Zone abbreviation: CVC

- c. Definition/Purpose of zone

- i. Purpose and Intent.

(1) The purpose of the Civic Zone is to classify lands that are publicly owned, and on which public facilities, public schools, or other existing or identified publicly owned facilities or uses are or may be located. These areas serve many public functions, including providing opportunities for education, cultural enhancements, and general governmental functions.

(2) The Civic Zone is intended to support lands and facilities that are owned and operated by governmental or other public entities and that serve and benefit the community. The zone is intended to provide for permitted uses in a manner that is harmonious with adjacent and nearby residential, commercial or industrial uses and that protects the public's health, safety, and general welfare.

- ii. Application. The Civic Zone is appropriate for publicly owned lands such as lands owned by public utilities, schools, Perry City, Box Elder County, the State of Utah, and other public entities.

- d. Locations: As shown on the currently adopted Zoning Map, which is hereby incorporated by reference into this Section and which incorporation makes the Zoning Map specific language and binding.

- e. Uses

- i. General provisions

(1) The uses listed in this Section are specific and are intended to be comprehensive and absolute. Uses and activities not listed in this Section are not permitted.

(2) This Chapter does not exempt property in this zone from following and adhering to any and all other applicable City ordinances. Some of the uses listed herein may have one or more separate sections in the PMC that include applicable specific standards, etc. For example, PMC 15.34.030 includes specific standards applicable to wireless, radio, television and telecommunications towers and facilities.

- ii. Permitted Uses

- (1) Agricultural uses and activities
- (2) Animal shelters
- (3) Cemeteries
- (4) Dormitories
- (5) Garbage and greenwaste transfer
- (6) Libraries
- (7) Major entertainment events
- (8) Parking
- (9) Public buildings or facilities
- (10) Public rail lines
- (11) Public Roads
- (12) Public schools, not including charter schools
- (13) Public utility, including sewage disposal and/or treatment plant
- (14) Public water basin
- (15) Railroad or bus passenger station

- (16) Recycling drop-off containers
- (17) Storage yard of heavy equipment
- (18) Storage of sand, gravel, earth, stone, pipe, conduit, electrical equipment, wire, etc. or other materials related to governmental service provision
- (19) Theaters
- (20) Trade, vocational or commercial schools
- (21) Wireless, radio, television and telecommunications towers and facilities

iii. Prohibited Uses

- (1) Any use, including, but not limited to, those listed as permitted uses herein, that
 - (A) Is disharmonious with or has a detrimental impact on existing or planned residential uses; or
 - (B) Changes parks, open spaces and other uses similar to these.
 - i. This preceding provision notwithstanding, a proposed use in the Civic Zone may change parks, open spaces and uses similar to these provided that compensating parks, open spaces and uses similar to these satisfactory to the respective final land use authority are provided and approved with the proposed use.

f. Procedures for Review and Decision

- i. Submit fully completed application, including payment of required fees
- ii. City Staff review and recommendation to Planning Commission
- iii. Planning Commission review and recommendation to City Council
- iv. City Council review and decision, including the holding of a Public Hearing
 - (1) The holding of a public hearing during a City Council meeting is required to provide:
 - (A) Direct notice to property owners located within 300 feet of the subject property of a Civic Zone land use application; and
 - (B) The opportunity for elected officials to receive public feedback on land use in the Civic Zone.

Recreation Zone

- a. Zone name: Recreation Zone
- b. Zone abbreviation: REC
- c. Definition/Purpose of zone
 - i. Purpose and Intent. The purpose of the Recreation Zone is to preserve and enhance public and private open, natural, and improved park and recreational areas, and to implement recreation and resource sustainability provisions of the City's General and Master Plans. Areas in this zone serve to provide opportunities for active and passive indoor and outdoor recreation; provide contrasts to the built environment; preserve scenic qualities; protect sensitive or fragile environmental areas; preserve the capacity and water quality of the storm water drainage system; and provide pedestrian and bicycle transportation connections.
 - ii. Application. The Recreation Zone is intended to be applied to publicly owned parks and recreation facilities as well as publicly owned open space. The Recreation Zone is appropriate for publicly owned lands such as lands owned by public utilities, schools, Perry City, Box Elder County, the State of Utah, and other public entities. This zone may also be used, according and subject to the provisions of the PMC, for privately owned or operated park and recreation facilities residing on publicly owned land.
- d. Locations: As shown on the currently adopted Zoning Map, which is hereby incorporated by reference into this Section and which incorporation makes the Zoning Map specific language and binding.
- e. Uses
 - i. General provisions
 - (1) The uses listed in this Section are specific and are intended to be comprehensive and absolute. Uses and activities not listed in this Section are not permitted.
 - (2) This Chapter does not exempt property in this zone from following and adhering to any and all other applicable City ordinances. Some of the uses listed herein may have one or more separate sections in the PMC that include applicable specific standards, etc.
 - ii. Permitted Uses
 - (1) Agricultural uses and activities
 - (2) Golf course

- (3) Outdoor recreation and entertainment
- (4) Public gun range/club
- (5) Public parks or open areas
- (6) Public rail lines
- (7) Public Roads
- (8) Public water basin
- (9) Playgrounds
- (10) RV parks – short-term occupancy (less than 30 calendar days)
- (11) Tennis, swimming or other recreation, indoor
- (12) Tent campground
- (13) Theaters
- (14) Trails

f. Prohibited Uses

i. Any use, including, but not limited to, those listed as permitted uses herein, that

- (1) Is disharmonious with or has a detrimental impact on existing or planned residential uses; or
- (2) Changes parks, open spaces and other uses similar to these.

(A) This preceding provision notwithstanding, a proposed use in the Recreation Zone may change parks, open spaces and uses similar to these provided that compensating parks, open spaces and uses similar to these satisfactory to the respective final land use authority are provided and approved with the proposed use.

g. Procedures for Review and Decision

- i. Submit fully completed application, including payment of required fees
- ii. City Staff review and recommendation to Planning Commission
- iii. Planning Commission review and recommendation to City Council
- iv. City Council review and decision, including the holding of a Public Hearing

(1) The holding of a public hearing during a City Council meeting is required to provide:

- (A) Direct notice to property owners located within 300 feet of the subject property of a Recreation Zone land use application; and
- (B) The opportunity for elected officials to receive public feedback on land use in the Recreation Zone.

HISTORY

Amended by Ord. [17-K](#) on 12/14/2017

15.07.020.5 Low Density Residential 1/2 Acre (20,000 Sf) (R1/2)

The purpose of the low density residential zone is to provide appropriate locations where low density residential neighborhoods may be established, maintained and protected. The regulations are intended to prohibit those uses which would be intrusive to activities and uses usually associated with single-family neighborhoods.

HISTORY

Adopted by Ord. [15-C](#) on 3/17/2015

Repealed by Ord. [16-B](#) on 5/12/2016

15.07.020.6 Low Density Residential 1/3 Acre (R1/3)

The purpose of the low density residential zone is to provide appropriate locations where low density residential neighborhoods may be established, maintained, and protected. The regulations are intended to prohibit those uses which would be intrusive to activities and uses usually associated with single-family neighborhoods.

NOTE: This zone allows a septic tank on a minimum 1/3 acre lot in the south annexed area of the city until such time as sewer collection lines are installed within 300 feet of a lot line, then the owner of said lot has one year to connect to the sewer collection lines.

HISTORY

Adopted by Ord. [15-C](#) on 3/17/2015

15.07.020.7 Low Density Residential 1/4 Acre (10,000 Sf) (R1)

The purpose of the R-1 Zone, low density residential, is to provide appropriate locations where low density housing neighborhoods may be established, maintained and protected. The regulations are intended to prohibit those uses which would be intrusive to activities and uses usually associated with single-family neighborhoods.

HISTORY

Adopted by Ord. [15-C](#) on 3/17/2015

15.07.020.8 Medium Density Residential (8,000 Sf)(R2)

The purpose of the medium density residential zone is to provide appropriate locations where medium density residential neighborhoods may be established, maintained and protected. The regulations are intended to prohibit uses that would be intrusive to activities and uses usually associated with medium density neighborhoods.

HISTORY

Adopted by Ord. [15-C](#) on 3/17/2015

Amended by Ord. [17-D](#) on 3/9/2017

Amended by Ord. [Ordinance 19-O R2 Zoning](#) on 1/9/2020

15.07.020.9 Commercial (C)

The purpose of the commercial zone is to provide an appropriate area for intensive commercial and light manufacturing. Development standards must minimize potential negative visual impact and objectionable effects to adjacent zones.

NOTE: Variables that determine if a proposed development should be included in the Manufacturing/Industrial Zone as opposed to the Commercial Zone include but are not limited to:

1. Number of employees
2. Square footage and height of building(s)
3. Square footage of hard space
4. Requirements for outside storage areas or service requirements
5. Potential negative environmental impact
6. Overall visual quality of the development

HISTORY

Adopted by Ord. [15-C](#) on 3/17/2015

15.07.020.10 Commercial - Principal (C1)

This zone is unique to the area along the north border of Perry City, West of Highway 89 extending west to Interstate 15 and South from the border with Brigham City for approximately 2000 feet (as defined on the Zoning Map). The purpose of this zone is to provide space for development of business which focuses on retail and wholesale sales along with professional offices. The zone is considered prime business district and does not allow residential development or heavy commercial development such as processing plants, etc. Appropriate uses are defined in the Land Use Chart and will be approved through the Design Review process.

HISTORY

Adopted by Ord. [15-C](#) on 3/17/2015

15.07.020.11 Interstate Commercial (IC)

The purpose of the Interstate Commercial Zone is to provide space for development of business which focuses on retail and wholesale sales along with professional offices. The zone is considered prime business district and does not allow residential development or heavy commercial development such as processing plants, etc. Appropriate uses are defined in the Land Use Chart and will be approved through the Design Review process.

HISTORY

Adopted by Ord. [15-C](#) on 3/17/2015

Amended by Ord. [17-B](#) Amending the Interstate Commercial Zone on 2/23/2017

15.07.020.12 Neighborhood Commercial (NC2 And NC3)

The purpose of the neighborhood commercial zones is to permit the establishment of well designed retail commercial facilities along Highway 89 and minimize the effects of commercial development adjacent to residential uses (see PMC 15.07.060 for specific zoning information and PMC 15.29 for Conditional Use information).

HISTORY

Adopted by Ord. [15-C](#) on 3/17/2015

15.07.020.13 Mixed Use Commercial, Office, And Residential (MU-C, MU-O, And MU-R)

The purpose of the mixed use zones is to provide an area for multi-family dwellings in combination with commercial uses such as offices or retail. Combining these uses will reduce traffic congestion by providing for an area adjacent to mass transit as well as making jobs available close to home.

HISTORY

Adopted by Ord. [15-C](#) on 3/17/2015

15.07.020.14 Manufacturing/Industrial (M/I)

The purpose of the Manufacturing/Industrial Zone is to provide an area conducive to heavy manufacturing and industry that is in harmony with the environmental quality of the community.

HISTORY

Adopted by Ord. [15-C](#) on 3/17/2015

15.07.020.15 Manufacturing/Industrial Limited (M/L)

The purpose of the Manufacturing/Industrial Limited Zone is to provide an area conducive to specific manufacturing uses, heavy commercial uses and industry that is in harmony with the General Plan.

HISTORY

Adopted by Ord. [15-C](#) on 3/17/2015

15.07.020.16 Environmentally Sensitive (ES)

The purpose of the Environmentally Sensitive Zone is to promote environmental planning of areas which have severe physical limitations and have a complex ecological and environmental balance, including limiting development in sloped terrain (see "Sloped Terrain and Foothill Development," PMC 15.09).

HISTORY

Adopted by Ord. [15-C](#) on 3/17/2015

15.07.020.17 Caveat Regarding Zone Descriptions (and Development Standards)

Development standards must protect the Perry City water shed and water supply, limit erosion and storm water runoff, be compatible with existing wildlife winter range, accent the goals of the General Plan, not limit casual access to the foothills, and limit disruption of vegetation through a cut and fill process.

1. Grade is to be determined on individual lots and not averaged across the development.
2. Ratio of dwelling unit per existing grade:
 - a. Over 20% grade - no development
 - b. 15 - 20% grade - 1 dwelling per 5 acres
 - c. 10 - 15% grade - 1 dwelling per 2 acres
 - d. 5 - 10% grade - 1 dwelling per 1 acre
 - e. 0 - 5% grade - 1 dwelling per 1/2 acre

HISTORY

Adopted by Ord. [15-C](#) on 3/17/2015

Amended by Ord. [17-K](#) on 12/14/2017

15.07.020.18 Civic (CVC)

Please see PMC 15.05.020.4 for a description of this zone.

HISTORY

Amended by Ord. [17-K](#) on 12/14/2017

15.07.020.19 Recreation (REC)

Please see PMC 15.07.020.4 for a description of this zone.

HISTORY

Amended by Ord. [17-K](#) on 12/14/2017

15.07.020.20 Aggregate Extraction (AE)

1. **Purpose and Intent:** The purpose of the aggregate extraction zone is to provide for extraction of aggregate, particularly where such extraction has historically occurred, and continues to occur. This zone is not intended to increase the geographic area of current aggregate extraction operations.
2. **Application:** The aggregate extraction zone is appropriate for lands currently being used for aggregate extraction, including extensions thereof onto new locations within the Aggregate Extraction Zone boundaries where aggregate can be efficiently mined without significant disruption to surrounding land uses.

3. **Locations:** As shown on the currently adopted Zoning Map, which is hereby incorporated by reference into this Section and which incorporation makes the Zoning Map specific language and binding, and further described as the land identified (as of March 1, 2018) as Box Elder County Parcel Number 02-030-0004 and any successor parcel numbers thereto.

4. **Uses:**

a. General Provisions

- i. The uses listed in this Subsection are specific and are intended to be comprehensive and absolute. Uses and activities not listed as permitted for the Aggregate Extraction Zone in this Subsection are prohibited.
- ii. This Subsection does not exempt property in this zone from following and adhering to any and all other applicable City ordinances. Some of the uses listed herein may have one or more separate section in PMC that include applicable specific standards, etc. To wit, all activities in the Aggregate Extraction Zone shall comply with the provisions of the PMC 15.31.

b. Permitted Uses

- i. The permitted uses are aggregate extraction and accessory uses incidental thereto. Such uses include the following, to the extent they relate to aggregate extraction:
 - (1) Accessory uses incident to aggregate extraction
 - (2) Aggregate extraction
 - (3) Exploration
 - (4) Offices, maintenance, or other non-residential structures, subject to design review procedures in PMC 15.17 and approval.
 - (5) Parking
 - (6) Public Roads
 - (7) Public Utility easements
 - (8) Reclamation
 - (9) Scales and weighing equipment
 - (10) Storage yard of heavy equipment
 - (11) Storage of Aggregate
 - (12) Surface Mining Operations

15.07.020.21 Development Overlay (DO)

When applied to a certain property this zone shall not replace any other zoning district, but rather shall be added to the zoning regulations for the subject property as an overlay zone.

HISTORY

Adopted by Ord. [Ordinance 21-S](#) on 1/13/2022

15.07.030 Rules For Locating Boundaries

15.07.030.1 Basic Rules

Where uncertainty exists as to the boundaries of any zone, the following rules shall govern:

1. Whenever the zone boundary is not accurately defined on the Zoning Map, but is indicated as being approximately along the center line of a street, alley, or block, or along a property line, then the center line of such street, alley, or block, or such property line shall be construed to be the boundary of such zone.
2. Wherever the zone boundary is indicated as being parallel to or an extension of features on the map, such as parallel line or such extensions shall be deemed to be the boundary of such zone.
3. Where such zone boundaries cannot be determined by the above rules, the boundary location may be found by the use of the scale appearing upon the Zoning Map.

HISTORY

Adopted by Ord. [15-C](#) on 3/17/2015

15.07.030.2 Final Decisions And Appeals For Locating Boundaries

Where the application of the above rules does not adequately clarify the zone boundary location, the City Council shall apply the basic rules and interpret and define the zone boundary of the Zoning Map.

HISTORY

Adopted by Ord. [15-C](#) on 3/17/2015

Amended by Ord. [18-E](#) on 3/28/2019

15.07.030.3 Zoning Boundary Divides A Parcel

Where the zoning boundary divides a parcel of property, the Zoning Boundary Policy (PMC 15.07.040) is to be applied to determine the zone of the parcel.

HISTORY

Adopted by Ord. [15-C](#) on 3/17/2015

15.07.040 Zoning Boundary Policy

15.07.040.1 Purpose And Intent

The purpose and intent of this ordinance is as follows:

1. The purpose and intent of this ordinance is to address land use considerations on parcels split by zoning boundaries because different uses are allowed in the different zones. The intent of the land use extension recommendation by the Planning Commission is that land uses will be allowed to be extended into adjoining zones without changing the zone boundary or the zoning map. It is intended that land use extensions for developments are an intrinsic part of the proposal itself and the approval of the development includes the extension of the land use.
2. The Planning Commission's zoning and land use guidelines consist of statements which define how zoning and land use decisions should be made. They are to be used in addressing the needs of all the stakeholders and they provide a framework for future land use and zoning decision making. These guidelines represent the commitment the Planning Commission makes to the community.
3. Because these are general statements, there will be occasions when various policies conflict. In such cases, the Planning Commission will need to determine the precedence given on a case by case basis according to the specific needs of the issue that is pending.

HISTORY

Adopted by Ord. [15-C](#) on 3/17/2015

15.07.040.2 General Guidelines For Zoning Boundary Policy

The following are guidelines for zoning boundary policy:

1. These guidelines may be applied during the Design Review process (PMC 15.17) or the Subdivision process (PMC Title 14) as a means to extend a land use when the following requirements are met:
 - a. The parcel for development is split by a zoning boundary. (The parcel boundaries and the zone boundaries are different or the parcel is divided into two or more zones).
 - b. The applicant has applied for a use that is allowed in one or more of the zones that are within the parcel.
2. One or a combination of these considerations will be made to recommend a method to deal with parcels split by zone boundaries:
 - a. A definite edge should be established between types of uses to protect the integrity of each use.

- b. Land use extensions should reflect the existing use of the property to the largest extent possible, unless the area is in transition.
 - c. Where possible, properties which face each other across a local street should be the same or similar uses.
 - d. Primary frontage of the parcel and surrounding uses should be considerations when establishing uses for corner lots.
 - e. Non-residential uses abutting residential uses should be planned to help minimize the impact on an established residential area that is in close proximity to the nonresidential use.
3. One or a combination of the following methods for determining land use may be applied by the Planning Commission to make recommendations for the parcel in question:
- a. The Planning Commission may recommend that the uses allowed in the majority zone of the parcel be extended to the entire parcel.
 - b. The Planning Commission may make a determination as to which zone is the most beneficial for Perry City in regards to the public good, aesthetic considerations, and/or special circumstances that are characteristic of the property and recommend that the land uses associated with the desired zone be extended as far as the Planning Commission deems necessary.
 - c. When there are conflicting lot size requirements in the zones contained in the parcel for development, the Planning Commission may recommend using a formula to average the size of the lots to be developed to conform to the average density allowed in all of the zones involved.
4. In making land use recommendations, the Planning Commission may give consideration to one or more of the following suggestions:
- a. The right of the property owner(s) and the desire to use their property for a use that is allowed in part of the property should be recommended when appropriate.
 - b. Re-Zoning of a parcel to conform to ne zone should be recommended when appropriate.
 - c. Discouragement of small lot developments of multiple density uses.
 - d. Commercial uses should be located on collector or arterial streets.
 - e. Access to commercial, manufacturing and industrial uses should avoid residential streets.

HISTORY

Adopted by Ord. [15-C](#) on 3/17/2015

15.07.040.3 Final Decisions And Appeals Regarding Zoning Boundary Policy Applications

After a recommendation from the Planning Commission, the City Council shall make a final decision, subject to an appeal to the Hearing Officer.

HISTORY

Adopted by Ord. [15-C](#) on 3/17/2015

Amended by Ord. [18-E](#) on 3/28/2019

15.07.050 Airport Overlay Zone

15.07.050.1 Purpose And Intent

The purpose and intent of this ordinance is to state that an airport hazard endangers the lives and property of users in the Brigham City Airport and of occupants of land or to property in its vicinity. Such hazard also reduces the size of the area available for landing, taking off and maneuvering of aircraft, and it tends to destroy or impair the utility of the Brigham City Municipal Airport and the public investment therein. Accordingly, it is declared:

1. That the creation or establishment of an airport hazard is a public nuisance and an injury to the region served by the Brigham City Municipal Airport;
2. That it is necessary in the interest of public health, public safety and general welfare that the creation or establishment of an airport hazard be prevented; and
3. That the prevention of those hazards should be accomplished, to the extent legally possible, by the exercise of the police power without compensation.

It is further declared that both the prevention of the creation or establishment of airport hazards and the elimination, removal, alteration, mitigation, or marking and lighting of existing airport hazards are public purposes for which political subdivisions may raise and expend public funds and acquire lands or interests in land.

HISTORY

Adopted by Ord. [15-C](#) on 3/17/2015

15.07.050.2 General Provisions

The following are general provisions of this ordinance:

1. These regulations reinforce specific provisions in the Brigham City Municipal Airport Master Plan (May 2, 1996), as amended and Brigham City General Plan (January 15, 1998), as amended.
2. The boundary of any officially recognized "Airport Overlay Zones" shall be as it appears on a map and/or other documents approved by the Brigham City Council.
3. Portions of Perry City fall within the OUTER APPROACH ZONE of the Brigham City Municipal Airport (see Brigham City Municipal Airport Overlay Zones map). The restrictions listed for the Outer Approach Zone in the schedule of uses and the restrictions sections of this ordinance identify the only impact for land within Perry City.
4. Perry City must notify developers when property falls within the portion of the Outer Approach Zone that is located within Perry City limits. Developers must notify potential purchasers (in writing) when property is within the Outer Approach Zone of the Brigham City Airport.

HISTORY

Adopted by Ord. [15-C](#) on 3/17/2015

15.07.050.3 Definitions

Definitions used in this Ordinance unless the context otherwise requires:

1. **Airport:** The Brigham City Municipal Airport or any area of land designated and used for the landing and taking off of aircraft.
2. **Airport Elevation:** The highest point of an airport's usable landing area measured in feet from mean sea level. This elevation is 4,225.5 feet MSL as of the date of this ordinance.
3. **Airport Hazard:** Any structure or use of land that actually or potentially obstructs the airspace required for the safe flight of air craft in landing or taking off at an airport
4. **Approach Surface:** A surface longitudinally centered on the extended runway centerline, extending outward and upward from the end of the primary surface and at the same slope as the approach zone height limitation slope set forth in this Ordinance. In plan, the perimeter of the approach surface coincides with the perimeter of the approach zone.
5. **Approach, Transitional, Horizontal, and Conical Zones:** These zones are set forth in PMC 15.07.050.8(3).
6. **Conical Surface:** A surface extending outward and upward from the periphery of the horizontal surface at a slope of 20 to 1 for a horizontal distance of 4,000 feet.
7. **F.A.R. Part 77:** Federal Aviation Administration regulations pertaining to height and obstruction criteria within prescribed distances from an airport as these regulations currently exist and as may be amended from time to time. Part 77 Regulations may also affect lands located outside the boundaries of the defined Airport Influence Area.
8. **Hazard to Air Navigation:** An obstruction determined to have a substantial adverse effect on the safe and efficient utilization of the navigable airspace.
9. **Height:** For the purpose of determining the height limits in all zones set forth in Section 15.07.050.8(3) and shown on the zoning map, the datum shall be the mean sea level (MSL) elevation unless otherwise specified.
10. **Horizontal Surface:** A horizontal plane 150 feet above the established airport elevation, the perimeter of which in plan coincides with the perimeter of the horizontal zone.
11. **Ldn:** Yearly day-night average sound level.
12. **MSL:** Mean Sea Level.
13. **Non-precision Instrument Runway:** A runway having an existing instrument approach procedure utilizing air navigation facilities with only horizontal guidance, or area type navigation equipment, for which a straight-in non-precision instrument approach procedure has been approved or planned. It also means a runway for which a non-precision approach system is planned and is so indicated on an approved Airport Layout Plan or any other planning document.
14. **Obstruction:** Any structure, growth, or other object, including a mobile object, which exceeds a limiting height set forth in this Ordinance.

15. **Person:** An individual, firm, partnership, corporation, company, association, joint stock association, or governmental entity; includes a trustee, a receiver, an assignee, or a similar representative of any of them.
16. **Precision Instrument Runway:** A runway having an existing instrument approach procedure utilizing an Instrument Landing System (ILS), a Precision Approach Radar (PAR), a Global Positioning System (GPS), a Transponder Landing System (TLS), or other systems providing both horizontal and vertical guidance. It also means a runway for which a precision approach system is planned and is so indicated on an approved Airport Layout Plan or any other planning document.
17. **Primary Surface:** A surface longitudinally centered on a runway. When the runway has a specially prepared hard surface, the primary surface extends 500 feet beyond each side of the runway and 200 beyond the end of that runway. The elevation of any point on the primary surface is the same as the elevation of the nearest point on the runway centerline.
18. **Runway:** A defined area on an airport prepared for landing and takeoff of aircraft along its length.
19. **Structure:** An object, including a mobile object, constructed or installed by man, including but not limited to, buildings, towers, cranes, smokestacks, earth formation, and overhead transmission lines.
20. **Transitional Surfaces:** These surfaces extend outward at 90 degree angles to the runway centerline and the runway centerline extended at a slope of seven (7) feet horizontally for each foot vertically from the sides of the primary and approach surfaces to where they intersect the horizontal and conical surfaces. Transitional surfaces for those portions of the precision approach surfaces, which project through and beyond the limits of the conical surface, extend a distance of 5,000 feet measured horizontally from the edge of the approach surface and at 90 degree angles to the extended runway centerline.
21. **Tree:** Any object of natural growth.
22. **Utility Runway:** A runway that is constructed for and intended to be used by propeller driven aircraft of 12,500 pounds maximum gross weight and less.
23. **Visual Runway:** A runway intended solely for the operation of aircraft using visual approach procedures.

HISTORY

Adopted by Ord. [15-C](#) on 3/17/2015

15.07.050.4 Airport Zoning Commission: For The Portion Of Perry City That Fall Within The Outer Approach Zone

The Commission established is thus:

1. The Perry City Planning Commission is designated as the "Airport Zoning Commission" as prescribed in Utah Code Annotated §72-10-405.
2. In this Title and State law, any references to the "Airport Zoning Commission" shall mean the Perry City Planning Commission (for the Perry City Outer Approach Zone).
3. If the Planning Commission is empowered in this Title to take actions that are duties of the Airport Zoning Commission as prescribed in Utah law, the Planning Commission shall be presumed to be functioning as the Airport Zoning Commission.
4. **Duties:** The Airport Zoning Commission shall recommend boundaries of the various zones to be established and the regulations to be adopted pertaining to any airport hazard area and to perform such other duties as may be assigned to it by the Perry City Council or Utah law.
5. The Perry City Airport Zoning Commission shall act as the Airport Zoning Commission for Perry City (for the Perry City Outer Approach Zone).

HISTORY

Adopted by Ord. [15-C](#) on 3/17/2015

15.07.050.5 Airport Board Of Adjustment: For The Portion Of Perry City That Falls Within The Outer Approach Zone

The Perry City Hearing Officer is designated as the "Airport Board of Adjustment" as prescribed in Utah Code Annotated §10-408. In this Title and State law, any references to the "Airport Board of Adjustment" shall mean the Perry City Hearing Officer (for the Perry City Outer Approach Zone). If the Board of Adjustment is empowered in this Title to take actions that are duties of the Airport Board of Adjustment as prescribed in Utah law, the Board of Adjustment shall be presumed to be functioning as the Airport Board of Adjustment. The Airport Board of Adjustment shall hear issues pertaining to any airport hazard area and to perform such other duties as may be assigned to it by the Perry City Council or Utah law. The Perry City Airport Board of Adjustment shall act as the Airport Board of Adjustment for Perry City (for the Perry City Outer Approach Zone).

HISTORY

Adopted by Ord. [15-C](#) on 3/17/2015

Amended by Ord. [18-E](#) on 3/28/2019

15.07.050.6 Schedule Of Uses

The following table indicates the uses and conditions required within the 5 designated zones for the airport:

2010 Perry Municipal Code Table of Uses

	AIRPORT INFLUENCE AREA (AIA)	TRAFFIC PATTERN ZONE (TPZ)	OUTER APPROACH ZONE (OAZ)	INNER APPROACH ZONE (IAZ)	65 Ldn NOISE AREA (NA)
RESIDENTIAL					
Single-family, Multi-family, Accessory Apartments, Residential Facilities for Elderly /Handicapped	C(6)	C(4)	C(3,4)	X	X
PUBLIC					
Schools, Libraries, Churches	C(6)	C(4)	C(3,4)	X	X
Parking, Cemeteries	P	P	P	C(5)	C(2,)
COMMERCIAL & INDUSTRIAL					
Offices, Retail Trade, Service Commercial, Wholesale Trade, Warehousing, Light Industrial, General Manufacturing, Utilities, Extractive industry	P	C(6)	C(4)	C(1)	C(1)
AGRICULTURAL & RECREATIONAL					
Cropland	P	P	P	P	P
Livestock Breeding, Parks, Playgrounds, Zoos, Golf Courses, Riding Stables, Water Recreation	P	P	P	P	
Outdoor Spectator Sports	P	C(3)	C(3,4)	X	X
Amphitheaters	C	C(3)	X	X	X
Open Space	P	P	P	P	P

(1) If allowed, navigation easements and disclosure must be required as a condition of development.

(2) Any structures associated with uses allowed in the 65 Ldn Noise Contour must be located outside the 65 Ldn Noise Contour.

(3) If no reasonable alternative exists, use should be located as far from extended centerline as possible.

(4) If allowed, disclosure of airport proximity must be required as a condition of development. A navigation easement should be considered based on

proximity to runway centerline.

(5) Transportation facilities in the 65 Ldn Noise Contour (i.e. roads, railroads, waterways) must be configured to comply with Part 77 requirements.

(6) Disclosure of airport proximity should be required as a condition of development.

HISTORY

Adopted by Ord. [15-C](#) on 3/17/2015

15.07.050.7 Airport Master Plan

All uses and regulations pertaining to the Airport Overlay Zone shall be in compliance with and subject to the provisions of the Airport Master Plan, Airport Layout Plan, and Noise Contour Map as adopted by the Brigham City Council or as amended and is incorporated into this chapter by reference as it pertains to airport land uses.

HISTORY

Adopted by Ord. [15-C](#) on 3/17/2015

15.07.050.8 Airport Overlay Zones

In order to carry out the provisions of this Ordinance, there are hereby created and established certain zones which include all of the land lying beneath the Approach Surfaces, Transitional Surfaces, Horizontal Surfaces, and Conical Surfaces as they apply to the Brigham City Municipal Airport. An area located in more than one (1) of the following zones is considered to be only in the zone with the more restrictive height limitation. The various zones are hereby established and defined as follows:

1. **Airport Influence Area (AIA):** An area which is recognized by the Brigham City Council as containing lands which might be affected by noise and/or safety hazards associated with aircraft operations associated with Brigham City Municipal Airport. The AIA extends from the airport to the outer edge of the conical surface.
2. **Traffic Pattern Zone (TPZ):** This zone extends from the centerline of Runway 34/16 to the outer edge of the horizontal surface.
3. **65Ldn Noise Area (NA):** The area within the 65 decibel yearly day-night average sound level.
 - a. **Inner Approach Zone (IAZ):** The area within the FAR "Part 77" Approach Surface for each Runway:
 - b. **Runway 16 Approach Zone:** An approach zone is established at the end of Runway 16 for utility landings and take-offs. The approach zone shall have a width of 500' at a distance of 200' beyond the end of the runway, widening thereafter uniformly to a width of 1,010' at a distance of 1,700' beyond the end of the runway, its centerline being the continuation of the centerline of the runway. The approach zone shall rise 1' in height for each 20' in horizontal distance beginning at a point 200' from and at the centerline elevation of the runway and extending to a distance of 5,000' from the end of the runway.
 - c. **Runway 34 Precision Approach Zone:** A precision instrument approach zone is established at the end of runway 34 for precision instrument approach zone shall have a width of 1,000' at a distance of 200' beyond the end of the runway; widening thereafter uniformly to a width of 1,750' at a distance of 2,700' beyond the end of the runway. The precision instrument approach zone shall rise 1' in height for each 50' in horizontal distance beginning at a point 200' from and at the centerline elevation of the precision instrument runway and extending to a point 10,200' from the end of the runway.
 - d. **Outer Approach Zone (AZ):** The area within the FAR "Part 77" Outer Approach Surface for Runway 34 is established at 10,200 feet from the end of runway 34 with a width of 2,500 feet widening thereafter uniformly to a width of 16,000' at a distance of 50,200' beyond the end of the runway. This approach zone will rise 1' in height for each 40' in horizontal distance beginning at a point 10,200' from and at the centerline elevation of the precision instrument runway and extending to a point 50,200' from the end of the runway. This Zone is the only zone pertaining to Perry City.
 - e. **Transitional Zones:** The transitional zones are the areas beneath the transitional surfaces.
 - f. **Horizontal Zones:** The horizontal zone is established by swinging arcs of 10,000 feet radii from the center of each end of the primary surface of Runway 34/16 and connecting the adjacent arcs by drawing lines tangent to those arcs. The horizontal zone does not include the approach and transitional zones.

- g. Conical Zone: The conical zone is established as the area that commences at the periphery of the horizontal zone and extends outward there from a horizontal distance of 4,000 feet.

HISTORY

Adopted by Ord. [15-C](#) on 3/17/2015

15.07.050.9 Regulations

The following regulations apply for this Ordinance:

1. Conforming uses only.
2. All uses in the Airport Overlay zones shall be subject to the regulations of this Ordinance and prescribed development standards within the Airport Master Plan as amended.
3. Creation of airport hazards prohibited.
4. No variance, permit, or use shall be allowed in the airport hazard area that would create or enhance an airport hazard.
5. Use and operational limitations within the Airport Overlay zones.
6. **No use shall be permitted which:**
 - a. Creates or tends to create electrical interference to navigational devices and communication between aircraft and airports.
 - b. Creates or tends to create gas, smoke, dust, glare, or other visual hazards in the atmosphere around airports or in the airport hazard area.
 - c. Creates or tends to create structures that interfere with aircraft safety.
 - d. Creates or tends to create any type of hazard for the airport that would inhibit or constrain safe and acceptable airport operations.
7. **Height limitation:** Except as exempted in Paragraph 8 of this Section otherwise provided in this Ordinance, no structure shall be erected, altered, or maintained, and no tree shall be allowed to grow in any zone created by this Ordinance to a height in excess of the applicable height limit herein established for such zone. Such applicable height limitations are hereby established for each of the zones in question as follows:
 - a. Runway 16 Visual Approach Zone: 1' in height for each 20' in horizontal distance beginning at a point 200' from and at the centerline elevation of the end of the runway and extending a distance of 5,200' from the end of the runway 16.
 - b. Runway 34 Precision Instrument Approach Zone: 1' in height for each 50' in horizontal distance beginning at a point 200' from and at the centerline elevation of the end of the runway and extending a distance of 10,200' from the end of the runway.
 - c. Transition Zone: 1' in height for each 7' in horizontal distance beginning at any point 250' normal to and at the elevation of the centerline of the runway, extending 200' beyond each end thereof, and 500' normal to and at the elevation of the centerline of the runway, extending 200' beyond each end thereof, extending to a height of 150' above the airport elevation. In addition, there are established height limits of 1' vertical height for each 7' horizontal distance measured from the edges of all approach zones for the entire length of the approach zone and extending upward and outward to the points where they intersect the horizontal or conical surfaces.
 - d. Horizontal Zone: 150' above the airport elevation or a height of 4225.5 feet above mean sea level (MSL).
 - e. Conical Zone: Slopes twenty (20) feet outward for each one (1) foot upward beginning at the periphery of the horizontal zone and at 150 feet above the airport elevation (4,375.5 ft. MSL) and extending to a height of 350 (4,725.5 ft.MSL) feet above the airport elevation.
8. **Exemptions to height limitation:**
 - a. Any object that would be shielded by existing structures of a permanent and substantial character or by natural terrain or topographic features of equal or greater height, and would be located in the congested area of a city, town, or settlement where it is beyond all reasonable doubt that the structure so shielded.
 - b. Structures up to and including 35 feet in height above the ground level at its site where the ground elevation at its site is less than or equal to 35 feet below the height limitations defined in this Ordinance, and is beyond all reasonable doubt that the structure will not adversely affect safety in air navigation. If in doubt, submission of FAA Form 7460-1, Notice of Proposed Construction shall be used to determine its effect on safety in air navigation.

HISTORY

Adopted by Ord. [15-C](#) on 3/17/2015

15.07.050.10 Notifications

The following regarding notification:

1. Except as provided in Paragraph B, and in addition to all other local notification and permitting requirements, each person who proposes any of the following construction or alteration shall complete and submit an FAA Form 7460-1, Notice of Proposed Construction, to the local jurisdiction and to the Federal Aviation Administration in accordance Federal Aviation Regulation Part 77, Object Affecting Navigable Airspace:
 - a. Any construction or alteration of more than 200 feet in height above the ground level at its site.
 - b. Any construction or alteration of greater height than an imaginary surface extending outward and upward at a slope of 100 to 1 for a horizontal distance of 20,000 feet from the nearest point of the nearest runway at the Brigham City Municipal Airport.
2. **Exemptions from Notification:**
 - a. Any object that would be shielded by existing structures of a permanent and substantial character or by natural terrain or topographic features of equal or greater height, and would be located in the congested area of a city, town, or settlement where it is beyond all reasonable doubt that the structure so shielded will not adversely affect safety in air navigation.
 - b. Any antenna structure of 20 feet or less in height except one that would increase the height of any antenna structure.
3. **Time of Notice:** The notice required under Paragraph A must be submitted at least 30 days before the earlier of the following dates:
 - a. The date the proposed construction or alteration is to begin.
 - b. The date an application for a construction permit is to be filed.

HISTORY

Adopted by Ord. [15-C](#) on 3/17/2015

15.07.050.11 Airport Development Standards

The Brigham City Council may adopt by resolution or enact by ordinance.

HISTORY

Adopted by Ord. [15-C](#) on 3/17/2015

15.07.060 Neighborhood Commercial Zones

15.07.060.1 Intent And Purpose

The purpose of the Neighborhood Commercial Zones is to permit the establishment of a well designed complex of retail commercial facilities for the community along Highway 89 to provide goods and services for the people to be served, minimize traffic congestion on public streets in the vicinity and allow uses which shall best fit the general environment and land use pattern of the area to be served. It is intended that the protective standards contained in this ordinance will minimize any adverse effect of the Neighborhood Commercial Zones on the nearby property values, preserve the aesthetic qualities of the area, and provide for safe and efficient use of the commercial property.

HISTORY

Adopted by Ord. [15-C](#) on 3/17/2015

15.07.060.2 Types Of Neighborhood Commercial Zones

The following are the various types of neighborhood commercial zones under Perry City Municipal Code:

NC 2-

1. **Permitted and/or Conditional Uses:** Provides for the sale and supply of daily living needs of the people in the neighborhood as well as major segments of the community, professional offices, recreation centers, government offices, civic centers and churches. Mixed-use residential developments (buildings containing both a residence and a business) shall be the only residential uses allowed in the Neighborhood Commercial Zones and are allowed in the NC 2 Zone.

2. There shall be at least as much commercial space as is being used for residential living area in each building of a mixed-use residential development. Permitted uses in the NC 2 Zone are less intrusive to adjoining residential development than those in the NC 3 Zone. Consult the Land Use Chart, PMC 15.07.100, for permitted uses allowed by Design Review and conditional uses allowed with the meeting of specific conditions.

3. **Zone Area:** The NC 2 Zone shall include the area from the Brigham City Boundary to 3000 South Street on both sides of Highway 89 for 300 feet measured from the Highway 89 Right of Way line. The City Center shall be located at approximately 2500 South Street.

NC 3-

4. **Permitted and /or Conditional Uses:** Provides for the sale and supply of a complete range of retail and wholesale goods and personal services for the entire community as well as centers for recreational entertainment and cultural activities for the region. Consult the Land Use Chart (PMC 15.07.100), for permitted uses allowed by Design Review and Conditional Uses allowed with the meeting of specific conditions.

5. **Zone Area:** The NC 3 Zone shall include the area from 3000 South Street to the Willard boundary on both sides of Highway 89 for 300 feet measured from the Highway 89 Right of Way line. The area is relatively undeveloped at this time and the requirement for frontage road access to development will be enforced in this zone.

HISTORY

Adopted by Ord. [15-C](#) on 3/17/2015

15.07.060.3 Approval Process

The following criteria are required for approval:

1. All permitted and/or conditional uses shall be listed and regulated according to the Land Use Chart, PMC 15.07.100. Permitted uses shall be listed on the Land Use Chart as "Allowed by Design Review" and designated "P*". Conditional uses shall be listed on the Land Use Chart and designated "C. Conditional uses shall be regulated according to the Conditional Use Ordinance PMC 15.29. The Planning Commission and City Council may be petitioned to have uses not specifically listed, added to the Land Use Chart, PMC 15.07.100.
2. The Planning Commission shall review all proposed commercial development in all Neighborhood Commercial Zones as part of the Business License and Building Permit approval processes by following the Design Review process.

HISTORY

Adopted by Ord. [15-C](#) on 3/17/2015

15.07.060.4 Area Requirements

The following area requirements apply:

1. No minimum or maximum lot area is required.
2. All setbacks and building placements shall be approved according to the Design Review process (PMC 15.17) or conditions of the Conditional Use Ordinance (PMC 15.29).

HISTORY

Adopted by Ord. [15-C](#) on 3/17/2015

15.07.060.5 Site Development Standards

The following site development standards apply:

1. Unless otherwise set forth by ordinance, the site development standards in all Neighborhood Commercial Zones shall be the same as the "C" Commercial Zone. Provisions of the Perry City Ordinances for Landscaping, Signs, Fencing, Building Permits, Lighting, Conditional Uses, Land Use Chart, Area Requirements, and other relevant requirements shall regulate each individual commercial property development or improvement.

2. Written approval by the Utah Department of Transportation (UDOT) shall be required prior to a recommendation by the Planning Commission for the final approval of the development plan. Frontage roads for access shall be required where possible for any new development.

HISTORY

Adopted by Ord. [15-C](#) on 3/17/2015

15.07.060.6 Protection Of Adjoining Residential Properties

Where Neighborhood Commercial development adjoins any lot in any residential zone, there shall be provided and maintained along such property line an ornamental masonry wall or equivalent of not less than six (6) feet in height. However, such wall shall be three feet in height along the property line which bounds the front yard of adjoining residential lots. Such wall shall be maintained with a minimum six (6) foot wide planting strip and landscaping with trees and grass or shrubs along the commercial property inside the wall.

HISTORY

Adopted by Ord. [15-C](#) on 3/17/2015

15.07.060.7 General Regulations

The following are general regulations:

1. A Neighborhood Commercial Zone (NC) development may be established only upon land held in single ownership or under unified control or where the Planning Commission determines that commercial development on separate adjoining properties should be coordinated to form a physically unified commercial facility which will be compatible with the surrounding land uses.
2. At the time a Design Review Application is approved and prior to the building permits being issued, deed restrictions on the property or properties covered by the development shall be filed by the applicant or owners of subject property with the County Recorder and shall provide that development take place on such property or properties in accordance with the final site plan approved by the Perry City Council and on file with the City Recorder.
3. A Neighborhood Commercial Zone (NC) development shall not be established upon a tract of land which contains an existing non-conforming use unless the development planned for the tract includes the elimination of the non-conforming use or its integration into the planned development.
4. The Neighborhood Commercial Zone developments shall have an acceptable relationship to and further the purposes of the General Plan as determined by the Perry City Planning Commission. Refer to the Perry City General Plan for specific information.
5. Outdoor lighting shall be directed downward and shielded at the light source to minimize the illumination of adjacent property. Parking lots shall only be illuminated during the hours of operation. All lighting must meet UDOT requirements and specifications for use along Highway 89.
6. Hours of operation and delivery times allowed shall be determined by the Design Review process or Conditional Use Ordinance (PMC 15.29) regulations with consideration for surrounding, existing uses.

HISTORY

Adopted by Ord. [15-C](#) on 3/17/2015

15.07.060.8 Building Permit Issuance

The following are procedures for the issuance of building permits:

1. After proceeding through the Design Review or Conditional Use permit process and having met all requirements for recommended approval by the Planning Commission and final site plan approval by the City Council, the applicant or owner may apply for a building permit(s) and follow the regular procedure for the approval of the permit.
2. The final site plan shall be of a sufficient detail according to the Design Review Ordinance. No changes shall be made to the final site plan during the course of construction pursuant thereto without first obtaining prior approval of the Planning Commission and Building Inspector. Only changes which may be subsequently approved shall be added thereto.

3. Use and building permits shall be issued only for those uses and buildings indicated on the approved final development and /or site plan.

HISTORY

Adopted by Ord. [15-C](#) on 3/17/2015

15.07.060.9 Time Limitations

The following time limitations apply:

1. A building permit shall be secured and construction begun in accordance with the approved final development plan within eighteen (18) months from the final approval date or other period of time as determined by the City Council.
2. In the event that construction is not started within the specified time limits, the Planning Commission shall review the development plan and the progress which has taken place. If deemed necessary, a recommendation to revoke the plan approval may be issued to the City Council.
3. All construction authorized in the approved final development plan shall be completed within eighteen (18) months of the date construction commenced. A plan for the stage development which will require more than the time limits contained herein may be approved by the City Council after recommendation by the Planning Commission.
4. In the event that construction is not completed within the time limits specified, the Planning Commission shall review the development which has taken place and if necessary, make a recommendation to the City Council as to the status of the development and actions necessary to ensure the completion of the development in a timely manner or removal of any structures or development that has taken place and revocation of the approval for such development.

HISTORY

Adopted by Ord. [15-C](#) on 3/17/2015

15.07.070 Reserved

HISTORY

Amended by Ord. [19-C Multi-Family Housing](#) on 5/23/2019

15.07.080 Zoning Administration

15.07.080.1 Zoning Administrator: Authority And Duties

The Zoning Administrator shall be:

1. The Community Development Director or someone designated by him, unless otherwise directed by the Mayor or City Administrator,
2. Authorized to enforce this ordinance and all provisions thereof and shall do so by any legal means available, including but not limited to the following:
 - a. Advise the Building Inspector of the issuance of building permits. (If the Zoning Administrator gives written notification to the Building Inspector that an intended use, building, or structure would be in violation of this ordinance, such written notification shall be a presumption of illegality and the Building Inspector shall not issue a building permit for such use, building, or structure. If the offices of the Building Inspector and Zoning Administrator are held concurrently by one person, this person shall detail the violation in writing on the permit refusal notification).
 - b. Issue a permit of occupancy, or confer with the Building Inspector to issue an occupancy permit, to the effect that the proposed use, building or structure will conform to all ordinances of Perry City.
 - c. Inspect the uses of buildings, structures or land to determine compliance with this ordinance. Such inspections shall be made at reasonable times.
 - d. Issue Notices of Violation, or confer with the Building Inspector to issue notices of violation, wherever a building or land is being used contrary to the provisions of this ordinance. (This shall be done by serving notice in writing on any person engaged in said use and posting such notice on the premises.)
 - e. Inform the City Council of all ordinance violations and recommend specific courses of action with regard to each violation.
 - f. Maintain a file of ordinance violations and action(s) to be taken by order of the City Council on such violations.

HISTORY

Adopted by Ord. [15-C](#) on 3/17/2015

15.07.080.2 Amendments To Zoning Map

The Zoning Map may be amended by:

1. The City Council. When the proposed amendment originates with the City Council, it shall be submitted to the Planning Commission for review and comment.
2. The Planning Commission for recommendation to the City Council; or
3. Any other Person, by making application for such amendment, including filing the required material with the City for Planning Commission review and recommendations to the City Council.
 - a. As a general policy - responsive to the General Plan to (i) ensure that any increased residential density is met with public parks and green space for new and existing residents and for neighborhood beautification, and (ii) support Conservation Subdivisions - the highest-density residential zone for which the City Council may approve a proposed Zoning Map amendment under paragraph 3 of this Subsection is RE1/2 or R1/2. Real Property owners may accomplish additional single-family residential density by utilizing a Conservation Subdivision. The City Council may approve exceptions to such general policy at its sole discretion.

HISTORY

Adopted by Ord. [15-C](#) on 3/17/2015

Amended by Ord. [21-U Amendments to Title 14 and 15 Regarding Subdivisions](#) on 1/27/2022

15.07.080.3 Petition By Landowners For Annexation

Whenever the owners of real property petition for annexation, the zoning of the real property shall also be considered.

HISTORY

Adopted by Ord. [15-C](#) on 3/17/2015

15.07.080.4 Written Zone Change Application Required

For rezone requests, a written petition including the area boundary description, signed by the property owners requesting the change and surrounding property owners who support the request, designating the change desired and the reasons therefore shall be presented to the Planning Commission for review and recommendations to the City Council. For any zoning amendment, the petitioner shall complete and submit a Zone Change Application Form to the Planning Commission.

HISTORY

Adopted by Ord. [15-C](#) on 3/17/2015

15.07.080.5 Zone Change Fee Required

A non-refundable Zone Change Amendment review fee shall be paid to Perry City in an amount determined by resolution of the City Council (see PMC 4.09, Fee Schedule).

HISTORY

Adopted by Ord. [15-C](#) on 3/17/2015

15.07.080.6 Procedure For Zone Change Amendment

The following is the procedure for zone change amendments:

1. The Planning Commission shall review the Zone Change Amendment Application/Petition and give notice of a public hearing, to be advertised in accordance with the Utah State Code (Article 10, Chapter 9a, Section 205 or as applicable) to consider such amendment as provided by law for zoning amendments. Written notification of this public hearing to consider re-zoning (and/or annexation) amendments shall be in accordance with state law. If mailing is part of the notice required by the City, the petitioner(s) shall reimburse Perry City for all postage costs incurred by this mailing.
2. Following the public hearing, the Planning Commission shall then submit its recommendations in writing concerning the proposed amendment to the City Council within forty-five (45) days from receipt of the amendment application. If the Planning Commission fails to make a recommendation at the end of forty-five (45) days, it shall be presumed that the proposed amendment is recommended for approval by the Planning Commission and the City Council shall then take action.
3. The Planning Commission shall recommend adoption of a proposed zone change amendment where the following findings are made:
 - a. The proposed amendment is in accord with the goals of the General Plan of Perry City, including the Transportation Master Plan and other elements of the General Plan and the Capital Facilities Plan.
 - b. A concept plan is submitted with the application/petition indicating the proposed use of the property. This plan shall be regarded as a Concept Plan only with more specific development plans to be reviewed with the Subdivision or Design Review process. Approval of the Zone Change Amendment shall not constitute approval of the concept plan for a particular proposed development.
 - c. The proposed amendment will provide a significant benefit to Perry City, said benefit being something other than just additional housing.
4. After receipt of the written recommendations of the Planning Commission for re-zoning or annexation, the City Council shall (if required by state law) hold a regular public meeting regarding the issue.
5. After the required public hearing has been held by the Planning Commission on the proposed amendment and after the Planning Commission has given a recommendation, the City Council may:
 - a. Adopt the zoning ordinance amendment as proposed;
 - b. Amend the zoning ordinance and adopt or reject the zoning ordinance as amended;
 - c. Reject the zoning ordinance amendment; or
 - d. Refer the zoning ordinance amendment with a recommendation back to the Planning Commission for further review.
 - e. Use any other option allowed by law.
6. Where an application for a zoning amendment has been denied by the City Council, any resubmitted application shall be processed in accordance with the procedure outlined above.

HISTORY

Adopted by Ord. [15-C](#) on 3/17/2015

15.07.080.7 Reversion To Original Zoning Designation

The following regarding reversion to original zoning designation:

1. If development does not occur according to the proposed concept plan submitted at the time of the amendment approval, the public benefits expected from the development cannot be realized and the effect of the re-zoning is therefore without merit in terms of improving the public economic prosperity, general welfare, safety, health and convenience to the City residents. If in such cases the City finds that the zoning purpose has not been attained, the City may then declare its intent to revert back to the former zoning of the property or other appropriate zone so that future opportunities for similar development in the same general area may be shared by all properties deemed suitable and so that a speculative zoning monopoly is not created.
2. If building permits have not be obtained and construction of the development or an agreed upon phase thereof, in accordance with the approved concept and final development plans, has not commenced within two years from the date of the zoning amendment approval by the City Council or other time period that has been set by the City Council, Perry City may examine the reasons for the delay and progress of the developers to that point and revert the zoning designation back to the former zone or other appropriate zone of the property. The reversion of zoning shall follow the same procedure established by law for amending the zoning map.

