THE CITY OF WEST JORDAN
CITY COUNCIL MEETING
May 09, 2023

Thomas M. Rees Justice Center
8040 S Redwood Road
West Jordan, UT 84088

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CITY COUNCIL MEETING 6:00 PM

1. CALL TO ORDER

2. PUBLIC COMMENT

Comments should be directed to the Council Chair and commenters should not expect any debate with or responses from the City Council, Mayor, or City Staff. However, as a point of personal privilege Council Members, the Mayor, and Staff may respond to public comments if recognized by the Council Chair. Members of the City Council strive to create a respectful and professional decorum during Council Meetings so that the meeting can be conducted in an orderly, efficient, effective, and dignified manner. It is our desire that each person attending a City Council meeting feel safe, respected, and comfortable participating in their government. We hope that commenters will have that same goal and strive to do their best to keep comments respectful, professional, and free from profanity, personal attacks, and indecency. When addressing the Council, please provide your full name and limit your remarks to three (3) minutes. Written comments may be submitted if a citizen does not wish to speak.

3. BUSINESS ITEMS

a. Acceptance and receipt of the Mayor's Tentative Budget for the City of West Jordan, Utah for Fiscal Year 2024.

4. ADJOURN

*UNFINISHED BUSINESS

Unfinished Business Items are matters that have been introduced that remain unresolved. Updates are listed to assist in planning or resolution.

- **Veteran's Memorial Park Master Plan –** introduced to Council during a Work Session on February 9, 2022. Currently with Administration. A vendor has been chosen for the design and the contract has been finalized. Council provided input on their top ten priorities for the plan during the April 26, 2023 Council Meeting.

- **City Center Visioning** – Council discussed City Center visioning during a Strategic Planning Work Session on February 9, 2022 and again during a Work Session on March 9, 2022. Currently with staff and in coordination with Station Area Plan working group. The group met with various stakeholders, city staff, and outside planners on April 17, 2023.

- **Soccer Complex** – Council discussed West Jordan Soccer Complex agreement during a Work Session on October 12, 2022. Ongoing dialog.

- **Sewer Lift Station** – Council discussed proposed language provided by Council Member Green & Whitelock regarding sewer lift stations for Title 13 Zoning Regulations during a Committee of the Whole meeting on March 15, 2023. Currently with legal.

- **Code Alignment** – Council discussed amending Title 13 Zoning Regulations and Title 14 Subdivision Regulations to include parameters for PRD Zones (Planned Residential Development) similar to PC Zones (Planned Community). Administration recently met with a subgroup of council members to review proposed changes and to clarify what end results were desired by the subgroup.

- **Business Licensing** – On March 22, 2023 the Council passed Ordinance No. 23-12 an ordinance amending the 2009 West Jordan City Code (General Business Regulations and Licensing Requirements; amending city code sections 4-1A-1 through 4-1D-5 inclusive). The Council desired further simplification of the business licensing process and created a Council ad-hoc committee to work with administration to accomplish this request.

- **Conditional Use Permit** – With administration, this item will returned to the Council after legal has reviewed alternate language desired by the Council, "Option B".

UPCOMING CITY COUNCIL MEETINGS

- Wednesday, May 10, 2023 – Regular City Council Meeting – 6:00p

- Wednesday, May 17, 2023 – Committee of the Whole Meeting – 6:00p

- Wednesday, May 24, 2023 – Regular City Council Meeting – 6:00p
- Wednesday, June 14, 2023 – Regular City Council Meeting – 6:00p
- Wednesday, June 21, 2023 – Committee of the Whole Meeting – 6:00p
- Wednesday, June 28, 2023 – Regular City Council Meeting – 6:00p

Interested parties may contact the Council PRIOR to the meeting in one of the following ways: *(your comment will not be part of the meeting but will be provided to all members of the entire City Council)*

- *Call the 24-hour Public Comment Line PRIOR to the meeting and leave a message:* ***(801) 569-5052****. Please include your name and phone number.*
- *Send an email to* ***councilcomments@westjordan.utah.gov****. Please include your name and phone number.*

You can follow the City Council on Twitter @WJCityCouncil and on Facebook @WestJordanCityCouncil

In accordance with the Americans with Disabilities Act, the City of West Jordan will make reasonable accommodations for participation in the meeting. Request for assistance can be made by contacting the West Jordan City Council Office at 801-569-5017, providing at least three working days' advance notice of the meeting.

ELECTRONIC PARTICIPATION
One or more council members may participate electronically in this meeting using online video conferencing technology per Utah Code (§52-4-207) and West Jordan City Ordinance 1-13-1-E. Members' participation via electronic communication will be broadcast and amplified so other Council Members and all other persons present in the Council Chambers will be able to hear or see the communication.

INTELLECTUAL PROPERTY PERMISSION NOTICE
By attending this meeting/event, you consent to the use of your photograph, voice, likeness, and image in broadcasts of this meeting/event, and in subsequent productions drawn from video or audio recordings of this meeting/event, in the sole and absolute discretion of the City of West Jordan. The city retains copyright for all video and audio recordings. Video and audio recordings may not be modified, manipulated, or distributed in any way without the express written consent of the City's Chief Executive Officer.