HISTORY

Adopted by Ord. [15-C](#) on 3/17/2015

15.07.080.8 Development Agreement

The following regarding development agreements (see also PMC 15.16):

1. The City Council may require a petitioner, at the time of a Zoning Amendment approval, to enter into a development agreement which specifies and details the petitioner's responsibilities and commitments in carrying out development contained in an approved concept plan and which lists the conditions and limitations of development imposed by Perry City in case of default by a petitioner or any successors in interest in the re-zoned property.
2. The agreement shall also contain the petitioner's acknowledgment that the commitment of zoning is predicated upon the good faith accomplishment of the approved development and if not started or constructed within the specified periods of time, Perry City may take steps to rescind zoning approval and revert the zoning to its former zone or other appropriate zone.

HISTORY

Adopted by Ord. [15-C](#) on 3/17/2015

15.07.090 Penalties

5.07.090.1 Available Penalties

Available penalties are set forth in PMC 15.01.030.

HISTORY

Adopted by Ord. [15-C](#) on 3/17/2015

15.07.100 Land Use Chart

15.07.100.1 General Regulations

The following regarding the general regulations of the land use chart:

1. No building, structure or land shall be used and no building or structure shall be constructed, altered, enlarged, or maintained except as provided according to this Land Use Chart and Ordinance.
2. The City Council shall have the authority to amend definitions or add new definitions of land uses by Ordinance. New uses that are not similar to an existing use cannot be added to the Land Use Chart without a public hearing.

HISTORY

Adopted by Ord. [15-C](#) on 3/17/2015

15.07.100.2 Classification Of New And/Or Unlisted Uses

For uses not listed in the Land Use Chart, 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:

1. 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 the use.
2. Should the Planning Commission determine the use is not considered by comparison to the Land Use Chart, the applicant shall petition the City Council to amend the Zoning Ordinance to specify and locate an appropriate zone or zones for the new use.
3. A use that is not identified on the Land Use Chart is hereby determined to be a "use not permitted" in any zone in Perry City.

HISTORY

Adopted by Ord. [15-C](#) on 3/17/2015

15.07.100.3 Abbreviations For Land Use Chart

The following abbreviations shall apply:

1. P Permitted Use
2. P* Permitted by Design Review and Approval
3. C Conditional Use - Permitted by Conditional Use Permit~
4. ~Use not permitted

See land use chart PMC 15.07.100.

HISTORY

Adopted by Ord. [15-C](#) on 3/17/2015

15.07.100.4 Additional Information ("Notes") Regarding Land Use Chart

The following is additional information regarding the land use chart:

1. Sale of firearms and alcohol shall not be permitted within 1000 feet of any school or place of worship. A hotel or motel may have an "on premises" consumption of alcohol use that does not require more than seven percent (7%) of the floor space of the hotel or motel. Restaurants with "on premises" consumption of alcohol use are also permitted by conditional use in certain zones, as per the land use chart. Other than for a hotel/motel or a restaurant, as designated on the Land Use Chart, "on premises" consumption of alcohol is not available for any other business in any zone. No "on premises" alcohol business shall be permitted until a specific "on premises" alcohol business license ordinance has been adopted.
2. **Minimum of fifty units or more.** Storage Units shall not be defined as allowing junk", surplus or other various accumulations of items, supplies or materials. Only supplies directly related to daily business of a construction yard may be stored at the site. All other items, supplies and materials must be stored within designated storage units.
3. In the NC2 and NC3 zones, only Single Family Dwellings existing as of December 11, 2008 will be permitted for Boarding, Bed and Breakfast as a Conditional Use. In the MU-C, MU-O, MU-R zones, this type of use will be permitted by Design Review.
4. For the CI Commercial Zone and the Mixed Use Zones, Professional Office Space may only occupy a maximum of 25 percent of the total floor space of any development.
5. Please see PMC 15.31.020 for regulations pertaining to uses in the Aggregate Extraction Zone (AE).

HISTORY

Adopted by Ord. [15-C](#) on 3/17/2015

Amended by Ord. [16-B](#) on 5/12/2016

Amended by Ord. [17-D](#) Amending the R2 Zone & Medium Density on 3/9/2017

Amended by Ord. [Ordinance 19-O R2 Zoning](#) on 1/9/2020

Amended by Ord. [22-J Subdivision Amendments](#) on 8/25/2022

15.07.100.5 Guide For Land Use Chart

The following guide is an index for the attached land use chart:

1. PMC 15.05.070.1: Agricultural Uses
2. PMC 15.05.070.2 and PMC 15.05.070.3: Municipal and Residential Uses
3. PMC 15.05.070.4 and PMC 15.05.070.5: Recreational, Educational and Religious Uses
4. PMC 15.05.070.6: Medical Uses and Commercial Uses
5. PMC 15.05.070.8 and PMC 15.05.070.9: Light Commercial Uses and Special Commercial Uses
6. PMC 15.05.070.10: Manufacturing-Industrial Uses

HISTORY

Adopted by Ord. [15-C](#) on 3/17/2015

15.07.100.6 Legislative History For This Chapter (Reserved)

15.07.110 Area, Frontage, Setback, And Height Requirements

15.07.110.1 Lot Requirements

	REQUIREMENTS	ZONES										
		A, ES, AE	AL	R1A	RE 1/2, R 1/2	R3MHP/MHS	R 1/3	R1	R2	M/I, M/IL	IC, C, C1, & MIXED USE ZONES	NC2, NC3
	Minimum Lot Area ¹	5 acres	2 acres	1 acre	20,000 sq ft	5,000 sq ft ⁶	15,000 sq ft	10,000 sq ft	8,000 sq ft	Design Review	Design Review	Design Review
	Minimum Lot Width ²	200'	150'	120'	80'	60'	80'	80'	80'	Design Review	Design Review	Design Review
	Maximum Height	50'	50'	50'	35'	35'	35'	35'	35'	35'	55'	35'
PRIMARY BUILDING	Minimum Front Setback	30'	30'	30'	20'	20'	20'	20'	20'	20'	20'	Design Review
	Minimum Front Setback for an Attached Garage	25'	25'	25'	25'	25'	25'	25'	25'	N/A	25'	Design Review
	Minimum Rear Setback	10'	10'	10'	10'	10'	10'	10'	10'	Design Review	Design Review	8'
	Minimum Side Setback	8'	8'	8'	8'	8'	8'	8'	8'	Design Review	Design Review	8'
	Minimum Side Setback (Corner Lots) ⁵	15'	15'	15'	15'	15'	15'	15'	15'	Design Review	Design Review	Design Review
ACCESSORY BUILDING	Minimum Front Setback	25'	25'	25'	25'	25'	25'	25'	25'	20'	20'	20'
	Minimum Rear Setback	5'	5'	5'	5'	5'	5'	5'	5'	Design Review	Design Review	5'
	Minimum Side Setback	5'	5'	5'	5'	5'	5'	5'	5'	Design Review	Design Review	5'
	Minimum Side Setback (Corner Lot) ⁵	15'	15'	15'	15'	15'	15'	15'	15'	Design Review	Design Review	Design Review

Notes:

1. Lots with septic systems may require a lot area larger than the minimums shown in this table as required by the local health department. Septic tanks are only permitted if allowed by: (1) State law; (2) the local health department; and, (3) the PMC, especially PMC 7.09.

2. The lot width shall be measured twenty feet back from the lot frontage. Where sufficient property is reasonably available the required lot width shall be maintained throughout the lot.
3. A 30' site triangle shall be established on all corner lots to maintain clear views for traffic.
4. For Multi-family Dwelling Units the setback requirements apply to boundaries of the development and are not applied between connected dwelling units. The lot area requirements do not apply to units owned separately (townhomes, condos).
5. Corner lots where the garage access is on the side of the lot shall have a minimum setback of twenty feet on the street side.
6. 'Double-wide' manufactured homes shall be on lots of 7,000 sq ft or greater.
7. Subject to design review imposing more stringent requirements, any commercial, manufacturing, industrial, institutional, public, or similar use(s) (collectively "commercial") approved adjacent to a residential/agricultural use(s) shall have: (1) a six feet high full privacy fence (compliant with PMC 15.23 and PMC 15.25) along the property lines adjacent to the residential/agricultural uses(s); and (2) rear and side setbacks adjacent to the residential/agricultural use(s) that are at least:
 - a. 25 feet, where a single level commercial floor height does not exceed 12 feet above grade; or
 - b. 25 feet, plus another 1/2 foot for every additional foot of height of the structure above grade, for multiple floors or for where the single level floor height exceeds 12 feet above grade; and
 - c. Any measurement is from the lowest point of the roofline nearest to the residential property.

HISTORY

Adopted by Ord. [15-C](#) on 3/17/2015

Amended by Ord. [18-G Lot Frontage Requirements](#) on 11/8/2018

Amended by Ord. [19-H Lot Requirements](#) on 10/10/2019

Amended by Ord. [19-M Design Standards](#) on 3/26/2020

15.07.110.5 City Staff To Make Recommendations During The Design Review Process

During the Design Review process (PMC 15.17), determination of area requirements, frontage, setback distances, height and layout of buildings, and other review criteria may depend upon recommendations by/from the Community Development Department and other City Staff (the City Fire Marshal, City Engineer, City Building Inspector, etc.).

HISTORY

Adopted by Ord. [15-C](#) on 3/17/2015

15.07.120 Zoning Map

View PDF of [Zoning Map](#).

HISTORY

Adopted by Ord. [15-C](#) on 3/17/2015

Amended by Ord. [17-I](#) on 9/14/2017

Amended by Ord. [17-K](#) on 12/14/2017

15.07.130 Conservation Subdivisions

15.07.130.1 Purpose

A Conservation Subdivision provides an option for development in the City in a manner that:

1. Protects Constrained and Sensitive Lands, including those areas containing sensitive and undevelopable features such as steep slopes, floodplains and wetlands, by setting them aside from development;

2. Conserves conservation and open space land, including those areas containing unique or natural features such as Meadows, Grasslands, Tree Stands, Streams, Stream Corridors, Flood Walls, Berms, Watercourses, Farmland (including orchards), Wildlife Corridors and/or Wildlife Habitats, historical buildings and/or sites, archeological sites, and green space, by setting them aside from development.
3. Provides greater design flexibility and efficiency in the siting of services and Infrastructure, including the opportunity to reduce length of roads, utility runs, and the amount of paving required for residential development;
4. Provides incentives for the creation of open space within the City for the benefit of present and future residents, in exchange for smaller lot sizes within a subdivision.
5. Conserves scenic views and elements of the City's rural and scenic character and minimizes perceived Density by minimizing views of new development from existing roads.
6. Promotes stewardship of environmentally sensitive lands in a financially sustainable manner.

15.07.130.2 Applicability

The election to apply and develop property as a Conservation Subdivision is voluntary and provided to developers as an alternative to development of property as a Conventional Subdivision pursuant to other applicable provisions of this Title. The intent of this Section and the Conservation Subdivision options is to encourage the creation and development of flexibly designed open-space subdivisions.

Conservation Subdivisions may be developed within applicable agricultural and residential zones of the City. Conservation Subdivisions shall be developed in accordance with and subject to the development standards, conditions, procedures and regulations of this Section and with all other applicable subdivision ordinances and zoning regulations of the City that are not otherwise in conflict with the provisions of this Section.

15.07.130.4 Development Options

Developers desiring to develop property as a Conservation Subdivision in accordance with and subject to the development standards, conditions, procedures and regulations of this Section may submit a subdivision application for residential development that may result in more lots than using conventional lot dimensions standards set forth in PMC Title 15. The development must utilize a conservation design that sets aside and preserves all Constrained and Sensitive Lands, natural hazards and resources, and provides the required percentage of Conservation Land within the development.

15.07.130.5 Approval Process

Applications for a Conservation Subdivision shall be submitted and processed in accordance with the requirements and procedures set forth in the City Subdivision Ordinances set forth in PMC Titles 14 and 15, including submission and approval of a Conservation Subdivision Plan (Subsection 15.07.130.10), preliminary and final plans or plats, and any additional procedural requirements set forth in this Section, including, but not limited to, submission of a Sensitive Area Designation Plan (Subsection 15.07.130.8), a Conventional Subdivision Plan (see Subsection 15.07.130.9), and a Maintenance Plan (Subsection 15.07.130.16), and the creation of a Special Assessment Area for each Conservation Subdivision (Subsection 15.07.130.16).

The Planning Commission shall consider all applications for Conservation Subdivisions and prepare a recommendation to the City Council in accordance with PMC Title 15 and the Municipal Land Use Development and Management Act as set forth in State Code.

15.07.130.6 Recording Of Plat

Prior to the recordation of the subdivision plat approved by Perry City Council, the owner(s) must submit for approval and City Council adoption the creation of a Special Assessment Area for the affected subdivision. The purpose of the creation of the Special Assessment is to allow the City to assess sufficient properties and collect monies for the maintenance and improvement of the public area created by the subdivision pursuant to the provisions of the PMC and Chapter 11-42-101 et.seq. Utah Code.

15.07.130.7 Waiver

Subject to the provisions set forth herein, any provision of this Section (15.07.130) may be waived by the City upon a majority vote of the City Council. Such waiver(s) shall be granted only in limited circumstances as deemed appropriate and necessary by the City Council. No waiver shall be granted absent a finding of good cause based upon specific special circumstances attached to the property. No waiver should be granted that would be contrary to the public interest or contrary to the underlying intent of this Section. Any waiver of the required minimum Conservation Land dedication shall require comparable compensation, off-site improvements, amenities or other consideration of comparable size, quality and/or value.

A waiver shall not result in lot sizes, or building setbacks, smaller than the minimum permitted in this Section. All subdivision standards regarding dead-end street length, ingress and egress, and block dimensions shall be met. No waiver shall result in the creation of additional lots within a Conservation Subdivision, beyond those permitted by this Section.

Good cause as referenced herein shall include, but not be limited to, the following standards:

1. The subdivision shall be located within a half mile of an existing public Park located within the City. This distance shall be determined by the actual walking distance from the subdivision to the Park.
 - a. In the event the Park is located off-site pursuant to subparagraph 1, or on-site, a waiver shall not result in usable Park space less than one acre in size.

15.07.130.8 Sensitive Area Designation Plan

All applications for a Conservation Subdivision shall include a Sensitive Area Designation Plan prepared in accordance with the provisions set forth herein. The Sensitive Area Designation Plan shall identify all Constrained and Sensitive Lands within the property boundaries and within 400 feet outside of the property boundaries, including, but not limited to, floodplains, wetlands, steep slopes and restricted areas. The Sensitive Area Designation Plan shall also clearly identify all natural or cultural resources present on the property and within 400 feet outside of the property, including, but not limited to, geographic features, Meadows, Grasslands, Tree Stands, Wooded Areas, Streams, Stream Corridors, Flood Walls, Berms, Watercourses, Farmland, Wildlife Corridors and/or Wildlife Habitats; historic buildings and/or sites; archaeological sites; cultural features and green space. Applicants are solely responsible for checking and ensuring the accuracy and designation of Constrained and Sensitive Lands and natural and cultural resources on the Sensitive Area Designation Plan for their particular project and applicable adjacent property. If site analysis, surveying and/or identification of Constrained and Sensitive Lands and natural and cultural resources require entry onto adjacent properties, Applicants are solely responsible for obtaining all required permits and/or approvals for such entry and analysis, surveying and/or identification.

A sample Sensitive Area Designation Plan is set forth in Exhibit A attached hereto and incorporated herein by this reference.

15.07.130.9 Conventional Subdivision Plan

All applications for a Conservation Subdivision shall include a Conventional Subdivision shall include a Conventional Subdivision Plan prepared in accordance with the provisions set forth herein. The Conventional Subdivision Plan is utilized to determine and calculate the base number of Dwelling units for any given property to be developed as a Conservation Subdivision.

- 1. **Conventional Subdivision Plan.** Applicants shall prepare a Conventional Subdivision Plan for the proposed project showing how the property within the project could be developed under a Conventional Subdivision layout using the lot area standards of the zone. The Conventional Subdivision Plan is not intended to propose or permit the actual development of property in accordance with the dimensional standards set forth herein, but is prepared merely to determine the base number of Dwelling units to be used in calculating the permitted number of Dwelling units and lot size for the actual Conservation Subdivision.
- 2. **Realistic Layout.** The Conventional Subdivision Plan must be drawn to scale and must exhibit a realistic layout reflecting a Conventional Subdivision layout that could reasonably be expected to be implemented in consideration of dimensional standards set forth herein and calculating and addressing the presence of non-buildable or Infrastructure areas, including, but not limited to, rights-of-way, public improvement areas, wetlands, floodplains, steep slopes, restricted areas, and existing easements or encumbrances. A sample Conventional Subdivision Plan is set forth in Exhibit B, attached hereto and incorporated herein by this reference, providing an example of a hypothetical Conventional Subdivision Plan for land zoned RE 1/2 (Rural Residential).
- 3. **Approval.** The Conventional Subdivision Plan must be approved in writing by City staff for compliance with the standards and provisions of this Section prior to the submission of a Conservation Subdivision Plan, an example of which is shown in Exhibit C hereto and incorporated herein by this reference.

15.07.130.10 Conservation Subdivision Plan

Applications to the City for a Conservation Subdivision shall meet the following dimensional standards:

- 1. **Minimum Conservation Subdivision Size.** The total gross size/area of the Conservation Subdivision must be equal to or greater than five (5) acres.
- 2. **Minimum Required Conservation Land.** All Conservation Subdivisions shall provide at least the minimum percentage of Conservation Land withing the Conservation Subdivision in accordance with the following chart, hereinafter referred to as the "Development Chart". (The Development Chart is specific language and binding.) The minimum percentage of required Conservation Land for any given Conservation Subdivision shall be calculated based on the total acreage of property within the proposed subdivision less areas containing Constrained and Sensitive Lands. Required Conservation Land shall not include any constrained or sensitive lands as defined herein. Except as otherwise provided herein, Conservation Land shall not be included within any residential lot.

Zone	Conservation Land (Minimum)	Average Lot Area (Minimum)	Lot Size Minimum
R1 Low Density Residential	15%	8,500 square feet	6,500 square feet
R 1/3 Low Density Residential	15%	8,712 square feet	6,500 square feet
R 1/2 Low Density Residential	20%	10,000 square feet	9,000 square feet
RE 1/2 Rural Residential	25%	10,000 square feet	9,000 square feet
R1A Rural Residential	30%	14,520 square feet	12,000 square feet
AL Agricultural Limited	40%	21,780 square feet	19,000 square feet
A Agricultural	40%	65,340 square feet	50,000 square feet

- 3. **Lot Area.** The average lot area and minimum lot size for lots within a Conservation Subdivision shall be determined in accordance with the Development Chart set forth in Subsection (a).
- 4. **Lot Width at Building Line.** The minimum lot width at the building line for Main Buildings within a Conservation Subdivision shall be 75 feet, except in the R1 and R1/3 zones the minimum lot width shall be 60 feet.
- 5. **Yard Regulations.** The builder or developer of a Conservation Subdivision may consider variations in the principal building position and orientation, but shall observe the following minimum standards for buildings within a Conservation Subdivision.
 - a. **Front Setback.** The minimum front yard setback for Main Buildings in a Conservation Subdivision shall be 20 feet.
 - b. **Rear Setback.** The minimum rear yard setback for Main Buildings within a Conservation Subdivision shall be 10 feet.

- c. Side Setback. The minimum side yard setback for Main Buildings within a Conservation Subdivision shall be 10 feet for lots within the R1/2, RE1/2, R1A, AL and A zones, and a minimum of 5 feet for lots within the R1/3 and R1 zones, but the total of both side setbacks in the R1/3 and R1 zones shall be no less than 13 feet.
 - d. Side Corner Setback. The minimum side corner setback for Main Buildings within a Conservation Subdivision shall be 15 feet from the property line in compliance with clear vision standards set forth in PMC Title 15.
 - e. Accessory Buildings shall not occupy more than 25% of the rear yard, and shall meet the setback requirements of the underlying zone in which they are located. Accessory Buildings shall, without exception, be smaller in height and area than the Main Building.
 - f. Animal shelters, hay barns, coops, corrals or other similar buildings or structures shall be located not less than 10 feet from any side or rear property line and 100 feet from any public street or from any Dwelling on an adjacent property.
 - g. On double-Frontage lots, Accessory Buildings shall be located not less than 20 feet from each street upon which the lot has Frontage.
- 6. Maximum Height of Building**
- a. Lots less than one-half acre.
 - i. Main Buildings
 - (1) Main Buildings shall not exceed 35 feet in height
 - (2) No Dwelling or structure shall contain less than one Story above ground level.
 - ii. Accessory Buildings or structures shall not exceed 15 feet in height.
 - b. Lots equal to or greater than one-half acre
 - i. Main Buildings and Accessory Buildings on lots equal to or greater than one-half acre in size shall meet the height requirements of the underlying zone in which they are located.

15.07.130.11 Design Standards

1. **Individual Lots.** Individual lots in Conservation Subdivisions shall be laid out pursuant to the dimensional standards set forth herein. Except as otherwise provided for herein, individual residential lots shall not encroach upon or contain any of the required minimum designated Conservation Land for the Subdivision or any Constrained and Sensitive Lands.
2. **Views of lots.** Views of lots from exterior roads and abutting properties shall be minimized by the use of changes in topography, existing vegetation or additional landscaping that meets the City's landscaping requirements for residential subdivisions.
3. **Septic tanks.** Except for the Agricultural (A) zone, septic tanks shall not be permitted in a Conservation Subdivision.

Hypothetical examples of Conservation Subdivision designs, contrasted with conventional designs for the same site, are presented in Exhibit D herein. Note: these examples are provided for reference only to further illustrate good design practices (Reference: SEWRPC Planning Guide No. 7, Rural Cluster Development, December 1996).

15.07.130.12 Use Regulations

1. Subject to use and development restrictions of Conservation Land and of Constrained and Sensitive Lands as set forth herein, land within Conservation Subdivisions may be used as allowed in the PMC for the respective zoning district.
2. Conservation Land. Conservation Land may be used for the following purposes:
 - a. Permitted Uses. The following uses are permitted in Conservation Land areas:
 - i. Conservation of open land in its pre-developed state as follows, but not including Weeds:
 - (1) Berm
 - (2) Farmland
 - (3) Flood Wall
 - (4) Grassland
 - (5) Meadow

- (6) Stream
 - (7) Tree Stand
 - (8) Watercourse
 - (9) Wildlife Corridor
 - (10) Wildlife Habitat
- b. Agricultural and horticultural uses, both commercial and non-commercial, including pastureland and raising crops, Livestock as defined in PMC 9.01 (excluding Livestock operations involving swine, poultry and mink) and associated buildings that support an active, viable agricultural or horticultural operation, provided these are permitted in and meet the requirements of the underlying zone of the property.
 - c. Equestrian facilities, provided these are permitted in and meet the requirements of the underlying zone of the property.
 - d. Underground utility easements for drainage, access, sewer or water lines, or other public purposes.
 - e. Above-ground utility and street rights-of-way may traverse Conservation Land if permitted under City Ordinances; provided, areas encumbered by such facilities and/or rights-of-way shall not be counted towards the minimum required Conservation Land for the subdivision.
 - f. Wooded Areas and Silviculture, in keeping with established standards for selective harvesting and sustained-yield forestry.
 - g. Neighborhood open space uses such as Village Greens, Commons, Picnic Areas, Community Gardens, Trails, Parks and similar low-impact passive recreational uses specifically excluding motorized off-road vehicles, rifle ranges and other uses similar in character and potential impact.
 - h. Active non-commercial recreation areas, such as Playing Fields, Playgrounds, Playing Courts, Parks and Bikeways.
 - i. Water supply and sewage disposal systems, and storm water detention areas designed, landscaped and available for use as an integral part of the Conservation Land.
 - j. Fencing, when deemed necessary and appropriate for the particular use, condition, purpose and/or location of the Conservation Land.
 - k. Historic buildings and/or sites and archaeological sites.
 - l. Change of permitted use. The use of Conservation Land may be changed from one permitted use to another permitted use at any time provided that:
 - i. The new use is specified as a permitted use in the Conservation Land's conservation easement (or other similar protective instrument pursuant to Subsection 15.07.130.14 hereof);
 - ii. Plans, drawings, updated Maintenance Plan and other applicable items required by this Section for the new use are submitted to and approved by the City; and
 - iii. Those property owners responsible for paying the O&M Costs of the Conservation Land at the time the use change is proposed unanimously consent in writing to the permitted use change.
 - m. Prohibited Uses. Except as otherwise approved and permitted as a permitted use in conjunction with a Conservation Subdivision approval, the following uses are prohibited in Conservation Land areas:
 - i. Any residential or industrial activity;
 - ii. Commercial activities unless expressly permitted in 15.07.130.12(b)(i);
 - iii. Any development, construction or location of any manmade modification or improvements such as buildings, structures, roads, parking lots or other improvements;
 - iv. Any filling, dredging, excavating, mining, drilling or exploration for and extraction of oil, gas, minerals or other resources from the property;
 - v. Any dumping or storing of ashes, trash, garbage, junk, equipment or vehicles;
 - vi. Weeds;
 - vii. Burning of any materials, except as necessary for agricultural, drainage and fire protection purposes;
 - viii. The use of motor vehicles, including snowmobiles, all-terrain vehicles, motorcycles and other recreational vehicles, except as may be necessary to maintain and operate the property and/or utility facilities within the property;
 - ix. Hunting or trapping for any purpose other than predatory or problem animal control;
 - x. Potentially Dangerous Animals and Livestock operations involving swine, poultry and mink as defined in PMC 9.01;
 - xi. Advertising of any kind or nature and any billboards or signs; provided, directory and information signs may be displayed describing the easement and prohibited or authorized use of the same;

- xii. Any cutting of trees or vegetation, except as necessary for fire protection, thinning, elimination of diseased growth, control of non-native plant species and Weeds, maintenance of landscaped areas and similar protective measures or those activities relating to permitted agricultural uses;
 - xiii. The change, disturbance, alteration or impairment of significant natural ecological features and values of the property or destruction of other significant conservation interests on the property;
 - xiv. The division, subdivision or de facto subdivision of the property;
 - xv. Changing the topography of the property by placing on it any soil, dredging spoils, land fill or other materials, except as necessary to conduct specific permitted purposes; and
 - xvi. All other uses and activities not listed as permitted in this Section are prohibited, including, but not limited to, uses and practices inconsistent with and detrimental to the stated objectives and purposes of this Section.
3. Constrained and Sensitive Lands. No development or residential uses shall be permitted within Constrained and Sensitive Lands within a Conservation Subdivision.

15.07.130.13 Conservation Land Design Standards

Designated Conservation Land within a Conservation Subdivision shall meet the following standards:

1. All permitted uses of Conservation Land shall be developed in harmony and compliance with the Law and the City's adopted standards for the same, including all applicable provisions of City general, comprehensive and master plans for these uses and City public works requirements.
 - a. In no event shall the permitted uses for Conservation Land be designed to and developed at a level less than or inferior to the design and development of the most-superior/highest-quality standards on an "as-new" or "as-if-new" basis of either (1) an existing comparable use (in a Conservation Subdivision or not) within the City or (2) the then-current standards for use in the United States promulgated by applicable authoritative industry associations or government agencies.
 - i. As non-binding examples of (2) in the preceding paragraph, if certain applicable standards for parks or agricultural uses have not been adopted by or do not exist in the City, then the standards of the National Recreation and Park Association or the U.S. Department of Agriculture, respectively, may be used for those certain applicable standards as if they were the City's adopted standards.
 - ii. In the event of conflict in design and development standards, the most restrictive standard shall govern.
 - b. Significant Areas and Features. Conservation Land should include the most unique and sensitive resources and locally significant features of the property within the Conservation Subdivision such as Meadows, Grasslands, Tree Stands, Wooded Areas, Streams, Stream Corridors, Flood Walls, Berms, Watercourses, Farmlands, Wildlife Corridors and/or Wildlife Habitats, historic buildings and/or sites, archaeological sites, cultural features, green space, scenic views, etc.
 - c. Contiguous Land. Conservation Lands within a development shall be contiguous to provide for large and integrated open space areas within the Conservation Subdivision. Non-contiguous parcels of Conservation Lands may be approved by the City during plat approval process upon a finding that such exception is necessary and/or desirable based upon consideration of the size of the project, the size of the conservation parcels, the types of features and resources included within the Conservation Lands and other relevant considerations. Long, thin strips of Conservation Land (less than 100 feet wide) are prohibited, unless approved by the City during plat approval process upon a finding that such configuration of the Conservation Land is necessary and/or desirable to connect other significant areas, to protect linear resources such as Streams or Trails, or to provide a buffer.
 - d. Visibility. Conservation Land shall be located and designed within the Conservation Subdivision to add to the visual amenities of neighborhoods and to the surrounding area by maximizing the visibility of internal open space. Such enhanced visibility of Conservation Land may be accomplished through design and location of such open space as terminals at the ends of streets or along "single-loaded" street segments, particularly along the outside edges of street curves, and by maximizing the visibility of external open space as perimeter "greenbelt" Conservation Land.
 - e. Resource Use. A substantial amount of the minimum required Conservation Land may be devoted to active resource uses such as agriculture, horticulture or equestrian uses.
 - f. Recreational Use. A substantial amount of the minimum required Conservation Land may be composed of active recreation facilities such as Playing Courts or Fields, etc., exclusive of parking lots.

- g. **Buffering.** Conservation Land shall be designed to provide buffers and to protect scenic views as seen from existing roadways and from public Parks. Where the proposed development abuts a national forest or other public Park, open space, wildlife sanctuary or preserve, a natural greenway buffer at least 50 feet wide shall be provided within the development along its common boundary with said land, within which no new structures shall be constructed, nor shall any clearing of trees or understory growth be permitted (except as may be necessary for street or Trail construction or fire safety). Where this buffer is unwooded, vegetative screening shall be planted at the developer's sole expense and the buffer shall be managed to encourage natural forest succession through the periodic removal of invasive alien plant and tree species.
- h. **Pedestrian Access.** The developer shall provide adequate pedestrian access to Conservation Land that is open to public or resident use.
- i. **Maintenance Access.** The developer shall provide sufficient maintenance access to all Conservation Land and Constrained and Sensitive Lands within the Conservation Subdivision.
- j. **Landscaping.** All Conservation Land that is not wooded, farmed or maintained as Meadows, Grassland or other approved open space, shall be landscaped at the developer's sole cost and expense in accordance with landscaping requirements for subdivisions.
- k. **Fencing.** Fencing in Conservation Land shall comply with all applicable City standards.

15.07.130.14 Permanent Protection Of Conservation Lands And Constrained And Sensitive Lands

1. All Conservation Land and Constrained and Sensitive Land shall be permanently restricted from future development by a conservation easement or other method of protection and preservation acceptable to the City. Under no circumstances shall any development be permitted in the Conservation Land and Constrained and Sensitive Land at any time, except for those permitted uses listed herein and approved in conjunction with the Conservation Subdivision. All conservation easements, or other acceptable method of protection and preservation of the Conservation Land within a Conservation Subdivision, shall be approved by the City and recorded prior to or concurrent with the recording of the final plat for the Conservation Subdivision.
2. **Terms and Conditions.** All conservation easements, or other acceptable method of protection and preservation of the Conservation Land and Constrained and Sensitive Land within a Conservation Subdivision shall include, at a minimum, the following terms and/or conditions:
 - a. Legal description of the easement;
 - b. Description of the current use and condition of the property;
 - c. Permanent duration of easement;
 - d. Permitted uses (present or potential);
 - e. Prohibited development and/or uses;
 - f. Maintenance responsibilities and duties;
 - g. Enforcement rights and procedures; and
 - h. Description of applicable Special Assessment Area and pertinent provisions.
3. **Grantee.** Unless otherwise approved by the City, the City is to be the grantee of a conservation easement. There shall be no cost of acquisition to the City for the easement and sufficient access to and maintenance responsibilities regarding the Conservation Land are to be provided.

15.07.130.15 Ownership Of Conservation Lands

1. Upon satisfactory completion by the Conservation Subdivision developer and acceptance by the City of the Conservation Land improvements, the property owner shall deed ownership of the Conservation Land to the City.
2. Property subject to a conservation easement, or other acceptable method of protection and preservation, shall not be subdivided.
3. Under no circumstances shall any new or further development be permitted within a Conservation Subdivision if the ownership of the Conservation Land is transferred to the Federal Government of the United States or one of its Agencies

15.07.130.16 Maintenance Of Conservation Lands; Special Assessment Area

1. **Costs.** The O&M Costs shall be borne by the underlying fee owners of the Conservation Subdivision.
 - a. To provide for the payment of the O&M Costs, the City shall designate a Special Assessment Area for each Conservation Subdivision, assessing the O&M Costs equally to each parcel within a Conservation Subdivision (excluding the Conservation Land) on an annual basis via the Box Elder County, Utah real property taxation process and pursuant to the Utah Assessment Area Act.
 - i. a. The Special Assessment Area must be approved and recorded, and the associated assessments must be in place before final approval and plat recordation of a Conservation Subdivision.
 - ii. b. In addition to assessments for O&M Costs, a Special Assessment Area pertaining to a Conservation Subdivision may be assessed for any other purpose permitted by Law.
2. **Plan.** The developer shall submit a Maintenance Plan providing for and addressing the means for permanent maintenance of the Conservation Land within the proposed Conservation Subdivision with the preliminary plat application for said subdivision. The Maintenance Plan shall include at least the following:
 - a. Establishment of necessary regular and periodic operation and maintenance responsibilities, including long-term capital improvements, for the various kinds of uses in the Conservation Land. Such necessary regular and periodic operation and maintenance responsibilities shall at a minimum meet applicable property maintenance standards established in the PMC.
 - b. Estimation of staffing needs, insurance requirements and associated costs for the maintenance of the Conservation Land and operation of any common facilities on an on-going basis.
 - c. The Applicant shall be required to escrow funds equal to one year's worth of O&M Costs.
3. **Approval.** The Maintenance Plan must be approved by the City prior to or concurrent with final plat approval for the subdivision. The Maintenance Plan shall be recorded against the property and shall include provisions for the City's corrective action rights as set forth herein. Any changes or amendments to the Maintenance Plan shall require written approval by the City.
4. **Responsibility for Completing Operations and Maintenance.** The City shall be responsible for operating and maintaining Conservation Land. It may perform and complete the operations and maintenance itself; it may cause the operations and maintenance to be completed via other parties; or otherwise provide for the completion of operations and maintenance of Conservation Land through any other legal means the City's governing body deems appropriate.
5. **Failure to Pay O&M Costs.** In the event that a property owner in a Conservation Subdivision fails to pay all or any portion of its assessed O&M Costs, such costs shall become a lien on said property for which the property owner fails to pay assessed maintenance costs. The City may also pursue, at its sole discretion, any and all other corrective actions and remedies available to it under the PMC and State Law.

15.07.130.17 Exhibits

[Conservation Subdivision Exhibits](#)

15.09 Foothill Development Areas

15.09.010 Purpose

15.09.010.1 Legislative Intent

The City Council of Perry, Utah deems, that in order to preserve the peace, health, safety, welfare and promote the best interest of the inhabitants of the Perry City, these Foothill Development Regulations be created, which shall provide standards, guidelines, and criteria, having the effect of minimizing flooding, erosion, and other environmental hazards and protecting the natural scenic character of the foothill areas not suitable for development, and insuring the efficient expenditure of public funds.

HISTORY

Adopted by Ord. [15-C](#) on 3/17/2015

15.09.010.2 Purpose

The standards, guidelines, and criteria to be achieved by the overlay zone shall include, but not be limited to the following:

1. The protection of the public from natural hazards of storm water runoff and erosion by requiring drainage facilities and the minimal removal of natural vegetation.
2. The minimizing of the threat and consequential damages of fire in foothill areas by establishing fire protection measures.
3. The preservation of natural features, wildlife habitat and open space.
4. The preservation of public access to mountain areas and natural drainage channels.
5. The preservation and enhancement of visual and environmental quality by use of natural vegetation and the prohibiting of extensive excavation and terracing.
6. The establishment of traffic circulation facilities that insure ingress and egress for vehicles including emergency vehicles into all developed areas at any time of the year with minimal cut, fill, or visible scars.
7. The encouragement of variety of development designs and concepts that are compatible with the natural terrain of the foothill areas, that will preserve open space and natural landscape.
8. The establishment of land-use management criteria that will encourage protection of natural elements while allowing a harmonious and satisfying residential environment.
9. Encouragement of regard for the view of the foothills as well as the view from the foothills.

HISTORY

Adopted by Ord. [15-C](#) on 3/17/2015

15.09.020 Special Terms

15.09.020.1 Average Slope

As used in this Chapter, the words "Average slope" Shall mean and be determined by the use of the following formula:

S: $\frac{.00229 \times L}{A}$

A

S: Average slope of the site before development or construction

A: Total number of acres in the parcel

L: Summation of the length of all contour lines in feet

I: Contour intervals in feet

In the determination of the average slope

In the determination of the average slope of a development site:

HISTORY

Adopted by Ord. [15-C](#) on 3/17/2015

15.09.020.2 Area

The term "Area" need not include the area of lands having a greater slope than thirty (30) percent. If such areas are excluded, they shall not be included as part of the development site for purposes of determining the number of dwelling units allowed.

HISTORY

Adopted by Ord. [15-C](#) on 3/17/2015

15.09.020.3 Development Site

The term “Development Site” shall mean and include the Total perimeters of a subdivision, a planned unit development, or tract, lot, or parcel of land intended to be used as commercial use.

HISTORY

Adopted by Ord. [15-C](#) on 3/17/2015

15.09.020.4 Natural Vegetation

This term shall include orchards, trees, shrubs, lawns, and grass or other natural vegetation.

HISTORY

Adopted by Ord. [15-C](#) on 3/17/2015

15.09.020.5 Useable Land

This term shall describe that land within a lot which has a slope of thirty percent (30%) or less. This portion of the building lot must be a minimum of eight thousand (8,000) square feet.

HISTORY

Adopted by Ord. [15-C](#) on 3/17/2015

15.09.030 Scope And Application

15.09.030.1 Application In All Zones

The provisions of this Title shall apply to all zoning districts in Perry City.

HISTORY

Adopted by Ord. [15-C](#) on 3/17/2015

15.09.030.2 Reconciliation With Similar Provisions

This Title sets forth additional provisions to those set forth in the Subdivision Ordinance, PMC Title 14 and other Title of the Land Use Ordinances. In the event of conflict between such foregoing designated Title of this Ordinance, the more restrictive provisions shall apply.

HISTORY

Adopted by Ord. [15-C](#) on 3/17/2015

15.09.030.3 Lack Of Retroactive Application

The provisions of this Ordinance shall have no application to Subdivisions, Planned Unit Developments, or other construction projects which have been granted preliminary or concept approval prior to the adoption of this Ordinance.

HISTORY

Adopted by Ord. [15-C](#) on 3/17/2015

15.09.030.4 Road Grades

Road grades identified in this chapter are peculiar to this Foothill Ordinance and may be different from the minimum standard in other development areas.

HISTORY

Adopted by Ord. [15-C](#) on 3/17/2015

15.09.040 Density, Lot Size, Width, And Characteristics

15.09.040.1 Single Family Dwelling Units

The following regarding single family dwelling units:

1. **Minimum Lot Size:** Any average slope area less than 20.1% is not affected by this ordinance. The minimum lot size with respect to lots upon which single family dwelling units are located in subdivisions or otherwise shall be determined by reference to the following tables:
 - a. Average Slope of

Development Site:	20.1-30%	30.1%+
Minimum Lot Size:	20,000 sq ft	80 ft at front yard setback line
Minimum Lot Width:	not permitted	
2. **Yard Regulations:** See regulations for residential zones in Perry City Database Section 9.
3. **Maximum Impervious Material Coverage:** The maximum impervious material coverage such as roofs, paved driveways, sidewalks, etc. that shall be allowed on lots upon which single family dwelling units are located shall be forty five (45%) percent. Exceptions may be granted after review and recommended by the Perry City Engineer and the Planning Commission and final approval by the City Council.
4. **Usable Area:** Single family dwelling structures shall be located only upon usable land and whose building area shall be at least eight thousand (8,000) square feet in space and shall have minimum dimensions, either length or width, of sixty (60) feet.
5. **Lot and Access Design:** Single family dwelling structures shall not be located farther than two hundred and fifty (250) feet from the nearest public street. However, the Perry City Council may grant an exception to such requirements provided that the following conditions are complied with as a condition precedent to the granting of such exceptions:
 - a. Recommendation from the Planning Commission.
 - b. Road and access requirements as defined in Public Works Standards for Development, Design, & Construction and PMC 15.09.050.

HISTORY

Adopted by Ord. [15-C](#) on 3/17/2015

15.09.050 Road, Access And Fire Requirements

15.09.050.1 Dwelling Access To Fire Department Apparatus

Every dwelling structure shall be accessible to fire department apparatus by way of an access roadway having an all-weather driving surface no less than sixteen (16) feet of unobstructed width with adequate roadway turning room and having a minimum of thirteen (13) feet, six (6) inches of vertical clearance. Dead end access roads in excess of two hundred (200) feet in length shall be provided with approved provisions for the turning around of fire department apparatus.

The following also apply:

1. The required width of access roadway shall not be obstructed in any manner including the parking of vehicles. Where no space is provided for parking along access roads, said roadway shall be kept unobstructed.
2. Property owners shall be required to identify and mark fire lanes to the satisfaction and approval of the Fire Chief as follows:
 - a. Signs shall be posted near the entrance of access roadways. Spacing and placing of signs shall be as directed by the Fire Chief.
 - b. Signs shall be a minimum of seventeen (17") inches by twenty four (24") inches (17"x 24") in one inch (1") reflective block lettering with one (1) half inch (½") stroke on a contrasting background.
 - c. Signs shall read "No Parking- Fire Department Access Road."
3. Where access roadways are adjacent to required fire hydrants, such access roads within twenty (20') feet of either direction of the fire hydrant shall be a minimum of thirty (30') feet in width.

- 4. The access road shall be extended to a maximum of one hundred and fifty (150') feet in length of all portions of the exterior walls of the first story of any building.
- 5. The maximum grade for access roadways of greater than one hundred and fifty (150') feet in length shall be ten percent (10%). However, grades up to twelve percent (12%) are allowable with approval of the Fire Chief and the City Engineer.
- 6. The owner shall be responsible for establishing the base grade of the access roadway before the waster system is installed. The owner or possessor of the lot shall clear the right-of-way for the water system and establish the fire hydrant location and the owner shall then install the water system and set the fire hydrant to the grade established by Perry City. If there are any changes to the access roadway or right-of-way areas which do not allow for a minimum of forty two (42") inches cover over the water line or not more than a four (4") inch vertical difference between the flange of the fire hydrant and the finished surface of the access roadway, the owner shall be responsible for all expenses associated with the relocation or adjustment to the water system.
- 7. The property owner or possessor of the premises shall maintain, according to Perry City road standards, the access roadway with adequate snow removal so as to provide free and uninhibited access by emergency and service vehicles.
- 8. A fire hydrant shall be installed by and at the expense of the property owner and shall be connected by an eight (8") inch water main in connection with Section 10 of the Uniform Fire Code. Fire hydrants shall be located on all required access roads as required by Perry City and shall be located within five (5') feet of the required access roadway.
- 9. If, in the opinion of the Fire Chief, fire hydrants are vulnerable to vehicular damage, appropriate crash posts shall be required. NO obstruction shall exist within a three (3') foot working area of each fire hydrant. Crack posts shall be a four (4") inch cement-filled pipe having a minimum of three (3') feet height above grade with two (2') feet of pipe below grade set in concrete. Hydrant shut-off valves shall be located as per Perry City standards.
- 10. A turnaround shall be provided at the end of the access road in accordance with Perry City standards.
- 11. Lots shall not be allowed or approved where the static water pressure from the Perry City water system serving the proposed lot or lots is less than twenty (20) psi at the highest use facility during peak usage. The Fire Department may require a minimum flow rate (GPM). All water line installations shall be installed to the specifications of Perry City at the expense of the property owner.
- 12. The property owner shall grant an easement to Perry City along the course and full width of the access roadway permitting access to Perry City emergency and service vehicles and inspection personnel.
- 13. The property owner shall grant a utility easement to Perry City extending from the public street to the fire hydrant and having a minimum width of sixteen (16') feet for the purpose of using, operating, maintaining, and repairing of such hydrant and water line.
- 14. It shall be unlawful for the property owner or possessor of a dwelling structure located farther than two hundred (200') feet from the nearest public street to fail to maintain such access roadway to Perry City standards and keep free from snow and encroachments that would inhibit the free movement and access of emergency and service vehicles.
- 15. All improvements, such as water, roads, sewer, etc., as required by the Perry City Engineer and Planning Commission using Perry City ordinances and standards, shall be installed at the lot owner's expense.
- 16. Such other conditions and standards may apply as the governing body deem necessary.

HISTORY
Adopted by Ord. [15-C](#) on 3/17/2015

15.09.060 PRUDs - Planned Residential Unit Development

15.09.060.1 Maximum Available Units Per Acre

The maximum allowable units per acre that shall be allowable in the PRUD shall be determined by reference to the following table:

1.

Average Slope of the Development Site	Maximum Allowable Dwelling Units Per Acre
0-15%	6
15.1%-30%	4
30.1%+	None Allowed

HISTORY

Adopted by Ord. [15-C](#) on 3/17/2015

15.09.070 Development Standards

15.09.070.1 Intent

It is intended by this Section that the development standards and provisions, as set forth herein, shall be required in connection with all building and construction in the Perry City Environmental Sensitive Zone. The following apply to this Chapter:

1. Drainage and Erosion:

- a. Lots shall be arranged so as to insure adequate setback from drainage channel.
- b. Lots shall be arranged so as to insure that an adequate buildable area is located outside of the one hundred (100) year flood plain.
- c. Facilities for the collection of storm water runoff shall be required to be constructed on the development site.
- d. Such facilities shall be the first improvements constructed on the development site.
- e. Such facilities shall be designed so as to retain safely and adequately the maximum expected storm water runoff for a ten (10) year storm, as per the Perry City Engineering standards, for a sufficient length of time so as to prevent flooding and erosion during and after storm runoff flow periods.
- f. Such facilities shall be so designed as to divert surface water away from cut surfaces or sloping surfaces of a fill.

2. Vegetation and Re-vegetation:

- a. All areas on development sites cleared of natural vegetation in the course of construction of off-site improvements shall be replanted with vegetation which when established shall have characteristics of erosion control equal to or exceeding the original vegetation.
- b. New plantings shall be protected with organic cover.
- c. The use of persons or firms having expertise in the practice of vegetation (i.e., landscape architects or nurserymen) shall be employed to supervise the planning and installation of re-vegetation cover.
- d. Vegetation shall be removed only when absolutely necessary (e.g. for the construction of buildings, roads, and filled areas).
- e. Vegetation shall be planted in all disturbed areas within three (3) weeks of the completion of off-site improvements or as soon as weather permits. Such vegetation shall be of a perennial and low combustibility nature and which when established, shall be sufficient to stabilize the soil.

3. Fire Protection:

- a. Spark arresters shall be installed in every fireplace constructed either indoors or outdoors. Screen opening in such arresters shall not be in excess of $\frac{1}{4}$ square inch in size.

4. Grading, Cuts, and Fills:

- a. Exposed unstable surfaces of an excavation or fill shall not be steeper than one (1) vertical or two (2) horizontal units.
- b. All permanent fill shall be located and controlled so that earth settling, earth slippage, or erosion shall not damage or cover streets, curbs, gutters, sidewalks, or buildings.
- c. All fill and degrees of compaction shall comply with the standards of the Uniform Building Code then in effect.
- d. The maximum vertical height of all fill cuts shall be ten (10') feet except in circumstances where the City Engineer and the Planning Commission recommend specific changes for approval to the Perry City Council.
- e. All structures except retaining walls or soil stabilization improvements shall have a setback from the crest of the cut or base of the fill a minimum distance equal to the depth of the fill or the height of the cut unless a structurally sound retaining wall is built for the cut or fill of the slope. Retaining walls may be a part of the dwelling unit.

5. Streets and Ways:

- a. Streets, roadways, and probate access ways shall follow as nearly as possible the natural terrain. The following additional standards shall apply:
- b. At least two (2) ingress and egress routes shall be provided for each subdivision or multiple building project. Phased projects can meet this criteria in long range plans.
- c. Points of access shall be provided to all developed, partially developed, or undeveloped areas for emergency and firefighting equipment. Driveways located upon each lot extending from a public street shall have a maximum grade of ten (10%) percent and a minimum width of thirty (30') feet unless a greater maximum grade of up to twelve (12%) percent for a length of greater than one hundred and fifty (150') feet or lesser minimum width is approved by the City Engineer, the City Council, and City Fire Chief and shall be of sufficient width and design to admit and accommodate firefighting equipment.

- d. Cul-de-sacs shall not exceed six hundred (600') feet in length from the nearest intersection and shall have a turn-around with a radius of fifty (50') feet. Stub streets that are longer than the width or length of any adjacent single lot or two hundred (200') feet, which is less, shall have a temporary turn-around at the end thereof.
- e. Centerline curvatures shall not be less than one hundred (100') feet radius on any curved street pattern.
- f. Variations of the street design standard developed to solve special hillside visual and functional problems may be presented to the Planning Commission for consideration. Examples of such variations may be the use of split roadways to avoid deep cuts, modifications of surface drainage treatments, or sidewalk design.
- g. In a PRUD, all streets or right-of-ways for vehicular traffic, which have not been dedicated for public use, shall be subject to the following limitations:
 - i. The maximum grade of such streets or right-of-ways greater than one hundred and fifty (150') feet in length shall be eight (8%) percent except as hereafter provided.
 - ii. The City Engineer and Fire Chief may grant approval for the construction of such streets or right-of-ways greater than one hundred and fifty (150') feet in length and having a grade exceeding ten (10%) percent, but the grade of such streets shall not exceed twelve (12%) percent unless a special condition is recommended by the City Engineer and approved by the City Council.
 - iii. The provisions of this Section shall not apply to streets or right-of-ways already constructed or which have heretofore been granted preliminary approval by the Planning Commission.

6. Architectural Design:

- a. Building proposed for construction in the Perry City Foothill Overlay Zoning District shall be designed to be visually compatible with the natural beauty of the foothills and canyon areas. The use of building materials in colors that will blend harmoniously with the natural setting is encouraged. Such materials as natural woods, brick (earth tones), and stone are considered to be most appropriate.
- b. The Planning commission shall review the design and selected exterior materials and colors for all structures other than single family dwellings. Building permits for such structures shall not be granted until building materials and colors have been approved by the Planning Commission.

7. Bond:

- a. In addition to the provisions requiring posting of a bond as set forth in the Ordinances of Perry City, a corporate surety or cash bond or an escrow agreement held in a bank or savings loan association chartered by the United States Treasury Department or other guarantees will be required by the City Council to guarantee the completion of re-vegetation projects, the stabilization of gradings, cuts, and fills, and construction of such projects shall continue for one (1) year after the completion date of such projects, improvements, and facilities.

8. Exceptions:

- a. Exceptions to the requirements and provisions as outlined in this Section may be approved by the City Council, provided that the developer or owner of such development site can demonstrate to the satisfaction of the City Council that the requested exceptions shall not be detrimental or injurious to: the property or improvements adjacent thereto; the general well-being of the neighborhood; or in violation of the stated purpose of this Chapter.

HISTORY

Adopted by Ord. [15-C](#) on 3/17/2015

15.09.080 Review And Approval Procedures

15.09.080.1 Approval By Planning Commission For Environmental Sensitive Development Area

A single family dwelling or individual lot, not included as part of a development parcel (PRUD, Subdivision, etc.), will be allowed in the Environment Sensitive Development Area as approval must first be granted by the Planning Commission as provided in this Section. The application shall contain information, plans, and reports as are required by the Planning Commission. The following regarding applications:

1. Application:

- a. All applications required in this Section shall first be submitted to the Planning Commission for review and recommendation by the Planning Commission. All of the required information necessary for each approval process shall be submitted to the Planning Commission at least fifteen (15) days prior to the Planning Commission meeting at which it is to be considered. All site plans, as required in this Section, shall be drawn to scale of one (1") inch equals fifty (50') feet (1"=50'), said site plans shall show topographical contours at two (2') foot intervals.
- b. In respect to site plans having a scale less than one (1") inch equals fifty (50') feet (1"=50'), the site plan shall show topographic contours at five (5') foot intervals.

2. Applications for Conceptual Approval (Planning Commission):

- a. PRUD Project: All applicants for approval of PRUD Project shall comply with the provisions of PMC 15.09.070 except that such application shall also include topographic contours and an estimate of average slope of the PRUD development site. In addition, conceptual approval must first be granted prior to application for preliminary approval.
- b. Subdivisions: All applications for approval of a subdivision shall comply with the provisions of Perry City Subdivision Ordinance. In addition, conceptual approval must first be granted prior to application for preliminary approval. All applications for conceptual approval shall be accompanied by a site plan drawn to scale by an architect, registered land surveyor, engineer, or landscape architect who is licensed to practice in the State of Utah. Said plan shall provide the following information:
 - i. Location of the proposed subdivision with identification of abutting streets.
 - ii. Topographic contours
 - iii. An estimate of the average slope of the proposed subdivision.
 - iv. The number of lots.
 - v. The location and size of proposed lots
 - vi. .Location, width and grade of all proposed streets, and radii of any cul-de-sac.
 - vii. Location of existing or proposed schools, churches, and/or parks.
- c. Commercial Developments: All applications for commercial developments shall comply with the provisions of Development Regulations and Design Review of the Perry City Municipal Code. Conceptual approval shall be accomplished by a site plan drawn to scale by a professional landscape architect, registered land surveyor, architect, or engineer licensed to practice in the State of Utah. Said plan shall provide the following information:
 - i. Location of the proposed commercial site with identification of abutting streets.
 - ii. Topographic contours.
 - iii. An estimate of the average slope of the proposed commercial site.
 - iv. Location, width and grade of all proposed streets, and radii of any cul-de-sac.
- d. The Planning Commission shall consider said application for PRUD projects, subdivisions, or commercial developments. If the Planning Commission recommends approval of the conceptual phase of the development, the Planning Commission may attach such conditions as may be deemed necessary to secure the purpose as set forth in this Chapter.

3. Preliminary Approval:

- a. In addition to the information as required for preliminary approval of PRUD projects or commercial developments, provisions of Perry City Subdivision Ordinance, such additional information as set forth in this subsection may be required by the Planning Commission and or the City Council.
- b. Preliminary approval shall first be granted prior to application for final approval. All reports as submitted herein shall be prepared by persons or firms licensed to practice their specialty or expertise in the State of Utah. The following regarding preliminary approval:
 - i. Report of Soil Characteristics: Data regarding the nature, distributions, and strength of soils within the project area. The soil report shall include:
 - (1) Unified classification of all soils with an estimate of susceptibility to erosion, plasticity index, liquid limit, shrink-swell potential, and general suitability for development.
 - (2) Estimate of the normal highest elevation of the seasonal high water table.
 - (3) Flood history and potential, proximity to known flood plain in areas, and drainage channels.
 - ii. Report of Geologic Conditions: An application shall include the following information:
 - (1) Definition of any zone deformation with respect to active faults and other mass movements of soil and rock.
 - (2) Identification of anomalies of the terrain characteristics of the geological materials which would have any potential impact upon the use of the site.
 - (3) Determination of ground water characteristics.
 - (4) Written recommendations for construction of proposed improvements to avoid impact of any potential geologic hazards.

iii. Grading and Drainage Report. Preliminary approval shall include a plan for grading and a report on the method by which surface water and natural drainage will be accommodated. The plan shall be prepared by a professional engineer licensed to practice in Utah and shall include the following information:

- (1) Indication of existing and proposed contours.
- (2) Indication of the present and proposed slope for each graded area.
- (3) Location and identification (by species) of existing vegetation and indication of vegetation proposed for removal and re-vegetation proposal.
- (4) Existing and proposed drainage patterns. Locations of any drainage channels on the proposed site that have been identified by the State Geologist.
- (5) Location and depth of all proposed fills and cuts.
- (6) Description of the methods to be employed to achieve stabilization and compaction.
- (7) Location and capacities of proposed drainage, structure, and erosion control measures.
- (8) Computation of maximum run-off for a ten (10) year storm before and after development.
- (9) Location of existing buildings or structures on the site and location of existing buildings and structures on adjacent properties which are within one hundred (100') feet of the site or which may be affected by any proposed grading or construction.

4. The Planning Commission shall consider said application and shall recommend to the City Council approval or disapproval of the application. If the Planning Commission recommends approval of the preliminary phase, the Planning Commission may attach such conditions as may be deemed necessary to secure the purposes as set forth in this Chapter.
5. After receiving recommendations for approval or disapproval by the Planning Commission, the City Council may approve or disapprove, for any reason, the application. If the City Council approves the final phase, they may attach such conditions as may be deemed necessary to secure the purpose as set forth in this Chapter.

HISTORY

Adopted by Ord. [15-C](#) on 3/17/2015

15.09.090 Final Approval

15.09.090.1 Final Approval

The following regarding final approval:

1. The final application that shall be filed with the Planning Commission shall be an application for final approval. Such application shall include the applicable information required by the provisions of subdivision ordinance of Perry City, Utah. Application for final approval may only be made after preliminary approval has been granted by the Planning Commission.
2. The Planning Commission shall consider said application and shall recommend to the City Council approval or disapproval, for any reason, of the application. If the Planning Commission recommends approval of the final plan, the Planning Commission may attach such conditions as may be deemed necessary to secure the purposed set forth in this Chapter.

HISTORY

Adopted by Ord. [15-C](#) on 3/17/2015

15.09.100 Construction, Grading And Contour Maps

15.09.100.1 No Construction Before Final Approval

There shall be no construction development, or grading upon the development site until final approval has been granted by signatures of the Planning Commission and City Council as provided in this section. Before the construction of single family dwelling units upon lots shall be allowable, a plot plan drawn to scale (at least one (1" inch= ten (10')) or (1"=10') for such lots shall be submitted to the Building Inspector, which plot plan shall show lot lines, existing and proposed contours at two (2') foot intervals, locations or proposed single family dwelling units, walks, driveways, and patio areas.

HISTORY

Adopted by Ord. [15-C](#) on 3/17/2015

15.11 Wetlands And Sensitive Soils Areas

15.11.010 Wetlands And Sensitive Soils Requirements

15.11.010.1 Requirements For Delineated Wetland Areas

The following are requirements for delineated wetland areas:

1. Areas of Perry City deemed to be Wetland or acknowledged as being wetland by the U.S. Army Corps of Engineers, shall be subject to the requirements set forth by the Corps of Engineers. A soil study may be required and shall be paid for by the owner/developer and any other requirements, as deemed necessary by the City Engineer, a Land Use Authority, or an Appeal Authority, shall be completed prior to the approval of any development.
2. Development or building of any structure or issuance of any building permit in areas deemed to be wetland according to delineation provided by the U.S. Army Corps of Engineers shall be prohibited until a proper permit procedure has been followed and a permit for the proposed development is issued by the U.S. Army Corps of Engineers.
3. A Land Use Authority or Appeal Authority shall not approve any development in violation of the Clean Water Act.

HISTORY

Adopted by Ord. [15-C](#) on 3/17/2015

15.11.010.2 Requirements For Non-Delineated Wet And/Or Sensitive Soil Areas

The following are requirements for non-delineated wet or sensitive soil areas:

1. A Land Use Authority or Appeal Authority may require soil studies to be done on any property that comes before it for any type of development purposes, if it is apparent that the property has wet or sensitive soil areas within the development. These costs are to be paid for by the owner/developer.
2. If a soil study determines the land could be wetlands, delineation must be arranged for and paid for by the owner/developer. The procedure above for delineated wetland areas will then be followed.

HISTORY

Adopted by Ord. [15-C](#) on 3/17/2015

15.11.020 Penalties

15.11.020.1 Available Penalties

Available penalties are set forth in PMC 15.01.030

HISTORY

Adopted by Ord. [15-C](#) on 3/17/2015

15.13 Agriculture Protection Areas

15.13.010 Purpose And Intent

15.13.010.1 Purpose

The purpose of the Agriculture Protection Ordinance is to establish an Agriculture Protection Area Advisory Board, adopt procedures for filing of and consideration for proposals to create agriculture protection areas, provide for filing fees and to enact other related provisions.

HISTORY

Adopted by Ord. [15-C](#) on 3/17/2015

15.13.010.2 Intent

The Mayor and Perry City Council as the legislative body of Perry City declare the following as basis for the adoption of the Agriculture Protection Ordinance:

1. The Utah Legislature, by enactment in its 1994 General Session of SB 227, as codified in the Utah Code Annotated Title 17, Chapter 41, provided a procedure for creating Agricultural Protection Areas.
2. The Perry City Council finds that it is in the best interest of the residents of Perry City to make provision for the establishment of Agricultural Protection Areas as required under the Utah Code, and to create acreage limitations, fee schedules and other procedures regarding review and consideration of proposals to create Agriculture Protection Areas.

HISTORY

Adopted by Ord. [15-C](#) on 3/17/2015

15.13.020 Definitions

1. **Agriculture Protection Area.** A geographic area created under the authority of this ordinance that is granted the specific legal protection afforded by this ordinance.
2. **Advisory Board.** The Agriculture Protection Advisory Board appointed by the Box Elder County Commission.
3. **Agriculture Production.** Commercial production of crops, livestock and livestock products including the processing or retail marketing of any crops or livestock or livestock products when more than fifty percent (50%) of the processed or merchandised products are produced by the farm operator.
4. **Crops, Livestock, and Livestock Products.** The raising of useful plants and animals with reasonable expectation of profit including forages, sod, grains, feed crops, domestic animals, honey bees, poultry, fur-bearing animals, fish, trees, fruit, vegetables, nursery/bedding plants, floral and ornamental stock and the use of land devoted to and meeting the requirements and qualifications for payments or other compensation under a crop-land retirement program with an agency of the state or federal government.
5. **Political Subdivision.** A city, county, school district, or special service district is a political subdivision.
6. **Proposed Sponsors.** The owners of land engaged in agricultural production that are sponsoring the proposal for the creation of an Agriculture Protection Area.
7. **State Agency.** Each department, commission, board, council, agency, institution, officer, corporation, fund, division, office, committee, authority, laboratory, library, unit, bureau, panel or other administrative unit of the state is known as a state agency.

HISTORY

Adopted by Ord. [15-C](#) on 3/17/2015

15.13.030 Procedural Requirements

15.13.030.1 Perry City Planning Commission

The Perry City Planning Commission will perform the duties set forth in Section 17-41-303 of the Utah Code Annotated, or any later amendment or enactment of that section.

HISTORY

Adopted by Ord. [15-C](#) on 3/17/2015

15.13.030.2 Minimum Size For Agriculture Protection Areas

Pursuant to Utah Code Annotated Section 17-41-301 (5) or any later amendment or enactment of that section, at least two (2) contiguous acres must be included in each Agriculture Protection Area established with Perry City.

HISTORY

Adopted by Ord. [15-C](#) on 3/17/2015

15.13.030.3 Fees For Accepting And Processing Applications For Designation Of Agriculture Protection Areas

Any person or persons filing an application for a proposal to create an Agriculture Protection Area pursuant to this ordinance and the Utah Code shall pay a fee at the time of filing. The amount of the fee shall be established by resolution of the Perry City Council. In addition, any person or persons filing a proposal for creation of an Agriculture Protection Area shall reimburse Perry City for the publishing of notices, mailing or costs associated with the advertising required under Utah Code or any subsequent amendment or enactment of that statute.

HISTORY

Adopted by Ord. [15-C](#) on 3/17/2015

15.13.030.4 Filing Procedure

All applications for proposals to create an Agriculture Protection Area within Perry City shall be filed in the office of the Perry City Recorder on a form provided by Perry City for that purpose. The procedure shall follow Utah Code Annotated Section 17, Chapter 41 as outlined on the following page. All proposals must accompany the filing fee established by the Perry City Council.

HISTORY

Adopted by Ord. [15-C](#) on 3/17/2015

15.15 Flood Control And Special Regulations

15.15.010 Flood Damage Prevention

1. Statutory authorization, findings, of fact, purpose, and methods.

a. Statutory Authorization.

- i. The Legislature of the State of Utah has delegated the responsibility of local governmental units to adopt regulations designed to minimize flood losses. Therefore, Perry City, Utah, does ordain as follows:

b. Findings of fact.

- i. The flood hazard areas of Perry City are subject to periodic inundation, which results in loss of life and property, health and safety hazards, disruption of commerce and governmental services, and extraordinary public expenditures for flood protection and relief, all of which adversely affect the public health, safety and general welfare.
- ii. These flood losses are created by the cumulative effect of obstructions in floodplains which cause an increase in flood heights and velocities, and by the occupancy of flood hazards areas by uses vulnerable to floods and hazardous to other lands because they are inadequately elevated, flood proofed or otherwise protected from flood damage.

c. Statement of Purpose.

- i. It is the purpose of this ordinance to promote the public health, safety and general welfare and to minimize public and private losses due to flood conditions in specific areas by provisions designed to:
 - (1) Protect human life and health;
 - (2) Minimize expenditure of public money for costly flood control projects;
 - (3) Minimize the need for rescue and relief efforts associated with flooding and generally undertaken at the expense of the general public;
 - (4) Minimize prolonged business interruptions;
 - (5) Minimize damage to public facilities and utilities such as water and gas mains, electric, telephone and sewer lines, streets and bridges located in floodplains;
 - (6) Help maintain a stable tax base by providing for the sound use and development of flood-prone areas in such a manner as to minimize future flood blight areas; and

(7) Insure that potential buyers are notified that property is in a flood area.

d. Methods of reducing flood losses:

- i. In order to accomplish its purposes, this ordinance uses the following methods:
- ii. Restrict or prohibit uses that are dangerous to health, safety or property in times of flood, or cause excessive increases in flood heights or velocities;
- iii. Require that uses vulnerable to floods, including facilities, which serve such uses, be protected against flood damage at the time of initial construction;
- iv. Control the alteration of natural floodplains, stream channels, and natural protective barriers, which are involved in the accommodation of flood waters;
- v. Control filling, grading, dredging and other development, which may increase flood damage;
- vi. Prevent or regulate the construction of flood barriers which will unnaturally divert flood waters or which may increase flood hazards to other lands.

2. Definitions.

a. Unless specifically defined below, words or phrases used in this ordinance shall be interpreted to give them the meaning they have in common usage and to give this ordinance its most reasonable application.

- i. Alluvial Fan Flooding. Flooding occurring on the surface of an alluvial fan or similar landform, which originates at the apex and is characterized by high-velocity flows; active processes of erosion, sediment transport, and deposition; and unpredictable flow paths.
- ii. Apex. A point on an alluvial fan or similar landform below which the flow path of the major stream that formed the fan becomes unpredictable and alluvial fan flooding can occur.
- iii. Area of Shallow Flooding. A designated AO, AH, or VO zone on a community's Flood Insurance Rate Map (FIRM) with a one percent chance or greater annual chance of flooding to an average depth of one to three feet where a clearly defined channel does not exist, where the path of flooding is unpredictable and where velocity flow may be evident. Such flooding is characterized by ponding or sheet flow.
- iv. Area of Special Flood Hazard. Is the land in the floodplain within a community subject to a one percent or greater chance of flooding in any given year. The area may be designated as Zone A on the Flood Hazard Boundary Map (FHBM). After detailed ratemaking has been completed in preparation for publication of the FIRM, Zone A usually is refined into Zones A, AE, AH, AO, A1-99, VO, V1-30, VE or V.
- v. Base Flood. The flood having a one percent chance of being equaled or exceeded in any given year.
- vi. Basement. Any area of the building having its floor sub-grade (below ground level) on all sides.
- vii. Critical Feature. An integral and readily identifiable part of a flood protection system, without which the flood protection provided by the entire system would be compromised.
- viii. Development. Means any man-made change in improved and unimproved real estate, including but not limited to buildings or other structures, mining, dredging, filling, grading, paving, excavation or drilling operations or storage of equipment or materials.
- ix. Elevated Building.
 - (1) A non-basement building built, in the case of a building in Zones A1-30, AE, A, A99, AO, AH, B, C, X, and D, to have the top of the elevated floor, or in the case of a building in Zones V1-30, VE, or V, to have the bottom of the lowest horizontal structure member of the elevated floor elevated above the ground level by means of pilings, columns (posts and piers), or shear walls parallel to the flow of the water and
 - (2) Adequately anchored so as not to impair the structural integrity of the building during a flood of up to the magnitude of the base flood. In the case of Zones A1-30, AE, A, A99, AO, AH, B, C, X, and D, "elevated building" also includes a building elevated by means of fill or solid foundation perimeter walls with openings sufficient to facilitate the unimpeded movement of flood waters. In the case of Zones V1-30, VE, or V, "elevated building" also includes a building otherwise meeting the definition of "elevated building," even though the lower area is enclosed by means of breakaway walls if the breakaway walls met the standards of Section 60.3(e)(5) of the National Flood Insurance Program regulations.
- x. Existing Construction. For the purposes of determining rates, structures for which the "start of construction" commenced before the effective date of the FIRM or before January 1, 1975, for FIRMs effective before that date. "Existing construction" may also be referred to as "existing structures."
- xi. Existing Manufactured Home Park or Subdivision. A manufactured home park or subdivision for which the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including, at a minimum, the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads) is completed before the effective date of the floodplain management regulations adopted by a community.

- xii. Expansion to an Existing Manufactured Home Park or Subdivision. The preparation of additional sites by the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads).
- xiii. Flood or Flooding. A general and temporary condition of partial or complete inundation of normally dry land areas from:
 - (1) The overflow of inland or tidal waters.
 - (2) The unusual and rapid accumulation or runoff of surface waters from any source.
- xiv. Flood Insurance Rate Map (FIRM). An official map of a community, on which the Federal Emergency Management Agency (FEMA) has delineated both the areas of special flood hazards and the risk premium zones applicable to the community.
- xv. Flood Insurance Study. Is the official report provided by Federal Emergency Management Agency (FEMA). The report contains flood profiles, water surface elevation of the base flood, as well as the Flood Boundary-Floodway Map.
- xvi. Floodplain or Flood-Prone Area. Any land area susceptible to being inundated by water from any source (see definition of flooding).
- xvii. Floodplain Management. The operation of an overall program of corrective and preventive measures for reducing flood damage, including but not limited to emergency preparedness plans, flood control works and floodplain management regulations.
- xviii. Floodplain Management Regulations. Zoning ordinances, subdivision regulations, building codes, health regulations, special purpose ordinances (such as a floodplain ordinance, grading ordinance and erosion control ordinance) and other applications of police power. The term describes such state or local regulations, in any combination thereof, which provide standards for the purpose of flood damage prevention and reduction.
- xix. Flood Protection System. Those physical structural works for which funds have been authorized, appropriated, and expended and which have been constructed specifically to modify flooding in order to reduce the extent of the areas within a community subject to a "special flood hazard" and the extent of the depths of associated flooding. Such a system typically includes hurricane tidal barriers, dams, reservoirs, levees or dikes. These specialized flood modifying works are those constructed in conformance with sound engineering standards.
- xx. Flood Proofing. Any combination of structural and non-structural additions, changes, or adjustments to structures which reduce or eliminate flood damage to real estate or improved real property, water and sanitary facilities, structures and their contents.
- xxi. Floodway (Regulatory Floodway). The channel of a river or other watercourse and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than a designated height.
- xxii. Functionally Dependent Use. A use which cannot perform its intended purpose unless it is located or carried out in close proximity to water. The term includes only docking facilities, port facilities that are necessary for the loading and unloading of cargo or passengers, and ship building and ship repair facilities, but does not include long-term storage or related manufacturing facilities.
- xxiii. Highest Adjacent Grade. The highest natural elevation of the ground surface prior to construction next to the proposed walls of a structure.
- xxiv. Historic Structure.
 - (1) That is listed individually in the National Register of Historic Places (a listing maintained by the Department of Interior) or preliminarily determined by the Secretary of the Interior as meeting the requirements for individual listing on the National Register;
 - (2) Certified or preliminarily determined by the Secretary of the Interior as contributing to the historical significance of a registered historic district or a district preliminarily determined by the Secretary to qualify as a registered historic district;
 - (3) Individually listed on a state inventory of historic places in states with historic preservation programs which have been approved by the Secretary of Interior; or
 - (4) Individually listed on a local inventory of historic places in communities with historic preservation programs that have been certified either:
 - (A) by an approved state program as determined by the Secretary of the Interior or;
 - (B) directly by the Secretary of the Interior in states without approved programs.
- xxv. Levee. A man-made structure, usually an earthen embankment, designed and constructed in accordance with sound engineering practices to contain, control, or divert the flow of water so as to provide protection from temporary flooding.
- xxvi. Levee System. A flood protection system which consists of a levee, or levees, and associated structures, such as closure and drainage devices, which are constructed and operated in accordance with sound engineering practices.

xxvii**Lowest Floor.** The lowest floor of the lowest enclosed area (including basement). An unfinished or flood resistant enclosure, usable solely for parking or vehicles, building access or storage in an area other than a basement area is not considered a building's lowest floor; provided that such enclosure is not built so as to render the structure in violation of the applicable non-elevation design requirement of Section 60.3 of the National Flood Insurance Program regulations.

xxviii**Manufactured Home.** A structure transportable in one or more sections, which is built on a permanent chassis and is designed for use with or without a permanent foundation when connected to the required utilities. The term "manufactured home" does not include a "recreational vehicle".

xxix**Manufactured Home Park or Subdivision.** A parcel (or contiguous parcels) of land divided into two or more manufactured home lots for rent or sale.

xxx**Mean Sea Level.** For the purposes of the National Flood Insurance Program, the National Geodetic Vertical Datum (NGVD) of 1929 or other datum, to which base flood elevations shown on a community's Flood Insurance Rate Map are referenced.

xxx**New Construction.** For the purpose of determining insurance rates, structures for which the "start of construction" commenced on or after the effective date of an initial FIRM or after December 31, 1974, whichever is later, and includes any subsequent improvements to such structures. For floodplain management purposes, "new construction" means structures for which the "start of construction" commenced on or after the effective date of a floodplain management regulation adopted by a community and includes any subsequent improvements to such structures.

xxx**New Manufactured Home Park or Subdivision.** A manufactured home park or subdivision for which the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including at a minimum, the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads) is completed on or after the effective date of floodplain management regulations adopted by a community.

xxx**Recreational Vehicle.**

- (1) Which is built on a single chassis;
- (2) 400 square feet or less when measured at the largest horizontal projections;
- (3) designed to be self-propelled or permanently towable by a light duty truck; and
- (4) designed primarily not for use as a permanent dwelling but as temporary living quarters for recreational, camping, travel, or seasonal use.

xxx**Start of Construction.** (for other than new construction or substantial improvements under the Coastal Barrier Resources Act (Pub. L. 97-348)), includes substantial improvement and means the date the building permit was issued, provided the actual start of construction, repair, reconstruction, rehabilitation, addition, placement, or other improvement was within 180 days of the permit date. The actual start means either the first placement of permanent construction of a structure on a site, such as the pouring of slab or footings, the installation of piles, the construction of columns, or any work beyond the stage of excavation; or the placement of a manufactured home on a foundation. Permanent construction does not include land preparation, such as clearing, grading and filling; nor does it include the installation of streets and/or walkways; nor does it include excavation for basement, footings, piers or foundations or the erection of temporary forms; nor does it include the installation on the property of accessory buildings, such as garages or sheds not occupied as dwelling units or not part of the main structure. For a substantial improvement, the actual start of construction means the first alteration of any wall, ceiling, floor, or other structural part of a building, whether or not that alteration affects the external dimensions of the building.

xxx**Structure.** A walled and roofed building, including a gas or liquid storage tank that is principally above ground, as well as a manufactured home.

xxx**Substantial Damage.** Damage of any origin sustained by a structure whereby the cost of restoring the structure to it's before damaged condition would equal or exceed 50 percent of the market value of the structure before the damage occurred.

xxx**Substantial Improvement.** Any reconstruction, rehabilitation, addition, or other improvement of a structure, the cost of which equals or exceeds 50 percent of the market value of the structure before "start of construction" of the improvement. This includes structures which have incurred "substantial damage", regardless of the actual repair work performed. The term does not, however, include either:

- (1) Any project for improvement of a structure to correct existing violations of state or local health, sanitary, or safety code specifications, which have been identified by the local code enforcement official and which are the minimum necessary conditions or
- (2) Any alteration of a "historic structure", provided that the alteration will not preclude the structure's continued designation as a "historic structure."

xxx**Variance.** Is a grant of relief to a person from the requirement of this ordinance when specific enforcement would result in unnecessary hardship. A variance, therefore, permits construction or development in a manner otherwise prohibited by this ordinance. (For full requirements see Section 60.6 of the National Flood Insurance Program regulations.)

xxxviolation. The failure of a structure or other development to be fully compliant with the community's floodplain management regulations. A structure or other development without the elevation certificate, other certifications, or other evidence of compliance required in Section 60.3(b)(5), (c)(4), (c)(10), (d)(3), (e)(2), (e)(4), or (e)(5) is presumed to be in violation until such time as that documentation is provided.

xl. Water Surface Elevation. The height, in relation to the National Geodetic Vertical Datum (NGVD) of 1929 (or other datum, where specified), of floods of various magnitudes and frequencies in the floodplains of coastal or riverine areas.

3. General Provisions.

a. Lands to which this ordinance applies.

i. The ordinance shall apply to all areas of special flood hazard within the jurisdiction of Perry City.

b. Basis for established the areas of special flood hazard.

i. The areas of special flood hazard identified by the Federal Emergency Management Agency in a scientific and engineering report entitled, "The Flood Insurance Study for Wasatch County," with accompanying Flood Insurance Rate Maps and Flood Boundary-Floodway Maps (FIRM and FBFM) and any revisions thereto are hereby adopted by reference and declared to be a part of this ordinance. Perry City automatically adopts all effective FEMA Flood Insurance Rate maps and all effective FEMA Flood Insurance Studies.

c. Establishment of development permit.

i. A Development Permit shall be required to ensure conformance with the provisions of this ordinance.

d. Compliance.

i. No structure or land shall hereafter be located, altered, or have its use changed without full compliance with the terms of this ordinance and other applicable regulations.

e. Abrogation and greater restrictions.

i. This ordinance is not intended to repeal, abrogate, or impair any existing easements, covenants, or deed restrictions. However, where this ordinance and another ordinance, easement, covenant, or deed restriction conflict or overlap, whichever imposes the more stringent restrictions shall prevail.

f. Interpretation.

i. In the interpretation and application of this ordinance, all provisions shall be:

(1) considered as minimum requirements;

(2) liberally construed in favor of the governing body; and

(3) deemed neither to limit nor repeal any other powers granted under State statutes.

g. Warning and disclaimer or liability.

i. The degree of flood protection required by this ordinance is considered reasonable for regulatory purposes and is based on scientific and engineering considerations. On rare occasions greater floods can and will occur and flood heights may be increased by man-made or natural causes. This ordinance does not imply that land outside the areas of special flood hazards or uses permitted within such areas will be free from flooding or flood damages. This ordinance shall not create liability on the part of the community or any official or employee thereof for any flood damages that result from reliance on this ordinance or any administrative decision lawfully made there under.

h. General limitations on construction activities in designated flood areas.

i. New construction of any building or structure (other than a flood control building or structure) is prohibited and no permit shall be issued for any development in any area identified as "Zone A" on any current "flood insurance rate map" published by the Federal Emergency Management Agency.

4. Administration.

a. Designation of the floodplain administrator.

i. The Mayor's designee is hereby appointed the Floodplain Administrator to administer and implement the provisions of this ordinance and other appropriate sections of 44 CFR (National Flood Insurance Program Regulations) pertaining to floodplain management.

b. Duties and responsibilities of the floodplain administrator.

i. Duties and responsibilities of the Floodplain Administrator shall include, but not be limited to, the following:

(1) Maintain and hold open for public inspection all records pertaining to the provisions of this ordinance.

(2) Review permit application to determine whether proposed building site, including the placement of manufactured homes, will be reasonably safe from flooding.

(3) Review, approve or deny all applications for development permits required by adoption of this ordinance.

- (4) Review permits for proposed development to assure that all necessary permits have been obtained from those Federal, State or local governmental agencies (including Section 404 of the Federal Water Pollution Control Act Amendments of 1972, 33 U.S.C. 1334) from which prior approval is required.
- (5) Where interpretation is needed as to the exact location of the boundaries of the areas of special flood hazards (for example, where there appears to be a conflict between a mapped boundary and actual field conditions) the Floodplain Administrator shall make the necessary interpretation.
- (6) Notify, in riverine situations, adjacent communities and the State Coordinating Agency which is the Utah National Flood Insurance Coordinator, prior to any alteration or relocation of a watercourse, and submit evidence of such notification to the Federal Emergency Management Agency.
- (7) Assure that the flood carrying capacity within the altered or relocated portion of any watercourse is maintained.
- (8) When base flood elevation data has not been provided in accordance with Article 3, Section B, the Floodplain Administrator shall obtain, review and reasonably utilize any base flood elevation data and floodway data available from a Federal, State or other source, in order to administer the provisions of Article 5.

c. Permit procedures.

i. Application for a Development Permit shall be presented to the Floodplain Administrator on forms furnished by him/her and may include, but not be limited to, plans in duplicate drawn to scale showing the location, dimensions, and elevation of proposed landscape alterations, existing and proposed structures, including the placement of manufactured homes, and the location of the foregoing in relation to areas of special flood hazard. Additionally, the following information is required:

- (1) Elevation (in relation to mean sea level), of the lowest floor (including basement) of all new and substantially improved structures;
- (2) Elevation in relation to mean sea level to which any nonresidential structure shall be floodproofed;
- (3) A certificate from a registered professional engineer or architect that the nonresidential floodproofed structure shall meet the floodproofing criteria of Article 5, Section B(2);
- (4) Description of the extent to which any watercourse or natural drainage will be altered or relocated as a result of proposed development.
- (5) Maintain a record of all such information in accordance with Article 4, Section (B)(1).

ii. Approval or denial of a Development Permit by the Floodplain Administrator shall be based on all of the provisions of this ordinance and the following relevant factors:

- (1) The danger to life and property due to flooding or erosion damage;
- (2) The susceptibility of the proposed facility and its contents to flood damage and the effect of such damage on the individual owner;
- (3) The danger that materials may be swept onto other lands to the injury of others;
- (4) The compatibility of the proposed use with existing and anticipated development;
- (5) The safety of access to the property in times of flood for ordinary and emergency vehicles;
- (6) The costs of providing governmental services during and after flood conditions including maintenance and repair of streets and bridges, and public utilities and facilities such as sewer, gas, electrical and water systems;
- (7) The expected heights, velocity, duration, rate of rise and sediment transport of the flood waters and the effects of wave action, if applicable, expected at the site;
- (8) The necessity to the facility of a waterfront location, where applicable;
- (9) The availability of alternative locations, not subject to flooding or erosion damage, for the proposed use;
- (10) The relationship of the proposed use to the comprehensive plan for that area.

d. Variance procedures.

- i. The appeal Board as established by the community shall hear and render judgment on requests for variances from the requirements of this ordinance.
- ii. The Appeal Board shall hear and render judgment on an appeal only when it is alleged there is an error in any requirement, decision, or determination made by the Floodplain Administrator in the enforcement or administration of this ordinance.
- iii. Any person or persons aggrieved by the decision of the Appeal Board may appeal such decision in the courts of competent jurisdiction.
- iv. The Floodplain Administrator shall maintain a record of all actions involving an appeal and shall report variances to the Federal Emergency Management Agency upon request.

- v. Variances may be issued for the reconstruction, rehabilitation or restoration of structures listed on the National Register of Historic Places or the State Inventory of Historic Places, without regard to the procedures set forth in the remainder of this ordinance.
- vi. Variances may be issued for new construction and substantial improvements to be erected on a lot of one-half acre or less in size contiguous to and surrounded by lots with existing structures constructed below the base flood level, providing the relevant factors in Section 3(b) of this Article have been fully considered. As the lot size increases beyond the one-half acre, the technical justification required for issuing the variance increases.
- vii. Upon consideration of the factors noted above and the intent of this ordinance, the Appeal Board may attach such conditions to the granting of variances as it deems necessary to further the purpose and objectives of this ordinance (Article 1, Section C).
- viii. Variances shall not be issued within any designated floodway if any increase in flood levels during the base flood discharge would result.
- ix. Variances may be issued for the repair or rehabilitation of historic structures upon a determination that the proposed repair or rehabilitation will not preclude the structure's continued designation as a historic structure and the variance is the minimum necessary to preserve the historic character and design of the structure.
- x. Prerequisites for granting variances:
 - (1) Variances shall only be issued upon a determination that the variance is the minimum necessary, considering the flood hazard, to afford relief.
 - (2) Variances shall only be issued upon:
 - (A) showing a good and sufficient cause;
 - (B) a determination that failure to grant the variance would result in exceptional hardship to the applicant, and
 - (C) a determination that the granting of a variance will not result in increased flood heights, additional threats to public safety, extraordinary public expense, create nuisances, cause fraud on or victimization of the public, or conflict with existing local laws or ordinances.
 - (3) Any application to whom a variance is granted shall be given written notice that the structure will be permitted to be built with the lowest floor elevation below the base flood elevation, and that the cost of flood insurance will be commensurate with the increased risk resulting from the reduced lowest floor elevation.
- xi. Variances may be issued by a community for new construction and substantial improvements and for other development necessary for the conduct of a functionally dependent use provided that:
 - (1) the criteria outlined in Article 4, Section D(1)-(9) are met, and
 - (2) the structure or other development is protected by methods that minimize flood damages during the base flood and create no additional threats to public safety.

5. Provisions for flood hazard reduction.

a. General standards.

- i. In all areas of special flood hazards the following provisions are required for all new construction and substantial improvements:
 - (1) All new construction or substantial improvements shall be designed (or modified) and adequately anchored to prevent flotation, collapse or lateral movement of the structure resulting from hydrodynamic and hydrostatic loads, including the effects of buoyancy;
 - (2) All new construction or substantial improvements shall be constructed by methods and practices that minimize flood damage;
 - (3) All new construction or substantial improvements shall be constructed with materials resistant to flood damage;
 - (4) All new construction or substantial improvements shall be constructed with electrical, heating, ventilation, plumbing, and air conditioning equipment and other service facilities that are designed and/or located so as to prevent water from entering or accumulating within the components during conditions of flooding.
 - (5) All new and replacement water supply systems shall be designed to minimize or eliminate infiltration of flood waters into the system;
 - (6) New and replacement sanitary sewage systems shall be designed to minimize or eliminate infiltration of flood waters into the system and discharge from the systems into flood waters; and,
 - (7) On-site waste disposal systems shall be located to avoid impairment to them or contamination from them during flooding.

b. Specific standards.

i. In all areas of special flood hazards where base flood elevation data has been provided as set forth in (i) Article 3, Section B, (ii) Article 4, Section B(8), or (iii) Article 5, Section C(3), the following provisions are required:

- (1) Residential Construction - new construction and substantial improvement of any residential structure shall have the lowest floor (including basement), elevated to or above the base flood elevation. A registered professional engineer, architect, or land surveyor shall submit a certification to the Floodplain Administrator that the standard of this subsection as proposed in Article 4, Section C(1)a., is satisfied.
- (2) Nonresidential Construction - new construction and substantial improvements of any commercial, industrial or other nonresidential structure shall either have the lowest floor (including basement) elevated to or above the base flood level or together with attendant utility and sanitary facilities, be designed so that below the base flood level the structure is watertight with walls substantially impermeable to the passage of water and with structural components having the capability of resisting hydro static and hydrodynamic loads and effects of buoyancy. A registered professional engineer or architect shall develop and/or review structural design, specifications, and plans for the construction, and shall certify that the design and methods of construction are in accordance with accepted standards of practice as outlined in this subsection. A record of such certification which includes the specific elevation (in relation to mean sea level) to which such structures are floodproofed shall be maintained by the Floodplain Administrator.
- (3) Manufactured Homes - Require that all manufactured homes to be placed within Zone A on a community's FHBM or FIRM shall be installed using methods and practices which minimize flood damage. For the purposes of this requirement, manufactured homes must be elevated and anchored to resist flotation, collapse, or lateral movement. Methods of anchoring may include, but are not limited to, use of over-the-top or frame ties to ground anchors. This requirement is in addition to applicable State and local anchoring requirements for resisting wind forces.

c. Standards for subdivision proposals.

- i. All subdivision proposals including the placement of manufactured home parks and subdivisions shall be consistent with Article 1, Sections B, C, and D of this ordinance.
- ii. All proposals for the development of subdivisions including the placement of manufactured home parks and subdivisions shall meet Development Permit requirements of Article 3, Section C; Article 4, Section C; and the provisions of Article 5 of this ordinance.
- iii. Base flood elevation data shall be generated for subdivision proposals and other proposed development including the placement of manufactured home parks and subdivisions which is greater than 50 lots or 5 acres, whichever is lesser, if not otherwise provided pursuant to Article 3, Section B or Article 4, Section B (8) of this ordinance.
- iv. All subdivision proposals including the placement of manufactured home parks and subdivisions shall have adequate drainage provided to reduce exposure to flood hazards.
- v. All subdivision proposals including the placement of manufactured home parks and subdivisions shall have public utilities and facilities such as sewer, gas, electrical and water systems located and constructed to minimize or eliminate flood damage.

d. Certification.

- i. It is hereby found and declared by Perry City that severe flooding has occurred in the past within its jurisdiction and will certainly occur within the future; that flooding is likely to result in infliction of serious personal injury or death, and is likely to result in substantial injury or destruction of property within its jurisdiction; in order to effectively comply with minimum standards for coverage under the National Flood Insurance Program; and in order to effectively remedy the situation described herein, it is necessary that this ordinance become effective immediately.
- ii. Therefore, an emergency is hereby declared to exist, and this ordinance, being necessary for the immediate preservation of the public peace, health and safety, shall be in full force and effect from and after its passage and approval.

HISTORY

Adopted by Ord. [15-C](#) on 3/17/2015

15.16 Escrow Agreements, CC And R's, And Development Agreements

15.16.010 Development Agreements

15.16.010.1 Optional Process For Development Agreements For Commercial Property (20 Or More Acres)

Development agreements for commercial property (totaling 20 or more acres), if allowed by the City pursuant to the optional process, shall be as follows:

1. For a development of commercial property that is at least 20 acres, a development agreement may be entered into between the property owner(s) and the City; and
2. The development agreement may contain, without limitation, vesting of zoning and uses, site plan and subdivision approval and recording processes, aesthetic standards and requirements, a requirement that the development agreement be recorded against the real property, and/or other requirements; and
3. To the extent there is an inconsistency between the applicable land use ordinances, standards, or guidelines and the development agreement, the development agreement shall prevail.

HISTORY

Adopted by Ord. [15-C](#) on 3/17/2015

15.17 Design Review Procedure

15.17.010 Intent And Purpose

15.17.010.1 Intent And Purpose

The intent of the Design Review Procedure is to assure that a detailed design review process is followed for permitted uses in any zone that require special consideration to be harmonious with the goals of the Perry City General Plan.

HISTORY

Adopted by Ord. [15-C](#) on 3/17/2015

15.17.010.2 Compliance With Municipal Code

Each Design Review application shall be reviewed to assure that all ordinances and policies of Perry City are complied with for the welfare, health and safety of Perry residents and for the protection of adjoining properties.

HISTORY

Adopted by Ord. [15-C](#) on 3/17/2015

15.17.020 Application

15.17.020.1 Application

A Design Review Application shall be required for all uses designated by the Perry City Land Use Chart* (PMC 15.15) with an asterisk “*” indicating the use is allowed by Design Review or whenever required by the Planning Commission or City Council for protection of the public interest.

HISTORY

Adopted by Ord. [15-C](#) on 3/17/2015

15.17.020.2 Compliance With Municipal Code

Each application shall be reviewed and evaluated for compliance and must meet all applicable Perry City Ordinances (Ex. Fence, Sign, Parking, Landscape, etc.).

HISTORY

Adopted by Ord. [15-C](#) on 3/17/2015

15.17.020.3 No Physical Change To A Site

If there is no physical change to the site, building or parking, for example, some home occupations; the Design Review Process will not be necessary, although a Design Review Application will need to be completed and Planning Commission review and approval will be necessary.

HISTORY

Adopted by Ord. [15-C](#) on 3/17/2015

15.17.030 General Provisions

15.17.030.1 Compliance With Municipal Code

All development approved with the Design Review process shall comply with the adopted building codes and the ordinances and policies of Perry City.

HISTORY

Adopted by Ord. [15-C](#) on 3/17/2015

15.17.030.2 Effect On Adjacent Property

The property adjacent to the proposed development shall not be adversely affected. To this end, the Planning Commission shall recommend and the City Council shall require such conditions as are necessary to protect existing permitted uses or potential permitted uses adjoining the proposed development.

HISTORY

Adopted by Ord. [15-C](#) on 3/17/2015

15.17.030.3 City Council Surety For Completion

The City Council may require the developer to provide a surety of cash bond or other acceptable surety in an amount determined by the City Council guaranteeing completion of the project in accordance with the conditions of the building permit or Design Review Application approval. When completed in accordance with the approved plan, the bond shall be released. If uncompleted at the end of two (2) years from the date of final acceptance, the City Attorney will review the progress and Perry City may proceed to use the bond to meet the conditions required for the approved use.

HISTORY

Adopted by Ord. [15-C](#) on 3/17/2015

15.17.040 Procedure For Approval

15.17.040.1 Obtain Perry City Land Use Ordinances

Information as to standard zoning and Perry City General Plan requirements is to be secured by the developer. Any person wishing to obtain approval for a permitted use that requires Design Review within Perry City shall secure from the City Recorder or City Office or other authorized representative of the Planning Commission, information pertaining to the City Standards and to the City's ordinances and policies regarding streets, landscape, parks, drainage, zoning, parking, traffic circulation, signs, fences, subdivision of land, and/or other General Plan requirements affecting the proposed development.

HISTORY

Adopted by Ord. [15-C](#) on 3/17/2015

15.17.040.2 Preparation Of Site Plan And/Or Concept/Preliminary Plan

The following is required of any site plan or concept/preliminary plan:

1. Seven (7) full size 24" X 36", Sixteen (16) 11" X 17" copies and one electronic PDF copy of the Site Plan or the Concept/Preliminary Plan (or the number of copies required as determined by the City Staff), a plat map showing the location of the development and a Planning Commission Hearing Application with payment of the fee will be required to be received at the City Office fourteen (14) days prior to the Planning Commission Meeting when the application is to be reviewed. The Perry City Staff will review the application and make recommendations to the Planning Commission.
2. The site plan or concept/preliminary plan need not be prepared by a design professional but the more detailed and accurate the information that is provided to the Planning Commission, the more valid the information and direction the developer will receive back and the Design Review Process may proceed in a more timely fashion.
3. **Graphic Standards:** The Site Plan or Concept/Preliminary Plan shall be large enough scale to show sufficient detail for adequate review. The plan shall show the following:
 - a. Scale, north arrow, and dimensions of property.
 - b. Location of all dominant existing features such as property lines, structures, hard surfaces, vegetation, utilities, adjacent land uses, drainage, wetlands, etc.
 - c. Location of all proposed improvements including structures, sidewalks, streets, parking areas, landscaped areas, utilities, drainage facilities etc.

HISTORY

Adopted by Ord. [15-C](#) on 3/17/2015

15.17.040.3 Time Limit On Approval

The developer shall have one year following the approval by the Planning Commission of the site plan or concept/preliminary plan to submit the final plan, profile and other required drawings.

HISTORY

Adopted by Ord. [15-C](#) on 3/17/2015

15.17.040.4 Public Hearing

If the Planning Commission shall deem it to be in the best interest of surrounding property owners and City residents to hold a public hearing, they will so advise the Community Development Department to advertise the hearing and notice of an application for a Design Review will be mailed to property owners, or other written notice given, as required by state law. The public hearing shall be held after public notice in a local newspaper, as per the requirements of state law. This is a courtesy to adjacent landowners and compliance with this section shall not be a condition precedent to proper legal notice and no hearing or action taken thereon shall be deemed invalid or illegal because of failure to give notice to all nearby landowners. The applicant is responsible for the costs of mailing or other written notice.

HISTORY

Adopted by Ord. [15-C](#) on 3/17/2015

15.17.040.5 Planning Commission Recommendation

After the public hearing is held (if deemed necessary), a recommendation of the Planning Commission to table, deny, approve with conditions or approve the site plan or concept/preliminary plan along with any conditions for denial or approval shall be forwarded to the applicant after the meeting. The recommendation should also include any comments from the City Staff, further requirements to be met or changes to be made. If preliminary approval is obtained, the applicant will then submit a final plan including the recommendations. If preliminary approval is not obtained, the applicant may submit another plan fourteen (14) days prior to the next regular meeting for re-consideration.

HISTORY

Adopted by Ord. [15-C](#) on 3/17/2015

15.17.040.6 Preparation And Submittal Of Final Site Plan

The following is required in preparation and submittal of the final site plan:

1. The developer shall prepare and submit eight (8) 11" X 17" copies and five (5) 24" X 36" copies of the final site plan and any other required drawings or information to the City Recorder fourteen (14) days prior to the Planning Commission meeting when the final plan is to be reviewed.
2. The Final Site Plan shall be prepared by a Design Professional or Engineer and shall be of sufficient detail to show all pertinent information.
3. All costs incurred for professional reviews of site plans shall be paid by the developer/applicant.

HISTORY

Adopted by Ord. [15-C](#) on 3/17/2015

15.17.040.7 Submittal Of Final Site Plan To Perry City Staff Professional Consultants

The final site plan and any required engineering or drawings (an estimate of the costs for installation of improvements may be required) shall be submitted to the Perry City Staff and/or professional consultants as deemed necessary. The City Engineer shall check the final site plan and engineering drawings for completeness and accuracy and if necessary, review the breakdown of improvements and cost estimates submitted to him by the developer/applicant and/or the City Recorder. The purpose of this review is to establish a basis for bonding, escrow or other approved assurance requirements which will guarantee the completion of improvements at any point in the development regardless of the financial condition of the developer. All available recommendations of the City Staff, City Engineer, Fire Marshal, Building Inspector, Health Department or other consultants will be forwarded to the Planning Commission along with the agenda for the meeting in which the final site plan is to be reviewed.

HISTORY

Adopted by Ord. [15-C](#) on 3/17/2015

15.17.050.8 Approval Of Final Site Plan By Planning Commission

After the final site plan and engineering drawings have been approved by the City Engineer and other Professional Consultants, they shall be submitted to the Planning Commission for its verification as to compliance with the Design Review Requirements and Perry City ordinances and policies. If the plan is acceptable, the Planning Commission shall recommend approval to the City Council. If the plan is not acceptable, the developer shall be notified in writing and the developer shall submit a new plan with the required corrections fourteen (14) days prior to the regular meeting in which the new plan will be reviewed by the Planning Commission.

HISTORY

Adopted by Ord. [15-C](#) on 3/17/2015

15.17.050 Other Requirements

15.17.050.1 Requirements For Bond And/Or Other Approved Assurance

If required, the developer shall post a bond, escrow, or other approved assurance that is acceptable with the city; which bond or assurance shall be in an amount equal to the estimated costs submitted and approved by the City Engineer for the improvements plus fifteen percent, guaranteeing that the improvements will be installed according to Perry City Standards and paid for without cost to the city, and the developer shall sign an agreement with the city guaranteeing all improvements for a period of one year after final acceptance by the city (Typically, three (3) years total). Evidence of marketable title shall be obtained by the developer. The performance bond, escrow or other means of assurance and evidence of marketable title will be submitted to the City Recorder by the developer. The City Recorder shall obtain and forward to the City Attorney, the performance bond, evidence of marketable title, and final site plan for review.

HISTORY

Adopted by Ord. [15-C](#) on 3/17/2015

15.17.050.2 Impact Fees

The City Recorder shall inform the developer of the City Attorney's approval and the developer shall deposit with the City Recorder any impact fees or recording fees that may be applicable.

HISTORY

Adopted by Ord. [15-C](#) on 3/17/2015

15.17.060 Approval By City Council

15.17.060.1 Final Approval By City Council

A statement of approval from utility companies and assurance of license and insurance of contractors, etc. performing work in dedicated areas shall be required from the developer. After the final site plan Design Review has been approved by the City Engineer, the Planning Commission, and the City Attorney; and the developer has furnished the required performance bond, escrow or other approved means of assurance; and all required assessments have been made; the final plan shall be submitted to the City Council (with or without conditions) for approval, conditional approval or denial. The Council shall have 20 days to act. If the Design Review Use request is denied, the package along with impact fees and performance bond, etc., shall be returned to the developer with reasons for the denial in writing and directions of how the developer may or may not resubmit the final plan with the required changes for approval.

HISTORY

Adopted by Ord. [15-C](#) on 3/17/2015

15.17.060.2 Inspection

Following the approval of a Design Review Use request by the City Council, the Building Official or Building Inspector shall sign an application for a building permit. The Building Inspector shall insure that the development is undertaken and completed in compliance with all Perry City standards, ordinances and policies and is constructed in accordance with the approved site plan.

HISTORY

Adopted by Ord. [15-C](#) on 3/17/2015

15.17.060.3 Time Limit Of Final Site Plan Approval

Unless there is substantial construction started on a Design Review development as determined by the City Council under a Design Review Permitted Use approval of the final site plan within one (1) year of such approval, the Design Review Permitted Use approval shall then expire.

HISTORY

Adopted by Ord. [15-C](#) on 3/17/2015

15.17.060.4 Ongoing Maintenance

Approval of a development allowed by Design Review implies a guarantee of ongoing maintenance and upkeep of buildings, parking areas, landscaped areas, undeveloped areas and/or any other area or structure shown on the approved site plan.

HISTORY

Adopted by Ord. [15-C](#) on 3/17/2015

15.18 Site Plans And Design Standards

15.18.050 Design Standards

APPLICABILITY ALONG HIGHWAY 89. A development adjacent to Highway 89 is a development that lies wholly or in part within three hundred (300) feet of the Highway 89 right of way.

APPROVAL. Full compliance with the requirements of this section shall be demonstrated by the applicant during the Final Subdivision Application for subdivisions and as part of the Design Review process for site plans, other non-subdivision applications, and in any other instance where the Design Review process would apply. The Land Use Authority may require submittals indicating general compliance during the Preliminary Subdivision Application phase of development as appropriate.

REQUIRED SUBMITTALS. The following submittals are required in addition to the subdivision and site development requirements of other sections within the PMC:

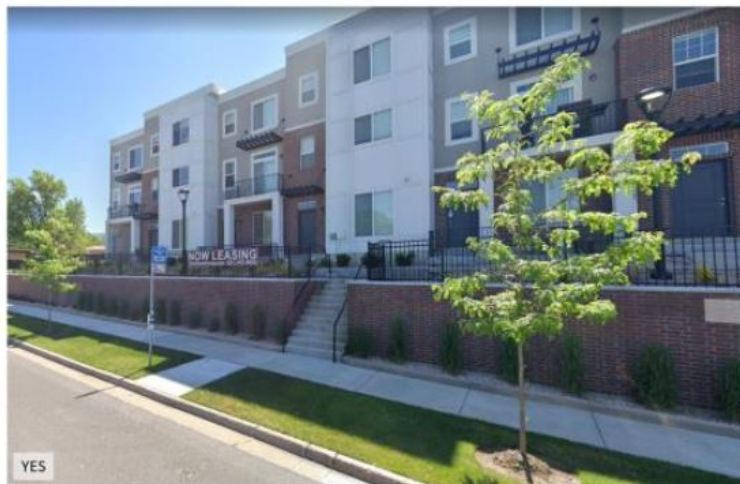
1. 3D renderings or professional perspective drawings of the development with buildings, site elements, and materials accurately depicted (residential developments with fewer than eight units and accessory building are exempted).
2. Elevation drawings of the front facades and street facing sides of buildings.
3. Materials boards providing the type and color of all exterior building materials and site elements.
4. Landscape plan.

DESIGN STANDARDS - INTENT AND PURPOSE. The following statements and images are to provide context and intent for the related standards and requirements of this section. The designated land use authorities are authorized to interpret and apply the related code in a manner that fulfills the spirit and intent of the following descriptions and images:

1. **GENERAL.** The intent of this section is to ensure quality, long-lasting developments are built that enhance existing communities. Developments shall be aesthetically pleasing and inviting while also adding variety and creating a sense of place and identity. Excessive repetition or monotony of styles, colors, and materials shall be avoided. Site development and landscaping should create useful spaces, be responsive to the City's ecology and be designed as one with proposed buildings and structures.
2. **HIGHWAY 89, NORTH OF 3000 SOUTH.** Development adjacent to Highway 89 in this area shall be designed and located to have a prominent relationship with the street and should prioritize pedestrian opportunities. Street parking, wide sidewalks, street trees, outdoor furniture, and buildings set close to the street are important design components for this area. A variety of commercial uses should be integrated with residential developments.
3. **HIGHWAY 89, SOUTH OF 3000 SOUTH.** Development adjacent to Highway 89 in this area should utilize frontage roads as much as possible rather than direct access to the highway. This area is envisioned to be predominately residential. Adjacent to the highway a significant landscape buffer with wide sidewalks shall be implemented. Landscaping shall be the predominant aesthetic feature when developments are viewed from the Highway. Development in this area should not interfere or create conflicts with the highway as a high speed and efficient vehicular corridor.
4. **IMAGES.**
 - a. Apartments and Multi-family Dwellings should face the street with an open 'front' façade, enhanced landscaping, and pedestrian access and elements. Back yards and barriers such as fencing should not be prominent visual features along the street. (Exception: This concept does not apply to developments adjacent to Highway 89 south of 3000 South.)



- b. Multiple materials, changes in plane, awnings, lighting, and street trees are utilized to present an inviting and aesthetically pleasing street facing 'front' façade. In spite of grade differences a pedestrian connection to the street is provided.



- c. Residential buildings with two units are built to look like a single family residence (Mansion Home Style). The two units are not symmetrical.