CERTIFICATE OF POSTING
I certify that the foregoing agenda was posted at the principal office of the public body, on the Utah Public Notice website https://www.utah.gov/pmn/, on West Jordan City's website https://westjordan.primegov.com/public/portal, and notification was sent to the Salt Lake Tribune, Deseret News, and the West Jordan Journal.

Please note: *agenda items are subject to change and may be reordered or tabled in order to accommodate the needs of the City Council, staff, and the public.*

Posted and dated May 5, 2023 Alan Anderson, Council Office Director

REQUEST FOR COUNCIL ACTION

Action: Provide information to Council

Meeting Date Requested : 05/09/2023

Presenter: Danyce Steck

Deadline of item : 05/09/2023

Applicant:

Department Sponsor: Admin. Services

Agenda Type: BUSINESS ITEMS

Time Requested: 5 minutes presentation, 10 minutes council

(Council may elect to provide more or less time)

1. **AGENDA SUBJECT**
   Acceptance and receipt of the Mayor's Tentative Budget for the City of West Jordan, Utah for Fiscal Year 2024.

2. **EXECUTIVE SUMMARY**
   Per Utah State Code §10-6-111, a tentative budget is required to be filed with the governing body for each fund for which a budget is required. This action will confirm the receipt of the Tentative Budget by the Council.

   On May 24, 2023, the Council will hold a public hearing and adopt the Tentative Budget by resolution, as well as, set the public hearing date for the final budget.

3. **TIME SENSITIVITY / URGENCY**
   Utah State Code §10-6-111 states, "On or before the first regularly scheduled meeting of the governing body in the last May of the current period, the budget officer shall, in accordance with Subsection (1)(b), prepare for the ensuing fiscal period, and file with the governing body, a tentative budget for each fund for which a budget is required."

4. **FISCAL NOTE**
   See attachments

5. **STAFF ANALYSIS**
   N/A

6. **MOTION RECOMMENDED**
   Motion to accept the Mayor's Tentative Budget for the City of West Jordan for Fiscal Year 2024.

7. **MAYOR RECOMMENDATION**
   N/A

8. **PACKET ATTACHMENT(S)**
   Mayor's Tentative Budget for the City of West Jordan for Fiscal Year 2024

9. **OTHER INFORMATION**
   N/A

REQUEST FOR COUNCIL ACTION

Action: Request feedback from Council

Presenter: Chris McConnehey

Department Sponsor: Council Office

Agenda Type: DISCUSSION TOPICS

Time Requested: 5 minutes presentation, 10 minutes council

Meeting Date Requested : 10/12/2022

Deadline of item :

(Council may elect to provide more or less time)

1. **AGENDA SUBJECT**
   Discussion pertaining to the contract between the City of West Jordan and Salt Lake City for the West Jordan Soccer Complex

2. **EXECUTIVE SUMMARY**
   Contract to lease the property used for the soccer complex expires in fall 2025, this is to provide background information to the council.

3. **TIME SENSITIVITY / URGENCY**
   Salt Lake Airport Authority is hosting an open house to discuss the airport master plan on Tuesday, October 18th, ideally looking to provide information to the council prior to that event.

4. **FISCAL NOTE**
   None – Discussion Only

5. **DEPARTMENT RECOMMENDATION**
   None

6. **PLANNING COMMISSION RECOMMENDATION**
   None

7. **MOTION RECOMMENDED**
   N/A

8. **MAYOR RECOMMENDATION**

9. **PACKET ATTACHMENT(S)**

10. **OTHER INFORMATION**

MEMORANDUM OF UNDERSTANDING AND LEASE AGREEMENT
AFFECTING
SALT LAKE CITY CORPORATION
AND
THE CITY OF WEST JORDAN

RECORDED
NOV 2 8 1995
CITY RECORDER

THIS MEMORANDUM OF UNDERSTANDING AND LEASE AGREEMENT, effective November 1, 1995, involves and sets forth certain relationships between SALT LAKE CITY CORPORATION, a municipal corporation of the State of Utah, hereinafter "City," and THE CITY OF WEST JORDAN, a municipal corporation of the State of Utah, hereinafter "West Jordan."

WITNESSETH

WHEREAS, City owns and through its Airport Authority, hereinafter "Authority," operates Airport II, hereinafter "Airport," located in Salt Lake County; and,

WHEREAS, West Jordan desires to construct, operate, and maintain a regional soccer center on real property owned by the City and operated by the Authority and which is located immediately south of the Airport; and,

WHEREAS, City requires said real property for future Airport related development and consequently is agreeable to lease it on an interim basis to West Jordan under such terms and conditions as are hereinafter set forth.

NOW, THEREFORE, the parties hereby agree as follows:

ARTICLE 1

LEASED PROPERTY

A. City hereby leases to West Jordan and West Jordan agrees to lease from City approximately 96.31 acres of real property, hereinafter "Leased Property" or "Leased Premises," as the same is set forth on Exhibit A, attached hereto and made part hereof.