- d. No variation in materials or plane. Cheap materials. Lack of landscaping enhancements.



e. No variation in materials, plane, roofline, or façade style. Lack of landscaping enhancements and pedestrian elements.



f. Buildings should be prominently located close to the street with large parking areas to the rear. Pedestrian elements and landscaping should enhance the aesthetics and experience along the street. (Exception: This concept does not apply to developments adjacent to Highway 89 south of 3000 South.)



g. These images show the landscape buffer to be implemented along Highway 89 south of 3000 S. A wide sidewalk is provided with a landscaped buffer, which includes prominent landscaping elements.



DESIGN STANDARDS AND REQUIREMENTS

1. ARCHITECTURAL STANDARDS

- a. No vinyl, aluminum, or similar materials shall be allowed on the exterior of buildings. These material restrictions do not apply to trim materials that make up a small portion of the overall exterior materials of a building.
- b. There shall be a minimum of two building materials used on all sides of buildings with no less than forty percent (40%) of each required material being used per side. A minimum of forty percent (40%) of the front facade and street facing sides shall be brick, stone, or cultured stone (excluding glass area). Exception: Building using all brick or stone.
- c. Integrate at least one materials change, distinct color variation, or change in plane every forty (40) horizontal feet of the street facing building facade.
- d. Dumpster enclosures, monument signs, sheds, and other accessory buildings shall match the materials and style of the primary building(s).
- e. Roofing materials shall be graded as having a 30 year life of longer; proof of installation and certification are required. Membrane roofs are to be hidden by parapets or other appropriate screening.
- f. Buildings containing two residential dwelling units (twin homes or duplexes) shall be designed to appear as a single family residence and the two dwelling units shall not be symmetrical or mirrored designs.
- g. Buildings adjacent to Highway 89 north of 3000 S shall conform to the following:
 - i. Buildings shall be located close to the street with an inviting store front type facade and shall implement multiple pedestrian scale elements which may include awnings, arcades, street trees, and lighting (fabric awnings are not permitted).
 - ii. The main floor level of commercial buildings directly adjacent to the street shall have a minimum of 60% glass area on the street facing facade(s).
 - iii. Buildings in this area shall have distinctly unique facades from adjacent and nearby buildings. Each facade shall vary in a minimum of three of the following methods: architecture style, color, building materials, roofline, window treatments, or architectural details. The width of each unique facade shall not be more than 100'. No adjacent unique facade will have the same roof line elevation and articulation as the adjacent facades.
 - iv. The developer shall be responsible to implement the street improvements outlined in the current master plan for highway 89.

2. SITE STANDARDS

- a. Street trees are required along all public streets with a minimum of one tree per 35' of frontage. Where the width of the parkstrip allows, trees should have a minimum mature height and width of twenty (20) feet.
- b. In no case shall lawn account for more than seventy (70) percent of landscaped areas. Lawn areas should be implemented for a specific use whenever possible (i.e. recreational areas, storm water ponds). Large landscape areas without vegetation (rock or mulch only) are not permitted.
- c. No area of the development shall be left un-improved or without development. All areas should be developed with buildings, hard surfacing, or landscaped. No area of the lot or parcel shall be arbitrarily excluded from the site plan to avoid development requirements.
- d. The developer (including subdivisions and developments for single family homes) shall be responsible to implement the street improvements outlined in the current master plan for highway 89.

- e. Development adjacent to Highway 89 south of 3000 S shall conform to the following (including subdivisions and developments for single family homes):
 - i. Developments shall be accessed by a local City street rather than Highway 89. An exemption may be granted by the final Land Use Authority if this requirement is deemed infeasible or unreasonable for a small development.
 - ii. Buildings shall be setback a minimum of twenty (20) feet from the highway right of way and the developer shall install a sidewalk with a minimum width of 8'. Landscaping with large street trees shall be installed in this setback area.
- f. Developments adjacent to Highway 89 north of 3000 S shall conform to the following:
 - i. Parking shall be located behind the primary building(s) where possible. Parking may be placed to the side of the primary building(s) when necessary, but in no case shall parking be placed adjacent to the street for the majority of the street frontage.
 - ii. Sidewalks along Highway 89 shall be a minimum of six (6) feet in width.

HISTORY

Adopted by Ord. [19-M Design Standards](#) on 3/26/2020

Amended by Ord. [20-V Design Standards](#) on 1/14/2021

15.18.070 Work To Be Done By Registered Professional

All plans must be prepared and stamped by licensed and/or certified professionals including, but not limited to, architects, landscape architects, land planners, engineers, surveyors, geotechnical engineers, transportation engineers or other professionals as deemed necessary by the City. Landscape plans shall be stamped by a landscape architect.

HISTORY

Adopted by Ord. [19-M Design Standards](#) on 3/26/2020

15.18.090 Maintenance

Properties subject to site development standards or architectural standards contained in this chapter and other relevant sections of the PMC shall be maintained to continue compliance with the approved plans. Dilapidated or broken materials shall be repaired or replaced in conformance with the approved plans. Dead or unhealthy plant materials shall also be replaced in conformance with the approved plans.

HISTORY

Adopted by Ord. [19-M Design Standards](#) on 3/26/2020

15.18.110 Final Approval

Prior to a development being approved for use and a Certificate of Occupancy being issued the Community Development Director or designee shall inspect the development and ensure the approved plans have been followed and the applicable code requirements have been met. Final approval may be granted and a Certificate of Occupancy issued when the required site work is not complete if a financial guarantee has been posted in the form of a cash escrow, or cash held by the City. The amount of guarantee shall be determined by the City in consultation with the City Engineer. The financial guarantee shall grant no more than eighteen months for the developer or property owner to complete the required improvements.

HISTORY

Adopted by Ord. [19-M Design Standards](#) on 3/26/2020

15.19 Streets, Trees, Parkways, And Parking

15.19.010 Streets And Sidewalks

15.19.010.1 Applicable State Law

For State law authorizing City to lay out, alter, grade, pave, etc., streets and sidewalks, see Utah Code Annotated 10-8-8, 1953. For State law authorizing City to regulate and control sidewalks generally, see Utah Code Annotated Sections 18-8-11 and 10-8-23, 1953.

HISTORY

Adopted by Ord. [15-C](#) on 3/17/2015

15.19.010.2 Superintendent Of Streets And Sidewalks

A Perry City employee shall be designated as a Superintendent of Streets and Sidewalks, whose duty it shall be to see that the provisions of this Chapter are faithfully carried out and who shall perform such other and further duties as may be prescribed by ordinance or by City Administration from time to time.

HISTORY

Adopted by Ord. [15-C](#) on 3/17/2015

15.19.010.3 Adoption Of Minimum Standards For Public Utility And Street Improvements

There is hereby adopted by the City Council that certain document entitle "Perry City Public Works Standards and Technical Specifications," containing certain minimum standards for the construction of streets, culinary water lines, storm sewers, sanitary sewers, street intersections, street designs, details for construction of curb and gutter, sidewalk, driveways from public streets, details for private connections to public sewer and water systems and related matters and bound together with an index, not less than three (3) copies have been and are now filed in the office of the City Recorder.

HISTORY

Adopted by Ord. [15-C](#) on 3/17/2015

15.19.020 Trees And Shrubs

15.19.020.1 Purpose And Policy

It is the policy of the City that City property and private property be landscaped to enhance the natural beauty of the City, and that residents of the City be encouraged to participate in beautification efforts through installing and maintaining quality landscaping on public and private property.

HISTORY

Adopted by Ord. [15-C](#) on 3/17/2015

15.19.020.2 Definitions

For the purpose of this Section, the following terms, phrases, words, and their derivations shall have the meaning given herein. When not inconsistent with the context, words used in the present tense include the future, words in the plural number include the singular number, and words in the singular number include the plural number. The word "shall" is always mandatory and not merely directory. The following definitions are:

1. **City:** City refers to Perry City.
2. **City Forester:** The City Forester is the Superintendent of City Parks (unless otherwise designated by the Mayor).
3. **City Council:** For purposes of this Title, "City Council" means a decision (on an action item specifically listed on an agenda) by a majority of the Council in a public meeting (after a recommendation from the City Forester).
4. **Person:** Any person, firm, partnership, association, corporation, company, or organization of any kind.
5. **Shade Tree or Tree:** A tree in any public place except where otherwise indicated.

6. **Tree Planting Strip:** The area between curb or place where curb should be and the property line; or an area inside the property line where an easement is given for the purpose of permitting the planting of shade trees; also designated herein as "parking."

HISTORY

Adopted by Ord. [15-C](#) on 3/17/2015

15.19.020.3 City Forester

The following applies to the City Forester:

1. **City Forester:** There is hereby established the office of a City Forester, who (unless otherwise designated by the Mayor) shall also be the superintendent of City parks.
2. **Duties and Responsibilities:** The City Forester shall provide information and make recommendations to the City Council and supervise the execution and enforcement of the provisions of this Title and all other plans, standards, and specifications for the regulation of matters pertaining to shade trees that may be officially adopted by the City.
3. **City Forestry Standards and "Tree City USA" Standards** - the City Forester shall:
 - a. Supervise and coordinate with all City forestry volunteers;
 - b. Make recommendations for amendments to this Title;
 - c. Encourage the City to adopt an annual City Forestry budget of at least \$2.00 per capita;
 - d. Encourage the City to proclaim and observe Arbor Day each year; and
 - e. Encourage the City to adhere to all "Tree City USA" Standards.

HISTORY

Adopted by Ord. [15-C](#) on 3/17/2015

15.19.020.4 Permit Required

The following standards shall apply regarding permits for tree removal on public property:

1. **Permit Required; Exceptions:** It shall be unlawful to plant, move, remove, spray, trim, or prune out, above or below ground, disturb, alter any tree or shrub on the City parking strips, parks, or any public property, or to cause such acts to be done by others, without first obtaining a written permit from the City Council (after a recommendation from the City Forester), who shall cause such permit to be issued if, in their judgment, the work is necessary and if such work falls within the authority granted within this Title. A permit shall not be required:
 - a. To cultivate and/or irrigate; or
 - b. To complete any work required or requested by the Utah Department of Transportation, Box Elder County, or any other governmental agency.
2. **Conditions to Obtain a Permit:** As a condition to any permit to remove any public tree or shrub within public property, the City Council (after a recommendation from the City Forester) may require that the "permittee" (including nearby landowners, businesses, or other affected parties):
 - a. Pay the value of each removed tree to the City (as determined by the City Forester for a similar or pre-approved tree);
 - b. Pay the cost of tree and/or stump removal, repair or replacement of any damage to sprinkling systems or adjacent property, and related expenses caused while pursuing the work under the permit; and/or
 - c. Fully maintain the parkway or City-owned land in the future, including watering and mowing any grass, replacing sprinklers, etc.; with
 - d. Any funds collected for tree removal or damage to be earmarked for use by the City Forester to replace trees; and with
 - e. Any dispute as to valuation to be resolved by the methodology of the International Society of Arboricultural/Council of Landscape Appraisers.
3. **A Permit Affecting a Driveway or Sidewalk:** Any request submitted for approval to permit the removal of a tree for the purpose of installing new driveway access or similar change in the curb and gutter or sidewalk shall be accompanied by a sketch of the proposed change. The sketch shall be made to scale showing all proposed changes and shall include the entire frontage of the lot involved and such frontage of adjacent lots as may be required by the City Council (after a recommendation from the City Forester). The sketch shall be prepared accurately by a person who, in the opinion of the City Forester, is qualified to prepare such a sketch.

4. **Tree Policy Regarding Highway 89:** The City hereby declares a policy that trees are encouraged along the frontage of Highway 89 between 2250 South and 2700 South.
5. **Tree Policy Regarding Businesses:** The City also declares a policy that the City shall strongly take into account the concerns of any permittee that is conducting a business in close proximity to the parkway or City-owned trees or land identified in a permit.
6. **Due process and equal protection:** The City Forester, the City Council, and other City officials shall ensure that each permittee is afforded all of the rights to:
 - a. Fair notice and fair hearing (and other due process) required by law; and
 - b. Equal protection required by law, including treating similarly situated permittees in a similar manner (to avoid any arbitrary and capricious treatment).

HISTORY

Adopted by Ord. [15-C](#) on 3/17/2015

15.19.020.5 Appeal Of City Council's Decision

Any appeal from any decision of the City Council (as a land use authority) regarding this Title shall be to the Administrative Law Judge (as a land use appeal authority).

HISTORY

Adopted by Ord. [15-C](#) on 3/17/2015

15.19.020.5 Trees Located Within Public Property

The City shall assume responsibility for relieving the following conditions caused by trees or shrubs on City tree planting strips, public parks, or property:

1. Removal of dead trees or limbs or trees or limbs that, as determined by the City Forester, appear to be a hazard or liable to fall.
2. Removal of trees or limbs from trees or shrubs that have actually fallen across a street, sidewalk, or upon City property.
3. Removal of diseased or dying trees that are beyond reclamation.
4. Removal of trees or roots directly in the way of street widening projects, new curb and gutters, or sidewalk and curb repairs.
5. All pruning of trees and shrubs.

HISTORY

Adopted by Ord. [15-C](#) on 3/17/2015

15.19.020.6 Interference With City Employees And Willful Injury To Trees

The following regarding interference with City employees and willful injury to trees:

1. No person shall prevent, delay, or interfere with the City Forester or his assistants in the execution or enforcement of this Section; provided, however, that nothing herein shall be construed as an attempt to prevent a public herein on the permit or any remedy legal or equitable in any court of competent jurisdiction for the protection of property rights by the owner of any property within the City.
2. No person shall willfully injure or destroy any tree on the City tree planting strips, public parks, or other public property of the City by any means including, but not limited to, the following:
 - a. Constructing a concrete, asphalt, brick, or gravel sidewalk or otherwise filling up the ground area around any tree so as to shut off air, light, or water from the roots, except under written authority from the City Council (after a recommendation from the City Forester).
 - b. Piling building material, equipment, or other substances around any tree so as to cause injury.
 - c. Pouring any injurious matter on or around any tree, on the ground around any tree, or on any lawn or sidewalk.
 - d. Injuring any tree, tree-stake, or guard with any vehicle, animal, or in any other manner causing injury to any tree or lawn on public property.

- 3. Tree-stakes or guards may be placed around trees by property owners; provided the same are placed near a tree for the purpose of protecting or training such trees.
- 4. The City Forester shall determine when any tree roots or limbs originating on private property are interfering with the City sidewalks or property and serve notice by mailing to the owners or parties occupying such premises to either remove such tree or trim the roots of any tree in order to protect the City sidewalks from damage.

HISTORY
Adopted by Ord. [15-C](#) on 3/17/2015

15.19.020.7 Penalty

A violation of any provision of this Chapter shall be punished by fine in any sum not to exceed two hundred and ninety-nine (\$299.00) dollars or by imprisonment for a period of no longer than six (6) months or by both such fine and imprisonment. In the alternative, the City may charge a civil fine in the amount of \$100.00 per week for each violation, or as otherwise set forth in PMC 4.09 (Fee Schedules).

HISTORY
Adopted by Ord. [15-C](#) on 3/17/2015

15.19.020.8 List Of Approved Street Trees For Perry City

The following is a list of approved trees for Perry City Streets:

Common Name	Latin Name
Althea (Rose of Sharon)- treeform	Hibiscus syriacus
Ash, ‘Golden Desert’	Fraxinus oxycarpa ‘Aureaefolia’
Ash, European Mountain	Sorbus aucuparia
Box Elder, ‘Flamingo’	Acer negundo ‘Flamingo’
Cherry, Flowering ‘Kwanzan’	Prunus serrulata ‘Kwanzan’
Cherry, Flowering ‘Royal Burgundy’	Prunus serrulata ‘Royal Burgundy’
Chokecherry, ‘Schuber’ (Canada Red) -treeform	Prunus virginiana ‘Schubert’
Crabapple, ‘Bechtel’ (Klehm’s Improved)	Malus ioensis ‘Bechtel’
Crabapple, ‘Indian Magic’	Malus ‘Indian Magic’
Crabapple, ‘Snowdrift’	Malus ‘Snowdrift’
Crabapple, ‘Spring Snow’	Malus ‘Spring Snow’
Goldenchain Tree	Laburnum x watereri ‘Vossi’
Goldenchain/ Scotch Broom hybrid	Laburnocytisus adamii
Hawthorne- many varieties	Crataegus
Hornbeam, Pyramidal European	Carpinus betulus ‘Fastigiata’
Lilac, Japanese Tree	Syringa reticulata

Maple, Amur- treeform	Acer ginnala
Maple, 'Crimson Sentry'	Acer platanoides 'Crimson Sentry'
Maple, Dwarf Hedge	Acer campestre 'Compacta'
Maple, 'Pacific Sunset'	Acer truncatum x platanoides 'Warrenred'
Maple, Paperbark	Acer griseum
Maple, Tatarian	Acer tataricum
Pear, Aristocrat Flowering	Pyrus calleryana 'Aristocrat'
Pear, Chanticleer Flowering (Cleveland Select)	Pyrus calleryana 'Chanticleer'
Pear, Redspire Flowering	Pyrus calleryana 'Redspire'
Plum, Flowering- many varieties	Prunus cerasifera
Redbud, Eastern	Cercis Canadensis
Serviceberry, 'Autumn Brilliance' -treeform	Amelanchier x grandiflora
Viburnum, Nannyberry- treeform	Viburnum lentago
Viburnum, 'Pink Dawn'- treeform	Viburnum x bodnantense 'Pink Dawn'

HISTORY

Adopted by Ord. [15-C](#) on 3/17/2015

15.19.030 Parkway Between Curb And Gutter

15.19.030.1 Responsibility Of Property Owner

It shall be the responsibility of the property owner to clean, plant, maintain, etc. the City-owned utility strip (parkway) between the curb and gutter and the sidewalk. Grass, small plants, or ground cover may be planted without a permit. Any tree to be planted is by permit only as described in PMC 15.19.020.

HISTORY

Adopted by Ord. [15-C](#) on 3/17/2015

15.19.030.2 Permission To Fill With Permanent Material

Perry City will only allow the parking area to be filled in with permanent or semi-permanent material, i.e., concrete, asphalt, block, etc. with a written agreement and the following conditions:

1. Whatever material is installed is at the cost of the property owner.
2. The placement of concrete requires an expansion joint against either the sidewalk or the curb and gutter with a "cold joint" against the other face.
3. The water meter shall be place flush with the concrete of asphalt-type material fill-in.
4. There shall be a four (4') foot "block out" at fire hydrants, phone pedestals, power poles, and other utility improvements in the planter strip area.
5. If Perry City/ utility companies need to remove the material for utility repairs, etc., it is at the property owner's expense.

6. The park strip area may be excavated at any time by any public utility occupying the area. The restoration of the area is the responsibility of the public utility and/or property owner.
7. All material will be hauled away and disposed of legally at the property owner's expense.
8. Replacement will be entirely up to the property owner.

HISTORY

Adopted by Ord. [15-C](#) on 3/17/2015

15.19.030.3 Sprinklers/Watering In Parking Strip

All sprinkling devices installed or used to water plant material in the parking strip must be designed to keep water off the sidewalk.

HISTORY

Adopted by Ord. [15-C](#) on 3/17/2015

15.19.040 Health And Safety Standards

15.19.040.1 Purpose

It is the purpose of this Chapter to establish a means whereby this municipality may remove, abate, or cause the removal or abatement of "health and safety hazards," referred to herein as "hazards" (defined as including, but not limited to, injurious and noxious weeds and garbage, flammable or dangerous objects or structures pursuant to the powers granted to it by Chapter 11 of Title 10, Utah Code Annotated, 1953, as amended and pursuant to its general power to remove or abate hazards). It is hereby declared that the above conditions shall constitute a hazard when they create:

1. A fire risk;
2. A source of contamination or pollution of water, air, or property;
3. A breeding place or habitation for insects, rodents, or other forms of life; or
4. Other threats deemed harmful to human health and habitation, etc.

HISTORY

Adopted by Ord. [15-C](#) on 3/17/2015

15.19.040.2 Inspector: Office Created

The Office of Inspector is hereby created for the purpose of administering the provisions of this Chapter and the powers delegated to this municipality by such statutes subject to such control and review as the City Council may, from time to time, direct. The Mayor, with the concurrence of the City Council, may appoint an Inspector and Assistant Inspectors (if needed); or in the alternative, the Mayor, without City Council approval, may designate a current employee to be the Inspector (or an Assistant Inspector).

HISTORY

Adopted by Ord. [15-C](#) on 3/17/2015

15.19.040.3 Assistant Inspectors: Office Created

The powers and duties of the Assistant Inspectors shall be the same as those of the Inspector unless otherwise specified by resolution.

HISTORY

Adopted by Ord. [15-C](#) on 3/17/2015

15.19.040.4 Inspector: General Duties

The Inspector is hereby authorized and directed to inspect and examine real property (or at least to respond to complaints) situated within the municipality for the purpose of determining whether or not it contains hazards, and for the purpose of determining whether or not the existence of dangerous conditions creates a hazard.

HISTORY

Adopted by Ord. [15-C](#) on 3/17/2015

15.19.040.5 Inspector: Duties If Conditions Exist

If the Inspector concludes that one or more hazards exist, in whole or in part, he/she shall:

1. Ascertain the names of the owners and occupants and descriptions of the premises where such hazards exist.
2. Serve notice in writing upon the owner and occupant of such land, either personally or by mailing notice, postage prepaid, addressed to the owner and occupant at their last-known post office address, as disclosed by the records of the County Assessor, or as otherwise ascertained, requiring such owner or occupant, or both, as the case may be, to remove or abate the hazard within such time as the Inspector may designate, which shall not be less than ten (10) days from the date of service of such notice.
3. Inform the owner, occupant, or both, by means of such notice or any attached document, that in the event he/she disagrees with the determination of the Inspector and does not wish to remove or abate the hazard within the time designated, he/she may request in writing a hearing before the Administrative Law Judge at a time and place to be set by the Administrative Law Judge.

HISTORY

Adopted by Ord. [15-C](#) on 3/17/2015

15.19.040.6 Type Of Mail Service Allowed

For purposes of this Chapter, notices and decisions shall be deemed delivered when mailed by regular U.S. Mail (or other delivery service approved by the U. S. Postal Service) addressed to the property owner's or occupant's last-known address.

HISTORY

Adopted by Ord. [15-C](#) on 3/17/2015

15.19.040.7 Request For A Hearing

In the event the owner or occupant requests a hearing, City Staff shall set the time and place for the Administrative Law Judge to hear such objections and the City Recorder shall notify such owner or occupant, in writing, of the time and place at which he/she may appear and be heard. Such hearings shall not be heard less than five (5) days from the date of service or mailing of such notice. The following regarding the Proof of Service Notice and the Hearing:

1. **Proof of Service Notice:** One notice shall be deemed sufficient on any lot or parcel of property for the entire season of weed growth during that year. The Inspector shall make proof of service of such notice (a copy of the notice to the owner/occupant shall suffice) and file the same in the office of the City Recorder.
2. **Hearing:** At the written request of an owner or occupant ordered to remove or abate a hazard(s) from his/her real property, the Administrative Law Judge shall conduct an informal hearing (which need not be reported) wherein such owner or occupant may present such evidence and argument as is pertinent to the question of whether or not the removal or abatement of such hazard(s) is properly within the purview of this Chapter. The Administrative Law Judge shall also permit the presentation of evidence and argument by the Inspector and other interested parties. Thereafter, within no more than ten (10) days, the Administrative Law Judge shall render a written decision, a copy of which shall be mailed to or served upon the owner or occupant by the Inspector.

HISTORY

Adopted by Ord. [15-C](#) on 3/17/2015

15.19.040.8 If Administrative Law Judge Upholds Inspector's Decision

In the event the decisions of the Administrative Law Judge upholds the determination of the Inspector, the notice originally given by the Inspector shall be deemed to be sufficient to require the owner or occupant to remove or abate the hazard(s) identified and he/she shall have up to ten (10) days from the date of notice of the decision within which to conform thereto.

HISTORY

Adopted by Ord. [15-C](#) on 3/17/2015

15.19.040.9 If Administrative Law Judge Overrules Or Modifies Inspector's Decision

In the event that the decisions of the Administrative Law Judge either overrules or modifies the determination of the Inspector, the written decision of the Administrative Law Judge shall apprise him of that fact and set forth the details and extent to which the owner or occupant must make removal or other abatement of the hazard(s) identified, if any. The owner or occupant shall be required to conform to the decision of the Administrative Law Judge (which shall be deemed to be the modified decision of the Inspector), and the owner/occupant shall have up to ten (10) days from the date of notice of the decision within which to conform thereto.

HISTORY

Adopted by Ord. [15-C](#) on 3/17/2015

15.19.040.10 Inspector To File Amended Notice And Proof Of Service

The Inspector shall make proof of service of such notice (a copy of the notice to the owner/occupant shall suffice) and file the same in the office of the City Recorder.

HISTORY

Adopted by Ord. [15-C](#) on 3/17/2015

15.19.040.11 Failure To Comply With Notice And Proof Of Service

If any owner or occupant described in such notice or decision shall fail or neglect to conform to the requirements thereof, the Inspector may:

1. Cause such hazards to be removed or abated; and
2. Prepare an itemized statement of all expenses incurred in the removal or abatement of such hazards.

If the Inspector prepares a statement, he/she shall mail a copy thereof to the owner or occupant, or both, demanding payment within thirty (30) days of the date of mailing.

HISTORY

Adopted by Ord. [15-C](#) on 3/17/2015

15.19.040.12 City's Options After Failure To Make Payment

In the event the owner or occupant fails to make payment of the amount set forth in such statement to the Municipal Treasurer within such thirty (30) days, the Inspector may:

1. Cause suit to be brought in an appropriate court of law;
2. Place a lien on the property; and/or
3. Pursue any other remedy available by law, including, but not limited to, those indicated in Utah Code Annotated 10-8-23 and 10-11-1 et seq.

HISTORY

Adopted by Ord. [15-C](#) on 3/17/2015

15.19.040.13 Collection By Lawsuit

In the event collection of expenses of removal and abatement are pursued through the courts, the City shall sue for and receive judgment for all such expenses of removal and abatement, together with reasonable attorney's fees, interest, and court costs and shall execute upon such judgment in the manner provided by law.

HISTORY

Adopted by Ord. [15-C](#) on 3/17/2015

15.19.040.14 Applicable State Law

For state law authorizing the City to require property owners to remove or abate weeds from property and in front thereof, see Utah Code Annotated 10-8-23 et seq. and 10-11-1 et seq., said sections being incorporated herein by reference (and which shall supersede any contradictory provision of this Chapter).

HISTORY

Adopted by Ord. [15-C](#) on 3/17/2015

15.19.050 General Parking Design

15.19.050.1 Intent And Purpose

The intent and purpose of this Chapter is to:

1. Insure functional, visually pleasing, and safe parking areas.
2. Regulate parking of oversized or commercial vehicles in residential areas.
3. Regulate parking of recreational vehicles to eliminate nuisances associated with blocking sight lines or vehicles used as dwellings.
4. Allow for emergency access and maintenance of public streets and right-of-ways.

HISTORY

Adopted by Ord. [15-C](#) on 3/17/2015

15.19.050.2 Off-Street Parking: General Provisions

The following regarding off street parking general provisions:

1. These parking requirements pertain to all buildings, new construction, or existing structures and uses that require the Design Review or Conditional Use approval process in order to obtain a business license or building permit.
2. These parking regulations do not apply to existing buildings or structures damaged by fire, earthquake, or other calamities or acts of God requiring a building permit for repairs or rebuilding.
3. Approval of any parking layout is conditional to ongoing maintenance of the approved concept.
4. All proposed hard surface development areas may be subject to storm water impact fees.
5. Design Review Site Plan requirements shall be followed regarding graphic standards for review and will include detailed drawings of construction techniques, specifications, and grading and drainage patterns.
6. No required parking space for an existing building or which is hereafter provided any building for the purpose of complying with the provisions of this Chapter shall be considered as providing a parking space for any other building.

HISTORY

Adopted by Ord. [15-C](#) on 3/17/2015

15.19.050.3 Parking Stall Chart: Commercial

The minimum number of off street parking stalls for commercial development shall be as follows: Amount of parking required is one stall per:

Church, Mortuary	6 Seats
Hospital, Nursing Home	Patient Room
Office, Professional Business	250 sq.ft. of Building
College	3 Students
High School	5 Students
Other School	8 Students
Theater, Auditorium	6 Seats
Athletic Fields, Courts	3,000 sq.ft. of Facility
Stadium	4 Seats
Golf Course	10,000 sq.ft. of Course
Restaurant	4 Seats
Shopping Center	200 sq.ft. of Building
Warehouse-Wholesale	250 sq.ft. of Building
Manufacturing/Industry	250 sq.ft. of Building
Retail	200 sq.ft. of Building
Furniture/Appliance Sales	250 sq.ft. of Building
Hotel, Motel, Bed and Breakfast	Unit/Room

HISTORY

Adopted by Ord. [15-C](#) on 3/17/2015

15.19.050.4 Parking Stall Chart: Residential

Single Family Dwelling	2 Stalls Per Residence
Multi-Family Dwelling	2 1/2 Stalls/Unit (ex. 5 Parking Stalls Required for a Duplex)
Apartments	2 Stalls Per Unit
Mobile Home Court	2 Stalls Per Unit

HISTORY

Adopted by Ord. [15-C](#) on 3/17/2015

Amended by Ord. [21-A Parking Regulations](#) on 1/28/2021

15.19.050.5 Parking Relationship To Proposed User Considerations

The following regarding parking relationships to proposed use considerations:

1. Distance between all stalls and all public and private building or use entry points in relationship to potential uses.
2. Physical hardship between parking and use. Not limited to extreme elevation change or limited handicap access.
3. Orientation of and provisions for aisles to minimize pedestrian/vehicle conflicts.
4. Numbers of parking spaces shown in the preceding chart indicate the minimum number of stalls that may be required during the Design Review procedure, additional stalls or open space or buffer areas may be required due to actual use and potential employee/client numbers.

HISTORY

Adopted by Ord. [15-C](#) on 3/17/2015

15.19.050.6 Parking Area Functional Classifications

The following regarding functional parking area considerations:

1. Aisle width and directional flow in relationship to stall size and layout angle.
2. Traffic patterns and parking access in relationship to potential conflicts (refer to Utah Highway Department Access Policy if property is fronting Highway 89).
3. Parking areas that utilize Highway 89 for access may be required to meet specific UDOT Standards.
4. Use of adequate turning radii and turn around potential. Emergency vehicle access including fire and loading zones.
5. Associated use integration including but not limited to locations of services and dumpster space requirements.
6. Snow removal and area for piling snow.

HISTORY

Adopted by Ord. [15-C](#) on 3/17/2015

15.19.050.7 Parking Layout And Concept Design Considerations

The following regarding parking layout and concept design considerations:

1. **Use of Preferred Concept:** Small scattered-lot parking areas as opposed to large dominating parking lots.
2. **Use of Preferred Layout:** ninety (90) degree (perpendicular) parking stalls in relationship to twenty four (24') foot wide two-way aisles.
3. **Use of Preferred Stall Size:** 9'x19' with painted lines on sides and stops. Consideration will be given to allow twenty (20%) percent of required stalls to be compact size (8'x16') if located in non-critical areas and proper instructional signs are posted.
4. Handicap stalls (12'x19') will be required at no less than one (1) per fifty (50) stalls with a minimum of one (1). Location of handicap stalls will be at the closest proximity to entrances.
5. Other concepts and layouts may be considered if physical characteristics of the site limit the design potential.
6. Parking provided for any building or use to meet the requirements of this Chapter may not be considered as providing parking for any other building or use, although consideration may be given to allow stall number reductions to joint use parking areas if variations in peak use periods exist.

HISTORY

Adopted by Ord. [15-C](#) on 3/17/2015

15.19.050.8 Visual Impact Design Considerations

The following considerations regarding visual impact design:

1. All proposed parking areas shall have landscaping to minimize potential negative visual impact as required by the Perry City Landscape Policy.
2. Buffer planting areas shall be a minimum of four (4') feet wide at the perimeter of parking areas.
3. Buffer planting areas are required within all parking areas including row ends (four (4') foot minimum width), between rows (six (6') foot minimum width every other row minimum) and between stalls (four (4') foot minimum widths ever twelve (12) stalls minimum).
4. A dumpster or other garbage collection system is required. All garbage collection systems shall be in an enclosed, sight obscuring, fenced area that is a minimum of six feet tall.
5. Where feasible, parking shall be to the rear of the building or development.

HISTORY

Adopted by Ord. [15-C](#) on 3/17/2015

Amended by Ord. [19-C Multi-Family Housing](#) on 5/23/2019

15.19.060 Recreational Vehicle Parking

15.19.060.1 Definitions

The following definitions within this Chapter:

1. **Trailer House:** As used in this ordinance, the term shall include any trailer house, trailer coach, motor home, auto home, camp trailer, camper, enclosed trailer, boat trailer, camperette, camp car, or any vehicle that can be used for living or sleeping purposes or conveyance of other vehicles which is equipped with wheels or similar devices for the purpose of transporting the unit from place to place by motor power or by other means.
2. **Trailer Park:** An area set aside for the commercial use of renting space for the parking of a trailer house or trailer which may or may not provide connections to Perry City utilities.
3. **Mobile Home Park:** Property or spaces designated and rented or owned for the parking of mobile homes or trailer houses that are permanently installed, connected to Perry City utilities and approved for occupancy by Perry City.

HISTORY

Adopted by Ord. [15-C](#) on 3/17/2015

15.19.060.2 Regulations

The following regarding regulations within this Chapter:

1. No person shall use a trailer house for sleeping or living purposes or both sleeping and living purposes within Perry City for any period exceeding five (5) days, in a thirty (30) day period, except in a mobile home park or trailer park.
2. Trailer houses used for temporary dwellings for visitors of residents or other vehicles as defined in this ordinance, parked within Perry City, shall be located upon the premises of the owner or person being visited and placed at least fifteen (15') feet from the curb or edge of the street.
3. The removal of the wheels for the setting of a trailer house on posts or footings shall not be considered as removing said trailer house from the regulations affecting trailer houses.
4. It shall be unlawful for any person occupying or using any trailer house within Perry City to use any toilet, sink, lavatory, or similar equipment therein unless and except the same is self-contained or connected to the public sewer or an approved septic tank in accordance with the ordinances of Perry City.
5. There shall be no trailer park, mobile home park, or RV camp established or operated within Perry City unless the same shall have fully complies with all the laws and regulations of the State of Utah and City of Perry pertaining to the establishment and operation of such establishments.

HISTORY

Adopted by Ord. [15-C](#) on 3/17/2015

15.19.060.3 State Of Emergency Exception

The prohibitions provided in this Chapter shall not apply to the parking of any over-sized vehicle or trailer house needed in association with the handling of or providing aid during any state of emergency legally and properly declared to exist within Perry City.

HISTORY

Adopted by Ord. [15-C](#) on 3/17/2015

15.19.080 Penalties, Snowstorm Parking, And Applicability To Other Ordinances

15.19.080.1 Penalties

Any person convicted of a violation of this ordinance shall be deemed guilty of a Class 'C' Misdemeanor and shall be punishable by a fine of no more than \$299.00 or by imprisonment for no more than sixty (60) days or both. Each day of violation shall constitute a separate offense.

HISTORY

Adopted by Ord. [15-C](#) on 3/17/2015

15.19.080.2 Parking Vehicles On Streets After Snowstorm

It shall be unlawful for any person to park or leave any vehicle unattended for a period of forty eight (48) hours after any freshly fallen snow on the streets of the City. Such period is necessary for the Public Works Department to remove snow from the City streets (see PMC 10.17.030(1)).

HISTORY

Adopted by Ord. [15-C](#) on 3/17/2015

15.19.080.3 Applicability To Other Ordinances

For the applicability of this Chapter to other ordinances, see also PMC Title 10, Transportation Code.

HISTORY

Adopted by Ord. [15-C](#) on 3/17/2015

15.21 Streetlight Regulations

15.21.010 Intent And Purpose

15.21.010.1 Purpose

Streetlights increase safety, provide security and benefit everyone. New lighting technologies have produced lights that are extremely powerful. These types of lighting could be improperly installed so that they create problems of excessive glare, light trespass, and higher energy use. Excessive glare can be annoying and may cause safety problems. Light trespass reduces everyone's privacy. Higher energy use results in increased costs for everyone. There is a need for a streetlight ordinance that provides for the benefits and reduces the potentially negative effects of streetlights. Appropriately regulated and properly installed streetlights will contribute to the safety and welfare of the residents of Perry City.

HISTORY

Adopted by Ord. [15-C](#) on 3/17/2015

15.21.010.2 Intent

This ordinance is intended to reduce the problems created by improperly installed and/or undesirable streetlights. It is intended to eliminate problems of glare, minimize light trespass and help reduce the energy and financial costs of streetlights by establishing pole heights and light fixture types that are permitted. Streetlights should be installed with the idea of being a "good neighbor" with attempts to keep unnecessary direct light from shining onto abutting properties.

HISTORY

Adopted by Ord. [15-C](#) on 3/17/2015

15.21.020 General Provisions

15.21.020.1 City Engineer To Accept Or Reject Proposed Installation Plan

The Perry City Engineer has the authority to accept or reject the proposed streetlight installation plan submitted by sub-contractors. Sub-contractors must have an approved streetlight plan before beginning work in a proposed subdivision.

HISTORY

Adopted by Ord. [15-C](#) on 3/17/2015

15.21.020.2 Most Restrictive Provisions Applies

Where any provision of federal, state, county or city statutes, codes, or laws conflicts with any provision of this code, the most restrictive shall govern unless otherwise regulated by law.

HISTORY

Adopted by Ord. [15-C](#) on 3/17/2015

15.21.020.3 Installation Of Decorative Lighting By Design Review

Installation of decorative lighting may be approved by design review of the Planning Commission.

HISTORY

Adopted by Ord. [15-C](#) on 3/17/2015

15.21.020.4 Compliance With Public Works Standards Required

All street lighting design and installation shall comply with Perry City Public Works Standards for Development, Design, & Construction.

HISTORY

Adopted by Ord. [15-C](#) on 3/17/2015

15.21.030 Penalties

15.21.030.1 Available Penalties

Available penalties are set forth in PMC 15.01.030.

HISTORY

Adopted by Ord. [15-C](#) on 3/17/2015

15.23 Landscape Regulations

15.23.010 Intent And Purpose

15.23.010.1 Primary Purpose

The primary goal of these regulations is to protect existing single-family uses and single-family zones from the potential negative impact from all other potential uses.

HISTORY

Adopted by Ord. [15-C](#) on 3/17/2015

15.23.010.2 Intent

The main intent of these regulations is to insure all development and growth is safe, functional and visually pleasing.

HISTORY

Adopted by Ord. [15-C](#) on 3/17/2015

15.23.010.3 Reasons For Legislation

The policy of Perry City is not to dictate the design style of any development, but to encourage creative landscaping concepts that meet basic standards as defined by this document.

HISTORY

Adopted by Ord. [15-C](#) on 3/17/2015

15.23.010.4 Applicability

These regulations do not apply to single-family dwellings.

HISTORY

Adopted by Ord. [15-C](#) on 3/17/2015

Amended by Ord. [19-C Multi-Family Housing](#) on 5/23/2019

15.23.020 Plan Preparation And Standards For Review

15.23.020.1 Design Plan And Preparation

Landscape and irrigation plans must be prepared by a Licensed or professional Landscape Architect or designer, and approved by the Planning Commission. Plans that do not show sufficient detail or include basic specifications will be rejected.

HISTORY

Adopted by Ord. [15-C](#) on 3/17/2015

15.23.020.2 Design Plan Submission

Landscape and irrigation plans must be submitted with the general architecture and engineering plans for review before the scheduled Planning Commission meetings.

HISTORY

Adopted by Ord. [15-C](#) on 3/17/2015

15.23.020.3 Landscape And Irrigation Elements

Landscape and irrigation elements must be guaranteed by the owner for one year after final acceptance by Perry City.

HISTORY

Adopted by Ord. [15-C](#) on 3/17/2015

15.23.020.4 Planning Commission Requests And Fees

The Planning Commission may at any time request review of plans by a consulting landscape architect. All professional review fees will be paid by the developer.

HISTORY

Adopted by Ord. [15-C](#) on 3/17/2015

15.23.030 Minimum Landscaped Area Requirements

15.23.030.1 Minimum Landscaped Area Requirements

The criteria for minimum landscaped area requirements are:

Multi-Family Residential*	30% of Site
Institutional	20% of Site
Commercial Zones NC 1,2,3	15% of Site
Commercial 1	10% of Site
Interstate Commercial*	10% of Site
Planned Commercial*	By Design Review
Industrial	5% of Site
Pointe Perry Commercial*	By Design Review

*Placement of landscaping will be by Design Review.

HISTORY

Adopted by Ord. [15-C](#) on 3/17/2015

Amended by Ord. [22-J Subdivision Amendments](#) on 8/25/2022

15.23.030.2 Plant Material Requirements

The plant material requirements are:

1. Three (3) Trees per 1000 Square Feet of required landscape.
2. Six (6) Shrubs per 1000 Square Feet of required landscape.

HISTORY

Adopted by Ord. [15-C](#) on 3/17/2015

15.23.030.3 Plant Material Size Requirement

The plant material size requirements are:

1. Deciduous trees must be 2" caliper minimum size.
2. Evergreen trees must meet six (6') foot height minimum size.
3. Shrubs must be at minimum 50% 5 Gal., and 50% 2 Gal.

HISTORY

Adopted by Ord. [15-C](#) on 3/17/2015

15.23.040 Specific Landscape Design And Site Planning Criteria

15.23.040.2 Distance Requirement From Pavement To Street Or Parking Area

A 10' minimum landscape width between edge of pavement of any parking area or access lane and street is required.

HISTORY

Adopted by Ord. [15-C](#) on 3/17/2015

15.23.040.3 Fence Requirement

A 6' solid masonry or solid vinyl fence (or as determined by Design Review) must be utilized to protect and buffer any single family residential use or zone from any other use. The installation of the fence is the responsibility of the owner/developer who is creating the need for the buffer. (See Fencing Ordinance, PMC 15.25.)

HISTORY

Adopted by Ord. [15-C](#) on 3/17/2015

15.23.040.4 Safe Sight Line Requirement

Landscape design consideration must not create safe sight line (as defined by Perry City Land Use Ordinances) problems for vehicles or pedestrians at intersecting streets, within parking lots and at drive access points.

HISTORY

Adopted by Ord. [15-C](#) on 3/17/2015

15.23.050 General Landscape Design Considerations

15.23.050.1 Definition

The term landscape area refers to the areas set aside for lawn, trees, shrubs, perennials, annuals, and ground cover. Recreation amenities including, but not limited to, sports courts, play areas, swimming pools, and gazebos may be allowed as part of the sq. ft. requirement for landscaping

HISTORY

Adopted by Ord. [15-C](#) on 3/17/2015

15.23.050.2 Storm Water Detention Basins And Special Areas

Storm water detention basins must be landscaped and may be allowed as part of the sq. ft. required for landscaping by design review. Special hard landscape areas such as courtyards and plazas may be allowed as part of the sq. ft. required for landscaping by design review.

HISTORY

Adopted by Ord. [15-C](#) on 3/17/2015

15.23.050.3 City Parkway Strips

City parkway strips between street side curb and sidewalks will not be allowed as part of the sq. ft. requirement for landscaping. However, these areas must be landscaped and maintained by the developer/owner.

HISTORY

Adopted by Ord. [15-C](#) on 3/17/2015

15.23.050.4 Plant Material For Landscape Design

All plant material must be sustainable for all of the specific climatic conditions of the site and plan.

HISTORY

Adopted by Ord. [15-C](#) on 3/17/2015

15.23.060 Enforcement And Inspection

15.23.060.1 Certificate Of Temporary Occupancy

A certificate of temporary occupancy may be issued prior to installation of the approved landscape when seasonal weather conditions exist. A written guarantee of completion deadline and appropriate surety will be required which may include escrow accounts as determined appropriate by the Planning Commission.

HISTORY

Adopted by Ord. [15-C](#) on 3/17/2015

15.23.060.2 Final Inspection Regulation

A final inspection for regulation compliance must be scheduled by the owner/developer with a representative of Perry City. This will activate the required landscape one-year guarantee period.

HISTORY

Adopted by Ord. [15-C](#) on 3/17/2015

15.23.060.3 Landscape Change Approval

No landscape element shall be removed or changed by the developer/owner after plan approval.

HISTORY

Adopted by Ord. [15-C](#) on 3/17/2015

15.23.060.4 Landscape Maintenance Review

Landscaping must be maintained and will be reviewed during the annual business license review.

HISTORY

Adopted by Ord. [15-C](#) on 3/17/2015

15.25 Standards For Residential Fences, Pools, And Miscellaneous Structures

15.25.010 Standards For Residential Fences

15.25.010.1 Front, Side, And Rear Yards

Except as otherwise stated in PMC 15.25.010.3 and PMC 15.25.010.4, no fence, hedge or other similar structure shall be erected in any required front yard of a lot to a height in excess four feet (4'); nor shall any fence or other similar structure be erected in any side or rear yard to a height in excess of six feet (6').

HISTORY

Adopted by Ord. [15-C](#) on 3/17/2015

15.25.010.2 Corner Lots

No fence, hedge or other similar structure shall be erected to a height in excess of four feet (4') in the rear or side yard of a corner lot, which lies adjacent to:

1. a vacant lot; and/or
2. a driveway or garage access located on an adjoining lot.

HISTORY

Adopted by Ord. [15-C](#) on 3/17/2015

15.25.010.3 Obstruction To View

In all zones, no obstruction to view in excess of two feet (2') in height as measured from the top of the curb or edge of the hard street surface, shall be placed on any corner lot within a triangular area formed by the street property lines and a line connecting them at points thirty feet (30') from the intersection of the street lines, or at any other location which would obstruct the vision of street and regulatory signs or oncoming vehicles by automobile drivers, except a reasonable number of trees pruned high enough to permit an unobstructed view of street and regulatory signs or oncoming vehicles by automobile drivers.

HISTORY

Adopted by Ord. [15-C](#) on 3/17/2015

Amended by Ord. [19-H Lot Requirements](#) on 10/10/2019

15.25.010.4 Measurement Where Elevation Is Different

Where a fence is erected upon a retaining wall or where for other reasons there is a difference in the elevation of the surface of the land on either side of a fence, the height of a fence shall be measured from a point halfway between the top of the retaining wall and the land on the lower side or from the average elevation of the surface of the land on either side of the fence, but nothing herein contained shall be construed to restrict a fence to less than four feet (4') in height measured from the surface of the land on the side having the highest elevation.

HISTORY

Adopted by Ord. [15-C](#) on 3/17/2015

15.25.010.5 Special Exception For Height Requirements For Residential Fences

A special exception for height requirements for residential fences:

1. Shall be required, for fences surrounding a swimming pool, as per PMC 15.25.020.3(4), or for any other attractive nuisance or other circumstances shown to require greater height for health, safety, security, or for similar reasons, and may not be denied if it is possible to comply with all laws, ordinances, and codes;
2. May be allowed by the land use authority, for fences surrounding a tennis court, or for any other circumstances shown to require greater height to prevent intrusion into the property of adjacent landowners, or for similar reasons, and may be denied if it is determined that:
 - a. It is not possible to comply with all laws, ordinances, codes, and other legal requirements;
 - b. One or more adjacent landowners is/are opposed to the construction of the fence; or
 - c. The fence will not prevent intrusion into the property of adjacent landowners; and
3. Shall take into account the rights of adjacent landowners.

HISTORY

Adopted by Ord. [15-C](#) on 3/17/2015

15.25.020 Standards For Residential Swimming Pools

15.25.020.1 Pool As An Accessory Use

A residential/family swimming pool shall be permitted in the rear or side of a dwelling as an accessory use provided the requirements of PMC 15.25.020.2 and PMC 15.25.020.3 are met.

HISTORY

Adopted by Ord. [15-C](#) on 3/17/2015

Amended by Ord. [22-K Swimming Pool Regulations](#) on 10/27/2022

15.25.020.2 Location

The location of such family swimming pool or accessory machinery shall be not less than the required setbacks for an accessory building in that zone.

HISTORY

Adopted by Ord. [15-C](#) on 3/17/2015

Amended by Ord. [22-K Swimming Pool Regulations](#) on 10/27/2022

15.25.020.3 Fence And Lights

An outside family pool shall be:

1. Enclosed by a fence structurally adequate to resist wind load in complete conformity with the International Building Code (IBC); and

2. Non-climbable; and
3. Enclosed with a child-proof gate; and
4. No less than six feet (6') in height, and a special exception for height requirements for residential fences shall be required. Any lights used to illuminate said swimming pool or its accessories shall be so arranged as to reflect or shine the light away from the adjoining premises.

HISTORY

Adopted by Ord. [15-C](#) on 3/17/2015

15.27 Sign Regulations

15.27.010 Purpose And General Provisions

15.27.010.1 Purpose

The purposes of this Chapter are to:

1. Promote the public health, safety and welfare;
2. Reduce potential hazards to motorists and pedestrians;
3. Allow each individual Business to clearly identify itself and the goods and services which it offers in a clear and distinctive manner;
4. Encourage Sign legibility and clarity by the elimination of excessive and confusing Sign displays;
5. Prevent confusion of Signs with traffic signage and regulation;
6. Preserve and improve the appearance of the City and its heritage;
7. Create a unique and attractive environment for residents and visitors;
8. Safeguard and enhance property values;
9. Supplement and be a part of the zoning regulations of the City.

HISTORY

Adopted by Ord. [15-C](#) on 3/17/2015

Adopted by Ord. [20-T Signs](#) on 5/12/2021

15.27.020 General Provisions

15.27.020.1 Conformity And Removal Of Signs

If a Sign is placed on City property or right of way, or if a Sign does not conform with the requirements of the PMC, or if the construction, design, manner of use, or method of anchoring or supporting any Sign makes such Sign unsafe, then the City may proceed in any manner it deems necessary to cause the removal, rebuilding, or replacement of the Sign, or to otherwise cause the Sign to conform and/or be made safe. Where immediate action is deemed necessary to protect life, limb, or property, and where the Owner of a Sign fails to remove or repair such Sign within a specified time established by notice from the City, the City may remove such Sign and extend a statement of expenses incurred in such removal to the Persons who caused the Sign to be erected and/or maintained.

HISTORY

Adopted by Ord. [15-C](#) on 3/17/2015

Adopted by Ord. [20-T Signs](#) on 5/12/2021

15.27.020.3 Land Use Authority

The Land Use Authority for Signs shall be the Community Development Director or designee.

HISTORY

Adopted by Ord. [20-T Signs](#) on 5/12/2021

15.27.020.4 Building Code Requirements

All Signs must meet the requirements of the building codes adopted by the State of Utah and obtain a building permit as determined by the Building Official.

HISTORY

Adopted by Ord. [15-C](#) on 3/17/2015

Adopted by Ord. [20-T Signs](#) on 5/12/2021

15.27.020.6 State And/Or Federal Sign Requirements

Any Sign on State or Federal property, or Signs within state right of way or state transportation corridors, must meet all of that agency's requirements (in addition to this Title).

HISTORY

Adopted by Ord. [15-C](#) on 3/17/2015

Adopted by Ord. [20-T Signs](#) on 5/12/2021

15.27.030 Location

15.27.030.1 Setbacks And Location Requirements

Signs shall not be erected, placed, or located within:

1. Five (5) feet from Real Property boundaries;
2. The established thirty (30) foot site triangle on any Street corner; and
3. Any City right of way or any public Street, sidewalk, or bicycle path unless expressly authorized by the City or the Utah Department of Transportation, as applicable, and in accordance with the PMC.

City employees may remove any Sign located in violation of this Subsection.

The Subsection shall not apply to duly approved Attached Signs.

HISTORY

Adopted by Ord. [15-C](#) on 3/17/2015

Adopted by Ord. [20-T Signs](#) on 5/12/2021

15.27.030.2 Window Sign Location

No Sign located in a window shall exceed thirty (30%) percent of the total area of the window through which they are visible.

HISTORY

Adopted by Ord. [15-C](#) on 3/17/2015

Adopted by Ord. [20-T Signs](#) on 5/12/2021

15.27.030.4 Additional Location Restrictions

With the exception of directional signs (see definition in PMC 15.27.010.2(7)) owned by the city or other governmental agencies, no sign shall be erected or placed within any City right of way or any public street, sidewalk, or bicycle path. The city employees may remove any sign located within these areas.

HISTORY

Adopted by Ord. [15-C](#) on 3/17/2015

15.27.040 General Rules And Regulations

15.27.040.1 Noise

It shall be unlawful to use any radio, whistle, bell or any other sound or noise-making device in connection with any Sign, with the exception of a low-decibel noise incidental to the operation of a motorized sign.

HISTORY

Adopted by Ord. [15-C](#) on 3/17/2015

Adopted by Ord. [20-T Signs](#) on 5/12/2021

15.27.040.2 Prohibited Materials And Attachments

No Sign shall be painted, pasted, or glued or otherwise affixed by means of adhesive substance directly on any wall or roof. No paper or cloth Sign shall be tacked directly on to any wall or roof.

HISTORY

Adopted by Ord. [15-C](#) on 3/17/2015

Adopted by Ord. [20-T Signs](#) on 5/12/2021

15.27.040.3 Prohibited Signs

The following is a list of prohibited signs:

1. Any Sign which contains obscene material, or material, which taken as a whole, appeals to prurient interest.
2. Any sign not expressly permitted by the PMC.
3. Any Sign erected over any public right of way, Street, or alley, except as herein expressly provided.
4. Signs placed on vehicles, trailers, containers, etc., which are parked or located for the primary purpose of displaying said Sign.
5. Any Sign which:
 - a. Blocks or obscures necessary vision or line of sight for motorists, pedestrians, or other traffic;
 - b. Interferes with power or telecommunications lines;
 - c. Interferes with a public utility easement; or
 - d. Otherwise constitutes a significant health or safety hazard.

HISTORY

Adopted by Ord. [15-C](#) on 3/17/2015

Adopted by Ord. [20-T Signs](#) on 5/12/2021

15.27.040.4 Lighting And Electronic Message Displays

Purpose and Intent:

The purpose of regulating Sign illumination is to prevent light trespass and provide clear illumination of Signs without causing potential hazards to pedestrians and vehicles.

Sign Lighting in General:

1. No lighting shall be installed in any way which will permit direct rays of such light to penetrate onto any adjoining residential property, public right of way, or in any manner which constitutes a nuisance.
2. Lighting shall not flash or move in any manner.
3. The intensity of Sign lighting shall not exceed that necessary to illuminate and make legible the Sign from the adjacent travel way or closest right of way.
4. Externally lit Signs shall be illuminated only with steady, stationary, shielded light sources directed solely onto the Sign without causing glare. Light bulbs and lighting tubes shall be shielded so as to not be directly visible from adjacent public right of ways or residential properties.
5. No Sign lighting or illumination shall be erected or maintained closer than seventy-five (75) feet from any residential use or zone.

Electronic Message Display Signs:

1. Shall not be erected or maintained closer than seventy-five (75) feet from any residential zone or use.
2. Electronic Message Display Sign Area shall be subtracted from the allowable square except for Subdivision Signs footage for signage and shall account for no more than fifty percent (50%) of the total allowable Sign size.
3. Signs must not exceed a maximum illumination of 5,000 nits (candelas per square meter) during daylight hours and a maximum illumination of 500 nits (candelas per square meter) between dusk and dawn as measured from the Sign's face at maximum brightness. (or as an alternative: Light emitted from these Signs shall not exceed 3.0 lux at maximum brightness when viewed from a distance of 15 meters.)
4. An Electronic Message Display Sign may not flash or scintillate except to change the displayed wording to different wording. Any display on the electronic message center must remain lighted for at least two (2) seconds.
5. An Electronic Message Display Sign located within five hundred feet (500') of a residential zoned area or use, may not operate between the hours of ten o'clock (10:00) P.M. and six o'clock (6:00) A.M. of the following day.
6. Electronic Message Display Signs are not permitted as an Off-Premise Sign.

HISTORY

Adopted by Ord. [15-C](#) on 3/17/2015

Adopted by Ord. [20-T Signs](#) on 5/12/2021

15.27.040.5 Sign Maintenance

The following are requirements for Sign maintenance:

1. Signs shall be maintained in good visual appearance and structural conditions at all times and:
 - a. Signs "tagged" by malicious painting or marking or otherwise vandalized shall be repaired within seven (7) Days;
 - b. Signs that are physically damaged in a way that creates any safety concern shall be removed or repaired immediately; and
 - c. Signs that are physically damaged but do not present a safety concern shall be repaired within six (6) months of the date of such damage;
2. Signs that are not maintained shall be considered Abandoned and a Public Nuisance in accordance with PMC 8.02 and shall be removed by the Owner or by the City at the expense of the Owner according to PMC 8.02; and
3. The City shall in no way be liable for negligence or failure of the Owner (or the Person responsible) to maintain any Sign.
4. Abatement. Nothing in this Chapter shall be construed to prevent the City from conducting lawful abatement of any sign found in violation of the PMC.

HISTORY

Adopted by Ord. [15-C](#) on 3/17/2015

Adopted by Ord. [20-T Signs](#) on 5/12/2021

15.27.050 Sign Types, Standards, And Design

15.27.050.1 Table Of Regulations

1. Signs permitted within the A, C, C1, M/I, and M/I L zones.

Sign Type	Maximum Size	Maximum Height	Notes
Off-Premise	700 sq. ft.	40 ft.	Permitted only within 200 ft. of the I-15 right of way. Shall not be located within 2,000 ft. of another Off-Premise Sign.
On-Premise			
Detached	300 sq. ft. plus 40 sq. ft. per additional advertiser sharing the Sign.	30 ft.	
Attached	3 sq. ft. per Front Foot of Building Occupancy.	No more than 8 ft. above the building.	No single Sign shall exceed 400 sq. ft. and the total area of signage shall not exceed 850 sq. ft. per advertiser.

2. Signs permitted within the NC2 and NC3 zones.

Sign Type	Maximum Size	Maximum Height	Notes
Off-Premise			Not Permitted
On-Premise			
Detached	150 sq. ft. plus 20 sq. ft. per additional advertiser sharing the Sign.	25 ft.	
Attached	3 sq. ft. per Front Foot of Building Occupancy.	No more than 8 ft. above the building.	The total area of signage shall not exceed 150 sq. ft. per advertiser.

3. Signs permitted within the IC zone.

Sign Type	Maximum Size	Maximum Height	Notes
Off-Premise	700 sq. ft.	40 ft.	Permitted only within 200 ft. of the I-15 right of way. Shall not be located within 2,000 ft. of another Off-Premise Sign.
On-Premise			
Detached	700 sq. ft. plus 400 sq. ft. for one additional advertiser sharing the Sign.	110 ft.	
Attached	3 sq. ft. per Front Foot of Building Occupancy.	No more than 8 ft. above the building.	No single Sign shall exceed 400 sq. ft. and the total area of signage shall not exceed 850 sq. ft. per advertiser.

4. Multiple Signs for one Advertiser may be approved so long as the total Sign Area meets the size limitations of this Chapter.

HISTORY

Adopted by Ord. [20-T Signs](#) on 5/12/2021

15.27.050.2 Miscellaneous Sign Types

1. Unregulated Signs (meaning they are not subject to the regulations of this Chapter) include:
 - a. Signs not exceeding four (4) square feet normally associated with residential uses and that are not of a commercial nature, such as:
 - i. Signs giving property identification names or number;
 - ii. Signs on mailboxes;
 - iii. Signs posted on private property relating to parking, trespassing, or warnings.
 - b. On-Premise Signs placed in or on windows, covering less than thirty percent (30%) of the window area, that are clearly temporary in nature and promote specific sales or events.
 - c. Government Signs.
 - d. Flags, pennants, or insignia of any government or nonprofit organization when not displayed in connection with any commercial advertising or promotion.
 - e. Signs associated with school or church events and functions, which are clearly of a temporary nature.
 - f. Signs painted or otherwise permanently attached to currently licensed motor vehicles that are not primarily used as signs.
 - g. Temporary and seasonal fruit stand signs.
 - h. On-Premise menu boards.
2. **Temporary Signs:**
 - a. Are permitted in all zones and do not require approval by the Land Use Authority.
 - b. Shall not exceed fifteen (15) feet in height unless attached to a permitted permanent structure. Shall not exceed fifty (50) square feet unless otherwise specified in the PMC.
 - c. Shall be utilized for no more than one hundred eighty (180) days within a calendar year unless otherwise specified.
 - i. Sandwich boards may be utilized in the NC2 zone without a limit on the number of days. They may be placed within the public right of way subject to location requirements determined by the Land Use Authority to ensure proper utilization of the right of way. Sandwich boards shall be removed while the related business is closed.
 - d. Real Estate Signs:
 - i. One non-illuminated Sign per Lot or premises, not to exceed eight (8) square feet in Sign Area in residential zones or for residential property, and thirty six (36) square feet in commercial zones. Such Signs shall be removed not later than fifteen (15) days following sale, rent, or lease.
 - e. Political Signs:
 - i. Not to exceed fifty (50) square feet unless attached to an approved Off-Premise Sign.
 - ii. Shall not be installed any sooner than ninety (90) days prior to the associated election or ballot measure and shall be removed not later than fifteen (15) days following the associated election or ballot measure.
 - f. Yard/garage sale Signs shall not be installed any sooner than thirty (30) days prior to the event and shall be removed within one week following the event.
 - g. Business related Temporary Signs:
 - i. Signs including banners, balloons, and portable Signs are permitted to Advertise grand openings, changes in ownership, promotions, liquidations, and other similar events. Such Advertising is permitted for no more than ninety (90) days in a calendar year across all events for the Advertiser. Such Signs shall not exceed fifty (50) square feet.
 - h. Signs with a Temporary Use Permit:
 - i. Signs may be approved with the Temporary Use Permit in accordance with this Chapter.
 - ii. Up to two Off-Premise Directional Signs may be utilized with the permission of property owners and shall follow the height and size requirements of this Section.
 - iii. Signs may only be in place during the approved active operation of the Temporary Use Permit.
3. **Subdivision (Development) Signs:**

- a. Are permitted in all zones.
 - b. Are a type of Permanent Sign.
 - c. No more than two (2) Signs allowed per development.
 - d. No more than sixty (60) square feet and six (6) feet in height per Sign.
 - e. Signs must be owned and maintained by a homeowner's association. Perry City has no current financial obligations for Subdivision Signs, nor shall it assume any such obligations in the future.
4. **Construction Signs:**
- a. Are permitted in all zones.
 - b. Up to two (2) Signs are permitted with approved construction activities, one of which may be placed off-site with approval from the property Owner.
 - c. No construction Sign shall be erected more than thirty (30) days prior to construction and shall be removed no more than thirty (30) days after completion. In no case shall any particular construction project maintain related Signs for longer than three (3) years.
 - d. Construction related Signs required by government regulation are permitted and not regulated by this subsection.
5. **Multi-tenant Signs:** may be approved in accordance with PMC 15.27.050.1 for adjacent properties, businesses, or common development areas.
6. **Directional Signs:** Directional signs are permitted as On-premise Signs and permitted within a common development area with adjacent properties. The maximum area for Directional Signs is six (6) square feet. The maximum height is four (4) feet. The maximum number of Directional Signs is three (3) per advertiser or development area.
7. Signs for Home Occupations in accordance with PMC 15.33.
8. **Signs for Schools and Churches:**
- a. When such Signs are located in zones where Signs are permitted, they shall follow the regulations for the same.
 - b. When such Signs are located in zones where Signs are not permitted, the following regulations apply:
 - i. One Attached Sign not to exceed thirty six (36) square feet in area.
 - ii. One Detached Sign not to exceed thirty six (36) square feet in area and twenty (20) feet in height.
 - iii. All other applicable regulations shall apply.

HISTORY

Adopted by Ord. [20-T Signs](#) on 5/12/2021

15.29 Conditional Use Permits

15.29.010 Intent And Purpose

15.29.010.1 Applicability To Land Use Chart

These conditional use permit requirements, regulations and restrictions are intended to apply to all uses listed in the Land Use Chart of the Perry Municipal Code, PMC 15.07; Zoning, Including Procedures, Land Use Chart, Area Requirements, and Zoning Map that are designated "C" (Conditional Use).

HISTORY

Adopted by Ord. [15-C](#) on 3/17/2015

15.29.010.2 Compatible Uses

Although each zone district is an attempt to segregate predominant land uses within identified districts; there will be proposals that are generally compatible in land use with other permitted uses in the zone. If properly and carefully planned, these uses which are different from the predominant use or more intensive than permitted uses in the same zone may become compatible and appropriate for the zone in question. For example, the location and nature of the proposed use, the character of surrounding development, the traffic capacities of adjacent and feeder streets, the environmental factors such as drainage, erosion, and soil stability, all may dictate circumstances where a more intensive use may or may not be appropriate for the zone.

HISTORY

Adopted by Ord. [15-C](#) on 3/17/2015

15.29.010.3 Purpose Of Conditional Use Permits

The Conditional Use Permit procedure is intended to provide greater flexibility in land uses while at the same time, preserving Perry City characteristics and assuring compatibility between the conditional uses, the uses on adjoining properties, and Perry City at large. The Planning Commission will review all proposed conditional uses and may impose conditions of approval to preserve the character of the zone district and to mitigate potential adverse effects of the conditional use. In the rare situation where Perry City and the applicant cannot devise conditions that satisfactorily mitigate the adverse effects of the conditional use, Perry City shall deny the Conditional Use Permit.

HISTORY

Adopted by Ord. [15-C](#) on 3/17/2015

15.29.020 General Provisions

15.29.020.1 Required Permit

A Conditional Use Permit shall be required for all uses listed as conditional uses in the zone regulations, land use chart or elsewhere in Perry City ordinances. No building permit or other permit or license shall be issued for a use requiring a Conditional Use Permit without first being reviewed by the Perry City Planning Commission and approved by the Perry City Council. A Conditional Use Permit is transferable with the title to the underlying property so that an applicant may convey or assign an approved project without losing the approval. The applicant cannot transfer the permit off of the site on which the approval was granted.

HISTORY

Adopted by Ord. [15-C](#) on 3/17/2015

15.29.020.2 Home Occupations

Conditional Use Permits for Home Occupations (see PMC 15.33) requiring them must be obtained before a dwelling unit may be used for business purposes. The permit shall be granted only when the applicant has applied in writing and demonstrated compliance to all conditions specified for approval.

HISTORY

Adopted by Ord. [15-C](#) on 3/17/2015

15.29.020.3 Revocation

A Conditional Use Permit may be reviewed, suspended, or revoked by the Hearing Officer without the need for a public hearing upon failure to comply with the conditions imposed for the approval of the permit and the applicant shall be so notified of the meeting and decision by Perry City. The required conditions agreed upon must be continuously implemented to avoid revocation. The permit may be reinstated within one (1) year of revocation upon determination by the Hearing Officer that the cause for revocation has been corrected and that the applicant intends to proceed according to the plans approved at the time the permit was originally issued, or as they might have been properly amended during the period of the conditional use. Revocation or reinstatement of a Conditional Use Permit is the responsibility of the Hearing Officer.

HISTORY

Adopted by Ord. [15-C](#) on 3/17/2015

Amended by Ord. [18-F](#) on 3/28/2019

15.29.030 Process

15.29.030.1 Process For Reviewing Permits

The Planning Commission shall review all proposed conditional uses and may set conditions, in addition to the conditions listed below, to preserve the character of the local area, and to mitigate potential adverse effects of the conditional use. Where Perry City and the applicant cannot devise conditions that satisfactorily mitigate the adverse effects of the conditional use, Perry City shall deny the Conditional Use Permit. Perry City shall review all proposed conditional uses according to the following procedure.

HISTORY

Adopted by Ord. [15-C](#) on 3/17/2015

15.29.030.2 Application And Accompanying Documents

A Conditional Use Permit application shall be made to the Perry City Planning Commission as provided in this Ordinance. Maps, drawings, statements, etc. shall accompany applications for a Conditional Use Permit, or other documents as required by the Perry City Planning Commission.

HISTORY

Adopted by Ord. [15-C](#) on 3/17/2015

15.29.030.3 Notice To Nearby Property Owners

Notification of the Planning Commission meeting will be mailed to property owners, or other written notice given, as required by state law (and as decided by the Planning Commission). The applicant requesting the Conditional Use Permit is responsible for the costs of this mailing or other written notice.

HISTORY

Adopted by Ord. [15-C](#) on 3/17/2015

15.29.030.4 Pre-Application Conference

Perry City strongly recommends any person or corporation planning to purchase, operate or build any business requiring a Conditional Use Permit request a pre-application conference prior to purchase of property, building or existing business. An applicant may request a pre-application conference with the Planning Commission to discuss the proposed conditional use and the conditions Perry City might impose. At the pre-application conference, the Planning Commission and applicant shall review the application form, the materials and information needed to complete the form, and the procedures used in reviewing the conditional use.

HISTORY

Adopted by Ord. [15-C](#) on 3/17/2015

15.29.030.5 Information To Be Included On Application

A Conditional Use Permit application, provided by Perry City, shall be completed and submitted to the Perry City Planning Commission. The application shall list all of the required information, written statement requirements, necessary documentation and administrative checklist (standards for review, sensitive lands review, design review, technical review and conditions).

1. The applicant must address the Conditions of Use listed in this PMC 15.29.030.

2. A site plan with elevations (as may be necessary), drawn to scale, showing all existing and proposed buildings, dimensions, roads, parking areas, fencing, structures and other information deemed necessary by the Perry City Planning Commission shall accompany the application. Sufficient detail must be provided to ensure the Perry City Planning Commission and Perry City Council are satisfied that the character of the zone district will be preserved and potential adverse effects of the proposed use are satisfactorily mitigated.
3. The applicant must explain in detail how the conditions that apply will be met and what, if any, impacts there may be on nearby property. If there are conditions that do not apply to the proposed use, the applicant should explain why they do not apply.

HISTORY

Adopted by Ord. [15-C](#) on 3/17/2015

15.29.030.6 Payment Of Public Hearing Costs

Upon receipt of a completed Conditional Use Permit application and payment of all applicable fees, a public hearing will be scheduled and notice (and/or courtesy notice) mailed and/or other written given, as per PMC 15.29.030.3. The Conditional Use Permit applicant will pay cost of mailing any notice, including any courtesy notice.

HISTORY

Adopted by Ord. [15-C](#) on 3/17/2015

15.29.030.7 Public Hearing Held By Planning Commission

The Planning Commission shall conduct a public hearing on the Conditional Use Permit Application and shall approve or deny the permit. The Planning Commission is not required to make their decision at the same meeting when the Public Hearing is held. They may delay their decision if additional time is needed to discuss the request or obtain additional information.

HISTORY

Adopted by Ord. [15-C](#) on 3/17/2015

Amended by Ord. [18-E](#) on 3/28/2019

15.29.030.8 Approval

In approving any Conditional Use Permit application, the Land Use Authority shall impose regulations and conditions as are necessary to protect the public health, safety, and welfare. Upon approval, building permits may be issued as outlined in other Perry City Ordinances.

HISTORY

Adopted by Ord. [15-C](#) on 3/17/2015

Amended by Ord. [18-E](#) on 3/28/2019

15.29.040 Standards For Review

15.29.040.1 List Of Standards

The Land Use Authority shall not issue a Conditional Use Permit unless they conclude that the application fully mitigates all identified adverse impacts and complies with the following general standards applicable to all conditional uses, as well as the specific standards for the use (burden is placed on the applicant for a Conditional Use Permit to demonstrate compliance with all of the following general standards, as well as any specific standards for the use):

1. The application complies with all applicable provisions and requirements of state and federal law, as well as the Land Use Ordinances, including adequate site plan with elevations, scale, dimensions, facilities, improvements, buffers, fencing, lighting, fire hydrants, etc. as deemed necessary; and

2. The structures associated with the use are compatible with surrounding structures in terms of type, use, scale, mass and circulation; and
3. The proposed use is not detrimental to the health, safety, or welfare of persons residing or working in the vicinity, or injurious to property or improvements in the vicinity; and
4. The proposed use is consistent with the Perry City General Plan, as amended, and complies with the regulations and ordinances of Perry City; and
5. Traffic conditions are not adversely effected by the proposed use including the existence of or need for dedicated turn lanes, pedestrian access, and capacity of the existing streets; and
6. Sufficient utility capacity; and
7. Sufficient emergency vehicle access; and
8. Location and design of (as well as compliance with) off-street parking standards; and
9. Fencing, screening, and landscaping to separate the use from adjoining uses and mitigate the potential for conflict in uses; and
10. The effects of any differences in use or scale have been mitigated through careful planning and establishment of appropriate conditions; and
11. Compatibility of the proposed mass, bulk, design, orientation, and location of the structures on the site; including compatibility with buildings on adjoining lots and to the street; and
12. Exterior lighting that complies with the lighting standards of the zone and is designed to minimize conflict and light trespass with surrounding uses; and
13. Within and adjoining the site, impacts on the aquifer, slope retention, flood potential; and
14. The proposed use is necessary or desirable and shall contribute to the general well being of the community.

HISTORY

Adopted by Ord. [15-C](#) on 3/17/2015

Amended by Ord. [18-E](#) on 3/28/2019

15.29.050 Conditions Of Use

15.29.050.1 Planning Commission To Address Specific Conditions Listed In This Chapter

The Planning Commission shall review each of the following topics to determine applicability and set specific conditions for the proposed use. Persons submitting an application for a Conditional Use Permit must address all conditions deemed applicable by the Planning Commission.

HISTORY

Adopted by Ord. [15-C](#) on 3/17/2015

15.29.050.2 Parcel Size

If the proposed parcel borders residential properties the proposed conditional use parcel must be large enough to provide a twenty-five (25) foot landscaped buffer adjacent to residential properties. The applicant may propose other methods of screening adjacent residential properties that could reduce the twenty-five (25) foot requirement.

HISTORY

Adopted by Ord. [15-C](#) on 3/17/2015

15.29.050.3 Location Of The Parcel

The applicant must show how the proposed use fits in with the use of the adjacent properties.

HISTORY

Adopted by Ord. [15-C](#) on 3/17/2015

15.29.050.4 Traffic Considerations

The applicant must show the potential traffic impact their proposed business will have on the nearby roads and neighborhood. In addition, the applicant must propose conditions that would reduce or eliminate problems associated with the increased traffic such as, but not limited to, parking, noise, making turns and the capacity of existing streets in the area.

HISTORY

Adopted by Ord. [15-C](#) on 3/17/2015

15.29.050.5 Utility Capacity

The applicant is responsible for obtaining information on the capacities of the utilities the proposed business will utilize. If the proposed use overtaxes any of the existing utilities the applicant is responsible to fund needed utility upgrades. If future operation of the proposed use results in utility shortfalls, the owner of the property causing the utility shortfall is required to fund needed upgrades.

HISTORY

Adopted by Ord. [15-C](#) on 3/17/2015

15.29.050.6 Emergency Vehicle Access

Those being granted Conditional Use Permits are required to provide emergency vehicle access as required by the local fire department and the International Fire Code adopted at the time the Conditional Use Permit is issued.

HISTORY

Adopted by Ord. [15-C](#) on 3/17/2015

15.29.050.7 Location Of Off-Street Parking

Each commercial use must provide parking spaces in accordance with Perry Municipal Code, PMC 15.19; Streets, Trees, Parkways, and Parking except that no less than five (5) customer parking spaces will be provided. All required off-street parking spaces open, covered, or enclosed shall be located on the same lot as the conditional use business, except as permitted in PMC 15.29.050.9.

HISTORY

Adopted by Ord. [15-C](#) on 3/17/2015

15.29.050.8 Parking For Residential Use

Reserved parking, two and one-half spaces (2 ½) for each residential unit shall be provided in addition to any other required parking. Parking for residential use will be illuminated during hours of darkness. This illumination will be shielded so it will not light the sky or cast direct light beyond the property line or onto adjacent streets.

HISTORY

Adopted by Ord. [15-C](#) on 3/17/2015

15.29.050.9 Joint Parking Facilities

Two or more buildings that are adjacent or on adjacent lots may collectively provide the required off-street parking subject to deed restrictions binding the owners and their heirs, successors and assigns to maintain the required number of spaces available throughout the life of such use; however, the number of parking spaces shall not be less than the sum of the requirements for the various individual uses computed separately.

HISTORY

Adopted by Ord. [15-C](#) on 3/17/2015

15.29.050.10 Use Of Parking Spaces

Parking spaces and/or loading space will not be used for storage of any kind, sale of merchandise or vehicles, any repair, dismantling or servicing of any vehicle, equipment, material or supplies. Perry City may issue limited time permits for occasional special events that would allow the use of parking spaces for the sale of merchandise, i.e. a parking lot sale.

HISTORY

Adopted by Ord. [15-C](#) on 3/17/2015

15.29.050.11 Marking Of Spaces

Parking shall be striped on pavement or designated with some other form of permanent marking.

HISTORY

Adopted by Ord. [15-C](#) on 3/17/2015

15.29.050.12 Parking Space Design Standards

Parking areas shall comply with Perry Municipal Code, PMC 15.19; Streets, Trees, Parkways, and Parking. Parking spaces using geometric standards other than those specified in Perry City Ordinances may be approved if stamped by a state licensed engineer with expertise in parking facility design subject to a determination by the City Engineer.

HISTORY

Adopted by Ord. [15-C](#) on 3/17/2015

15.29.050.13 Surfacing

All off-street parking areas and vehicle sales lots shall be paved with asphalt or concrete. Paving will meet current design standards and will be approved by the City Engineer.

HISTORY

Adopted by Ord. [15-C](#) on 3/17/2015

15.29.050.14 Lighting

External lighting along state highways must be in accordance with UDOT requirements. All external lighting must be shielded so it will not light the sky or cast direct light beyond the property line or onto adjacent streets. General parking lot illumination is permitted only during night business hours. Lighting for security purposes is permitted during hours of darkness.

HISTORY

Adopted by Ord. [15-C](#) on 3/17/2015

15.29.050.15 Fencing, Screening, And Landscaping

A minimum buffer of twenty-five (25) feet is required between any NC2 or NC3 zone commercial use and adjacent residential property. This buffer must be fully landscaped, watered and maintained to provide a visual screen and attractive appearance from the residential property. A six (6) foot high masonry or commercial quality comparable fence acceptable to the Perry City Planning Commission must be installed on the property line. No buffer is required between commercial uses. The owner of the commercial property is responsible for properly maintaining the landscaped buffer area.

HISTORY

Adopted by Ord. [15-C](#) on 3/17/2015

15.29.050.16 Building Design

Building physical size is to be approved by design review. Buildings in the NC2 zone will have no more than two stories above ground. The front of the building will face either the adjacent street or the building parking area as determined during the design review. External building finish will be predominately masonry. Vinyl or wood trim is permitted. Building colors will primarily be earth tones. Windows may be tinted but will not have reflecting covering or coating. Buildings on the same lots or adjoining lots will have adequate separation to permit emergency access.

HISTORY

Adopted by Ord. [15-C](#) on 3/17/2015

15.29.050.17 Trash Collection

Locations for trash collection receptacle will be covered and enclosed. Trash collection areas must be maintained in a neat manner and an active rodent control program must be in place. Masonry or commercial quality vinyl fencing will be used to screen the storage area if it is visible from nearby residential property or the street. If there is residential property within 200 feet, trash pickup is restricted to the hours of 7:00 a.m. to 9:00 p.m.

HISTORY

Adopted by Ord. [15-C](#) on 3/17/2015

15.29.050.18 Signage

Non-illuminated and internally illuminated signs are permitted. If signs are visible from nearby residential properties they can only be illuminated during hours the business is open for business. Signs must not cast direct light beyond the property line or onto adjacent streets. Sign size and location is determined by the Perry City Sign Ordinance, PMC 15.27.

HISTORY

Adopted by Ord. [15-C](#) on 3/17/2015

15.29.050.19 Feed Storage

Any business using or storing animal feed must store the feed in rodent proof containers or bins.

HISTORY

Adopted by Ord. [15-C](#) on 3/17/2015

15.29.050.20 Hazardous Waste

Any business generating or storing hazardous waste must comply with all Federal, State and Local hazardous waste laws. Hazardous waste will be properly containerized and will be stored indoors or outdoors in covered, fenced and locked areas approved by the local fire department authority. The name and quantity of each hazardous waste material will be provided to the local fire department and Perry City on a quarterly basis.

HISTORY

Adopted by Ord. [15-C](#) on 3/17/2015

15.29.050.21 Hazardous Materials

Any business generating or storing hazardous materials must comply with all Federal, State and Local hazardous materials laws. Hazardous material will be properly containerized and will be stored indoors or outdoors in covered, fenced and locked areas approved by the local fire department authority. The name and quantity of each hazardous material will be provided to the local fire department and Perry City on a quarterly basis.

HISTORY

Adopted by Ord. [15-C](#) on 3/17/2015

15.29.050.22 Noise

Noise in excess of 85db, at the source, will not be generated outside of an enclosed building between the hours of 9:00 p.m. and 7:00 a.m. Outdoor public address systems are not permitted.

HISTORY

Adopted by Ord. [15-C](#) on 3/17/2015

15.29.050.23 Outdoor Storage

Outdoor storage is permitted only in covered, fenced, and locked areas. Outdoor storage must be maintained in a neat manner and an active rodent control program must be in place. Masonry or commercial quality vinyl fencing will be used to screen the storage area if it is visible from nearby residential property or the street.

HISTORY

Adopted by Ord. [15-C](#) on 3/17/2015

15.29.050.24 Outdoor Work

Offensive odors, vibration, fumes, steam, reflection, airborne dust or dirt must be contained inside an enclosed building.

HISTORY

Adopted by Ord. [15-C](#) on 3/17/2015

15.29.050.25 Above Ground Storage Tanks

The storage of flammable or combustible liquids in above ground tanks outside of buildings is not permitted. One above-ground bulk storage tank of liquefied petroleum gas, not to exceed one-thousand (1000) gallons, and only used for the purpose of refilling portable tanks, may be permitted if it is no closer than two hundred (200) feet to any residential structure.

HISTORY

Adopted by Ord. [15-C](#) on 3/17/2015

15.29.050.26 Hours Of Operation

Recommended business hours are restricted from 6:00 a.m to 9:00 p.m. if there are adjoining residential properties.

HISTORY

Adopted by Ord. [15-C](#) on 3/17/2015

15.29.060 Regulations

15.29.060.1 Plat Approval

When a conditional use requires the recording of a record of survey, planned development, or subdivision plat, the applicant shall take the final plat to the Planning Commission for plat approval. The Planning Commission may forward a recommendation to the Perry City Council at the same time.

HISTORY

Adopted by Ord. [15-C](#) on 3/17/2015

15.29.060.2 Expiration

Conditional Use Permits shall expire one year from the date of approval, unless substantial construction activity has commenced on the project. The issuance of a building permit is not evidence of substantial construction activity. Demolition permits do not evidence substantial construction activity. Whether construction has commenced or not, the Land Use Authority may grant an extension of the Conditional Use Permit when the applicant is able to demonstrate a legitimate need. Extension requests must be submitted in writing to Perry City prior to the expiration of the Conditional Use Permit. If the Conditional Use Permit extension request is not submitted in writing to Perry City prior to its expiration, the existing Conditional Use Permit is no longer valid and the applicant must submit a new Conditional Use Permit Application.

HISTORY

Adopted by Ord. [15-C](#) on 3/17/2015

Amended by Ord. [18-F](#) on 3/28/2019

15.29.060.4 Fee

The appropriate fee, as determined by resolution, shall accompany the application for any Conditional Use Permit.

HISTORY

Adopted by Ord. [15-C](#) on 3/17/2015

15.29.060.5 Expansion Of A Conditional Use

The applicant shall present a Conditional Use Expansion Plan to the Land Use Authority prior to the expansion of any conditional use. A No conditional use may be expanded without the approval by the Land Use Authority.

HISTORY

Adopted by Ord. [15-C](#) on 3/17/2015

Amended by Ord. [18-F](#) on 3/28/2019

15.29.060.6 Inspection

Following the issuance of a Conditional Use Permit for a use which requires a building permit, the Perry City Building Official shall approve an application for a building permit, and shall ensure that development is undertaken and completed in compliance with said conditional use permit and all other applicable codes and ordinances. An occupancy permit shall not be issued until all conditions are complied with.

HISTORY

Adopted by Ord. [15-C](#) on 3/17/2015

15.31 Excavation And Reclamation

15.31.010 General Purpose

15.31.010.1 Purpose

The extraction of construction materials and minerals is essential to provide for the continued demand for rock, gravel, sand, etc. in Box Elder County. It is usually necessary to alter the surface of the earth to extract these minerals and/or raw materials. This shall be done in such a way as to minimize any undesirable effects such as excavation dust, noise, reflection, vibration, light, welding lights, smoke, fumes, steam, odors, etc. Land shall be reclaimed in such a manner as to prevent conditions detrimental to the general safety and welfare of all citizens of Perry City and to provide for the subsequent use of the lands co-affected. Reclamation requirements shall be adapted to the diversity of the topographic, chemical, climatic, biologic, geologic, economic, and social conditions of the area where the excavation takes place. Such procedures shall be required for existing gravel pits, new gravel pits, and/or material excavation sites. It is also the purpose and object of this Ordinance to:

1. Establish reasonable and uniform limitations, safeguards and controls on excavation within Perry, Utah. These provisions are deemed necessary in the public interest to effect practices which will provide protection of the tax base, provide for the economical use of vital materials necessary for our economy and give due consideration to the present and future use of land in the interest of promoting the public health, comfort, safety and general welfare.
2. Provide for the proper construction, installation, compaction and repair and replacement of street excavation and surfacing for pipelines, structures, sidewalks, curbs, gutters, driveways and any public or private improvement across, under, on, and/or along the public way which will result in physical alteration thereof; thus promoting conformity, safety and health of those persons using, benefiting from or traveling the city's public ways.
3. Provide for the proper construction and excavation requirements for site work related to private development which will result in physical alteration of real property; thus promoting conformity, safety and the health and welfare associated with the use or uses of such property and potential effects on adjacent properties or uses.

HISTORY

Adopted by Ord. [15-C](#) on 3/17/2015

15.31.010.2 Definitions

The following definitions apply to PMC 15.31:

1. **Enforcement Official.** Includes the Building Inspector, City Engineer, Public Works Director, Public Works Inspector, City Police and/or their designees.
2. **Engineering regulations.** Construction specifications and design standards complying with the latest version of the Public Works Standards for Development, Design, & Construction.

3. **Excavation.** For the purpose of this Ordinance, "excavation" shall mean the removal of clay, soil, granite, flagstone, slate, shale, limestone, sandstone, asphalt, concrete, road base, sand or gravel from the earth by excavating, stripping, leveling or any other process, together with all other types of mining operations where material is removed from the earth except that dredging operations in the bed of existing rivers and streams shall not be covered by this ordinance.
4. **Fill.** For the purpose of this Ordinance, "fill" (verb) shall mean the act of raising the level or surface of real property beyond the natural or if previously disturbed, the existing condition. As a noun the word "fill" shall mean the material used to fill (verb) real property.
5. **Obstruction.** Any rubbish, glass, material, wood, metal, earth, structures, or other object, thing or substance which may interfere with or obstruct the free use or view of the public way by travelers, or injure or tend to injure or destroy or render unsightly the surface of a public way, or which may cause or tend to cause such public way to become restricted in its uses or unsafe or dangerous for travelers thereon.
6. **Permittee.** Any person who has been issued a Conditional Use Permit for mining or gravel pit excavation or a Construction permit for work within the public way or private development and has agreed to fulfill the requirements of this ordinance.
7. **Public way.** Includes all public right-of-way and easements, public footpaths, walkways and sidewalks, public streets, public roads, public highways, public alleys, and public drainage ways within the incorporated areas of Perry, Utah.
8. **Shoulder.** The gravel strip of roadway six feet wide adjacent and parallel to the hard surface roadway edge.

HISTORY

Adopted by Ord. [15-C](#) on 3/17/2015

15.31.010.3 Enforcement

The Enforcement Officials, as defined in PMC 15.31.010.2(1), are hereby designated and authorized as the officers charged with the enforcement of this Ordinance. It shall be the duty of an enforcement official to inspect or cause to be inspected at regular intervals of not more than three (3) months or as often as necessary all gravel pit excavations and operations. Where it is determined by an enforcement official that excavation is proceeding and is not in compliance with the provisions of this Ordinance, he shall enforce the provisions of this Ordinance and in performance of this duty may enter actions in the court where necessary, and his failure to do so shall not legalize any violation of such provisions. Any person, firm or corporation who shall violate any of the provisions of this section of the Ordinance shall be guilty of a Class B misdemeanor, and upon conviction shall be punished as provided by the laws of the State of Utah for Class B misdemeanors. In addition, violators of the provisions shall also be subject to a fine of \$1,000.00 for each and every day such violation occurs.

HISTORY

Adopted by Ord. [15-C](#) on 3/17/2015

15.31.010.4 Severability

If any provisions of this ordinance, or the application of such provision to any person or circumstance, shall be held invalid, illegal or unconstitutional, the remainder of this ordinance or the application of such provision to persons or circumstances other than those as to which it is held invalid, shall not be affected thereby.

HISTORY

Adopted by Ord. [15-C](#) on 3/17/2015

15.31.020 Gravel Pits

15.31.020.1 Reclamation Objectives

The following regarding reclamation:

1. **The Objective of Excavation Reclamation is to:**

- a. Return the land, on an approved phase basis, concurrently with the phased operation to a predetermined condition defined by the approved reclamation plan.

- b. Minimize or prevent present and future onsite or offsite environmental degradations to the ecologic and hydrologic aspects caused by mining operations, and to meet pertinent state, local and federal regulations regarding air and water quality standards and health and safety criteria.
 - c. Prevent future hazards to public safety and welfare.
- 2. Regarding phased excavation and reclamation:**
- a. The reclamation or rehabilitation of a material excavation site shall be carried out on an approved phase basis (each phase shall be defined by legal description) with the excavation of the resource. The purpose of phased excavation and reclamation is:
 - i. To create a useable land resource and to eliminate waste heaps;
 - ii. To prevent shallow, stagnant, small bodies of water, small unusable remnants of land, and erosion of barren slopes, all of which are historically associated with open pit operations.
 - b. Excavation shall be planned so as to progressively develop the proposed and approved final land forms by grading and by stockpiling overburden materials in areas designated for future land forms or in excavations where the material will be spread over the gravel pit floor. Such areas are to be seeded and planted in accordance with the approved phasing plan after grading is completed and within appropriate planting seasons, but in any case the grading and planting plan shall contain a description of the approved phased rehabilitation process throughout the anticipated life of the excavations.
- 3. Final Reclamation:** Final reclamation shall begin upon notification by Perry City on the approved phase basis for any site where operations authorized under an Excavation Permit have been inactive for a period of at least one year, or otherwise terminated. Parked and/or salvaged equipment must all be removed. The final reclamation shall conform to the plan approved (including improved modifications) in the Excavation Permit. All reclamation plans shall conform to the minimum standards and requirements listed below, provided however, that the City Engineer may require more stringent standards where special hazards exist in order to protect health, safety or general welfare to the public, and to prevent injury to property or improvements.
- 4. Grading:** All final reclaimed slopes and abandoned soil piles shall be graded to a final 3:1 slope or flatter, and smoothed and contoured so as to control erosion and prevent the creation of potentially dangerous areas in accordance with the direction of the City Engineer. An application for a final slope steeper than 3:1 may be filed with the City to be considered by the City Engineer. A current (less than one year old) geotechnical report shall be filed with the application for a slope steeper than 3:1. The report must address the long-term safety of the proposal. Such Application may be filled at any time.
- 5. Water-filled Areas:** All excavations which create standing water or ponds shall be re-filled with inert materials. This requirement shall not apply, however, to any water-filled excavations scheduled to become an integral part of the final reclamation plan as water filled ponds, etc. The rehabilitation of these areas shall be done in such a manner that the groundwater is not polluted as determined through consultation with the responsible agencies. Fill material shall be porous to allow for water dispersion, unless otherwise specified in the reclamation plan.
- 6. Landscaping:** Unless inconsistent with the final proposed use of the reclaimed land, excavated areas and all other disturbed areas shall be replanted and maintained as approved by Perry City with trees, shrubs, grasses or other vegetative ground cover, preferably native to the area, in order to minimize erosion and to restore the land to its natural appearance. Native plants should not include those species that are the host plants for plant diseases. Plant species shall be of a type and specie that are fire resistant as established by United States Forest Service.
- 7. Removal of Buildings and Equipment:** As soon as excavation and/or manufacturing has been terminated, all buildings and equipment (including electrical conduits) used in the administration of the operations, shall be removed unless deemed necessary to the approved final use of the reclaimed site.
- 8. Reclamation Verification.** At the conclusion of each phase of excavation operation and reclamation of the excavation site, the owner/operator shall furnish the City Engineer a letter stating all requirements of the excavation and reclamation standards have been met for the phase and that no further excavation or operation will be performed within that phased area. The City Engineer shall present to the staff a statement verifying the phased permit area has been reclaimed with the requirements of the Excavation Permit reclamation plans previously approved. This statement shall also be based on Perry City's receipt of a signed statement from the owner/operator that all requirements of this ordinance for this phase are fulfilled and completed and that no further excavation shall occur within this phase. The staff shall then certify that all requirements concerning that completed phase have been met.
- 9.** All reclamation requirements must be completed within 365 days.

HISTORY

Adopted by Ord. [15-C](#) on 3/17/2015

Amended by Ord. [17-E](#) on 12/18/2017

15.31.020.2 Excavation Permit Application To Both New And Existing Excavation Facilities

Neither commercial excavation nor extraction of materials shall be permitted on any property within Perry City limits unless authorized by an Excavation Permit issued to the owner and/or operator of the property. In addition to delineating the area to which it is applicable, the Excavation Permit shall also make explicit reference to the uses authorized and shall include applicable specific requirements for a pre-excavation inventory/analysis, an operation plan, plus a final reclamation plan which includes plans for phasing of excavation and for phasing of reclamation of the excavation site.

HISTORY

Adopted by Ord. [15-C](#) on 3/17/2015

Amended by Ord. [17-E](#) on 12/18/2017

15.31.020.3 Application Requirements For New Excavation Facilities Or Phases

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

1. General information to be provided:

- a. The name under which the property is to be excavated shall be stipulated and the legal description of the property noted.
- b. The name(s) and address(s) of the property owners, lessees and operators of the property shall be noted.
- c. A history of ownership and uses of the property for the previous ten (10) years.
- d. Five (5) each copies of the above.

2. Pre-excavation Inventory and Analysis: A pre-excavation inventory and analysis both off-site and on-site shall be performed by the applicant containing the following information:

- a. A regional vicinity analysis describing other land uses and zoning surrounding the site; the possible impacts of the proposed excavation operation on surrounding land; the methods to be employed to mitigate any potentially negative effects;
- b. A description of the regional haulage routes proposed to be employed on public and private roads.

3. Proposed Excavation Site Inventory and Analysis: The applicant shall conduct and furnish Perry City a site inventory and analysis to include:

- a. A topographic map of the area at a scale of one inch equals five hundred feet (1" = 500') to maximum contour intervals of twenty five (25) feet;
- b. A cross sectional plan with at least three scaled cross section drawings of the proposed excavation property showing natural existing ground elevation together with the proposed maximum excavated surface areas of property to be excavated. Two of the three cross sections should be through the site areas of the greater proposed materials displacement, and the third cross section should show elevations of the major contributing drainage area. Cross sections shall be keyed to the topographic map and a physical reclamation plan;
- c. A soils survey including a soil profile performed by an approved soils laboratory;
- d. A description of the site hydrology and geology;
- e. A description of the characteristics with particular concern given to the use of natural topography and vegetation to shield excavation site operations from nearby properties and the general public;
- f. Direction of prevailing winds.

4. Excavation Operations Plan: The applicant shall provide an excavation operations plan. Such plans shall be approved and signed by a registered engineer. The plan shall include an overall useful life plan and specific plan projected for the next five years, renewable every five years thereafter. Excavation operations plan submittals shall include a set of engineered plans and/or a report containing the following:

- a. Drawings to be to scale with title block and north arrow (see city ordinance 15.17.040.2 for details).
- b. Plans Stamped and dated by a licensed professional engineer.
- c. Existing and proposed operation contours and elevations shown.
- d. Existing and proposed operations building, structures and semi-permanent equipment, stockpile and milling locations, and processing/waste disposal systems shown.
- e. Existing surface improvements shown. (e.g. parking, sidewalks, curb, etc.)
- f. Proposed site lighting shown.
- g. Site landscaping plan.
- h. All existing and proposed utilities shown (underground and overhead).

- i. Water to be used in the operation to include the source, anticipated consumption, method(s) of water quality control, and disposal of the effluent.
 - j. Existing and proposed property lines and ownership shown on subject and adjacent properties.
 - k. Existing and proposed utility and other easements shown.
 - l. Adjacent streets and landmarks shown.
 - m. Proposed haul routes shown.
 - n. FEMA flood zones shown, if present.
 - o. Proposed final excavation slopes 3:1 or flatter.
 - p. Site storm water detention/retention basin design and report, if required.
 - q. Clearance from fire marshal and city water division for gravel permit demands.
 - r. DWSP-Well Protection Zones shown and address State requirements therewith.
 - s. Flood Control/other utility review. The possible and anticipated unfavorable effects of the proposed operation on the surrounding environment and roadways with specific steps enumerated to mitigate such effects.
 - t. Public and private access roads and trails shown.
 - u. A current disturbance and projected 5 year disturbance boundaries map and five year projections to be submitted to the City every 5th year thereafter.
 - v. Dust control plan in conformity with the Utah Air Quality Act.
5. **Reclamation Plan:** No less than three (3) years prior to the “end use” of the facility operator shall submit an “end of use” plan. The applicant shall provide a reclamation plan, including, but not limited to, the use of maps, imagery and renderings at a scale of one inches equals five hundred (1" = 500') feet extending two hundred (200') feet beyond the legal description of the excavation site area with a maximum contour interval of twenty five (25') feet which includes at least the following:
- a. A phased grading plan drawn and certified by a registered civil engineer or landscape architect indicating the areas to be excavated and the proposed finished grades and slopes.
 - b. A description of the methods and plans to be employed for reclamation of described excavation phase(s) during and after the excavation operation;
 - c. A typical site plan of proposed or potential use or uses of the site following reclamation, including the proposed zoning for the site, building locations, roads and streets, topography, parking and landscaping.
 - d. A description and drawing of the reclamation landscape plan to include the installation of top soil, planting schedule, specifications for plant applications, plant species to be planted, mulching, and type of irrigation to be used, both for temporary plant establishment and for long term - ongoing irrigation needs (including springs and quantities and sources of water available);
 - e. A drawing and description of the hydrologic environment of the reclaimed site to include a map illustrating the surface runoff water drainage areas such as lakes, springs, ponds, streams, wells, pipe lines, culverts, ditches, canals, etc.;
 - f. A description of significant geologic conditions expected to exist in the final reclaimed site with an explanation of methods used to mitigate any hazards that might exist in the proposed future site use;
 - g. An indication of the location of all permanent roads, surface runoff detention basins, and other man-made structures which are to remain after reclamation;
 - h. A statement as to proposed maintenance, ownership, and operation of permanent surface water runoff facilities, both during and after operation of the gravel pit;
 - i. An engineer's estimate detailing the total cost of improvements construction contained in the reclamation plan.
6. **Authorization of Permit:** The Excavation Permit shall include approval signature blocks for the City Engineer, City Recorder, Mayor or designee and the City Attorney.

HISTORY

Adopted by Ord. [15-C](#) on 3/17/2015

Amended by Ord. [17-E](#) on 12/18/2017

15.31.020.4 Filing Fee For Application For Excavation Permit

The following regarding filing fees for an Excavation Permit Application:

1. **New Excavation Operations:** The City Council shall adopt by resolution such filing fee as is reasonably required for City Review of the Excavation Permit application and all information provided with it (see fee schedule). The filing fee shall be paid to the City at the time the application is submitted. The applicant shall pay for (1) the public notification required by this Section and (2) the fees of Perry City staff, including the City Engineer, the City Attorney and other professionals, for their review of the application and all information provided with it.
2. **Existing Excavation Operations:** The City Council shall determine by resolution such filing fee as is reasonably required for city review of the application to renew, amend or expand an Excavation Permit and evaluation of appropriate rehabilitation requirements, related surety requirements and other issues involved in the application and approval process (see fee schedule). The filing fee shall be paid to the City at the time the application is submitted.

HISTORY

Adopted by Ord. [15-C](#) on 3/17/2015

Amended by Ord. [17-E](#) on 12/18/2017

15.31.020.5 Special Regulations Applying To New And Existing Excavation Facilities

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

1. All excavation and related operations, machinery, equipment, and stockpiles (excluding rock crushing) shall be kept at least one hundred (100') feet horizontal distance from any other property owner's property line. In no event should the crushing operation be closer than five hundred (500') feet to the property line. The setback shall apply to the distance of the specific operation from the property line of any adjacent residentially zoned property.
2. All existing excavation operations in effect at the time of adoption of this ordinance shall be exempt from the above setback requirements.
3. The outer boundaries of the excavation site shall be continuously posted with signs not more than five hundred (500') feet apart and at each change of direction of said boundary line, stating in letters at least two (2") inches in height: must read "DANGER KEEP OUT EXCAVATION SITE." Said signs shall be of wood or metal and shall be maintained in legible conditions at all times.
4. **Fencing:** Areas for excavation adjacent to developed parcels or areas that constitute an attractive nuisance shall be fenced with a permanent chain link fence, or City approved equivalent thereof, not less than six (six) feet in height. Areas adjacent to new development shall be fenced by the gravel pit within one year of the commencement of development activities.
5. **Dust Containment:** Graded or disturbed surfaces of excavations or fill, and all equipment, materials and roadways at the excavation site shall be dampened or suitably treated, managed or otherwise contained to minimize the deposit of dust on neighboring properties. All materials transported to or from the excavation site shall be adequately contained within the vehicles. As per Utah Code and local regulations.
6. **Hours of Operation:** Plant operation shall be confined to the hours between 6:00 a.m. and 7:00 p.m. Monday through Saturday, except for operations as required by public emergency demands or by written request of the State or federal governments. Maintenance and repair of equipment may be performed at all hours, provided Noise and Light regulations and ordinances are complied with. Loading of trucks shall be confined to the hours between 6:00 a.m. and 7:00 p.m. Monday through Saturday,. No trucks used in the hauling operations will be allowed into the site before the specified time or permitted to leave the site loaded with material from the site after the specified time.
7. **Mitigating Impacts on Public Roads and Highways:** In order to mitigate the impact of gravel operations and related activities on public roads and highways, and dust must be controlled in conformity with the provisions of the Utah Air Quality Act.
8. **Lighting Control:** All lighting, both temporary and permanent, as well as equipment lighting shall be such that it will comply with "Dark Sky" methods and concepts, shall not detract from or adversely affect adjacent property uses and shall be only sufficient for excavation operations, safety and security. When excavation lighting is used, lighting shall be designed to minimize glare and diffusion onto other properties. When the use is next to a residential zone or use, direct and defused light shall be shielded from the residential zone or use. General parking lot illumination is permitted only during night business hours. All lighting shall comply with the hours of operation with only sufficient lighting necessary for safety and security outside of such hours.
9. **Landscaping:** Properties containing a use for which an Excavation Permit is required shall be landscaped for purposes of screening such uses from public streets and adjoining properties. Approved vegetative materials shall be planted together with necessary top soil as per the schedule approved in the granting of the Excavation Permit and shall be maintained in a healthy growing condition. In addition, any bare soil in the area proposed for excavation which is not being actively excavated by the owner or operator shall be planted with vegetation to reduce dust arising from those areas.
10. **On Site Parking:** Employee and visitor on-site parking areas shall be provided. All parking shall comply with Perry City Parking Regulations and applicable ADA requirements.

11. **Noise and Vibration Control:** All equipment onsite and offsite utilized in the extraction and processing of excavating materials shall be operated and maintained so as to minimize the emanation of noise and vibration from the premises. The operator is responsible to identify haul routes and percussive noise sources that might particularly annoy sensitive receptors and to prevent these sources from becoming a problem.
12. Materials (including recycled materials) may be brought on-site provided that they are solely used in the production of concrete and the sale of aggregate products. Material used for the production, processing, and sale of aggregates, concrete, and rock products may be brought on-site. Such materials may include, but are not limited to; rock, aggregates, recycled products, fuel, fly ash, and lime. No production of asphalt products is allowed.
13. **Definitions and Standards:**
 - a. All terminology used in this provision and not defined below, shall meet applicable American National Standards Institute (ANSI) publications and commonly accepted practices of acoustical measurements.
 - i. Receptor: An occupied residential dwelling, church, hospital, school, outdoor stage, or structure continuing other noise sensitive activities.
 - ii. Noise Sensitive Zone: The land enclosed within a fifteen hundred (1500') foot radius circle of any receptor.
 - iii. Sound Level: The total sound pressure level from all concurrent excavation activities related to the subject project, as measured with a sound level meter using the A-weighting network (ANSI 81.4). The Standard notation is db (A) or da.
 - iv. Percussive Noise: Short burst(s) of banging or chattering noise including but not limited to blasting, pile driving, and jack hammering.
 - b. Prohibitions: Excavation work shall not be permitted under the following conditions:
 - i. Wherever excavation activity occurs that would cause the sound level within ten (10') feet of the nearest receptor to exceed: 95 dB during operating hours. A request shall be given to the city for review and may be approved by the Mayor or his/her designee.
 - ii. No outdoor public address systems shall be permitted.
 - iii. When Perry City notifies the operator that project related excavation noise or vibration does not meet specifications, that portion of excavation work responsible for the problem shall cease until reduced to the required noise standards.
 - iv. Percussive Noise: The operator shall notify Perry City at least two (2) weeks in advance of any percussive noise activity that is expected to exceed the above requirements, so that Perry City has sufficient time to coordinate with area residents.
 - c. Roads: At least all permanent haul roads within five hundred (500') feet of public streets or land shall be annually treated (not less than twenty-two (22') feet wide) with oil or other approved chemicals or be asphalt surfaced. All other roadways in use shall be regularly watered or surfaced with a dust palliative and properly maintained during the operation of the gravel pit.

HISTORY

Adopted by Ord. [15-C](#) on 3/17/2015

Amended by Ord. [17-E](#) on 12/18/2017

15.31.020.6 Provision Of Surety Required On New And Existing Excavation Facilities

The following regarding provision of surety requirement:

1. **Provision for Surety:** An adequate surety, in an amount approved by the City Engineer, and approved by city staff, must be provided by the owner/operator of any sand, gravel and clay pits within the city limits of Perry City, in an amount sufficient to secure performance of the rehabilitation of each phase of the site before the Excavation Permit can be approved or issued. Such provision for surety shall be provided for the specific phase of the operation as the "active" phase. At the time the excavation operation is proposed to commence on any subsequent phase, additional surety shall be provided to Perry City for each subsequent phase in the same manner as provided hereafter. As the rehabilitation of any entire phase of excavation operation is approved by Perry City as "complete" under the provisions of this ordinance, Perry City shall release any further claim on the surety placed on that completed phase. The surety for rehabilitation of any uncompleted phase of the excavation operation shall remain impounded in the possession of Perry City. The amount of the surety shall be reviewed and revised not less than every five (5) years.
2. **Release of Surety:** The liability under surety provisions shall continue until such time as released in part, or in its entirety, upon the recommendation of the City Engineer and in concurrence with Perry City.

3. **Amount of Surety:** Based on the recommendation of the City Engineer, the city staff of Perry shall determine the amount of the surety to be provided, and in making that determination shall consult with the City Engineer and City Attorney. It may also consult with independent engineering or reclamation firms that may have helpful experience or expertise, and conduct such other investigation or analysis as it may deem appropriate, in evaluating the nature and extent of the rehabilitation and the potential costs thereof. The city staff shall consider factual information as to the magnitude, type and costs of approved reclamation activities planned for the land affected and the nature, extent, and duration of the operation. The city staff shall fix the form and amount of surety reasonably related thereto, to protect Perry City and insure compliance with the requirements of the Conditional Use Excavation Permit; however, the cost amount of the bond shall not exceed one hundred percent (100%) of the cost of rehabilitating the excavation determined by the city staff after it concludes its investigation and analysis set forth above each five years.
4. **Form of Surety:** The city staff shall determine the form of the surety. In determining the form of the surety to be provided, the city staff may require one, or a combination of the following: corporate surety bond issued by a licensed surety company; certified check; or such other financial guarantee acceptable to the city staff. The nature and form of any surety agreement or other financial guarantee shall be approved by the City Attorney.
5. **Continuing Liability of the Owner/Operator:** If the actual cost of rehabilitation exceeds the surety, the owner/operator shall be liable to Perry City for the difference, together with costs and expenses incurred.
6. **Forfeiture of Surety:** If the owner/operator fails or refuses to undertake and complete the reclamation, the city staff may declare any surety filed in connection herewith to be forfeited to the city. In the case of a corporate surety bond, Perry City may commence suit against the owner and his bonding company. The City shall also have the right to file suit against the owner/operator for costs of rehabilitation and reasonable attorney's fees and court costs.

HISTORY

Adopted by Ord. [15-C](#) on 3/17/2015

Amended by Ord. [17-E](#) on 12/18/2017

15.31.020.7 Filing Fee Of An Annual Progress Report For New And Existing Excavation Facilities

On or before February 15th of each calendar year, the owner/operator conducting mining operations shall file an operations and progress report with the city staff. . The report will summarize activities in fulfillment of the requirement for the approved phased excavation and reclamation in confirmation with the reclamation plan previously submitted and approved. The owner/operator shall state in writing to the city staff that it is in full compliance with the approved Excavation Permit. Should it be determined as hereafter noted that owner/operator is in compliance, it shall be so notified in writing within thirty (30) days of receipt of the progress report that it can proceed with its operation for the next calendar year subject to monitoring this ordinance and continuing compliance with the Excavation Permit. Perry City shall then appoint a representative to inspect the excavation operation to verify that it is in full compliance, or list those items for which it is not in compliance. The owner/operator shall then be notified in writing, of such noncompliance items and may be granted a specified period of time to bring such items into compliance.

HISTORY

Adopted by Ord. [15-C](#) on 3/17/2015

Amended by Ord. [17-E](#) on 12/18/2017

15.31.020.8 Transfer To Successor Owner/Operator Of The Excavation Operation

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

HISTORY

Adopted by Ord. [15-C](#) on 3/17/2015

Amended by Ord. [17-E](#) on 12/18/2017

15.31.030 Public Way

15.31.010.1 Public Way Excavations

Excavation and Structures are prohibited when:

1. No public way of any City road shall be dug up or excavated and no approach, road, driveway, pole, pipeline, conduit, sewer, ditch, culvert, billboard, advertising sign, or other structure or object of any kind or character shall be placed, constructed or maintained within any such public way except as permitted by and in accordance with the regulations of the Public Works Standards for Development, Design, & Construction; or
2. Any person who violates the provisions of this section is guilty of a Class B misdemeanor.

HISTORY

Adopted by Ord. [15-C](#) on 3/17/2015

15.31.030.2 Construction Permit Requirement

The following apply to construction permits:

1. It shall be unlawful for any person to dig up, break, excavate, tunnel, undermine or in any manner break up any street or to make or cause to be made excavations in or under the surface of any street, alley, right-of-way, public easement or other public place in the City without complying with the provisions of this chapter and obtaining a permit therefore and paying the fee as required in this chapter for any purpose to place, deposit or leave upon any such public way any earth or any excavated material obstructing or tending to interfere with the free use of the public way, unless such person shall first have obtained a Construction Permit from the City Office. Any Public Utility regulated by the state or holding a franchise from the City which, in the pursuit of its calling, has frequent occasion to open or make excavation in the public way may, upon application, receive a Construction Permit from the City to cover such work. Construction Permits shall not be required prior to work in case of emergency, endangering life or property. In such emergency situations the excavation parties shall contact the City staff on the first working day following the excavation and complete and secure a formal permit. None of the provisions of these specifications are waived for emergency situations except for prior permit requirements.
2. Work by utility companies and contractors in constructing facilities in new subdivisions shall be required to obtain a "Construction Permit", and will be subject to City inspection and compliance with subdivision requirements.
3. All permit requirements as stated in the Public Works Standards for Development, Design, & Construction shall apply to all Construction Permits and shall be strictly adhered to.

HISTORY

Adopted by Ord. [15-C](#) on 3/17/2015

15.31.030.3 Construction Permit Application

Applications for such permits shall be made to the City staff and shall describe the location of the intended excavation or tunnel, the size thereof, the purpose therefore, the person, firm or corporation doing the actual excavation work and the name of the person, firm or corporation for whom or by which the work is being done, and shall contain an agreement that the applicant will comply with all ordinances and laws of the city and the state relating to the work to be done. Such application may be made by telephone if there is already on file with the City the following:

1. a signed agreement that the applicant will comply with all ordinances and laws of the City and the state relating to the work to be done, and
2. the required certificate of insurance and completion bond.

As part of the permit application and prior to the issuing of the permit, adequate engineering drawings shall be submitted to the City Engineer which will clearly indicate the extent of work to be done. These drawings should be prepared under the direction of a state licensed engineer and comply with the latest version of the Public Works Standards and Technical Specifications and should show the following information:

1. Plans and profiles where gradient lines are involved.

2. Elevations (assumed or local sea level datum) showing depth of pipelines, and in the case of irrigation and drainage facilities, relationship of existing flow lines, etc.
3. Scale of drawings.
4. Location of excavation from nearest street intersection and street numbers thereof.
5. Title block.
6. Applicant's name.
7. Name of person preparing the drawings
8. Pipeline sizes and dimensions of structures or as required by the City Engineer.

The following also apply to construction permit applications:

1. **Completion Period:** The completion time will be specified on the permit by the City staff, and in all events shall be completed within thirty (30) days from the issuance date of the permit. Requests for extension of time, together with reasons therefore, will be submitted to the City Engineer for approval.
2. **Assignment of Permits:** Permits shall not be transferable or assignable, and work shall not be performed under a permit in any place other than that specified in the permit. Nothing herein contained shall prevent a permittee from subcontracting the work to be performed under a permit; provided, however, that the holder of the permit shall be and remain responsible for the performance of the work under the permit, and for all bonding, insurance and all other requirements of the ordinance under said permit.

HISTORY

Adopted by Ord. [15-C](#) on 3/17/2015

15.31.030.4 Work Without Permit Penalty

A person found doing work in the public way without having obtained a permit, as provided by PMC 15.31.030, shall be required to pay a penalty fee equal to two times the normal permit fee.

HISTORY

Adopted by Ord. [15-C](#) on 3/17/2015

15.31.030.5 Fees

The City shall collect, upon issuing a permit, the following fees, for review of the application and site inspection of the work:

1. **Penetration of Asphalt:**
 - a. One Thousand Dollars (\$1000.00) or \$.40 per sq. ft., whichever is greater.
 - b. Five Hundred Dollars (\$500.00) may be refunded after inspection and completion of work pursuant to Perry City's Public Works Standards for Development, Design, & Construction and within 15 days.
2. **Penetration of Gravel Surfaces:**
 - a. Five Hundred Dollars (\$500.00) or \$.10 per sq. ft., whichever is greater.
 - b. Two Hundred Fifty Dollars (\$250.00) may be refunded after inspection and completion of work pursuant to Perry City's Public Works Standards for Development, Design, & Construction.
3. **Disturbance or Penetration of Curb and Gutter, Sidewalk, or Driveway Approaches:**
 - a. One Thousand Dollars (\$1000.00) or \$.60 per sq. ft., whichever is greater.
 - b. Nine Hundred Dollars (\$900.00) may be refunded after inspection and completion of work pursuant to Perry City's Public Works Standards for Development, Design, & Construction.
4. **Boring, Jacking or Tunneling (No Disturbance of Surface):**
 - a. Fifty Dollars (\$50.00). No Refund.

HISTORY

Adopted by Ord. [15-C](#) on 3/17/2015

15.31.030.6 Insurance Requirements

No such permit shall be issued unless and until the applicant therefore has posted with the City Offices a certificate of insurance in a company authorized to issue insurance by the state, evidencing that such applicant has comprehensive general liability and property damage policy that includes contractual liability coverage with minimum limits of Two Hundred Fifty Thousand Dollars (\$250,000) for injuries, including accidental death to any one persons in any occurrence; in an amount not less than Five Hundred Thousand Dollars (\$500,000) on account of injuries sustained by two or more persons in any one occurrence, and property damage insurance in an amount not less than One Hundred Thousand Dollars (\$100,000) for any one occurrence. The insurance policies shall further contain the following provisions:

1. To indemnify, save harmless and defend the City and its officers and employees against any claim or loss, damage or expense, sustained on account of damages to persons or property occurring by reason of an excavation made by the permittee, his subcontractor or agent, whether or not the excavation has been filled or resurfaced and whether or not the surface has been opened to public travel;
2. To indemnify, save harmless and defend the City from any and all liability for the City's own negligence occurring by reason of the opening or excavation. This indemnification agreement covering the City's liability for its own negligence shall not apply to injuries or damages sustained while City employees or contract employees are present at the excavation pouring cement or asphalt therein;
3. To indemnify, hold harmless and defend the City, and its officers and employees against any claim or loss, damage or expense sustained on account of damages occurring by reason of failure to maintain proper barricades and/or lights as required from the time of the opening of the excavation until the excavation is surfaced and opened for travel;
4. Naming the City as an additional insured and providing that thirty (30) days notice shall be given to the City prior to termination of the policy, for any reason. Prior to cancellation of insurance, the permittee shall forthwith close the excavation and complete all worksite restoration work.

A public utility company or property owner performing work adjacent to his residence may be relieved of the obligation of submitting certificates of insurance if such person or company shall submit satisfactory evidence in advance that it is insured, or has adequate assets and provisions for self-insurance. Public utilities may submit annually evidence of insurance coverage in lieu of individual submissions for each permit.

HISTORY

Adopted by Ord. [15-C](#) on 3/17/2015

15.31.030.7 Completion Bond

No such permit shall be issued unless and until the applicant has posted with the City staff a completion bond, the amount of which is to be approved by the City Engineer. The amount of the bond shall be sufficient to reasonably insure the proper restoration of the ground and the laying of pavement, if any. Should the applicant fail to perform, the expense to the City of restoring the surface of the ground and pavement shall be deducted from the bond and the balance shall be returned to the applicant without interest after the tunnel or excavation is restored. A separate completion bond shall not be required, however, where the restoration of the ground and the laying of the pavement are specifically granted under the provisions of another bond. The bond shall further guarantee the restoration of the worksite for a period of three (3) years from the completion date of the restoration, reasonable wear and tear excepted.

HISTORY

Adopted by Ord. [15-C](#) on 3/17/2015

15.31.030.8 Application Requirements For Special Districts

Water conservancy districts, sewage districts, special districts or other entities that under certain circumstances are or may be exempt from bonding provisions, shall make application, as required in this chapter, before proceeding to make excavations in any street, alley or other public place in the county. Such districts or other entities shall comply with all requirements of this chapter pertaining to the restoration of a cut surface to its original condition and shall indemnify the City for any loss, liability or other damage resulting from the making of any excavation, and shall also pay all fees required by Sub-Section 3-1.5 of this ordinance. Where lateral cuts are made by any such district or entity for customer connections to the works of the district or other entity, a fee shall be paid in accordance with PMC 15.31.030.5, either by such district or entity (if it makes the excavation and/or connection), or by the customer for whom the excavation or cut is made. The districts shall further guarantee the restoration of the worksite for a period of three (3) years from the completion date of the restoration, reasonable wear and tear excepted.

HISTORY

Adopted by Ord. [15-C](#) on 3/17/2015

15.31.030.9 Manner Of Excavation

It is unlawful to make any excavation or tunnel in any way contrary to or at variances with the terms of the permit therefore. Proper bracing shall be maintained to prevent the collapse of adjoining ground. No portion of an excavation below the surface shall extend beyond the opening at the surface. Also:

1. No injury shall be done to any pipes, cables or conduits in the making of such excavation or tunnels. Notice shall be given to the City Engineer and other persons maintaining such pipes, cables or conduits that are or may be endangered or affected by the making of any excavation or tunnel before such pipes, cables or conduits shall be disturbed.
2. No unnecessary damage or injury shall be done to any tree or shrub or the roots thereof.

HISTORY

Adopted by Ord. [15-C](#) on 3/17/2015

15.31.030.10 Sidewalk And Curb Ramps

If any sidewalk or curb ramp is blocked by excavation work, a temporary sidewalk or curb ramp shall be constructed or provided that shall be safe for travel and convenient for users.

HISTORY

Adopted by Ord. [15-C](#) on 3/17/2015

15.31.030.11 Inspections And Enforcement

The following definitions regarding inspections and enforcement:

1. **Enforcement Official to Enforce:** The Enforcement Officials, as defined below, are hereby designated and authorized as the officers charged with the enforcement of this chapter of the Ordinance.
2. **Powers and Duties of an Enforcement Official:** It shall be the duty of an enforcement official to inspect or cause to be inspected at regular intervals or as often as necessary all public way excavations. Where it is determined by an enforcement official that excavation is proceeding as identified in the Construction Permit and is not in compliance with the provisions of this Ordinance, he shall enforce the provisions of this Ordinance and in performance of this duty may enter actions in the court where necessary, and his failure to do so shall not legalize any violation of such provisions.
3. **Penalties:** Any person, firm or Corporation who shall violate any of the provisions of this section of the Ordinance shall be guilty of a Class B misdemeanor, and upon conviction shall be punished as provided by the laws of the State of Utah for Class B misdemeanor. In addition, violators of the provisions shall also be subject to a fine of \$1,000.00 for each and every day such violation occurs.
4. **General:** Inspections will be made to insure that all work done under the permit is performed in a good workmanlike manner. Inspections will be made by the Public Works Inspector, the City Engineer, or his duly authorized representative or the Building Inspector (Enforcement Officials).
5. **During Construction:** The Public Works Inspector, the City Engineer, or his duly authorized representative or the Building Inspector may make inspections at any time during the construction period. If the work is not progressing satisfactorily for the protection of the City and the people of the City, or if any part of the work is found to be sub-standard and not in accordance with these specifications, then the inspector will notify the person or persons responsible. If corrective action is not taken, the City Engineer shall be authorized to employ a third party contractor to finish the work in a good, workmanlike manner, and any and all costs and expenses for same shall be immediately paid by the applicant to Perry City, or a claim will be made on the applicant's bond, at the City Engineer's option.
6. **Final:** The applicant and/or his contractor will notify the City Engineer when he has completed his work. He will request a final inspection of the place of excavation. Such final inspection will be made by the Public Works Inspector, the City Engineer, or his duly authorized representative or the Building Inspector.

HISTORY

Adopted by Ord. [15-C](#) on 3/17/2015

15.31.030.12 Backfill Requirements

Material for backfill under paved areas shall be of a select nature. All large broken concrete, peat, decomposed vegetable matter and similar materials obtained from the excavation shall be removed from the site prior to the beginning of backfilling. All backfill shall be placed in layers or lifts consistent with the nature of the soil involved. Compaction shall be obtained by mechanical rollers, tampers or other improved means. Material used for backfilling shall be properly moistened or watered to the correct moisture content to insure proper compaction. Internal vibrating methods of compacting sand fill, or similar methods of compacting sand or similar granular, free-draining materials will be permitted. No jetting will be allowed. No frozen material shall be used for backfill under paved surfaces. The intent of this provision is to insure that the density dry of the backfill under pavements, sidewalks, curbs or other structures shall be not less than that of the surrounding unmolested soil. The required percentage of compaction is: ninety (90%) percent on the public way outside of the road and shoulder; ninety-five (95%) percent on the road and shoulder.

HISTORY

Adopted by Ord. [15-C](#) on 3/17/2015

15.31.030.13 Restoration Of Surface Required

Any person making any excavation or tunnel in or under any public street, alley or other public place in the county shall, at his own expense, restore the surface to its same type and depth of pavement as that which is adjoining, including the gravel base material with a three (3") inch minimum compacted asphalt hot plant mix. Refills shall be properly tamped down, and any bracing in such tunnel or excavation shall be left in the ground. All restoration shall conform to the standards and regulations promulgated by the Public Works Standards and Technical Specifications, and all restorations shall be accomplished within seventy-two hours from the time of the excavation, unless additional time is granted in writing by the City Engineer. If, within the preceding three (3) years, the City has resurfaced the pavement with asphalt, chip seal, or slurry seal, the permittee shall be responsible for resurfacing the entire width of the excavated pavement, from curb to curb. Such resurfacing shall be made with asphalt, chip seal, or slurry seal, as determined by the City Engineer and shall conform to City standards and specification. Also:

1. The City Engineer has authority to suspend operations under excavation permits where, in his judgment, climatic changes would prevent proper restoration of pavement surfaces.
2. Restoration shall be a T-cut, this requires the excavator to restore the road surface a minimum of two (2') feet on each side of a cut.
3. If a cut is more than one quarter (1/4) of the road surface, the excavator must overlay the entire road surface.
4. If the edge of cut is closer than three (3') feet to the existing pavement edge or existing gutter lip, the excavator must road surface to the existing pavement edge or existing gutter lip.

HISTORY

Adopted by Ord. [15-C](#) on 3/17/2015

15.31.030.14 Failure Of Comply

If the person doing the actual excavating work or other person for whom the work is being done shall fail to restore the surface to its original condition in accordance with the standards required in this ordinance the director of the public works department may authorize and employ the necessary assistance to restore the surface to its original condition. The public works department shall prepare an itemized statement of all expenses incurred in such restoration and shall mail or hand deliver a copy thereof to the excavator and to the person for whom the work was done and to the bond holder, demanding payment within twenty (20) days of the date of mailing. The notice shall be deemed delivered when hand delivered or mailed by certified mail, addressed to the last known address of the permittee.

HISTORY

Adopted by Ord. [15-C](#) on 3/17/2015

15.31.030.15 Collection Of Expenses By Lawsuit

In the event collection of the City's expenses must be collected in court, the City may sue and receive judgment for all expenses incurred in the restoration of the property, together with reasonable attorney's fees, interest and court costs. The City shall execute upon such judgment in the manner provided by law.

HISTORY

Adopted by Ord. [15-C](#) on 3/17/2015

15.31.030.16 Protection Of The Public

The following definitions apply under this ordinance:

1. **Signs:** Information and warning signs, portable or semi-portable, will be provided at the place of excavation to inform and warn the public. The name of the applicant and/or his contractor shall appear on said signs, together with telephone numbers to permit police patrols, inspectors and others to call responsible individuals in cases of accidents, injuries, mal-function of lights, or similar reasons.
2. **Barricades:** All barricades, obstructions, and soft shoulder shall be marked in a conspicuous manner.
3. **Lights:** Adequate warning lights will be used between sunset and sunrise.
4. **Detours:** Safe and proper detours will be provided and maintained during construction. If detours are necessary notification at least twenty-four (24) hours in advance will be given to the City, who in turn will notify all local agencies using the City Road System.
Flagmen: Flagmen will be provided where free flow of traffic is interfered with. On major City roads advance warning signs advising of the presence of flagmen will be posted in both directions. The flagmen will be equipped with plainly visible flags and/or signs with which to signal traffic.
5. **Notification of Road Closure:** Where it becomes necessary to close a road for any period of time, the applicant and/or his contractor shall notify the City and the City shall notify the City Police, Fire Department, School transportation buses, Postal Department, and other local agencies using the said road. Where feasible, the public shall be notified twenty-four (24) hours in advance of a road to be closed.
6. **Maintenance:** The place of excavation shall be maintained at all times in such a manner as to cause the least amount of inconvenience to the public.

HISTORY

Adopted by Ord. [15-C](#) on 3/17/2015

15.31.040 Private Development

15.31.040.1 Private Development Excavations And Fill

The following regarding excavation and fill requirements:

1. Miscellaneous Excavation not directly associated with the construction of a structure or building and exceeding four (4') feet in depth or fill exceeding four (4') feet in height or the removal or import of material exceeding one-thousand (1000) cubic yards per acre on privately owned property shall be governed by the requirements of this chapter.
2. Any person who violates the provisions of this chapter is guilty of a Class B misdemeanor.
3. When work associated with private development occurs within the public right-of-way additional compliance with PMC 15.31.030, PMC 15.31.030.3 shall be required.

HISTORY

Adopted by Ord. [15-C](#) on 3/17/2015

15.31.040.2 Exceptions

The following are exceptions to this chapter of the Ordinance:

1. **Sod:** The provisions of this ordinance shall not apply to the removal of sod.
2. **Leveling or excavation for Agricultural Purposes:** The provisions of this ordinance shall not apply to the leveling of land or the excavation and placement of lines for agricultural purposes such as drain lines, irrigation lines or other related excavations.
3. **Excavations for Buildings:** The provisions of this ordinance shall not apply to the removal or import of material to accommodate the construction of a structure or building, which has been issued a valid building permit or its related site work, provided the removal of such material does not involve the commercial disposal of material removed or does not involve work within the public way. Excavation or fill for a future building, which has not been issued a valid building permit, shall not be considered an exception and shall otherwise comply with PMC 15.31.040.

HISTORY

Adopted by Ord. [15-C](#) on 3/17/2015

15.31.040.3 Construction Permit Required

It shall be unlawful for any person to excavate, fill, import, remove or in any manner break up any real property or to make or cause to be made excavations or fills upon, in or under the surface of any real property without complying with the provisions of this chapter and obtaining a permit therefore and paying the fee as required in this chapter. The provisions of this section are but not limited to:

1. Excavation Permits shall not be required prior to work in case of emergency, endangering life or property. In such emergency situations the excavation parties shall contact the City staff on the first working day following the excavation and complete and secure a formal permit. None of the provisions of these specifications are waived for emergency situations except for prior permit requirements.
2. Work by utility companies and contractors in constructing facilities in new or existing subdivisions shall be required to obtain a "Construction Permit", and will be subject to City inspection and compliance with subdivision requirements.
3. All applicable permit requirements as stated in Section 3 of the Public Works Standards and Technical Specifications shall apply to all Construction Permits as they affect the public right-of-way and shall be strictly adhered to.

HISTORY

Adopted by Ord. [15-C](#) on 3/17/2015

15.31.040.4 Construction Permit Application

Applications for such permits shall be made to the City staff and shall describe the location of the intended excavation or tunnel, the size thereof, the purpose therefore, the person, firm or corporation doing the actual excavation work and the name of the person, firm or corporation for whom or by which the work is being done, and shall contain an agreement that the applicant will comply with all ordinances and laws of the city and the state relating to the work to be done. Such application may be made by telephone if there is already on file with the City the following: one (1) signed agreement that the applicant will comply with all ordinances and laws of the City and the state relating to the work to be done. Also:

1. As part of the permit application and prior to the issuing of the permit, adequate drawings shall be submitted to the City Engineer which will clearly indicate the extent of work to be done.
2. These drawings should be prepared to provide sufficient detail to clearly identify the proposed work, location and of a scale which is easily legible. Permit Duration and Time Limits:
3. Completion Period: The completion time will be specified on the permit by the City staff, and in all events shall be completed within thirty (30) days from the issuance date of the permit. Requests for extension of time, together with reasons therefore, will be submitted to the City Engineer for approval.
4. Assignment of Permits: Permits shall not be transferable or assignable, and work shall not be performed under a permit in any place other than that specified in the permit. Nothing herein contained shall prevent a permittee from subcontracting the work to be performed under a permit; provided, however, that the holder of the permit shall be and remain responsible for the performance of the work under the permit, and for all bonding, insurance and all other requirements of the ordinance under said permit.

HISTORY

Adopted by Ord. [15-C](#) on 3/17/2015

15.31.040.5 Work Without Permit Penalty

A person found doing excavation work on private property without having obtained a permit, as provided by PMC 15.31.040, shall be required to pay a penalty fee equal to two times the normal permit fee.

HISTORY

Adopted by Ord. [15-C](#) on 3/17/2015

15.31.040.6 Manner Of Excavation

It is unlawful to make any excavation or tunnel in any way contrary to or at variances with the terms of the permit therefore. Proper bracing shall be maintained to prevent the collapse of adjoining ground. No portion of an excavation below the surface shall extend beyond the opening at the surface and no injury shall be done to any pipes, cables or conduits in the making of such excavation or tunnels. Notice shall be given to the City Engineer and other persons maintaining such pipes, cables or conduits that are or may be endangered or affected by the making of any excavation or tunnel before such pipes, cables or conduits shall be disturbed.

HISTORY

Adopted by Ord. [15-C](#) on 3/17/2015

15.31.040.7 Inspections And Enforcement

The following regarding inspections and enforcement:

1. **Enforcement Official to Enforce:** The Enforcement Officials, as defined below, are hereby designated and authorized as the officers charged with the enforcement of this chapter of the Ordinance.
2. **Powers and Duties of an Enforcement Official:** It shall be the duty of an enforcement official to inspect or cause to be inspected at regular intervals or as often as necessary all public way excavations. Where it is determined by an enforcement official that excavation is proceeding as identified in the Construction Permit and is not in compliance with the provisions of this Ordinance, he shall enforce the provisions of this Ordinance and in performance of this duty may enter actions in the court where necessary, and his failure to do so shall not legalize any violation of such provisions.
3. **Penalties:** Any person, firm or Corporation who shall violate any of the provisions of this section of the Ordinance shall be guilty of a Class B misdemeanor, and upon conviction shall be punished as provided by the laws of the State of Utah for Class B misdemeanor. In addition, violators of the provisions shall also be subject to a fine of one-thousand (\$1,000.00) dollars for each and every day such violation occurs.
4. **General:** Inspections will be made to insure that all work done under the permit is performed in a good workmanlike manner. Inspections will be made by the Public Works Inspector, the City Engineer, or his duly authorized representative or the Building Inspector (Enforcement Officials).
5. **During Construction:** The Public Works Inspector, the City Engineer, or his duly authorized representative or the Building Inspector may enter the private property and make inspections at any time during the construction period.
6. **Final:** The applicant and/or his contractor will notify the City Engineer when he has completed his work. He will request a final inspection of the place of excavation or fill. Such final inspection will be made by the Public Works Inspector, the City Engineer, or his duly authorized representative or the Building Inspector.

HISTORY

Adopted by Ord. [15-C](#) on 3/17/2015

15.31.040.8 Excavation And Grading

The following regarding excavation and grading:

1. All grading design and earthwork shall comply with currently adopted International Building Code and its appendices.

2. Fill slopes shall be no steeper than two (2) horizontal to one (1) vertical (2:1), or as determined by a soils engineer. All fills shall be compacted to a minimum of ninety (90%) percent of maximum density.
3. Cut slopes shall be no steeper than two (2) horizontal to one (1) vertical (2:1), or as determined by a soils engineer.
4. An Erosion Control and Slope Stabilization plan must be incorporated into projects to minimize soil erosion and to avoid sedimentation into the City storm sewer system. Utah State requirements pertaining to Storm Water Pollution Prevention measures and permits apply.
5. All public streets shall be maintained free of dust and mud caused by grading or construction operations.
6. No grading or excavation may occur or excess material placed upon property other than that for which the excavation and grading permit is issued.
7. Restoration of all disturbed property shall be required. Such restoration shall equal or exceed the type, nature, quality and quantity of improvements which existed prior to such disturbance as determined by the City Engineer.
8. Compaction tests are required on all engineered fills and other locations which will be load bearing. All testing shall comply with the specification of Perry City.
9. All soil testing and compaction testing shall be accomplished by an independent certified lab.
10. All building pads at rough grade shall have a one (1%) percent slope towards the street or designed drainage outlet.
11. **Soil Conditions:** Buildings or structures shall not be situated on soft or unsuitable soils, as determined by the City Engineer, where there is a high water table, a site subject to flooding as noted on the City's Flood Plain Map, or on uncompacted fill.
12. **Groundwater:** Test holes shall be dug at locations which represent the development site adequately to determine the depth of the groundwater table. A preliminary soils investigation and groundwater report shall be submitted to the City Engineer. If the City Engineer determines that groundwater is a problem, land drains, including a lateral to each lot for footing or foundation drains, shall be installed to City specifications. All land drains must be tied into approved storm drain facilities.
13. Dust shall be controlled during all phases of construction either by means of water truck or other approved method.
14. The minimum finished slope of any designed grade shall be one (1%) percent for soil, asphalt or gravel and one-half (1/2%) percent for concrete.
15. Stockpiles shall be limited in height to one-half (1/2) the allowable building height for the zone in which the stockpile resides. All necessary measures shall be taken to eliminate fugitive dust generated from the stockpile and adjacent hauling routes.

HISTORY

Adopted by Ord. [15-C](#) on 3/17/2015

15.31.040.9 Fees

The City shall collect, upon issuing a permit, the following fees, for review of the application and site inspection of the work:

1. **Miscellaneous Excavation or Fill:** Minimum fees for the agency review and the permit and inspection of all on-site or off-site development related work shall be in accordance with the following schedule:
 - a. Import or Export: 1,000 cubic yards or more: \$30.00 + \$0.02/cubic yard in excess of 1,000 cubic yards.
 - b. Excavation or Fill: Exceeding 4' in depth or height: \$30.00 + \$0.10/linear foot.
2. **Subdivision Improvements or Development site work:** Minimum fees for the agency review and the permit and inspection of all on-site or off-site development related work (private or public) shall be in accordance with the following schedule:
 - a. Plan review: 1% of the estimated costs of the improvements.
 - b. Permit & Inspection: 3% of the estimated costs of the improvements.

HISTORY

Adopted by Ord. [15-C](#) on 3/17/2015

15.32 Temporary Uses And Structures

15.32.010 Purpose And General Provisions

The following regulations are provided to accommodate those uses of land or buildings which are temporary in nature and are not, therefore, listed as regular permitted or conditional uses in any zone of the City. The character of these uses is such that proper stipulations are required to protect adjacent properties and the general health, safety, and welfare of the citizens of Perry. Any building or structure which does not meet the requirements of this Chapter shall be treated as a permanent land use and shall conform to all requirements of the PMC as well as building, health, fire other similar codes.

Government entities and properties are not regulated by this section.

HISTORY

Adopted by Ord. [20-P Temporary Uses and Structures](#) on 9/24/2020

15.32.020 Permit And Land Use Authority

Temporary Uses and/or Structures shall obtain a Temporary Use Permit. The Land Use Authority for Temporary Use Permits shall be the Community Development Director or designee.

HISTORY

Adopted by Ord. [20-P Temporary Uses and Structures](#) on 9/24/2020

15.32.030 Regulations

Regulations

1. Temporary Uses shall first obtain, by application, a temporary use permit through the Community Development Director or designee.
2. Temporary Uses shall not exceed thirty (30) days within a calendar year for the use operator and for each parcel involved, counting the days from season opening to closing, including the days in between when the business may be closed. The following additional rules apply:
 - a. Shaved ice stands and similar uses shall not exceed one hundred eighty (180) days within a calendar year as outlined above. During the time when the use is not active any associated structures shall be removed from the location.
 - b. Construction yards, contractor's offices, equipment sheds, temporary buildings, and storage yards incidental to a permitted construction project may be approved. Sleeping accommodations shall not be allowed. The permit shall be valid for not more than one year but is renewable for one additional year. All temporary buildings, offices, sheds, and materials shall be removed upon completion of the project.
 - c. Food truck(s) and/or food cart(s):
 - i. operating alone (not part of another use requiring a permit) are not required to obtain a Temporary Use Permit.
 - ii. shall not be limited to the number of days they may operate within the City limits, nor the days they may operate on any particular property.
 - iii. operating on a particular property for more than thirty (30) days in a calendar year and more than ten (10) hours in any particular week shall submit a site plan application, obtain site plan approval, and conform with all site requirements for regularly permitted businesses as outlined in the PMC.
 - iv. operating in Perry City shall obtain a Perry City Business License.
 - v. operators shall comply with all applicable State Code requirements including 11-56 or its successor statute.
 - vi. shall not operate within any public right of way without express written consent.
3. Parking shall be provided on the property in accordance with PMC 15.19. Such parking shall not have the effect of decreasing any existing parking that is required for any other use existing on the site, unless the Land Use Authority determines the hours of operation of the two uses to be distinctly different so as to allow the parking to be utilized at different times. On-street parking shall not be allowed to meet the requirements of this section.
4. Temporary Uses shall comply with all State, County, and City retail sales tax regulations.
5. Temporary Uses shall comply with all applicable Bear River Health Department requirements.
6. A Temporary Use permit shall not be required for a garage sale; provided, that the garage sale shall not operate for more than a total of five (5) days in any calendar year, and shall be conducted by bona fide residents of the premises. Goods for sale shall consist of personal belongings of the residents. Goods offered for sale shall not be placed over a public sidewalk or in a public right-of-way.
7. Temporary Use permits shall be issued with an expiration date in accordance with this Chapter. Temporary Structures shall be removed within thirty (30) days of the Temporary Use being closed or the permit expiring, which ever occurs first.

HISTORY

Adopted by Ord. [20-P Temporary Uses and Structures](#) on 9/24/2020

15.32.040 Temporary Structures

Regulations

1. Temporary Structures, associated with an approved Temporary Use, shall comply with the following regulations:
 - a. Temporary Structures are structures that will be in place for no more than the time approved in the Temporary Use Permit.
 - b. Contractor's offices, equipment sheds, temporary buildings, and storage yards incidental to a permitted construction project may be approved. Sleeping accommodations shall not be allowed. The permit shall be valid for not more than one year but is renewable for one additional year. All temporary buildings, offices, sheds, and materials shall be removed upon completion of the project.
2. Temporary Structures shall be not be placed within a thirty foot sight triangle at intersections.
3. A temporary real estate office may be approved in a subdivision which has been approved in accordance with the subdivision ordinance and shall make sales and do business only in conjunction with the subdivision wherein the office lies. The permit shall be valid for not more than one year but is renewable. A model home may be used as a temporary sales office. The office shall be removed upon completion of the development of the subdivision.
4. Temporary Structures shall first obtain, by application, a Temporary Use permit.

HISTORY

Adopted by Ord. [20-P Temporary Uses and Structures](#) on 9/24/2020

15.32.050 Standards And Nuisance

The Land Use Authority shall not issue a Temporary Use Permit unless it is determined that the application fully mitigates all identified adverse impacts and complies with the following general standards applicable to all Temporary Uses, as well as the specific standards for the use (burden is placed on the applicant for a Temporary Use Permit to demonstrate compliance with all of the following general standards, as well as any specific standards for the use):

1. The structures associated with the use are compatible with surrounding structures in terms of type, use, scale, mass and circulation.
2. The proposed use is not detrimental to the health, safety, or welfare of persons residing or working in the vicinity, or injurious to property or improvements in the vicinity.
3. Traffic and pedestrian access and conditions are not adversely affected by the proposed use and associated traffic and parking.
4. Sufficient emergency access is provided.
5. **Lighting shall not trespass or glare onto neighboring properties.** Lighting shall be designed to be contained on site, be directed downward, and meet the site design standards for lighting for non-temporary uses.
6. Noise shall not create a nuisance and limitations on noise levels shall be placed on the permit when near to residential areas.
7. Hours of operation shall be placed on the permit in such a manner as to mitigate adverse impacts.
8. **Temporary Uses shall not create a nuisance or substantial negative impacts.** Impacts from noise, dust, lights, odors, and storm water shall be mitigated.

Excessive negative impacts and/or nuisance shall be cause for revocation or denial of the Temporary Use permit. The Land Use Authority shall place stipulations on the permit, or deny the permit, to mitigate nuisance and adverse impacts and to ensure compliance with the standards. Temporary Uses located near to residential developments shall have more strict stipulations placed upon the permit to ensure residential properties do not experience adverse impacts. The Land Use Authority shall determine the hours of operation to mitigate adverse impacts.

The site development standards for permanent businesses and developments shall not apply unless explicitly stated otherwise in the PMC.

HISTORY

Adopted by Ord. [20-P Temporary Uses and Structures](#) on 9/24/2020

15.32.060 Application Process

Application for a Temporary Use permit shall include all information necessary to ensure compliance. The following minimum information shall be submitted with the application as applicable:

1. Applicant, property owner, business, and mailing information.

2. A description of the property to be used and a site plan including all information necessary to accurately portray the property, the proposed use, and overall code compliance. The following information shall be provided with the site plan as applicable (exception: food trucks and food carts shall only submit a site plan in accordance with 15.32.030 'c').
 - a. signage
 - b. vehicular access and parking
 - c. number, type, and location of vendors
 - d. sanitary facilities

3. A description of the proposed use, including hours of operation.

4. Written agreements related to use of property, sanitary facilities, and/or commissary facilities.

The Land Use Authority shall determine what approvals are needed from other agencies prior to final approval from the City, which may include Utah Department of Transportation, Fire Department, Health Department, Building Department, and/or Police Department.

The issuance of a Temporary Use Permit does not preclude or replace the need for a Business License.

HISTORY

Adopted by Ord. [20-P Temporary Uses and Structures](#) on 9/24/2020

15.33 Home Occupations

15.33.010 General Provisions

15.33.010.1 Intent And Purpose

The intent and purpose of this Chapter is to protect the residential environment from any intrusion or disruption that can occur with some Home Occupations and also to provide for the health, safety, and welfare of Perry City residents.

The PMC acknowledges additional regulations on private property through covenants, conditions and restrictions ("CC&Rs"). However, agreements regarding CC&Rs are contracts among private parties and the City will not enforce, uphold or otherwise be involved in CC&R agreements.

HISTORY

Adopted by Ord. [15-C](#) on 3/17/2015

Amended by Ord. [18-E](#) on 3/28/2019

15.33.010.2 Regulations

All businesses operated from a residential dwelling shall meet the requirements for Home Occupations except that a Business License is not required for businesses that do not have visiting clientele. A Home Occupation shall meet all of the following provisions:

1. **A Home Occupation shall be considered an Accessory Use.** A Home Occupation is incidental and secondary to the use of the property as a Dwelling. The business owner shall utilize the Dwelling as their primary Residence.
2. No business activities or storage shall take place in the yard space of residential property except for activities associated with Home Preschool and Home Daycare.
3. The Home Occupation shall not be associated with noise, dust, odors, noxious fumes, glare, or other Public Nuisances or Nuisances (as defined in PMC 8.02) that are discernible beyond the premises.
 - a. Anything that is uncommon to the residential character of the surrounding area to such a degree to constitute a Public Nuisance shall be prohibited; such nuisance may include the following: (i) increased foot and vehicular traffic, parking, or sounds, or (ii) noises, odors, lighting, or vibration.
4. For on-site volunteers or employees of a Home Occupation, the Home Occupation shall be limited to
 - a. individuals residing on the premises and
 - b. not more than two (2) individuals who do not reside on the premises.
5. The Home Occupation shall retain the general character and appearance of a residential Dwelling.
6. A Home Occupation, including its premises, shall be in complete conformity with PMC; fire, building, plumbing, electrical, and health codes; and to all applicable Laws.

7. A 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.
8. No visible storage of work, projects, supplies or equipment is permitted.
9. Unless otherwise specified in this Chapter for a particular Home Occupation, a Home Occupation shall not be open to the public at times earlier than 8:00 a.m. or later than 9:00 p.m.
10. No more than ten (10) visiting clientele per day is allowed unless specifically stated otherwise in the PMC.
11. No Home Occupation shall create a hazardous condition by using or storing flammable, toxic, explosive or other dangerous materials.
12. A Home Occupation may receive delivery of merchandise, goods, or equipment only by a passenger motor vehicle or by parcel or letter carrier mail service using vehicles typically employed in residential deliveries. No deliveries by semi-tractor/trailer truck are permitted.
13. A Home Occupation shall not have any window displays or other displays, and signage shall be limited to one (1) identification sign that does not exceed three (3) square feet, located on a single wall or window and in compliance with the City's sign regulations.
14. Vehicles associated with Home Occupations, and stored on the premises, shall be limited as follows:
 - a. Two (2) passenger cars, vans, or pick-up trucks;
 - b. One (1) large truck, which shall not be a semi-tractor or semi-trailer;
 - c. One (1) trailer located out of the right-of-way and behind the front setback of the residential structure.
 - d. Commercial vehicles and trucks are restricted as per PMC 10.13.060 and 15.19.70.
15. Off-street parking shall be provided for non-resident employees and a minimum of two (2) off-street parking spaces shall be provided for visiting clientele. A minimum of two off-street parking spaces shall be retained for the use of the residents of the property. Parking spaces and/or loading space will not be used for storage of any kind, sale of merchandise or vehicles, any repair, dismantling or servicing of any vehicle, equipment, material or supplies.
16. Some Home Occupations may have one or more separate sections in PMC that include applicable specific standards, etc. If there are conflicts with any Laws, then the more restrictive requirements shall apply.

HISTORY

Adopted by Ord. [15-C](#) on 3/17/2015

Amended by Ord. [18-F](#) on 3/28/2019

15.33.020 Additional Requirements For Particular Occupations

15.33.020.2 Home Daycare And Home Preschool

A Home Daycare or Preschool is a Home Occupation. In addition to compliance with all other applicable regulations in PMC, a Home Daycare or Preschool shall meet all the following specific provisions:

1. Home Daycares and Home Preschools shall obtain and maintain licensing through the Utah Department of Health when required by the State of Utah. Proof of licensure shall be provided to Perry City and the City may require verification of any information required for licensure.
2. A single provider business shall be limited to not more than eight (8) children including any resident children under the age of six (6). No more than two (2) of the children may be under the age of two (2). A two provider business shall be limited to not more than sixteen (16) children including any resident children under the age of six (6). No more than two (2) of the children may be under the age of two (2).
3. **Pick-up and Drop-off:**
 - a. If a facility is located within three hundred (300) feet of any portion of a public school bus stop, then drop-off or pick-up of the children in the facility shall not occur at the same time or within 15 minutes before or after a scheduled public school bus pick-up or drop-off.
 - b. The drop-off or pick-up of the children in the facility may not occur on Highway 89. The Home Daycare must provide sufficient access and space to allow for pick-up and drop-off to occur at least twenty (20) feet away from the edge of Highway 89 located closest to the facility.
 - c. Pick-up and drop-off procedures and locations shall be safe and away from potential hazards (e.g. traffic).
 - d. A minimum of one off-street parking space shall be provided for each non-resident employee. minimum of two off-street loading/unloading spaces shall be provided for every ten non-resident people or portion thereof at the facility at a given time.
4. **A Home Preschool:**

- a. Regularly provides an educational program for not more than sixteen (16) children at any one time (including the provider's resident children under the age of six (6) years of age whether the children be natural, adopted, or foster);
- b. The ages of Home Preschool students shall be no less than two (2) years and no more than six (6) years;
- c. Classes shall not be conducted for more than four (4) hours per day;
- d. Classes shall be operated between the hours of 8:00 am and 6:00 pm.

HISTORY

Adopted by Ord. [15-C](#) on 3/17/2015

Amended by Ord. [18-F](#) on 3/28/2019

Amended by Ord. [20-E Daycares and Preschools](#) on 4/23/2020

15.33.020.3 Educational Facilities As Home Occupations (e.g. Music Lessons, Dance, Instruction, etc.)

Residence-based teaching is a Home Occupation. In addition to compliance with all other applicable regulations in PMC, a Home Occupation involved in teaching (e.g. music lessons, dance, instruction, etc.) shall meet all the following specific provisions:

1. Regularly providing a teaching/instruction program for not more than ten (10) individuals at any one time (including the operator's natural, adopted, or foster children;
2. Instructors shall the type type of curriculum that will be taught;
3. Instructors shall shall be licensed by the State, if applicable, and maintain evidence of current State licensure on on file with the City; and
4. The facility shall provide at least thirty-five (35) square feet of interior floor area and at least one hundred (100) square feet of feet of outdoor area for each student if applicable.
5. **Drop-off and Pick-up.**
 - a. If the facility is located within three hundred (300) feet of any portion of a public school bus stop, public school bus stop, then drop-off or pick-up of the students in the teaching Home Occupation shall not occur at the same time or within 15 time or within 15 minutes before or after a scheduled public school bus pick-up or drop-off.
 - b. The drop-off or pick-up of the students in the teaching Home Occupation may not occur on Highway 89. The facility must provide sufficient access and space to allow for pick-up and drop-off to occur at least twenty (20) feet away from the edge of Highway 89 located closest to the facility.
 - c. Pick-up and drop-off procedures and locations shall be safe and away from potential hazards (e.g. traffic).
 - d. A minimum of one off-street parking space shall be provided for each non-resident employee. A minimum of two off-street loading/unloading spaces shall be provided for every ten people or portion thereof at the facility at a given time.

HISTORY

Adopted by Ord. [15-C](#) on 3/17/2015

Amended by Ord. [18-F](#) on 3/28/2019

15.33.020.5 Home Barber Shop Or Home Hair Salon

A Home Barber Shop or Home Hair Salon is a Home Occupation. In addition to compliance with all other applicable regulations in PMC, a Home Barber Shop or Home Hair Salon shall meet all the following specific provisions:

1. No more than two (2) clients at a time.
2. Providers shall be licensed by the State and maintain evidence of current State licensure on file with the City
3. The sale of hair care and other related products incidental to the services provided by a Home Barber Shop or Home Hair Salon is permitted.

HISTORY

Adopted by Ord. [15-C](#) on 3/17/2015

Amended by Ord. [18-F](#) on 3/28/2019

15.33.030 License And/Or Permit Requirements

15.33.030.1 Business License

All Home Occupations require a yearly Perry City Business License before conducting business.

HISTORY

Adopted by Ord. [15-C](#) on 3/17/2015

15.33.030.2 Other Government Agency Approvals

The appropriate land use authority may require or recommend that the applicant acquire approval of county, state, or federal agencies or obtain specific inspections for Home Occupations as required by law.

HISTORY

Adopted by Ord. [15-C](#) on 3/17/2015

15.33.030.3 Expiration Upon Lapse Of License Or Residency

Home Occupation approvals expire upon the lapse of the Perry City Business License and/or required state approval or license or at such time that the applicant is no longer residing at the address for which the approval was granted.

HISTORY

Adopted by Ord. [15-C](#) on 3/17/2015

15.33.030.4 Design Review And/Or Conditional Use

Home Occupations may require a Design Review and/or an approval of a Conditional Use Permit by the appropriate land use authority (see PMC 15.33.010.3 and PMC 15.05.040(4)(a), Item (59)(b).

HISTORY

Adopted by Ord. [15-C](#) on 3/17/2015

15.33.030.6 Inspections

The appropriate licensing authority or land use authority can require building inspection and/or fire inspection at the owner's expense as part of the process for issuing a Business License or approving a Conditional Use Permit.

HISTORY

Adopted by Ord. [15-C](#) on 3/17/2015

15.34 Regulations For Large Scale Utility Lines, Wireless Telecommunications Towers, Microwave Towers, And Miscellaneous Infrastructure

15.34.010 Definitions And General Provisions

15.34.010.1 Definitions

As used in this title, the following terms shall have the meanings set forth below:

1. **Alternative Tower Structure:** Means clock towers, bell steeples, light poles and similar alternative-design mounting structures that camouflage or conceal the presence of antennae or towers.
2. **Antenna:** Means any exterior transmitting or receiving device mounted on a tower, building or structure and used in communications that radiates or captures electromagnetic waves, digital signals, analog signals, radio frequencies (excluding radar signals), wireless telecommunications signals or other communication signals.
3. **Backhaul network:** Means the lines that connect a provider's towers/cell sites to one or more cellular telephone switching offices, and/or long distance providers, or the public switched telephone network.
4. **Existing Structure:** Means light poles, power poles, chimneys, billboards, and other similar structures which are placed within the City at the time of adoption of this title, except existing buildings.
5. **FAA:** Means the Federal Aviation Administration.
6. **FCC:** Means the Federal Communications Commission.
7. **Height:** Means, when referring to a tower or other structure, the vertical distance measured from the natural grade level to the highest point of the structure directly above the natural grade when such structure is not located in a platted subdivision. If the structure is located in a platted subdivision, the height shall be the vertical distance measured from the finished grade as shown on the subdivision grading plans or finished grade as shown on the individual lot's grading plans, (whichever is lower), to the highest point of the structure directly above the finished grade. In the event that terrain problems prevent an accurate determination of height, the Building Inspector shall rule as to height and appeal from that decision shall be to the Hearing Officer.
8. **Large-scale utility line installations:** The following are "scale utility line installations"
 - a. Electric power transmission lines with a capacity greater than one hundred thirty eight (138) kV or more, or that cross a distance of twelve (12) miles or more (measured on the entire system; not just the portion of the system within Perry City limits); or
 - b. Gas transmission lines (design pressure of six hundred (600) psi or more, or a pipe diameter of sixteen (16") inches or more), or that cross a distance of twelve (12) miles or more (measured on the entire system; not just the portion of the system within Perry City limits); or
 - c. Water transmission facilities with a capacity of fifty (50) second-feet or more, or that cross a distance of twelve (12) miles or more (measured on the entire system; not just the portion of the system within Perry City limits), except those providing irrigation water to agricultural operations within Perry City limits; or
 - d. Other utility installations such as, but not limited to, fiber optic, oil, telephone, gas, natural gas, cable television/internet service which are sized such that they could provide service to one thousand (1,000) residences or more, or that are being constructed to provide services primarily outside of Perry City and cross a distance of twelve (12) miles or more (measured on the entire system; not just the portion of the system within Perry City limits).
9. **Pre-existing towers and preexisting antennae:** Means any tower or antenna for which a building permit has been properly issued prior to the effective date of this title, including permitted towers or antennae that have not yet been constructed so long as such approval is current and not expired.
10. **Perry, Perry City, or City:** shall mean the incorporated municipal area of Perry City.
11. **Tower:** Means any structure that is designed and constructed primarily for the purpose of supporting one or more antennae for telephone, radio and similar communication purposes, including self-supporting lattice towers, guyed towers, or monopole towers. The term includes radio and television transmission towers, microwave towers, common-carrier towers, cellular telephone towers, alternative tower structures, and the like. The term also includes the structure and any support thereto.

HISTORY

Adopted by Ord. [15-C](#) on 3/17/2015

Amended by Ord. [18-F](#) on 3/28/2019

15.34.020 Large Scale Utility Lines Installation

15.34.020.1 Intent

The intent of this chapter is to allow the installation of major electric power, natural gas, and water transmission lines, and other public and private utility lines while meeting the responsibility to provide for the health, safety, and general welfare of the public and protect the environment. This intent shall be accomplished, in part, by "Master Planning" all "large scale utility line installations."

HISTORY

Adopted by Ord. [15-C](#) on 3/17/2015

15.34.020.2 Scope; Definition Of "Large Scale Utility Line Installations"; Consistency With Franchise And Other Agreements

Subject to the terms of franchise agreements (and other agreements and contracts) dated prior to October 24, 2008, large-scale utility line installations shall be permitted only when in compliance with this ordinance and the regulations set forth in this chapter, as follows.

1. The definition of "large-scale utility line installations" is set forth in PMC 15.34.010.1(8); and
2. Any provision(s) in any franchise agreement (or in any other agreement or contract) dated before October 24, 2008, which are not consistent with this ordinance, shall supercede the inconsistent provision(s) in this ordinance; and
3. All franchise agreements (and other agreements and contracts) dated October 24, 2008 or after, shall comply and be consistent with this ordinance.

HISTORY

Adopted by Ord. [15-C](#) on 3/17/2015

15.34.020.3 Conditional Use Permit And General Plan Amendment Required

The following regarding conditional use permit/general plan amendment requirements:

1. In all areas of incorporated Perry City, whether zoned or un-zoned, any proposed large-scale utility line installation which will not be located or co-located within one hundred and fifty (150') feet (for its entire length) of an existing utility line of equivalent size, height and capacity, can be approved as a conditional use only if the General Plan of Perry City has first been amended to identify the proposed location of the large-scale line as an approved public utility corridor; and
2. No such amendment to the Perry City General Plan shall be required if the proposed large-scale utility line installation will be located or co-located within one hundred and fifty (150') feet of an existing utility line of equivalent size, height and capacity (for its entire length), but shall require a conditional use permit; and
3. The general plan amendment application and conditional use permit application may be processed concurrently, provided the general plan amendment is adopted prior to the conditional use permit being issued. If the applications are processed concurrently and the general plan amendment is not adopted, the conditional use permit fees will not be refunded and any conditional use approvals shall be void; and
4. In the event an amendment to the General Plan of Perry City is required, the amendment shall be accomplished in accordance with the requirements of the Perry Municipal Code and any other requirements imposed by Utah law; and
5. The individual and/or entity seeking such amendment shall be responsible for:
 - a. All filing fees; and
 - b. The costs of consultants hired by Perry City to review and manage the General Plan amendment process; and
6. In the event an amendment to the General Plan of Perry City is not required, the individual and/or entity seeking approval of the proposed large-scale utility line shall conform to the Perry Municipal Code requirements for approval of a conditional use permit.

HISTORY

Adopted by Ord. [15-C](#) on 3/17/2015

15.34.030 Wireless Telecommunications Towers, Microwave Towers, And Antennae

15.34.030.1 Intent

The intent of this chapter is to establish general guidelines for the siting of wireless communications towers and antennae. The goals of this chapter are to:

1. Protect residential areas and land uses from potential adverse impacts of towers and antennae; and
2. Encourage the location of towers in non-residential areas; and

3. Minimize the total number of towers throughout the community; and
4. Strongly encourage the joint use of new and existing tower sites as a primary option rather than construction of additional single-use towers; and
5. Encourage users of towers and antennae to locate them, to the extent possible, in areas where the adverse impact on the community is minimal; and
6. Encourage users of towers and antennae to configure them in a way that minimizes the adverse visual impact of the towers and antennae through careful design, siting, landscape screening, and innovative camouflaging techniques; and
7. Enhance the ability of the providers of telecommunications services to provide such services to the community quickly, effectively, and efficiently; and
8. Consider the effect of communication towers on public health and safety; and
9. Avoid potential damage to adjacent properties from tower failure through engineering and careful siting of tower structures. In furtherance of these goals, Perry City shall give due consideration to the Perry City General Plan, the Perry Municipal Code, including land use ordinances, existing land uses, and environmentally sensitive areas in approving sites for the location of towers and antennae.

HISTORY

Adopted by Ord. [15-C](#) on 3/17/2015

15.34.030.2 Applicability

The following regarding applicability:

1. New Towers and Antennae. All new towers or antennae in Perry City shall be subject to these regulations.
2. The following are exceptions.
3. **Amateur Radio Station Operators/Receive Only Antennae.** This chapter shall not govern any tower, or the installation of any antenna, that is under the maximum building height of the zoning district in which such structure is located and which is owned and operated by a federally-licensed amateur radio station operator or is used exclusively for receive only operations (including “ham” radios); and
4. **Pre-existing Towers or Antennae.** Legally established pre-existing towers and preexisting antennae shall not be required to meet the requirements of this chapter, other than the requirements of PMC 15.34.030.3 (6, 7, and 8); and
5. **AM Array.** For purposes of implementing this chapter, an AM array, consisting of one or more tower units and supporting ground system which functions as one AM broadcasting antenna, shall be considered one tower. Measurements for setbacks and separation distances shall be measured from the outer perimeter of the towers included in the AM array. Additional tower units may be added within the perimeter of the AM array by right.

HISTORY

Adopted by Ord. [15-C](#) on 3/17/2015

15.34.030.3 General Requirements

The following regarding general requirements:

1. **Location.** The permitted locations for any tower or wireless communication device are as specified in the relevant portions in PMC Title 15; and
2. **Principal or Accessory Use.** Antennae and towers may be considered either principal or accessory uses. A different existing use of an existing structure on the same lot shall not preclude the installation of an antenna or tower on such lot; and
3. **Lot Size.** For purposes of determining whether the installation of a tower or antenna complies with district development regulations, including but not limited to setback requirements, lot coverage requirements, and other such requirements, the dimensions of the entire lot shall control, even though the antennae or towers may be located on leased parcels within such lot; and

4. **Inventory of Existing Sites.** Each applicant for an antenna and/or tower shall provide to the Community Development Director an inventory of existing towers, antennae, or sites approved for towers or antennae, that are either within the jurisdiction of Perry City or within one mile of the border thereof, including specific information about the location, height, and design of each tower. Each applicant shall also provide a one-year build-out plan of its facilities for all other wireless communications facilities within the city. The Community Development Director may share such information with other applicants applying for administrative approvals or conditional use permits under this chapter or with other organizations seeking to locate antennae within the jurisdiction of Perry City, provided, however that the Community Development Director is not, by sharing such information, in any way representing or warranting that such sites are available or suitable; and
5. **Aesthetics.** Towers and antennae shall meet the following requirements:
 - a. Towers, 200 feet or greater in height, shall be subject to any applicable standards of the FAA. Such regulations include, but not limited to, those specified in FAA Advisory Circulars AC 70/7460-1 H "Obstruction Marketing & Lighting" and AC 150/5345-43-D "Specifications for Obstruction Lighting Equipment." Towers, less than 200 feet in height, shall be painted a neutral color so as to reduce visual obtrusiveness; and
 - b. At a tower site, the design of the buildings and related structures shall, to the extent possible, use materials, colors, textures, screening, and landscaping that will blend them into the natural setting and surrounding buildings; and
 - c. If an antenna is installed on a structure other than a tower, the antenna and supporting electrical and mechanical equipment must be of a neutral color that is identical to, or closely compatible with, the color of the supporting structure so as to make the antenna and related equipment as visually unobtrusive as possible; and
6. **Lighting.** Towers shall not be artificially lighted, unless required by the FAA or other applicable authority. If lighting is required, the lighting alternatives and design chosen must cause the least disturbance to the surrounding views; and
7. **State or Federal Requirements.** All towers must meet or exceed current standards and regulations of the FAA, the FCC, and any other agency of the state or federal government with the authority to regulate towers and antennae. If such standards and regulations are changed, then the owners of the towers and antennae governed by this chapter shall bring such towers and antennae into compliance with such revised standards and regulations within six (6) months of the effective date of such standards and regulations, unless a different compliance schedule is mandated by the controlling state or federal agency. Failure to bring towers and antennae into compliance with such revised standards and regulations shall constitute grounds for the removal of the tower or antenna at the owner's expense; and
8. **Building Codes; Safety Standards.** To ensure the structural integrity of towers, the owner of a tower shall ensure that it is maintained in compliance with standards contained in applicable state or local building codes and the applicable standards for towers that are published by the Electronic Industries Association, as amended from time to time. If, upon inspection, Perry City concludes that a tower fails to comply with such codes and standards and constitutes a danger to persons or property, then upon notice being provided to the owner of the tower, the owner shall have thirty (30) days to bring such tower into compliance with such standards, unless a longer time is reasonably necessary. Failure to bring such tower into compliance within said thirty (30) days shall constitute grounds for the removal of the tower or antenna at the owner's expense; and
9. **Measurement.** For purposes of measurement, tower setbacks and separation distances shall be calculated and applied to facilities located in Perry City irrespective of municipal and county jurisdictional boundaries; and
10. **Not Essential Services.** Towers and antennae shall be regulated and permitted pursuant to this chapter and shall not be regulated or permitted as essential services, public utilities, or private utilities; and
11. **Franchises.** Owners and/or operators of towers or antennae shall certify that all franchises required by law for the construction and/or operation of a wireless communication system in Perry City have been obtained and shall file a copy of all required franchises with the Community Development Director; and
12. **Public Hearing.** The planning commission may call a specific public hearing on any application after adequate notice, if it is deemed in the public interest. The planning commission shall take action on the application by the second meeting of the planning commission after the application filing date. A record of the hearing together with a recommendation for the denial or issuance of the conditional use permit with conditions of approval or reasons for denial shall be forwarded to the City Council within thirty (30) days of the public hearing; and
13. **Signs.** No signs shall be allowed on an antenna or tower; and
14. **Buildings and Support Equipment.** Buildings and support equipment associated with antennae or towers shall comply with the requirements of PMC 15.34.030.8; and
15. **Co-location and Multiple Antenna/Tower Plan.** Perry City encourages tower and antenna users to submit a single application for approval of multiple towers and/or antenna sites' and to submit applications which utilize co-location with an existing wireless telecommunications provider. Applications for approval of multiple sites or for co-location with an existing provider shall be given priority in the review process; and
16. **Security fencing.** Towers shall be enclosed by security fencing not less than six (6) feet in height and no more than eight (8) feet in height, which shall be constructed of cement block or masonry, and shall be equipped with an appropriate anti-climbing device; and

17. **Landscaping.** The following requirements shall govern the landscaping surrounding towers.

- a. Tower facilities shall be landscaped with a buffer of plant materials that effectively screens the view of the tower compound from residential property. The standard buffer shall consist of a landscaped strip at least four (4) feet wide outside the perimeter of the compound; and
- b. In locations where the visual impact of the tower would be minimal, the landscaping requirement may be reduced or waived; and
- c. Existing mature plant growth and natural land forms on the site shall be preserved to the maximum extent possible.

HISTORY

Adopted by Ord. [15-C](#) on 3/17/2015

Amended by Ord. [17-K](#) 1. Location on 12/14/2017

15.34.030.4 Permitted Uses

The following regarding permitted uses:

1. **General.** The uses listed in this section are deemed to be permitted uses and shall not require administrative approval or a conditional use permit; and
2. **Permitted Uses.** The following uses are specifically permitted:
 - a. Antennae or towers located on property owned, leased, or otherwise controlled by Perry City ("City land") provided a license or lease authorizing such antenna or tower has been approved by Perry City; and
 - b. No such license or lease on City land shall be issued for an antenna or tower that is to be located within three hundred (300) feet of any residentially zoned property within Perry City limits, until a public hearing has been held at a regular or special Planning Commission meeting.

HISTORY

Adopted by Ord. [15-C](#) on 3/17/2015

15.34.030.5 Conditional Use Permits

The following regarding conditional uses:

1. **When a Conditional Use Permit is required.** If the tower or antenna is not a permitted use under PMC 15.34.030.4, then a conditional use permit shall be required for the construction of a tower or the placement of an antenna in all zoning districts; and
2. **General.** The following provisions shall govern the issuance of conditional use permits for towers or antennae:
 - a. Applications for conditional use permits under this Section shall be subject to the procedures and requirements of the land use ordinances and other applicable ordinances, except as modified in this Section; and
 - b. In granting a conditional use permit, the Planning Commission may impose conditions to the extent such conditions are necessary to minimize any adverse effect of the proposed tower on adjoining properties; and
 - c. Any information of an engineering nature that the applicant submits, whether civil, mechanical, or electrical, shall be certified by an Utah licensed professional engineer; and
 - d. An applicant for a conditional use permit shall submit the information described in this section and a non-refundable fee established pursuant to the zoning ordinance, applicable fee schedule, or other applicable ordinance; and
 - e. A conditional use permit issued under this Chapter shall be conditioned upon verification, by the City Engineer (or designee), that such tower structure is structurally sound. Such verification shall be received by the applicant prior to submission; and
3. **Towers.**
 - a. Information required. In addition to any information required for applications for conditional use permits pursuant the zoning ordinance, applicable fee schedule, or other applicable ordinance, applicants for a conditional use permit for a tower shall submit the following information:
 - i. A Plan of Development as required in the land use ordinances, plus zoning and General Plan classification of the site and all properties within the applicable separation distances set forth in PMC 15.34.030.6(2), adjacent roadways, proposed means of access, elevation drawings of the proposed tower and any other structures, and other information deemed by the Community Development Director to be necessary to assess compliance with this chapter; and

- ii. The setback distance between the proposed tower and the nearest residential unit and residentially zoned properties; and
- iii. The separation distance from other towers described in the inventory of existing sites submitted pursuant to PMC 15.34.030.3(3) shall be shown on an updated site plan or map. The applicant shall also identify the type of construction of the existing tower(s) and the owner/operator of the existing tower(s), if known; and
- iv. Method of fencing, and finished color and, if applicable, the method of camouflage and illumination; and
- v. A description of compliance with PMC 15.34.030.3(3-17), PMC 15.34.030.6(1), PMC 15.34.030.6(2) and all applicable federal, state or local laws; and
- vi. A notarized statement by the applicant as to whether construction of the tower will accommodate co-location of additional antennae for future users; and
- vii. Identification of the entities providing the Backhaul network for the tower(s) described in the application and other cellular sites owned or operated by the applicant in the municipality; and
- viii. A description of the suitability of the use of existing towers, other structures or alternative technology not requiring the use of towers or structures to provide the services to be provided through the use of the proposed new tower; and
- ix. A description of the feasible alternative location(s) of future towers or antennae within Perry City the based upon existing physical, engineering, technological or geographical limitations in the event the proposed tower is erected; and
- x. A statement of compliance with Federal Communications Commission (FCC) Radio Frequency (RF) exposure standards; and
- b. Noise. No permit shall be issued for any facility which generates a noise level greater than fifty decibels (50 db) as measured at the edge of the property upon which such facility is sited; and
- c. Factors Considered in Granting Conditional Use Permits for Towers. In addition to any standards for consideration of conditional use permit applications pursuant to the zoning ordinance, applicable fee schedule, or other applicable ordinance, the Planning Commission shall consider the following factors in determining whether to issue a conditional use permit:
 - i. Height of the proposed tower; and
 - ii. Proximity of the tower to residential structures and residentially zoned district boundaries; and
 - iii. Nature of uses on adjacent and nearby properties; and
 - iv. Surrounding topography; and
 - v. Surrounding tree coverage and foliage; and
 - vi. Design of the tower, with particular reference to design characteristics that have the effect of reducing or eliminating visual obtrusiveness; and
 - vii. Proposed ingress and egress; and
 - viii. Availability of suitable existing towers, other structures, or alternative technologies not requiring the use of towers or structures, as discussed in PMC 15.34.030.5(2); and
- d. Availability of Suitable Existing Towers, Other Structures, or Alternative Technology. No new tower shall be permitted unless the applicant demonstrates to the reasonable satisfaction of the Planning Commission that no existing tower, structure or alternative technology that does not require the use of towers or structures can accommodate the applicant's proposed antenna. An applicant shall submit information requested by the Planning Commission related to the availability of suitable existing towers, other structures or alternative technology. Evidence submitted to demonstrate that no existing tower, structure or alternative technology can accommodate the applicant's proposed antenna may consist of any of the following:
 - i. No existing towers or structures are located within the geographic area which meet applicant's engineering requirements; and
 - ii. Existing towers or structures are not of sufficient height to meet applicant's engineering requirements; and
 - iii. Existing towers or structures do not have sufficient structural strength to support applicant's proposed antenna and related equipment; and
 - iv. The applicant's proposed antenna would cause electromagnetic interference with the antenna on the existing towers or structures, or the antenna on the existing towers or structures would cause interference with the applicant's proposed antenna; and
 - v. The fees, costs, or contractual provisions required by the owner in order to share an existing tower or structure or to adapt an existing tower or structure for sharing are unreasonable. Costs exceeding new tower development are presumed to be unreasonable; and
 - vi. The applicant demonstrates that there are other limiting factors that render existing towers and structures unsuitable; and

- vii. The applicant demonstrates that an alternative technology that does not require the use of towers or structures, such as a cable micro-cell network using multiple low-powered transmitters/receivers attached to a wire-line system, is unsuitable. Costs of alternative technology that exceed new tower or antenna development shall not be presumed to render the technology unsuitable.

HISTORY

Adopted by Ord. [15-C](#) on 3/17/2015

Amended by Ord. [18-F](#) on 3/28/2019

15.34.030.6 Minimum Setbacks And Separation

The following regarding minimum setbacks and separation:

1. **Setbacks.** The following setback requirements shall apply to all towers:
 2. Towers must be set back a distance approved by the Planning Commission, after considering health and safety concerns and concerns of adjacent landowners; and
 3. Accessory buildings must satisfy the minimum zoning district setback requirements; and
4. **Separation.** The following separation requirements shall apply to all towers and antennae:
 5. Separation from off-site uses/designated areas.
 6. Tower separation shall be measured from the base of the tower to the lot line of the off-site uses and/or designated areas as specified herein; and
 7. Separation requirements for towers shall comply with the minimum standards established herein; and
 8. The separation is measured from base of tower to closest building setback line; and
 9. Separation distances between towers. Separation distances between towers shall be applicable for and measured between the proposed tower and preexisting towers. The separation distances shall be measured by drawing or following a straight line between the base of the existing tower and the proposed base, pursuant to a site plan, of the proposed tower; and
10. No encroachment can be built within the separation/setback area after any tower is erected.
11. Chain link fences (and/or other fences approved by the Planning Commission) may be placed around a tower or related structures or buildings.

HISTORY

Adopted by Ord. [15-C](#) on 3/17/2015

15.34.030.7 Buildings Or Other Equipment Storage

The Planning Commission may require, during the conditional use process, conditions regarding buildings or other equipment storage, including antennae mounted on structures or rooftops and/or other buildings, structures, or cabinets related thereto.

HISTORY

Adopted by Ord. [15-C](#) on 3/17/2015

15.34.030.8 Co-Location

The following regarding co-location:

1. **Good Faith.** Applicants and permittees shall cooperate and exercise good faith in co-locating wireless telecommunications facilities on the same support structures or site, if the City so requests. Good faith shall include sharing technical information to evaluate the feasibility of co-location, and may include negotiations for erection of a replacement support structure to accommodate co-location. A competitive conflict to co-location or financial burden caused by sharing such information normally will not be considered as an excuse to the duty of good faith; and

2. **Third Party Technical Review.** In the event a dispute arises as to whether a permittee has exercised good faith in accommodating other users, the City may require the applicant to obtain a third party technical study at the applicant's expense. The City may review any information submitted by the applicant and permittee(s) in determining whether good faith has been exercised; and
3. **Exceptions.** No co-location may be required where the shared use would or does result in significant interference in the broadcast or reception capabilities of the existing wireless telecommunications facilities or failure of the existing wireless telecommunications facilities to meet federal standards for emissions; and
4. **Violation; penalty.** Failure to comply with co-location requirements when feasible may result in denial of a permit request or revocation of an existing permit.

HISTORY

Adopted by Ord. [15-C](#) on 3/17/2015

15.34.030.9 Removal Of Abandoned Antennae And Towers

Any antenna or tower that is not operated for a continuous period of ninety (90) days shall be considered abandoned, and the owner of such antenna or tower shall remove the same within ninety (90) days of receipt of notice from Perry City notifying the owner of such abandonment. Failure to remove an abandoned antenna or tower within said ninety (90) day period shall be grounds to remove the tower or antenna at the owner's expense. If there are two or more users of a single tower, then this provision shall not become effective until all users cease using the tower for the prescribed period.

HISTORY

Adopted by Ord. [15-C](#) on 3/17/2015

15.34.030.10 Nonconforming Uses

The following regarding Nonconforming Uses/ Noncomplying Structures:

1. **Not Expansion of Nonconforming Uses/ Noncomplying Structures.** Towers that are constructed, and antennae that are installed, in accordance with the provisions of this chapter shall not be deemed to constitute the expansion of a nonconforming use or structure; and
2. **Pre-existing towers.** Pre-existing towers shall be allowed to continue their usage as they presently exist. Routine maintenance (including replacement with a new tower of like construction and height) shall be permitted on such preexisting towers. Construction of additional antennae or other equipment on a preexisting tower shall comply with the requirements of this chapter; and
3. **Rebuilding Damaged or Destroyed Nonconforming Towers or Antennae.** Notwithstanding other provisions of this chapter, bona fide nonconforming towers or antennae that are damaged or destroyed may be rebuilt without having to first obtain a conditional use permit and without having to meet the separation requirements specified in PMC 15.34.030.6(1) and PMC 15.34.030.6(2). The type, height, and location of the tower onsite shall be of the same type and intensity as the original facility approval; provided, however, that any destroyed lattice or guyed tower shall be replaced with a monopole structure only. Building permits to rebuild the facility shall comply with the then applicable building codes and shall be obtained within ninety (90) days from the date the facility is damaged or destroyed. If no permit is obtained or if said permit expires, the tower or antenna shall be deemed abandoned as specified in Section 15.34.030.9.
4. **See also PMC 15.35 (Nonconforming Uses/ Noncomplying Structures).**

HISTORY

Adopted by Ord. [15-C](#) on 3/17/2015

15.35 Nonconforming Uses

15.35.010 Existing Nonconforming Uses And Noncomplying Structures

15.35.010.1 Maintenance Permitted

A nonconforming use or noncomplying structure, which was legal at the time, may be maintained and operated as long as there is no change in the use, building, or structure.

HISTORY

Adopted by Ord. [15-C](#) on 3/17/2015

15.35.010.2 Repairs And Alterations

General repairs and necessary structural alterations for safety purposes shall be allowed to be made to a nonconforming building or noncomplying use.

HISTORY

Adopted by Ord. [15-C](#) on 3/17/2015

15.35.010.3 Certificate Of Existence

The Community Development Department may grant a Certificate of Existence for a nonconforming use and/or a noncomplying structure upon proof of existence and mailing notice (at applicant's expense) to immediately adjacent landowners and posting on the City's website, with a two week waiting period after mailing and posting (thus allowing for mail delivery and the 10-day appeal period as per PMC 15.05.040(5)(b) and PMC 15.05.040(5)(c)).

HISTORY

Adopted by Ord. [15-C](#) on 3/17/2015

15.35.020 Additions, Enlargements, Or Moving

15.35.020.1 Requirements For Amending, Modifying, And/Or Enlarging

A building or structure occupied by a nonconforming use or a building or structure that is noncomplying 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 it occupies except as provided in PMC 15.35.020.2 and PMC 15.35.020.3.

HISTORY

Adopted by Ord. [15-C](#) on 3/17/2015

15.35.020.2 Public Hearing And Finding

A permit may be authorized by the Planning Commission to enlarge or move a building or structure, as stated above, provided that said board, after holding a public hearing, shall make the following findings:

1. The addition, enlargement of or moving of the building will be in harmony with one or more of the purposes of this ordinance.
2. The proposed change does not impose any unreasonable burden upon the lands located in the vicinity of the nonconforming use or noncomplying structure.

HISTORY

Adopted by Ord. [15-C](#) on 3/17/2015

Amended by Ord. [18-F](#) on 3/28/2019

15.35.020.3 Additions Or Extensions To Residential Noncomplying Structures

Additions or extensions may be made to a residential building which is noncomplying as to height, area, or yard requirements providing such additions conform to all requirements of the zoning district in which it is located and do not increase the number of dwelling units.

HISTORY

Adopted by Ord. [15-C](#) on 3/17/2015

15.35.020.4 Alteration Where Parking Is Insufficient

A building or structure lacking sufficient number of vehicle parking spaces in connection therewith as required by PMC 15.19; Streets, Trees, Parkways, may be altered or enlarged after authorization by the Planning Commission provided additional vehicle parking spaces are supplied to bring the use into compliance with the PMC 15.19; Streets, Trees, Parkways. Approval for the alteration or enlargement must follow the Design Review process.

HISTORY

Adopted by Ord. [15-C](#) on 3/17/2015

Amended by Ord. [18-F](#) on 3/28/2019

15.35.020.5 Restoration Of Damaged Buildings

A noncomplying building or structure or a building or structure occupied by a nonconforming use that is damaged or destroyed by fire, flood, wind, earthquake or other natural calamity or act of God or public enemy may be restored and the occupancy or use of said building, structure or part thereof, which existed at the time of such damage or destruction, may be continued, resumed, or restored, provided that such restoration is started within a period of one (1) year after destruction and is worked on continually until completion.

HISTORY

Adopted by Ord. [15-C](#) on 3/17/2015

15.35.020.6 Change Of Use

The nonconforming use of a building or structure may not be changed to another nonconforming use but may be changed to a conforming use or as allowed by this Title. If a change to a conforming use is made, the use shall not thereafter be changed back to a nonconforming use.

HISTORY

Adopted by Ord. [15-C](#) on 3/17/2015

15.35.030 Lapse And/Or Continuation Of use And Miscellaneous Provisions

15.35.030.1 One-Year Vacancy

A building or structure or portion thereof occupied by a nonconforming use, that is or hereinafter becomes vacant and/or remains unoccupied by a nonconforming use for a continuous period of one (1) year, shall not thereafter be allowed to resume. Re-occupancy shall be allowed for uses that are conforming to the regulations of the zoning district in which the building or use is located.

HISTORY

Adopted by Ord. [15-C](#) on 3/17/2015

15.35.030.2 Continuation Of Use

The occupancy of a building or structure by a nonconforming use, existing at the time this ordinance became effective, may be continued.

HISTORY

Adopted by Ord. [15-C](#) on 3/17/2015

15.35.030.3 Occupation Within One Year After Use Became Nonconforming

A vacant building or structure may be occupied by a use for which the building or structure was designed and/or intended if occupied within a period of one (1) year after the use became nonconforming.

HISTORY

Adopted by Ord. [15-C](#) on 3/17/2015

15.35.030.4 Nonconforming Use Of Land

The nonconforming use of land, existing at the time this ordinance became effective may be continued, provided no such nonconforming use of land shall be expanded in any way or extended either on the same or adjoining property and provided if such nonconforming use of land, or any portion thereof, is abandoned and/or changed for a continuous period of one (1) year, any future use of such land shall be required to be in conformity with the requirements of the zoning district where the land is located.

HISTORY

Adopted by Ord. [15-C](#) on 3/17/2015

15.35.030.5 Yearly Fluctuation Of Inventory

Businesses or uses that experience fluctuations of inventory on a periodic or yearly basis for agricultural and/or other purposes will not have these considered as a change of use or cause the use to become nonconforming.

HISTORY

Adopted by Ord. [15-C](#) on 3/17/2015

16 Temporary Ordinances

16.01 Temporary Emergency Exceptions: Temporary Use And/Or Obstruction Of Right-Of-Way

16.01.010 Temporary Emergency Exceptions: Temporary Use And/Or Obstruction Of Right-Of-Way

1. Temporary Emergency Exceptions (to the land use ordinances) and Permits to Temporarily Use or Obstruct the Public Right-of-way may be granted by the City Council, in accordance with Perry Municipal Code or PMC 10.03.
2. Temporary Emergency Exceptions (to the land use ordinances) may be granted by the City Council, in accordance with Perry Municipal Code. Such exceptions may be granted in unusual emergency, disaster, or "act of God" situations. Permits to Temporarily Use or Obstruct the Public Right-of-way may also be granted by the City Council. Such permits may be granted for public parades, public events, and other special circumstances.

HISTORY

Adopted by Ord. [15-C](#) on 3/17/2015

16.03 Temporary Noise And Gravel Pit Provisions

16.03.010 Temporary Noise And Gravel Pit Provisions

1. That for the special Utah Department of Transportation project identified above, commencing on or about March 25, 2011, for trucks and vehicles operated by Geneva Rock or its affiliates or sub-contractors, as well as for trucks and vehicles otherwise authorized by the State of Utah regarding said special project:
 - a. Regular noise ordinance provisions (PMC 8.03) and gravel pit ordinance provisions (PMC 15.31.020), as well as all other related and applicable provisions are hereby waived during the next 45 days;
 - b. This 45 day waiver includes 3:30 a.m. to 9:30 a.m. each day, and all other pertinent and applicable times during said 45 day time period.

HISTORY

Adopted by Ord. [15-C](#) on 3/17/2015

16.05 Temporary Allowance For An Existing Sign At Approx 2645 S On Highway 89

16.05.010 Temporary Allowance For An Existing Sign At Approx 2645 S On Highway 89

1. That for the historical sign located on the west side of Highway 89 at approximately 2645 South in Perry:
 - a. The sign shall be allowed to continue exist during the 90 day time period referenced herein;
 - b. The sign may be modified without enlarging the size of the sign during said 90 day time period.

HISTORY

Adopted by Ord. [15-C](#) on 3/17/2015

16.06 Temporary Moratorium And Restrictions Regarding The Operation Of Gravel Pits

16.06.010 Temporary Moratorium And Restrictions Regarding The Operation Of Gravel Pits

1. **Findings of Countervailing Interest.** Pursuant to Section 10-9a-504(1)(a), Utah Code Annotated, the Municipal Council expressly finds that there are potential irreparable and adverse effects of allowing development prohibited in this ordinance within the boundaries of the Perry City while the City completes an ordinance and regulation review and conducts public meetings regarding the operation of a gravel pit, mining, reclamation and related activities is not in the best interest of the City and constitutes a compelling, countervailing public interest sufficient to justify a six-month prohibition regarding such grading and exposed wall surfaces.
2. **Balancing of Public versus Private Interests.** The Municipal Council further finds that any harm to private interest is *de minimis* and outweighed by the City's obligation to protect the health, safety and welfare of residents in the City. The City Council finds that no developments, the plans for which were not submitted prior to 8:00 a.m. on December 19, 2016 in full compliance with existing zoning regulations, have any right to develop under those existing regulations. Further, any development plan applications submitted prior to 8:00 a.m. on December 19, 2016 which have been disapproved by the City due to incompleteness, inaccuracies or non-compliance are specifically determined to have no vested right to develop under existing regulations and Ute City shall not accept any re-submittals of these disapproved applications except in accordance with the terms of this ordinance.
3. These temporary zoning and building regulations are hereby adopted for all zones related to gravel, mining and related activities as set for in Chapter 15.31 of the Code of Perry City, Utah, for a period not to exceed 6 months.

HISTORY

Adopted by Ord. [16-E](#) on 12/20/2016

17 Administrative Code Enforcement Program

17.01 General Purposes

17.01.010 Short Title

This Title shall be known as the “Administrative Code Enforcement” or “ACE” program. This Title shall also be known as Title 17 of the Perry Municipal Code. It may be cited and pleaded under either designation.

HISTORY

Adopted by Ord. [17-A](#) on 6/22/2017

17.01.020 Purpose And Introduction

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

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

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

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

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

A criminal judicial case involves a government entity or other entity endowed with law enforcement powers arresting and trying someone in a court of law for a crime that was committed. Typical consequences of a criminal case are jail time, monetary punishments in the form of fines and a misdemeanor or felony charge being placed on the guilty party's permanent record.

HISTORY

Adopted by Ord. [17-A](#) on 6/22/2017

17.01.030 Scope

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

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

HISTORY

Adopted by Ord. [17-A](#) on 6/22/2017

17.01.040 Existing Law Continued

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

HISTORY

Adopted by Ord. [17-A](#) on 6/22/2017

17.01.050 Criminal Prosecution Right

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

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

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

HISTORY

Adopted by Ord. [17-A](#) on 6/22/2017

17.01.060 Effect of Headings

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

HISTORY

Adopted by Ord. [17-A](#) on 6/22/2017

17.01.070 Severability

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

HISTORY

Adopted by Ord. [17-A](#) on 6/22/2017

17.01.080 Civil Liability

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

HISTORY

Adopted by Ord. [17-A](#) on 6/22/2017

17.01.090 General Rules Of Interpretation

For purposes of this Title:

1. "Shall" is mandatory; "may" is permissive.
2. Unless otherwise specified, the terms "hereof," "herein," and similar terms refer to this Title as a whole.
3. Words of the masculine gender mean and include correlative words of the feminine and neuter genders, and words indicating a singular number mean and include the plural number and vice versa.

HISTORY

Adopted by Ord. [17-A](#) on 6/22/2017

17.01.100 Definitions Applicable To Title Generally

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

"Administrative Notice" means a citation issued to a Responsible Person that gives reasonable Notice of a Violation and the civil-penalty for such Violation.

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

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

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

"City Council" means the City Council of Perry City.

"Day" refers to calendar days.

"Director" means an individual(s) as designated by the Mayor's Office.

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

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

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

"Mayor" means the mayor of Perry City.

"Notice of Compliance" means a document or form issued and approved by the Director that indicates that a Violation has been corrected.

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

"Notice of Itemized Bill for Costs" means a Written notice, itemizing the City's costs and ordering payment of those costs.

"Notice of Violation" means a Written notice that informs a Responsible Person of a Violation and orders certain remedial steps to correct said Violations.

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

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

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

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

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

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

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

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

HISTORY

Adopted by Ord. [17-A](#) on 6/22/2017

17.01.110 Acts Include Causing, Aiding, And Abetting

Whenever any act or omission is made unlawful in this Title, it shall include causing, permitting, aiding, or abetting such act or omission.

HISTORY

Adopted by Ord. [17-A](#) on 6/22/2017

17.01.120 Notice And Service Requirements

1. Notices required to be given under this Title shall be in the English language.
2. Whenever-service is required to be given under this Title, service shall be made by any of the methods listed below, unless different provisions are otherwise specifically stated to apply. Personal Services should be tried before serving notice in the other methods indicated below.
 - a. Personal Service.
 - b. Regular or Certified mail, postage prepaid, to the last known address of a Responsible Person.
 - c. Posting the notice conspicuously on or in front of the property. If the property is not inhabited, then the notice must also be mailed. The form of the posted notice shall be approved by the Director.
 - d. Publish in a newspaper of general circulation if and only if: the identity or whereabouts of the person to be served are unknown and cannot be ascertained through reasonable diligence; service is impracticable under the circumstances; or there exists good cause to believe that the Person to be served is avoiding service.
3. Service by regular mail in the manner set forth above shall be deemed served on the seventh day after the date of mailing when mailed in the continental United States. Service by regular mail to all other addresses shall deemed served on the tenth day after the date of mailing.
4. If service complies with the requirements of this section, it shall be deemed a valid service even if a party claims to have not received the service and it shall not affect the validity of any proceedings taken under this Title.
5. The failure of a Person, other than a Responsible Person, to be served in accordance with this section shall not affect the validity of any proceedings here under.
6. Whenever a document is recorded with the county recorder as authorized or required by this Title or applicable state codes, recordation shall provide constructive notice of the information contained in the recorded documents.

HISTORY

Adopted by Ord. [17-A](#) on 6/22/2017

17.01.130 General Enforcement Authority

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

HISTORY

Adopted by Ord. [17-A](#) on 6/22/2017

17.01.140 Adoption Of Policy And Procedures

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

HISTORY

Adopted by Ord. [17-A](#) on 6/22/2017

17.01.150 Authority To Inspect

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

HISTORY

Adopted by Ord. [17-A](#) on 6/22/2017

17.01.160 False Information Or Refusal Prohibited

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

HISTORY

Adopted by Ord. [17-A](#) on 6/22/2017

17.01.170 Failure To Obey A Subpoena

It shall be unlawful for any Person to willfully refuse or fail to obey a subpoena issued for an Administrative Enforcement Hearing. Failure to obey a subpoena may constitute contempt and may be prosecuted as a class B misdemeanor.

HISTORY

Adopted by Ord. [17-A](#) on 6/22/2017

17.01.180 Power To Arrest

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

HISTORY

Adopted by Ord. [17-A](#) on 6/22/2017

17.01.190 Records Retention

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

1. Written communications and interoffice records for three (3) years and
2. All other records for a minimum of three (3) years.

HISTORY

Adopted by Ord. [17-A](#) on 6/22/2017

17.02 Administrative Code Enforcement Procedures

17.02.010 Administrative Notice

17.02.010.1 Purpose And Authority

The City Council finds that there is a need for a method of enforcement for Violations that are minor in nature and not initially or generally desirable to be abated by the City (if such abatement action is or becomes necessary). The City Council further finds that an appropriate alternative method of enforcement for Violations of this nature is by Administrative Notice. Violations not of this nature may generally be enforced by procedures associated with a Notice of Violation, which are described in Section 17.02.020 herein. The procedures established in this subsection shall be an alternative and in addition to other administrative enforcement, including, but not limited to, a Notice of Violation; criminal; civil; or any other legal remedy established by law that may be pursued to address Violations. The utilization of an Administrative Notice is at the sole discretion of the City.

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

HISTORY

Adopted by Ord. [17-A](#) on 6/22/2017

17.02.010.2 Procedures For Administrative Notices

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

1. An Enforcement Official shall attempt to serve an Administrative Notice to the Responsible Person via Personal Service. When Personal Service is successful, the Enforcement Official should document the service of the Administrative Notice. If Personal Service is unsuccessful, then an Enforcement Official shall immediately serve the Administrative Notice on the Responsible Person via any of the other methods provided for in this Title.
2. The Enforcement Official shall attempt to obtain the signature of the Responsible Person on the Administrative Notice. If the Responsible Person refuses or fails to sign the Administrative Notice, such failure or refusal shall not affect the validity of the Administrative Notice and subsequent proceedings.
 - a. A Responsible Person has the right to an Administrative Enforcement Hearing concerning the Administrative Notice.
3. More than one Administrative Notice may be issued against the same Responsible Person if the additional Administrative Notice encompasses different dates or different Violations.

HISTORY

Adopted by Ord. [17-A](#) on 6/22/2017

17.02.010.3 Contents Of Administrative Notice

Each Administrative Notice shall contain the following information:

1. The date, location, and explanation of all Violations;
2. Code sections violated;
3. The amount of the civil penalty imposed for each Violation;
4. An explanation of how the civil penalty shall be paid, the time period in which the civil penalty shall be paid, and the consequences of failure to pay the civil penalty;
5. Identify the right to and the procedures for requesting an Administrative Enforcement Hearing;
6. A demand that the Responsible Person cease and desist from further action causing the Violation and commence and complete all action to correct the Violation as directed by the City; and
7. The signature of the Enforcement Official and, if possible, the signature of the Responsible Person.

HISTORY

Adopted by Ord. [17-A](#) on 6/22/2017

17.02.010.4 Civil Penalties Assessed

1. Civil penalties shall be due and payable immediately upon service of an Administrative Notice.
2. The civil penalty for each Violation listed on the Administrative Notice shall be as identified in the City's fee schedule.
3. Civil penalties shall be double (i) if they are paid after sixty (60) Days of the date of the Administrative Notice or (ii) if the Violation remains uncorrected after sixty (60) Days of the date of the Administrative Notice.
4. Civil penalties shall be triple (i) if they are paid after sixty (120) Days of the date of the Administrative Notice or (ii) if the Violation remains uncorrected after sixty (120) Days of the date of the Administrative Notice.
5. Payment of any civil penalty shall not excuse a failure to correct a Violation or any recurrence of the Violation, nor shall it bar further enforcement action by the City.
6. Civil penalties shall be paid to the Perry City Treasurer.

HISTORY

Adopted by Ord. [17-A](#) on 6/22/2017

17.02.010.5 Inspections And Compliance

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

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

HISTORY

Adopted by Ord. [17-A](#) on 6/22/2017

17.02.020 Notice Of Violation

17.02.020.1 Authority

Any Violation may be abated by the City pursuant to the procedures set forth in this chapter. However, the method of enforcement described in this chapter is typically for, but not limited to, Violations that are major in nature, found to exist on real property, and generally desirable to be abated by the City (if such abatement action is or becomes necessary). Violations less in nature than this may generally be enforced by procedures associated with an Administrative Notice, which are described in Section 17.02.010 herein. The procedures established in this chapter shall be an alternative and in addition to other administrative enforcement, including, but not limited to, an Administrative Notice; criminal; civil; or any other legal remedy established by law that may be pursued to address Violations. The utilization of a Notice of Violation is at the sole discretion of the City.

HISTORY

Adopted by Ord. [17-A](#) on 6/22/2017

17.02.020.2 Procedures For Notices Of Violation

Whenever an Enforcement Official determines that a Violation that is major in nature and generally desirable to be abated by the City (if such abatement action is or becomes necessary) has occurred or continues to exist, the City may issue a Notice of Violation to the Responsible Person.

1. An Enforcement Official may serve a Warning Notice of such Violation on the Responsible Person. The Warning Notice should contain the information required in a Notice of Violation and provide ten (10) Days to correct the Violation.
 - a. An Enforcement Official shall attempt to serve a Notice of Violation on the Responsible Person via Personal Service. When Personal Service is successful, an Enforcement Official should document the service of such notice.
 - b. If Personal Service is unsuccessful, then an Enforcement Official shall serve the Notice of Violation on the Responsible Person via any of the other methods provided for in this Title.
2. If the Violation continues on the eleventh Day after the Warning Notice, then an Enforcement Official shall serve a Notice of Violation on the Responsible Person. The Notice of Violation shall include the following information:
 - a. Name of the Responsible Person.
 - b. Street address or other generally accepted description of the location of Violation.
 - c. Date Violation observed.
 - d. Citation of all specific code sections applicable to the Violation and a description of the Violation.
 - e. All remedial action required to permanently correct any Violation, which may include corrections, repairs, demolition, removal, or other appropriate action.
 - f. Specific date to correct the Violation.
 - g. Explanation of the consequences should the Responsible Person fail to comply with the terms and deadlines as prescribed in the Notice of Violation, which may include, but is not limited to: civil penalties; revocation of permits; recordation of the Notice of Violation; withholding of municipal permits; abatement of the Violation; costs; administrative fees; criminal or civil prosecution; and any other legal remedies.
 - h. Statement that civil penalties will begin to accrue immediately on expiration of the date to correct the Violation.
 - i. The amount of the civil penalty for each Violation and a statement that the civil penalty shall accrue daily until the Violation is corrected.
 - j. Statement that only one Notice of Violation is required for any 12-month period, and that civil penalties begin immediately upon any subsequent violations of the Notice of Violation. The Responsible Person may request an Administrative Enforcement Hearing on the renewed violations by following the same procedure as provided for the original notice.
 - k. Demand that the Responsible Person cease and desist from further action causing the Violation and commence and complete all action to correct the Violations as directed by the City.
 - l. Procedures to request an Administrative Enforcement Hearing, and consequences for failure to request such hearing.
 - m. Statement that when the Violation is brought into compliance, the Responsible Person must request an inspection to be performed by the City and notice of reinspection fees, if re-inspection is required.
3. More than one Notice of Violation may be issued against the same Responsible Person if the additional Notice of Violation encompasses different dates or different Violations.
4. A Responsible Person has the right to an Administrative Enforcement Hearing concerning the Notice of Violation.

HISTORY

Adopted by Ord. [17-A](#) on 6/22/2017

17.02.020.3 Inspections And Compliance

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

HISTORY

Adopted by Ord. [17-A](#) on 6/22/2017

17.02.020.4 Failure To Correct

It shall be unlawful for any Responsible Person to fail to comply with the terms and deadlines set forth in a Notice of Violation. Failure by a Responsible Person to bring a Violation into compliance as and when specified in the Notice of Violation may result in, but limited to, any of the following:

1. The assessment of civil penalties owed to the City against the Responsible Person for each and every subsequent Day of Violation without additional notice to the Responsible Person required.
2. Civil or criminal prosecution actions by the City against the Responsible Person.

HISTORY

Adopted by Ord. [17-A](#) on 6/22/2017

17.02.030 Emergency Abatement

17.02.030.1 Authority

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

HISTORY

Adopted by Ord. [17-A](#) on 6/22/2017

17.02.030.2 Procedures

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

HISTORY

Adopted by Ord. [17-A](#) on 6/22/2017

17.02.040 Administrative Code Enforcement Hearing

17.02.040.1 Purpose

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

HISTORY

Adopted by Ord. [17-A](#) on 6/22/2017

17.02.040.2 Request For Administrative Enforcement Hearing

1. A Responsible Person served with one of the following documents or notices shall have the right to request an Administrative Enforcement Hearing. Such request shall be filed within ten (10) Days from the date of service of one of the following:
 - a. Notice of Violation;
 - b. Notice of Itemized Bill for costs;
 - c. Notice of Emergency Abatement.
2. Said request, including all information concerning the Responsible Person's right to an Administrative Enforcement Hearing, shall be provided in English.
3. The request for an Administrative Enforcement Hearing shall be made in writing to the Director.
4. As soon as practicable after the City's receipt of the written notice of the request for an Administrative Enforcement Hearing, a Hearing Officer shall schedule a date, time, and place for the Administrative Enforcement Hearing.
5. Failure to request an Administrative Enforcement Hearing within ten (10) Days from the date of service of any of the notices in subsection (A) of this section shall constitute a waiver of the right to an Administrative Enforcement Hearing. The right to appeal said failure may be waived by the City upon showing proof of a verifiable extenuating circumstance.
6. If a Responsible Person fails to request an Administrative Enforcement Hearing after being issued a Notice of Violation as provided herein, the corrective action detailed on the Notice of Violation shall be considered the Administrative Enforcement Order pursuant to this Title.
7. As an alternative to subsection (f) of this section, if a Responsible Person fails to request an Administrative Enforcement Hearing as provided herein, such failure shall be considered a waiver by the Responsible Person of their right to said hearing and a default shall enter against the Responsible Person and the City may seek to have an Administrative Enforcement Order issued by the Hearing Officer without further notice to the Responsible Person.
8. If the Responsible Person fails to request a hearing before the expiration of the ten (10) Day deadline, the case may be set for a default hearing.

HISTORY

Adopted by Ord. [17-A](#) on 6/22/2017

17.02.040.3 Notification Of Administrative Enforcement Hearing

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

HISTORY

Adopted by Ord. [17-A](#) on 6/22/2017

17.02.040.4 Appointment And Qualifications Of Hearing Officer

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

HISTORY

Adopted by Ord. [17-A](#) on 6/22/2017

17.02.040.5 Powers Of Hearing Officer

1. A Hearing Officer shall have authority to conduct an Administrative Enforcement Hearing for a Violation.
2. A Hearing Officer may, for good cause shown by one of the parties or the Hearing Officer independently determines that due process has not been adequately afforded to such party, continue an Administrative Enforcement Hearing. The Hearing Officer must enter on the record the good cause on which a continuance is granted.
3. At the Written request of any party to an Administrative Enforcement Hearing, a Hearing Officer may sign subpoenas for witnesses, documents, and other evidence where the attendance of the witness or the admission of evidence is deemed helpful or necessary by the Hearing Officer to decide issues at the Administrative Enforcement Hearing. All costs related to the subpoena, including witness and mileage fees, shall be borne by the party requesting the subpoena.
4. The Hearing Officer has jurisdiction over the subject matter of an Administrative Enforcement Hearing for the purposes of granting a continuance, ordering compliance by issuing an Administrative Enforcement Order, ensuring compliance of that order, which includes authorizing the City to enter and abate a Violation, modifying an Administrative Enforcement Order, or, where extraordinary circumstances exist, granting a new Administrative Enforcement Hearing.
5. The Hearing Officer has jurisdiction over the subject matter of an Administrative Enforcement Hearing for the purposes of granting a continuance, ordering compliance by issuing an Administrative Enforcement Order, ensuring compliance of that order, which includes authorizing the City to enter and abate a Violation, modifying an Administrative Enforcement Order, or, where extraordinary circumstances exist, granting a new Administrative Enforcement Hearing.
6. A Hearing Officer shall not make determinations as to the existence of nonconforming rights. If a Responsible Person claims a nonconforming right as a defense, the Hearing Officer shall continue the Administrative Enforcement Hearing and shall refer the matter to the appropriate Perry City Land Use Authority for a determination as to the existence of the nonconforming right. The Land Use Authority's decision shall be binding. The Responsible Person shall bear the costs of the appeal petitions.

HISTORY

Adopted by Ord. [17-A](#) on 6/22/2017

Amended by Ord. [18-F](#) on 3/28/2019

17.02.040.6 Procedures At Administrative Enforcement Hearing

1. Administrative Enforcement Hearings are intended to be informal in nature. Formal rules of evidence and discovery shall not apply; however, an informal exchange of discovery may be requested. Any such request shall be written. Failure to request discovery shall not be a basis for a continuance. Complainant information shall not be disclosed or released unless the complainant is a witness at the hearing. The procedure and format of the Administrative Enforcement Hearing shall follow duly adopted policies and procedures.
2. The City bears the burden of proof to establish the existence of a Violation.
3. Such proof shall be established by a preponderance of the evidence.
4. Each party shall have the opportunity to call and cross-examine witnesses and present evidence in support of his or her case. A Written declaration signed under penalty of perjury may be accepted in lieu of a personal appearance.
5. All Administrative Enforcement Hearings are open to the public and shall be recorded by the City on a City owned voice-recording device. At the discretion of the Hearing Officer, Administrative Enforcement Hearings may be held at the location of the Violation.

6. The Responsible Person shall have the right to be represented at their own expense by an attorney. If an attorney will be representing a Responsible Person at a hearing, notice of the attorney's name, address, and telephone number shall be given to the City a least two Days prior to the hearing. If such notice is not given, the hearing may be continued at the City's request, and all costs of the continuance shall be assessed to the Responsible Person.
7. The burden to prove any raised defenses shall be upon the party raising any such defense.
8. No new hearing shall be granted, unless the Administrative Law Judge determines that extraordinary circumstances exist which justify a new hearing

HISTORY

Adopted by Ord. [17-A](#) on 6/22/2017

17.02.040.7 Failure To Attend Administrative Enforcement Hearing

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

HISTORY

Adopted by Ord. [17-A](#) on 6/22/2017

17.02.040.8 Administrative Enforcement Order

1. A Responsible Person and the City may enter into a stipulated agreement, which shall be signed by both parties, at any time. Such agreement shall be entered as an Administrative Enforcement Order (Question on this). Entry of such agreement shall constitute a waiver of the right to further Administrative Enforcement Hearings and the right to appeal.
2. After all evidence and testimony are presented, the Hearing Officer shall issue a Written Administrative Enforcement Order within ten Days that affirms, modifies or rejects the notice or citation. The Hearing Officer may increase or decrease the total amount of civil penalties and costs that are due pursuant to the City's fee schedule and the procedures in this Title. Such fees shall continue to accrue until the Responsible Person complies with the Hearing Officer's decision and corrects the Violation.
3. A Hearing Officer may issue an Administrative Enforcement Order that requires a Responsible Person to cease and desist from violating the Perry Municipal Code or applicable state codes and to take any necessary corrective action.
4. A Hearing Officer may order the City to enter the property and abate all Violations, including the removal of animals and any and all other personal property that are in Violation of applicable code requirements.
5. A Hearing Officer may revoke a kennel permit, an animal license, or the right to possess animals as provided in the Perry Municipal Code.
6. As part of an Administrative Enforcement Order, a Hearing Officer may establish specific deadlines for the payment of fees and costs, and condition the total or partial assessment of civil penalties on the Responsible Person's ability to take necessary corrective actions by the specified deadlines.
7. A Hearing Officer may schedule subsequent review hearings as may be necessary or as requested by the City to ensure compliance with an Administrative Enforcement Order.
8. A Hearing Officer may order a Responsible Person to post a cash performance bond to ensure compliance with an Administrative Enforcement Order, but only if agreed to by the Enforcement Official handling the matter for the City.
9. An Administrative Enforcement Order shall become final on the date of signing by the Hearing Officer.
10. A copy of the Administrative Enforcement Order shall be served on all parties pursuant to the method of service provided in this Title. When required by this Title, the Director shall record the Administrative Enforcement Order with the Box Elder County Recorder's office.
11. After a Hearing Officer has issued an Administrative Enforcement Order, the Director shall monitor the matter for compliance with the Administrative Enforcement Order.

HISTORY

Adopted by Ord. [17-A](#) on 6/22/2017

17.02.040.9 Failure To Comply With Administrative Enforcement Order

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

HISTORY

Adopted by Ord. [17-A](#) on 6/22/2017

17.02.040.10 Appeal

1. Any Responsible Person or the City adversely affected by an Administrative Enforcement Order made in the exercise of the provisions of this Title may, at his or her own expense, file a petition for review in the District Court of Box Elder County, Utah ("the Court").
2. The petition shall be barred unless it is filed within thirty (30) Days after the Administrative Enforcement Order is final.
3. In the petition, the appellant may only allege that the Administrative Enforcement Order was arbitrary, or capricious, or illegal.
4. Within one hundred-twenty (120) Days after submitting the petition, the party petitioning for appeal shall request a copy of the record of the proceedings that is the subject of appeal, including transcripts of hearings when necessary. A transcript of the recording shall be deemed a true and correct transcript for purposes of this subsection. The City shall not submit copies of files or transcripts to the Court until the party petitioning for appeal has paid all required costs. The petitioning party's failure to properly arrange for copies of the record or to pay the full costs for the record, within one hundred-eighty (180) Days after the petition for review was filed shall be grounds for dismissal of the petition.
 - a. If a transcript of a hearing cannot be prepared because a tape recording is incomplete or unintelligible, the Court may, in its discretion, remand the matter to the Hearing Officer for a supplemental proceeding to complete the record. The Court may limit the scope of the supplemental proceeding to issues that, in the Court's opinion, need to be clarified.
5. Court review shall be limited to the record of the proceeding. The Court may not accept or consider any evidence outside such record unless that evidence was offered to the Hearing Officer and the Court determines that it was improperly excluded by the Hearing Officer.
6. The Court shall:
 - a. Presume that the Administrative Enforcement Order is valid;
 - b. Review the record to determine whether the Administrative Enforcement Order was arbitrary, capricious, or illegal; and
 - c. Affirm the Administrative Enforcement Order if it is supported by substantial evidence.
7. The filing of a petition for review to the Court does not stay execution of an Administrative Enforcement Order. Before filing a petition for review, a Responsible Person may request the Hearing Officer for a stay of the Administrative Enforcement Order. Upon receipt of a request to stay, the Hearing Officer may order the Administrative Enforcement Order to be stayed pending Court review if the Hearing Officer finds such stay to be in the best interest of the City.

HISTORY

Adopted by Ord. [17-A](#) on 6/22/2017

17.03 Administrative And Judicial Remedies

17.03.010 Recordation Of Notices Of Violation; Notices Of Compliance

17.03.010.1 Purpose

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

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

HISTORY

Adopted by Ord. [17-A](#) on 6/22/2017

17.03.010.2 Authority

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

HISTORY

Adopted by Ord. [17-A](#) on 6/22/2017

17.03.010.3 Procedures For Recordation

1. Once the City has issued a Notice of Violation to a Responsible Person, and the Violation continues and remains uncorrected after the deadline established in the Notice of Violation, and no request for an Administrative Enforcement Hearing has been filed, the City may record a Notice of Violation with the Recorder's Office of Box Elder County.
2. If an Administrative Enforcement Hearing is held, and an Administrative Enforcement Order is issued in the City's favor, the City may record the Administrative Enforcement Order with the Recorder's Office of Box Elder County.
3. The recordation shall include the name of the Property Owner, the parcel number(s), the legal description of the parcel(s) and a copy of the Notice of Violation or Administrative Enforcement Order.
4. The recordation does not encumber the subject property, but merely places future interested parties on notice of any continuing Violation found upon the subject property.

HISTORY

Adopted by Ord. [17-A](#) on 6/22/2017

17.03.010.4 Notice Of Recordation

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

HISTORY

Adopted by Ord. [17-A](#) on 6/22/2017

17.03.010.5 Failure To Request

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

HISTORY

Adopted by Ord. [17-A](#) on 6/22/2017

17.03.010.6 Notice Of Compliance

When a Violation is purported to be corrected, a Responsible Person shall request an inspection from the Director.

1. When the Director receives such request, the Director shall inspect the property as soon as practicable to determine whether the Violation has been corrected, and whether all necessary permits have been issued and final inspections have been performed as required by applicable codes.
2. The Director shall serve a Notice of Compliance to the Responsible Person or Property Owner in the manner provided in this Title within ten (10) business days of an inspection in which the Director finds correction of a Violation and determines that:
 - a. All Violations listed in the Notice of Violation or Administrative Enforcement Order have been corrected;
 - b. All necessary permits have been issued and finalized;
 - c. All assessed civil penalties have been paid; and
 - d. All assessed costs and administrative fees have been paid.
3. The City shall record the Notice of Compliance with the Box Elder County Recorder's Office, if the related Notice of Violation was recorded. Recordation of the Notice of Compliance shall have the effect of canceling the recorded Notice of Violation.
4. If after inspection, the Director determines that the property fails to meet the requirements for a Notice of Compliance, the Director shall, upon Written request from the Responsible Person or the Property Owner, provide a Written explanation setting forth the reasons for failure to qualify for a Notice of Compliance. The Written explanation shall be served by any of the methods of service listed in this Title.
5. No delay or omission on the part of the City to exercise any right or power accruing upon any Violation shall impair any such right or power or shall be construed to be a waiver of any such Violation or acquiescence therein and such right and power may be exercised as often as may be deemed expedient. The City's issuing of a Notice of Compliance in any instance shall not constitute continuing consent to subsequent instances and in all cases a Notice of Compliance may be granted or withheld at the sole discretion of the City. No prior Notice of Compliance shall affect any subsequent Violation or shall impair any of the City's rights or remedies on said subsequent Violation. Every substantive right and every remedy conferred upon the City may be enforced and exercised as often as may be deemed expedient.

HISTORY

Adopted by Ord. [17-A](#) on 6/22/2017

17.03.010.7 Prohibition Against Issuance Of Municipal Permits

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

HISTORY

Adopted by Ord. [17-A](#) on 6/22/2017

17.03.020 Administrative Civil Penalties

17.03.020.1 Authority

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

HISTORY

Adopted by Ord. [17-A](#) on 6/22/2017

17.03.020.2 Procedures For Assessing Civil Penalties

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

HISTORY

Adopted by Ord. [17-A](#) on 6/22/2017

17.03.020.3 Determination Of Civil Penalties

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

HISTORY

Adopted by Ord. [17-A](#) on 6/22/2017

17.03.020.4 Modification Of Civil Penalties

1. The City or Hearing Officer may waive or modify civil penalties on a finding of good cause and conditioned on, but not limited to, correction of Violation(s).
 - a. In the event that the Responsible Person fails to correct the Violation(s) or to pay reduced civil penalties, then the civil penalty reduction may be rescinded and the Responsible Person shall then owe the original amount of civil penalties assessed as if the reduction had not been given and have the continued requirement to correct the Violation(s).
2. **Nonconforming or conditional use:** Civil penalties may be waived or modified by the City or Hearing Officer if there is a finding of good cause based on the Responsible Person's Written claim of nonconforming use or conditional use and:
 - a. The City's need to verify the claim; or
 - b. The Responsible Person's filing of an application for nonconforming or conditional use before expiration of the date to correct.

HISTORY

Adopted by Ord. [17-A](#) on 6/22/2017

17.03.020.5 Failure To Pay Penalties

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

HISTORY

Adopted by Ord. [17-A](#) on 6/22/2017

17.03.030 Administrative Abatement

17.03.030.1 Authority To Abate

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

HISTORY

Adopted by Ord. [17-A](#) on 6/22/2017

17.03.030.2 Procedures For Abatement

1. Violations may be abated by City personnel or by a private party acting under the direction of the City.
2. City personnel or a private party may enter upon private property in a reasonable manner to abate a Violation as specified in the Notice of Violation or Administrative Enforcement Order.
3. If a Responsible Person abates the Violation before the City abates the Violation pursuant to a Notice of Violation or Administrative Enforcement Order, the Director shall nevertheless assess all costs incurred by the City against the Responsible Person.
4. When abatement is completed, the Director shall prepare a Notice of Itemized Bill for Costs.
5. The Director shall serve the Notice of Itemized Bill for Costs by registered mail to the last known address of the Responsible Person. The Notice of Itemized Bill for Costs shall demand full payment within twenty (20) Days to the Perry City Treasurer.
6. The Responsible Person shall have a right to an Administrative Enforcement Hearing to contest the Notice of Itemized Bill for Costs. Such hearing shall be pursuant to an in conformity with this Title.

HISTORY

Adopted by Ord. [17-A](#) on 6/22/2017

17.03.040 Costs And Fees

17.03.040.1 Purpose And Introduction

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

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

HISTORY

Adopted by Ord. [17-A](#) on 6/22/2017

17.03.040.2 Authority

1. Whenever the City incurs costs to enforce the City Code and applicable state codes, the City may assess such costs against the Responsible Person, including property (real, personal, intangible, or otherwise) that is associated with a Violation.
2. If more than one inspection is necessary with respect to a Violation, then an inspection fee may be assessed for each subsequent inspection.
 - a. Notification of re-inspection fees shall be provided in the Notice of Violation served to the Responsible Person.
 - b. Re-inspection fees assessed or collected pursuant to this subsection should not be included in any other costs assessed, but should be itemized separately.
 - c. The failure of any Responsible Person to receive notice of the re-inspection fees shall not affect the validity of any other fees imposed under this subsection.

HISTORY

Adopted by Ord. [17-A](#) on 6/22/2017

17.03.040.3 Failure To Timely Pay Costs

The failure of any Person to pay assessed costs by the deadline specified in a Notice of Itemized Bill for Costs shall result in a daily late fee calculated on a simple basis (non-compounding) at the rate of one and one-half percent per month on the unpaid balances.

HISTORY

Adopted by Ord. [17-A](#) on 6/22/2017

17.03.040.4 Administrative Fees

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

HISTORY

Adopted by Ord. [17-A](#) on 6/22/2017

17.03.040.5 Injunctions

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

HISTORY

Adopted by Ord. [17-A](#) on 6/22/2017

17.03.040.6 Performance Bonds

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

HISTORY

Adopted by Ord. [17-A](#) on 6/22/2017

17.03.040.7 Recovery Of Administrative Code Enforcement Penalties And Costs

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

1. **Code Enforcement Tax Liens**

- a. Purpose. The City Council finds that recordation of code enforcement tax liens will assist in the collection of civil penalties, administrative costs and administrative fees assessed by this Administrative Code Enforcement program or judicial orders. The City Council further finds that collection of civil penalties, costs, and fees assessed for Violations is important in deterring future Violations and maintaining the integrity of the City's code enforcement system. The procedures established in this subsection shall be used to complement existing administrative or judicial remedies that may be pursued to address Violations.
 - b. Procedures For Tax Code Enforcement Tax Lien Without A Judgment. The Director shall provide a copy of a Notice of Itemized Bill for Costs to the City Treasurer. Upon receipt of the Notice of Itemized Bill for Costs, the City Treasurer shall (i) record a code enforcement tax lien as to the Notice of Itemized Bill for Costs against the property upon which a Violation exists with the Box Elder County Recorder and (ii) if applicable, file the code enforcement tax lien with the Box Elder County Treasurer. The City shall serve a notice of the code enforcement tax lien recordation on the Responsible Person and the Property Owner pursuant to any of the methods of service set forth in this Title. The failure of any Person with a financial interest in the property to receive the notice of the lien shall not affect the validity of the lien or any proceedings taken to collect the amounts associated with the code enforcement tax lien.
 - c. Procedures For Tax Code Enforcement Tax Lien With A Judgment. Once a judgment has been obtained from the appropriate court assessing costs against the Responsible Person, the Director may record a code enforcement tax lien against any real property owned by the Responsible Person.
 - d. Cancellation Of Code Enforcement Tax Lien. Once payment in full is received for the outstanding civil penalties, administrative costs and administrative fees, including, but not limited to, through foreclosure of the code enforcement tax lien as permitted by law, or the amount is deemed satisfied pursuant to a subsequent administrative or judicial order, the Director shall record a Notice of Compliance. The Notice of Compliance shall include the same information as provided for in the original code enforcement tax lien and shall cancel the code enforcement tax lien.
2. **Writ Of Execution.** After obtaining a judgment, the City may collect the associated obligation by use of all appropriate legal means. This may include the execution on personal property owned by the Responsible Person by filing a writ with the applicable court.
 3. **Writ Of Garnishment.** After obtaining a judgment, the City may collect the associated obligation by use of all appropriate legal means. This may include the garnishment of paychecks, financial accounts, and other income or financial assets by filing a writ with the applicable court.
 4. **Allocation Of Civil Penalties.** Collected civil penalties shall be deposited in the General Fund of the City. Civil penalties deposited in this fund may be allocated pursuant to the City's budget process and as authorized by applicable law. The City shall establish accounting procedures to ensure proper account identification, credit, and collection.

HISTORY

Adopted by Ord. [17-A](#) on 6/22/2017



Young Automotive Group

Brian Brackenbury | 208-430-1690 | brian.brackenbury@youngauto.net

Prepared For: Bob Hugo

[Fleet] 2023 GMC Sierra 3500HD CC (TK31403) 4WD Reg Cab 171" WB, 84.5" CA SLE (2)



Govt. Bid	
Truck Cost	\$ 57,063
Bed Plan	\$ 23,790.96
Sander	
	\$ 80,853.96

(5YR
\$10,754.45 1YR) X 2 TRUCKS

CONSULTING AGREEMENT

THIS CONSULTING AGREEMENT (the "Agreement") is entered into on _____, by and between Perry City, located at 3005 S 1200 W Perry, Utah 84302 ("Client"), and Hemmco, LLC, located at 1115 E 965 N, Orem, UT 84097 ("Consultant"), regarding the representation of Client in the State of Utah ("State").

RECITALS

WHEREAS, Client desires to obtain the Services specified herein; and

WHEREAS, Consultant is desirous of accepting the duties and responsibilities of providing the Services specified herein.

NOW, THEREFORE, for and in consideration of the mutual covenants contained herein and for other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the parties agree as follows:

AGREEMENT

I. Scope of Representation

Consultant shall provide strategic advice, direction, and lobbying services on state and local government relations matters, appropriations funding and general advocacy efforts for Client with the Utah Legislature. Appendix A ("Services").

II. Term

This Agreement shall commence on February 1, 2023 and shall expire on November 30, 2023.

III. Consideration

For Services performed under this Agreement, Client shall agree to pay the Consultant a one-time fee equal to \$80,000 upon execution of this Agreement or a monthly fee, to be paid on the 1st day of each month, of \$8,000. Consultant shall be entitled to reimbursement for any expenses reasonably incurred in the performance of the Services, provided that those expenses are agreed upon in advance, and in writing (email is sufficient) by the Client.

IV. Client Loyalty

Consultant understands that his/her signing of this Agreement constitutes complete loyalty and confidence to the Client. Consultant further understands that the ultimate benefits of this arrangement should be to the Client and that Consultant will work diligently and to his utmost ability to ensure that Client is represented adequately and without conflict of interest.

V. Report

Consultant agrees to be responsible for preparation and filing of all applicable reports required by any department or branch of the State government. Consultant represents that they will register with the State Legislature and all other branches of the State government necessary to legally represent Client's interest in the State.

VI. Conflict of Interest and Confidentiality

Consultant agrees that, except as expressly allowed herein or consented to in writing by Client, he will hold in confidence, not use or disclose, and protect any Confidential Information of Client in a manner at least equal to the manner in which he protects his own Confidential Information, and shall similarly bind his employees, agents, representatives, successors, contractors or assigns as to such Confidential Information obligations. "Confidential Information" means any information, technical data, or know-how relating to a party's business, research, products, software, services, development, inventions, processes, engineering, marketing, techniques, pricing, internal procedures, business, and marketing plans and business opportunities. Notwithstanding the foregoing, Confidential Information does not include information, technical data or know-how that: (i) Consultant can prove through written documentation was in his or her possession prior to the time of disclosure; (ii) becomes part of the public knowledge not as a result of any action or inaction of Consultant; (iii) is disclosed to Consultant by a third party not in violation of any obligation of confidentiality; or (iv) is independently developed by Consultant without reference to or use of any Confidential Information, which can be proven through written documentation.

VII. Noncompete

For the term of this Agreement, the Consultant shall not represent any entity on an issue that would be in conflict with the best interest of the Client, without approval of the Client. It is understood that the consultant has other clients working to receive funding from the state of Utah. Representing other clients for funding is not considered a conflict of interest.

VIII. Assignment

The Services to be performed by consultant hereunder are personal in nature, and Client has engaged Consultant because of Consultant's expertise relating to such Services. Consultant, therefore, agrees that it will not assign, sell, transfer, delegate or otherwise dispose of this Agreement or any right, duty or obligation under this Agreement without the Client's prior written consent. Nothing in this Agreement shall prevent the assignment by the Client of this Agreement or any right, duty or obligation hereunder to any third party.

IX. General

This Agreement may be signed using one or more counterparts, each of which when signed shall be deemed to be an original and all of which when taken together shall constitute one and the same agreement. A faxed or scanned and electronically transmitted facsimile of a signature-bearing page will be conclusive evidence of execution and delivery. This Agreement will be governed by,

enforced in and interpreted according to the laws of the State of Utah, and the parties consent to exclusive jurisdiction in the state or federal courts of Utah. The parties expressly waive any right to a trial by jury. This Agreement does not create any joint venture, partnership, employment relationship or other agency relationship between the parties.

IN WITNESS WHEREOF, the parties have made an executed this Consulting Agreement on the date first entered above.

CONSULTANT

CLIENT

Hemmco, LLC

By: _____
Dan Hemmert, Partner

By: _____
Name: _____
Title: _____

PERRY CITY COUNCIL
MEETING PERRY CITY OFFICES
January 12, 2023

7:00 PM

OFFICIALS PRESENT: Mayor Kevin Jeppsen presided and conducted the meeting. Council Member Nathan Tueller, Council Member Blake Ostler, Council Member Dave Walker, Council Member Toby Wright, and Council Member Ashley Young.

OFFICIALS ABSENT:

CITY STAFF PRESENT: Robert Barnhill, City Administrator
Zach Allen, Public Works Director
Scott Hancey, Chief of Police (On-line)
Bill Morris, City Attorney
Shanna Johnson, City Recorder

OTHERS PRESENT: David Rogers (Davis & Bott), Michael Kitchens

ON-LINE: Melanie Barnhill, Nelson Phillips (BENJ)

ITEM 1: CALL TO ORDER

Mayor Jeppsen welcomed everyone and called the City Council meeting to order.

ITEM 2: PROCEDURAL ISSUES

A. Conflict of Interest Declaration

None

ITEM 3: PRESENTATION

A. Fiscal Year 2022 Audited Financials

David Rogers from Davis & Bott, CPA presented the financial statements for fiscal year 2022. He noted that he previously gave the council a physical copy of the Financial Statements and a pdf version was provided to them a few days prior and the report covers through June 30, 2022.

Mr. Rogers began his presentation by pointing out a few highlights of the year from the report. He started on page 6 with the Statement of Net Position (or the balance sheet) explaining that the total unrestricted balance or net position of \$7.2 million are the assets available to the City to use or run the city. He stated the \$7.2M is a combination of unrestricted assets within the Governmental Funds and all Proprietary Funds.

Mr. Roger's directed the council to page 7, which covered the Change in Net Position (or the profit and loss statement). He first reviewed the Governmental Activities, on page 7, stating Taxes went up from \$2.9M to \$3.3M noting the majority of the increase was from Mass Transit tax (45K), Property Tax (\$150K) and Sales Tax (at about \$150K). He stated that Other Revenues are up quite a bit due the property sales at Point Perry. He said Operating Grants and Contributions went up about \$50K, explaining that 2021 included CARES Act money and the 2022 amount reflects ARPA funding

and a contribution from the County. He reported that Capital Grants and Contributions went down because in the prior year we had received UDOT grant money for the 1200 West South project. He continued explaining the details of the Change in Net Position of the financial statement reviewing expenses. He said the Administration expenses were down, last year included CARES Act expenses that are not in the current year. He said the other big change was in streets, which again reflects the 1200 West South Project grant that were expended in 2021. Mr. Rogers noted that there was a transfer from the General fund to the Utility Fund of \$310,552; he explained that this is ARPA money that will be used for a water project.

Mr. Rogers reviewed the Business Type activity noting that charges for services went up a little bit, grant income went up Capital Grants and Contributions included impact fees and donations of infrastructure from sub-developers. He reviewed utility expenses stating that the water expenses were slightly up and the sewer was about the same.

Mr. Rogers noted that there is a new lease standard that was implemented this year, which is reflected in the adjustment to beginning net position listed at the bottom of page 7. He directed the council to page 35, note 2, which explains the adjustment. He said you can see the effect of the new lease standard on pages 42-43.

Mr. Rogers explained in the past most of the leases were already shown as capital assets and we would take depreciation. Under the new standard, we book leases as a different type of asset and take amortization. He said this report shows the amount of that amortization expense, which indicates that the total lease expense was \$74,000 (see page 42) and if you review page 43 you can see the new lease asset that is listed on the balance sheet. He reviewed this section stating that at the beginning of the year there was about \$167,000 in leased vehicles, with new additions of \$132,000, and amortization of (\$65,864) which equates to the net amount of the lease liability of \$189,519 with \$79,723 due in one year.

Mr. Rogers expounded more on the funds from the property sale and said they were broken down on page 18 with the Debt Service and RDA accounts. He said in prior years Pointe Perry has been a hybrid fund that has been reported within the Debt Service fund. The debt owed has been paid off for improvements at Pointe Perry and the Debt Service Fund now will be used for the City Hall Bond. Because of this, a new fund called "Special Revenue RDA," has been created and holds Pointe Perry land (assets) and property tax increment that has not been reimbursed to the general fund.

Council Member Ostler asked if the Debt Service Fund will receive any income and Mr. Rogers said only a transfer from the General Fund to make the debt payment (for the new city hall). Council Member Ostler asked if the lease from the building tenant would book into the Debt Service Fund. Mr. Rogers said no that would be accounted for in the General Fund. He explained the only thing that should be in the Debt Service Fund is the payments coming in and the principal and interest paid to the Bond.

In conclusion, Mr. Rogers pointed out page 54, which is a new section this year that breaks out the balance sheet for the Utility Enterprise Funds and now shows a balance sheet by type of each utility (water, garbage and storm drain) This is an improvement to the report that was requested by the council. He noted this change was only for reporting purposes and not a requirement.

Chuck Palmer from Christensen, Palmer & Ambrose wasn't available so Mr. Rogers also gave the audit report. He reviewed the opinions of the auditor, which breaks out all funds. He said all

opinions are unmodified except for one, which shows a disclaimer only on the Aggregate Discretely Presented component Units. He explained this is referring to the Box Elder County & Perry Flood Control Board, which they did not audit as part of this audit report. Council Member Ostler clarified that the Box Elder County & Perry Flood Board is not required to get an audit because of its size; Mr. Rogers confirmed that this was true. Council Member Ostler asked why the disclaimer is necessary. Mr. Rogers advised that this is not a ding or something bad, but explained this was listed as a separate entity because the City is required to show the entity as part of their financial statement, but it is not required to be audited. He said the disclaimer reflects that this is not audited and there is a paragraph in the letter regarding the disclaimer that explains this.

Mr. Rogers directed the council to page 65 of the financial statement, which shows the Independent Auditor's Report on Financial Control. He said they look at internal control for the purpose of figuring out what to audit and if there were any significant deficiencies or material weaknesses in internal controls, they would present them here and explain what they are. Mr. Rogers stated that there were not any findings on Internal Control. He moved to page 66, which is the State Compliance Report, It reviews items that are required by the State to be audited for the year. He said some things are only looked at every 3 years. The items audited are listed on this report and everything they looked at was in compliance. He said overall this is a very clean report and Perry City complied in all material respects and requirements of this audit guide and is compliance with State law.

ITEM 4: ACTION ITEMS (Roll Call Vote)

A. Motion to Accept the Fiscal Year 2022 Audited Financials

Mayor Jeppsen asked if there were any questions or if the council was ready to make a motion. Council Member Ostler said he didn't have time to review the audit report and wasn't ready to give his vote. Council Member Walker asked what the impact is if they were to table this. Ms. Johnson said they can submit this without the motion to accept. She noted that the audited financials are presented to the council for their review and this motion is just to show that they were provided to the council. She said they do want their input. However, the city was past the deadline to submit and the grace period to avoid penalty was almost over.

City Attorney, Bill Morris stated that the audited financials may be submitted now and this action item was only a technicality showing that the reports were presented to the council. He said since they cannot change the content of the reports the motion will be to accept only is to show that the council was able to see the reports. He advised that Ms. Johnson would need to post notice that these are available for public review.

Mr. Rogers said that any changes would just be clerical. Ms. Johnson said if they do need to make a major change they may submitted a corrected statement at a later time.

MOTION: Council Member Tueller made a motion to accept the Fiscal Year 2022 Audited Financial presentation. Council Member Wright seconded the motion.

ROLL CALL: Council Member Young, Yes
Council Member Walker, Yes
Council Member Ostler, Yes
Council Member Wright, Yes

Council Member Tueller, Yes

Motion Approved. 5 Yes, 0 No

B. Resolution 2023-01 Amending the Contract with Econo Waste Inc. for Solid Waste Disposal

Mayor Jeppsen said the proposal received from Econo Waste was given to the council for their review and was open for discussion. Mr. Barnhill explained that twice Perry City has done amendments to allow an increase to the costs for increased fees which were outside of Econo Wastes controls. He pointed out that our contract with them states that fuel and other increases are negotiated only by contract amendment and this was what Econo Waste presented to us. He noted that this proposed increase would cause the city to pay more per can than what the city charges the customer for garbage service. He mentioned he did some research on diesel gas prices and spoke to the owner of Econo Waste about their rates. He said he feels the amounts in their proposal are justifiable and pointed out that they do allow a reduction in cost if the prices go down. Council Member Ostler said he researched diesel gas prices and in 2020 when the city went into contract with Econo Waste diesel prices were low. Council Member Wright asked if the increase will fluctuate monthly. Mr. Barnhill said the city will need to set a fixed price and if needed the city might need to absorb the fluctuating costs. Ms. Johnson said Econo Waste has increased each garbage can by \$0.69 since our contract began while the city hasn't raised their rate to the customer. Council Member Tueller pointed out that the two amendments with Econo Waste were caused by increases at Box Elder Landfill and diesel gas prices. They discussed that they don't have all the information to decide how much the diesel gas price effects Econo Waste's operations to know if the proposed increases are fair and reasonable. Council Member Young commented that a raise in rates for the customers might reduce the number of cans they have.

Mayor Jeppsen asked for a public comment from Michael Kitchens who wasn't a Perry City resident but in attendance at the meeting. Mr. Kitchen said before they tax the citizens they should find out what makes up these increased costs from Econo Waste. Mr. Morris said he has seen these amendments with his other clients and they all seem about the same. Public Works Director, Zach Allen mentioned that perhaps Econo Waste was trying to recoup their losses from the recent fluctuation (upsurge) in operating cost.

Council Member Walker said he feels they should not increase the cost to the citizens but have the city absorb it from other funds. Ms. Johnson said the only fund they may pull from would be the utility fund. She reminded them that they recently raised the storm drain and water fees but not at the rate recommended by the engineer. She said she analyzed the proposed fee changes from Econo Waste and found with the \$1.32 increase the breakeven point for the city will be an additional \$0.75 of the current rate per can. Then if the city wants to collect administration fees she suggested an increase of \$1.75 for the first can and \$1.00 for the second can. She noted that the city doesn't have a lot of extra funds in the other utility account to help cover the additional costs. Council Member Ostler and Walker again expressed their concerns on increasing the garbage fees for the citizens. They both felt the city should defer or absorb part of the fee for a time. Mr. Barnhill did a quick review and estimated that at \$1.00 subsidize per can the city would lose approximately \$20,000 per year.

Council Member Tueller stated that costs go up and that city elected officials need to understand they might have to raise fees or taxes to cover the cost of civilization. He noted it is irresponsible for

the council members to not raise taxes for twenty years or so. He said he's glad this Council researches and makes the most minimal increase to cover the cost while providing services to our citizens.

Mayor Jeppsen reminded the council that the budget was done with projects in mind and the fund appropriated for that project was shown in the budget. He said the breakdown in the financial report doesn't mean there is money just sitting in an account and growing it has already been spent on the predetermined projects. He said he also feels the city might be able to absorb the garbage fee increase for a while but will need to come up with a new schedule because there will always be a fluctuation on fuel costs.

Council Member Ostler asked about the wording in the resolution. He said he didn't want it to sound like the city did the analysis and found that the fuel cost were doubling and the CPI increased because those facts came from the provider. Mr. Morris asked if the council members objected to the removal of the third whereas clause in the resolution and there wasn't any objections. They will also change the words "terms" to "the fuel surcharge" in the therefore clause. Council Member Ostler then pointed out there needs to be clarification on the letter from Econo Waste with the increase per resident per container header and mentioned that maybe it should read increase per container per month. They discussed that the analysis and projections that have been created by Econo Waste and how to get more information. Council Member Ostler pointed out that the fees in the first tier are what current gas prices were when the contract was originated. It was discussed that maybe the fees should begin at tier 2 of their proposal. Mr. Barnhill said he would take this to them and negotiate the starting price for the fuel surcharge.

Mayor Jeppsen tabled Resolution 2023-01 Amending the Contract with Econo Waste Inc. for Solid Waste Disposal for counter proposal with no dissent from the council.

Motion was Tabled

ITEM 5: DISCUSSION ITEMS:

A. City Council Retreat

It was decided that the City Council Retreat will be on a Saturday morning, January 28 at 8:00 a. m.

ITEM 6: MINUTES & COUNCIL/MAYOR REPORTS (INCLUDING COUNCIL ASSIGNMENTS)

A. Approval of Consent Items

- December 08, 2022 City Council Meeting Minutes

MOTION: Council Member Walker made a motion to approve the City Council Meeting Minutes from December 08, 2022. Council Member Young seconded the motion.

Motion Approved. All Council Members were in favor.

A. Mayor's Reports

Mayor Jeppsen said in February Brigham City will be having a fire protection meeting that will present the study regarding a fire district on the south side of Box Elder County. He mentioned that Perry City should look more towards being part of this district. He mentioned that they said the

next fire station to be built will be on the west side of Highway I-15. The date for the meeting will be given soon.

B. Council Reports

None.

C. Staff Comments

Mr. Barnhill said the new city hall bid is out and will have its opening on January 18. He mentioned they should receive the costs for the technical and audio visual systems within the next couple of weeks.

Planning Commission Report

None.

ITEM 7: EXECUTIVE SESSION

MOTION: Council Member Tueller made a motion to close the public session and open the executive session to discuss the purchase, exchange, lease, or sale of real property, and a strategy session regarding pending, or reasonably imminent litigation. Council Member Wight seconded the motion.

Executive Session opened at 8:28 p.m.

ROLL CALL: Council Member Wright, Yes
Council Member Tueller, Yes
Council Member Ostler, Yes
Council Member Walker, Yes
Council Member Young, Yes

Motion Approved. 5 Yes, 0 No.

MOTION: Council Member Tueller made a motion at 8:53 p.m. to close the executive session and move back into the regular meeting. Council Member Walker seconded the motion.

ROLL CALL: Council Member Wright, Yes
Council Member Tueller, Yes
Council Member Ostler, Yes
Council Member Walker, Yes
Council Member Young, Yes

Motion Approved. 5 Yes, 0 No.

ITEM 8: ADJOURNMENT

MOTION: Council Member Tueller proposed to adjourn the meeting.

Motion Approved. All Council Members were in favor.

The meeting adjourned at 8:54 p.m.

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Shanna Johnson, City Recorder

Kevin Jeppsen, Mayor

Anita Nicholas, Deputy Recorder

DRAFT

1 PERRY CITY COUNCIL MEETING

2 PERRY CITY OFFICES

3 January 26, 2023

7:00 PM

6 OFFICIALS PRESENT: Mayor Kevin Jepps presided and conducted the meeting. Council
7 Member Nathan Tueller, Council Member Blake Ostler, Council
8 Member Dave Walker, Council Member Toby Wright, and Council
9 Member Ashley Young.

10 OFFICIALS ABSENT:

12 CITY STAFF PRESENT: Robert Barnhill, City Administrator; Bill Morris, City Attorney;
13 Shanna Johnson, City Recorder; Zach Allen, Public Works Director;
14 Scott Hancey, Chief of Police; and Sergeant Dave Freeze

16 OTHERS PRESENT:

18 ON-LINE: Nelson Phillips (BENJ), Benson, and Melanie Barnhill

20 **ITEM 1: CALL TO ORDER**

21 Mayor Jepps welcomed everyone and called the City Council meeting to order.

23 **ITEM 2: PROCEDURAL ISSUES**

24 **A. Conflict of Interest Declaration**

25 None

27 **ITEM 3: PRESENTATION**

28 **A. State of the City**

29 The State of the City was presented by Mayor Jepps. He said the top six priority areas of focus for
30 2022 were roads, water, city hall, staff, parks and trails, and business and economic development. He
31 gave more detail about each area of focus through a slide show. The slide highlights are as follows:

33 Roads: He said there were several road projects completed in 2022 and a total of
34 \$232,587 was spent. The projects included chip seal on 1500 S, 750 W, 2700 S, 1700
35 S, 900 W, 3275 S, Hargis Hill and 385 W. Also, overlays were done on 3000 S and
36 2650 S. He commented that we completed the corridor preservation of Commerce
37 Way (Maddox Lane) with as many landowners as would participate. He mentioned
38 that we were awarded a grant to connect 1200 W with 1100 S.

40 Water: He explained that there were upsized waterlines installed along 3000 S, 1200
41 W and 2450 S. He mentioned that ARPA funds were secured for future water
42 improvements on the south side of the city, mostly for the no. 5 well. In addition, He
43 said we secured grant money for generators to be used for backup power at our
44 wells.

City Hall: He said we purchased the Lodge for a New City Hall and that we have received bids on its renovation with the anticipation of a completion by late summer.

Staff: He reported that the city was 100% staffed with a 14% attrition, which is not all bad because we have brought great employees on the team.

Parks and trail: He remarked that there was an on-going (playground) equipment project being done at Mountain View Park and should be completed this summer. He also, commented that there will be grant money available for the 1200 West North and Central trails.

Business and Economic Development: He said we have been updating the codes and zoning to encourage economic growth.

Mayor Jeppsen expounded on the state of the city and remarked that the financial health was presented by the accountant in the last council meeting. He commented that tax revenue has increased by \$378,784, which \$210,000 was sales tax and the remainder was from property tax. He expressed that all funds were healthy and compliant. He gave statistics that there were 38 building permits issued, which 30 were single family and 8 were multi-family dwellings. In addition, he said the city issued 213 business licenses in 2022.

Mayor Jeppsen stated that we hired a new patrol officer, Rick Mabrey, who has now been assigned as the detective. We also hired a new public works director, Zach Allen, who has a degree in engineering. He expounded that we changed the organization structure and created an assistant public works director position. This position was offered to Matt Klopfenstein, who has brought his experience of culinary water to the city. He highlighted that the Public Works employee, Jake Andrew, had attained his certifications in water and sewer, which will benefit the city. He said that the administration department welcomed, Anita Nicholas, who brought with her business and accounting degrees. He reported that Tyra Bischoff, who was promoted to City Treasurer and he indicated that she was doing an excellent job in her new role. He ended his review of staff highlights noting that the Financial Director, Shanna Johnson obtained her Master Municipal Clerk Certification in May of 2022.

Mayor Jeppsen continued the state of the city with a few highlights of 2022 projects as follows:

- New City Hall and renovation process
- Mount View Park equipment progress
- Continued improvement with water, roads, and storm (drain) systems
- Improvements with records storage by utilizing the state off-site storage and Docuware Digital Storage
- Implementing TextMyGov for improved communications with the public
- Grant and ARPA funds received totaling \$5.6 million

He said the goals for 2023 will be as follows:

- Improving roads
- Completion of the New City Hall renovation

- Completion of the Mount View Park playground equipment
- Development in our commercial sectors
- Continue compliance with city utilities and infrastructure
- Address impacts of the current economy, inflation, and growth

Next part of the state of the city presentation was given by Chief Hancey. He gave the department statistic report on 2022 for the Perry Police Department. He used a visual display by showing a PowerPoint presentation. (See slides).

Some of the highlight for 2022 he mentioned were the following:

- Awarded several Grants
- Given a gold-level award from Lexipol
- Received state DUI funding
- Established NOVA program at local school to help at-risk youth
- Obtained a Field Investigation Drug Officer (FIDO) and a Commercial Vehicle Enforcement Officer (CVSA)
- Processed 359 GRAMA requests and organized and digitized many old police records

Chief Hancey said that the NIBRS (National Incident Based Reporting System) Incidents have increased over 40%, which caused the overall total case count to decrease. He explained the reduction in total case counts were because the NIBRS type of criminal cases take so much longer for an officer to process. He then said property crimes went up slightly but violent crime increased greatly and then showed other types of case details. After seeing the slides, Mr. Barnhill asked if there was a correlation with violent crime and drug use. Chief Hancey said statistically there was not a correlation. Council Member Walker asked what types of drugs were typically found in these types arrests. Chief Hancey stated that mostly marijuana, methamphetamine and some cocaine.

Chief Hancey reviewed a new report called Law Enforcement Officers Killed or Assaulted (LEOKA). He said this was the first reporting year for this program and that there were six Perry City incidents. He conclude the statistical presentation with the numbers for traffic accidents and violations. He showed several pictures of events throughout the year and then thanked everyone.

Mayor Jeppsen moved item 5 B (discussion items) Budget Update to this portion of the meeting.

Shanna Johnson presented a quarterly budget update. She said the update showed where the city was as of December 2022, which was half way through the fiscal year. She began with the revenue overview and said revenues in the General Fund we are at 37% of budget. She noted that most of the property tax revenue will be received in January. She pointed out that for the Utility Fund and Sewer Fund they are respectively 49% and 50% of their projected revenue. She continued with the Non-Operation Utility Fund revenue, which was mostly impact fees, and was at 65%, which was indicative of the growth the city had from July to December. The expense overview of the General Fund shows that the departments are functioning within their budgets. She said the 60.9% used in the Fire account is due to an annual contract fee paid at beginning of the year. She pointed out that the Utility Fund was on track with the exception of the Water Fund. This fund was at 53.5% and slightly higher due to unexpected water leak repairs. She reported that in the Sales Tax Revenue we

have collected \$1 million. She went on to give details that \$717,968 was from sales tax and the balance from property tax. She mentioned that the majority of the property tax will be received in January. She noted that we were functioning well in sale tax and were 10.44% higher than the prior year. She said we were trending to receive \$1.7 million and only budgeted \$1.6 million so we were looking good.

Mayor Jeppsen asked if the sales tax trend followed the inflation trend. Mr. Barnhill responded it was a combination of inflation and growth. Ms. Johnson said she thinks people were still comfortable with spending but that might not continue. Mr. Barnhill mentioned that we had recently seen an increase in sales tax through on-line sales. Ms. Johnson said that about four years ago a law was passed that allowed tax to be collected from the point of sale of purchases. She pointed out that sales tax was on a two-month lag, which means you will not see December sales tax until February and is one of the reasons there is a delay in closing the year end books.

ITEM 4: ACTION ITEMS (Roll Call Vote)

A. Resolution 2023-01 Amending the Contract with Econo Waste Inc. for Solid Waste Disposal

Mr. Barnhill said at the last meeting the council members proposed to eliminate the highest tier from the proposal given to us from Econo Waste. He said Econo Waste agreed to remove that tier and was happy that we were willing to work with them on their increased gas expenses. Mayor Jeppsen said since they discussed what Econo Waste offered at the previous council meeting then they should be able to make a motion.

MOTION: Council Member Walker made a motion to approve the Resolution 2023-01 Amending the Contract with Econo Waste Inc. for Solid Waste Disposal as presented. Council Member Wright seconded the motion.

ROLL CALL: Council Member Young, Yes
Council Member Walker, Yes
Council Member Ostler, No
Council Member Wright, Yes
Council Member Tueller, Yes

Motion Approved. 4 Yes, 1 No

B. Resolution 2023-02 Public Safety Retirement Contribution Pick-Up Amendment.

Ms. Johnson said a few years ago Utah Retirement System (URS) came out with a Tier II contribution plan. In this plan, they introduced the requirement for the employee to pay a certain percentage amount to pick-up the difference (of current plan costs over 14%) for the employee's retirement account. They also allowed for the employer to elect to pay the employees portion. She said at that time the council did elect to pick up the employees difference (at that time 2.27%). She noted that the percentages fluctuates and an auditor suggested the council either passes a new resolution noting the specific current percentage every year or have a blanket resolution that will allow us to cover the applicable percentage. The resolution will need note that they will pay to conform to the annual pick-up limits established by the state. The approval of this resolution will allow the city to be compliant with the states rules and the councils' adopted decision.

Council Member Wright asked if there was a way to cap the annual pick-up amount given by the state. Ms. Johnson responded that there was not and suggested setting the rate each year if this was the desire of the council. She cautioned that currently the city pays all costs for the Tier I employees but the Tier II program was different and allows amounts to be charged to Tier II employees. Council Member Walker asked if they passed this resolution would they be able to adjust it if one year there was a big change in the pick-up percentage. Ms. Johnson said that the percentages go into effect in July and they would see any big changes during the budget planning process. She said they could review the amount beforehand and would be able to adopt a new resolution before approval of the budget. City Attorney, Mr. Morris, commented that other city's agreed to pay the pick-up because they don't want the employees to have contention with these contribution differences. He then explained the reason for the Tier I and Tier II and that it changed the whole dynamics of the state retirement system.

Mayor Jeppsen asked if the city covering the Tier II employee pick-up portion was discretionary. Ms. Johnson said it was discretionary and then added that the city also offers a match-up in the 401k account for the Tier II employees. She said in order to keep the council informed of the cost of this pickup she would add a line in the budget workbook to outline these two discretionary amounts so they can see them more clearly. Chief Hancey mentioned that this Tier II retirement change has reduced people's desires to work in public safety. Ms. Johnson pointed out that this resolution was for public safety and fire and not all Tier II employees.

Council Member Ostler asked if the resolution could state "the percentage the city chooses to pick-up be evidenced in its approved annual budget". Ms. Johnson said it could be written that way however, she would need to break down the costs and give the annual percentages in the budget. She noted that if we list a specific percentage she was concerned that in the future, if the resolution wasn't revisited and updated, it would go out of compliance again. Council Member Ostler mentioned that he was concerned with the open-ended commitment given in this resolution. Council Member Walker agreed that was also his concern. Mayor Jeppsen reminded them that it was discretionary. The council members then expressed different thoughts and feelings about this resolution. Ms. Johnson reminded the council that this effects a limited number of staff and was a limited percentage. Council Member Walker asked the approximate cost of the pick-up. Ms. Johnson noted that this was approximately \$4,000 a year. She also said it does not concern her, as during the budgeting process the council would see a huge jump in the budget if there were a great percentage change.

MOTION: Council Member Wright made a motion to accept the Resolution 2023-02 Public Safety Retirement Contribution Pick-Up Amendment. Council Member Young seconded the motion.

ROLL CALL: Council Member Young, Yes
Council Member Walker, Yes
Council Member Ostler, No
Council Member Wright, Yes
Council Member Tueller, Yes

Motion Approved. 4 Yes, 1 No

ITEM 5: DISCUSSION ITEMS:

231 **A. City Council Retreat**

232 Mayor Jeppsen asked if the agenda was sent and covered what they wanted to discuss at the city
233 council retreat. He mentioned there was still opportunities for other things to be put on the agenda.
234 Ms. Johnson reminded the council members that the retreat will be on a Saturday morning, January
235 28 at 7:00 a. m.

236
237 **B. Budget Update**

238 Given above with the presentation of State of the City. (See slides).
239

240 **ITEM 6: MINUTES & COUNCIL/MAYOR REPORTS (INCLUDING COUNCIL ASSIGNMENTS)**

241 **A. Approval of Consent Items**

- 242 • January 12, 2023 City Council Meeting Minutes
243

244 Council Member Walker said he didn't have time to review the minutes and wanted before he
245 approved them.
246

247 **Motion Tabled.**
248

249 **B. Mayor's Reports**

250 Mayor Jeppsen said Brigham City has set up the fire district meeting. They will allow one council
251 member, one fire or first responder chief, and the mayor. The meeting will be on Monday, February
252 13 at 12:00 p.m. in the Brigham City Council Room. He said if a council member wanted to attend he
253 would send them an invitation. He mentioned the meeting will be a presentation by the company
254 who will do the fire district study. They will explain what the study will address and the cost
255 responsibilities of those cities concerned.
256

257 **C. Council Reports**

258 None
259

260 **D. Staff Comments**

261 None
262

263 **E. Planning Commission Report**

264 None
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266 **ITEM 7: EXECUTIVE SESSION**

267 None needed
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269 **ITEM 8: ADJOURNMENT**

270 **MOTION:** Council Member Walker proposed to adjourn the meeting.
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272 **Motion Approved. All Council Members were in favor.**
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274 The meeting adjourned at 8:01 p.m.
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277 Shanna Johnson, City Recorder

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281 Anita Nicholas, Deputy Recorder

Kevin Jeppsen, Mayor

DRAFT

PERRY CITY COUNCIL RETREAT
WORK SESSION
PERRY CITY OFFICES
January 28, 2023

7:05 AM

OFFICIALS PRESENT: Mayor Kevin Jeppsen presided and conducted the meeting. Council Member Nathan Tueller (on-line), Council Member Toby Wright, Council Member Blake Ostler, Council Member David Walker, and Council Member Ashley Young

CITY STAFF PRESENT: Robert Barnhill, City Administrator
Shanna Johnson, City Recorder

OTHERS PRESENT: Melanie Barnhill (on-line)

ITEM 1: CALL TO ORDER

Mayor Jeppsen welcomed everyone and called the City Council Retreat to order. He then mentioned that there were several items submitted after the agenda was put together and of those items a couple the administration department will just take care. Such as the promoting of Utopia, the city office will use city social media and website accounts to distribute information about it. The other item the administration will handle will be the Public Works department progress and plans on their projects. This communication will be done through social media and texting. He wanted to express that the purpose of this meeting was for the council to garner support for their individual agendas or something along those lines in addition to what they might do to support those agendas.

ITEM 2: DISCUSSION ITEMS

A. 2022 Year End Review

Shanna Johnson showed a slide presentation to the council which started with reviewing last year's highlights and top six priorities (see slides). Council Member Walker explained and commented on these goals and what was accomplished on them throughout the year. He said the two areas he felt needed more work was Parks and Trails and Business and Economic Development. The council members then discussed different options for building business and development in Perry. Council Member Walker suggested that maybe they create a development committee or business advisory council.

Mr. Barnhill gave an on-line interactive poll to Mayor Jeppsen and the City Council about Perry City and their city positions.

During the poll, some of the thought phrases about the city growth and development submitted by the council were the following: integrating with neighboring communities, public input, communication, success with stakeholder involvement.

Some phrases shared on priorities for Perry City by the council were the following: smart growth, community involvement through gatherings, wise money management, maintain what we have, preserve heritage, have an identity, and a place I want to be.

Mr. Barnhill presented several questions in the poll about the history of Perry City and the citizens' concerns from years ago. Mayor Jeppsen and the council members went through the whole poll and answered the questions then expressed their thoughts about what was discussed. Council Member Ostler mentioned it was interesting how some issues the city had dealt with years ago are still a focus now. Council Member Wright commented that Perry City utilities are better than other places he has lived and that this is a convenient place to live for many reasons.

B. City Hall Update

Mr. Barnhill said the bids for the City Hall remodel come back high. He mentioned we estimated around \$1 million and the lowest bid was at \$1.6 million with other bids over \$3 million. He said they had a meeting setup with the low bidder of the remodel to discuss ways they could cut costs. He explained that there were other things such as furnishings, IT, and security features that will need to be done in addition to the remodel. He mentioned that the low bidder, PJF received a good recommendation from the engineer and another construction company who had previously worked with them.

Council Member Ostler suggested that it might be beneficial to wait on this remodel until costs come down. Mr. Barnhill suggested that maybe we just remodel enough to get in the building and then finish other things such as the exterior at a later time. However, we need more information and insight from the contractor before any decisions can be made. He said he will get that information and present it to the council. Ms. Johnson said that there was a lot of ways to get the City Hall remodel done and that they will eventually get it done.

Mr. Barnhill presented a few thoughts and ideas for the branding of the City Hall. He said that he feels it should still be called The Lodge since there will be other services in the building than just the city offices. He indicated that branding might be something coming in the future because of the budget. He asked if any of the council members had interest in taking on the branding project they may come talk to him. Council Member Walker asked why the presented branding included a buffalo on the sign when Perry City has themed itself around the peach. Mr. Barnhill responded that the buffalo already had an identity for The Lodge and that the Perry City offices will have the peach icon on all their signs.

C. Budget Outlook

Ms. Johnson said she wanted to touch on a few things on the budget outlook for them to ponder. She showed slides with areas of concerns such as utility rates, fire fees, building fees, growth, and the city hall maintenance (see slides). She said the information she showed was only for things to think about and that she'll present them with more accurate details in a budget meeting. She reviewed the utility fund savings and uses planned for the savings. The water projects became the topic of discussion and the need for Nielson Well and other water budgeted item to be done. Ms. Johnson said she showed this to help explain the utility account and the need to keep money in this fund and not subsidize other costs out of this fund.

D. Capital Projects & Funding

Ms. Johnson said the Mayor received information about our fire fees that will bring budget challenges. Mayor Jeppsen said that Brigham City Fire Department has given an amount for the fire

and ambulance fees which was several time greater than what Perry City has paid in the past for these services. Mr. Barnhill added that we were under contract with Brigham City for these services. Mayor Jeppsen mentioned that there were other small municipalities that don't have a contract with Brigham City and have their own fire department but are still receiving services from them. Council Member Walker asked for a copy of the costs or calculations, which makes up this new fee.

Ms. Johnson noted that we do use other services such as fire inspections and ambulance services that are provided with this contract. Mayor Jeppsen explained how the findings of a study lead Brigham City to increase the fire fees in the contract. He then said he would negotiate with them on the annual fee but that the service provided was worth the cost they were asking. He explained that we would be looking in to a possible unified fire district.

Council Member Ostler requested that for due diligence we reach out to other cities that were part of and have broken-off from a Unified Fire Service area and get their suggestions. He wanted to hear what they have to say about their experience.

Mayor Jeppsen commented that Brigham City had the equipment and staff to handle these services but we need to consider our options and have a plan for the future. He then explained more about the needs of these services and what it might take to set them up in Perry City.

Ms. Johnson asked the council to keep in mind predicting building fees compared to growth when planning the budget. In addition, she noted that there will be a large change in maintenance with The Lodge building as our new city hall. She mentioned that they will need to revisit compensation to keep up with the standard of living and employee retention. She said she appreciated the effort the council gave to look at these issues. The council discussed the job market and how different occupations still had greater needs for employees than others. Ms. Johnson then gave some key takeaways of the slide presentation.

E. 2023 Planning

Ms. Johnson asked the council members their top six or more priorities for the year. Council Member Young asked for help with the Youth City Council and ideas of what they may do this year. Council Member Walker suggested she have the youth group find an ordinance that might need to be updated and do the research on how it should be corrected, and then present it to City Council for approval. Mr. Barnhill mentioned the youth group might attend a planning meeting. He also suggested that we could advertise on social media for adult volunteers to help with the Youth City Council program. Ms. Johnson said that maybe the youth group members could create and follow their own budget.

During the planning discussion Council Member Young asked about the plans in the central part of 1200 West and Council Member Ostler asked to have a master plan and follow through with the projects on it. They touched on several different issues on roads, water and sewer infrastructure throughout the city. Council Member Tueller commented that the specialized equipment at the sewer treatment facility might need to be updated if we get large growth.

Council Member Walker mentioned his top priorities and ended with citizen engagement. Ms. Johnson said in regards to citizen engagement a few citizen have started using the TextMyGov feature and that administration will do more marketing for this communication tool.

Council Member Young remarked about Highway 89 safety and the need to install street lights. Council Member Walker explained what he has learned about the UDOT master road plan process. He also, indicated the city was trying to get grant funding on this project but it might take several years. Council Member Tueller said he received a suggestion from a citizen that on 1200 west the city should paint road lines for safety. Mayor Jeppsen said he will look into it and talk with the city engineer.

Council Member Wright gave his thoughts on how we could attract people to the city. He said we should make better access to the gun range with several improvements to the facility, have retail space around the area, and do an overhaul of Perry Park. They brainstormed about options to improve the use of the gun range. Council Member Tueller said he and Council Member Wright could reach out and try to get grants for a gun range facility improvement.

Council Member Walker said he would like to see the land east of Mount View Park converted into a mountain bike park that would be connected to the Bonneville Trail System. Mr. Barnhill said that this idea was on the city master plan but there had been opposition from the state leaders about disturbing the wildlife. Council Member Tueller suggested taking some of the city property to subdivide in lots and sell them to get money for developing the trails.

Ms. Johnson said she would list the plans discussed together on this presentation for future review by the council. She indicated that it is good to have a plan but they need to be flexible when issues or needed projects arise. She asked if the council needed any action items for progress from administration. For reference, Mr. Barnhill, showed the council where the master plans are located within the city code and where they may find them on-line. In closing, a suggestion was given that we change the website to be more device friendly and get better community engagement. Council Member Walker volunteered to get a few citizens together to create a bike park plan and present it to the city.

F. Other Discussion

None.

ITEM 3: EXECUTIVE SESSION

None.

ITEM 4: ADJOURNMENT

Mayor Jeppsen thanked the council members for their service and asked for a motion to adjourn the meeting.

MOTION: Council Member Wright made a motion to adjourn.

Motion Approved. All Council Members were in favor.

The Meeting adjourned at 11:00 a.m.

Shanna Johnson, City Recorder

Kevin Jeppsen, Mayor

Anita Nicholas, Deputy Recorder

DRAFT