B. During the entire term of this Agreement, West Jordan agrees not to construct, maintain, or permit to exist any objects, buildings, or other structures which penetrate any FAA FAR Part 77 imaginary surface upon the Leased Property.

C. The parties acknowledge that at the time of the execution of this Agreement, the Leased Property is vacant and unimproved. This Agreement and the obligations hereunder apply only to the Leased Property and the obligations hereunder have no applicability to adjacent real property owned by others and utilized similarly as part of the regional soccer center.

ARTICLE 2

TERM

A. The initial term of this Agreement shall commence November 1, 1995, and shall expire at midnight on October 31, 2025, unless otherwise prior terminated by City.

B. West Jordan shall have the option to lease the Leased Premises for an additional twenty (20) year term commencing November 1, 2025, at the City's sole discretion and at such terms and conditions as are mutually agreed on.

C. At any time during the term of this Agreement, if the City adopts or modifies a Runway Protection Zone ("RPZ") pursuant to FAA regulations or standards, West Jordan agrees to release any portion of the Leased Property which falls within that modified RPZ. City agrees to provide West Jordan 180 days prior written notice of any such RPZ modification. West Jordan further agrees at its sole cost and expense to remove any buildings or other improvements within the RPZ as it falls within the Leased Premises which may have been completed prior to the adoption of the modified RPZ.

ARTICLE 3

RENT AND FEES

West Jordan agrees to pay City the amount of One Dollar ($1.00) per year as consideration for the Leased Property.

ARTICLE 4

INDEMNITY

A. West Jordan agrees to indemnify, save harmless and defend City, its agents and employees from and against all claims, mechanics liens, damage, demands, actions, costs, charges and other liabilities for

property damage or injury or death to persons, including attorney's fees, arising out of or alleged to arise on the Leased Premises or by reason of West Jordan's activities on the Leased Property, or other use of the Leased Property during the term of this Agreement, and from West Jordan's breach hereof.

B. Notwithstanding the provisions of Paragraph A above, West Jordan shall not be liable for nor required to indemnify or defend City against claims arising out of those aeronautical accidents not involving a direct and physical connection between the aircraft and the activities conducted upon the Leased Premises. West Jordan will be liable and agrees to indemnify only if the activity on the ground directly and physically contacts the aircraft or physically interferes with the safe operation of the aircraft. Distraction of the pilot will not be the basis of liability on the part of West Jordan.

C. The City assumes no responsibility for any damage or loss that may occur to West Jordan's property, except the obligation the City assumes that it will not willfully, intentionally, or negligently damage the property of West Jordan.

ARTICLE 5

USES AND PRIVILEGES

A. The premises are leased for the construction, operation, and maintenance of a regional soccer center which will consist of

approximately twenty one (21) soccer play fields together with related parking areas, spectator areas, and ancillary improvements and for no other purpose. West Jordan will not knowingly allow or permit activities upon or within the Leased Property which will interfere with the use of the Airport and its aeronautical operations. City and West Jordan will have the right to enforce, in a reasonable and lawful manner, such prohibited activities by requiring the violator to immediately cease and desist such activity.

B. West Jordan will not knowingly allow or permit activities upon or within the Leased Premises which will interfere with the use of the Airport and aeronautical operations including but not limited to:

1. Kite flying, radio-controlled models, launching or recovery of model airplanes;
2. Golfing, driving of golf balls, archery or other similar activities;
3. The installation of lakes, ponds, or other fixed bodies of water which will attract birds or other wildlife;
4. The installation of lighting fixtures which would interfere with the Airport lighting system and/or the aircraft landing system, lighting or communication systems.

West Jordan shall install appropriate signage on the Leased Premises indicating that the activities described in this Paragraph B are prohibited upon the Leased Premises. West Jordan shall enforce, in a

reasonable and lawful manner, these prohibitions by requiring the offender to immediately cease and desist such activity.

C. West Jordan, at its sole expense, shall construct the regional soccer center on the Leased Property and shall operate the same in accordance with this Lease Agreement. City shall have no responsibility to participate in the construction or maintenance costs of the regional soccer center or activities whatsoever.

D. West Jordan shall have the right of ingress and egress from the Leased Property over and across City owned roadways serving the Airport for its employees, representatives, agents, patrons, guests, and suppliers, subject to such laws, ordinances, rules and regulations as now or may hereafter have application at the Airport. City hereby retains the right of ingress and egress over, through, and across the Leased Property at any time.

E. West Jordan shall have no right to perform any activities not listed in this Article 5.

ARTICLE 6

NONDISCRIMINATION

A. West Jordan, for itself, its heirs, personal representatives, successors in interest, and assignees, as a part of the consideration hereof, hereby covenants and agrees as a covenant running with the land that in the event facilities are constructed, maintained, or otherwise operated on the

said property described in this agreement for a purpose for which a DOT program or activity is extended or for another purpose involving the provision of similar services or benefits, West Jordan shall maintain and operate such facilities and services in compliance with all other requirements imposed pursuant to 49 CFR Part 21, Nondiscrimination in Federally Assisted Programs of the Department of Transportation, and as said Regulations may be amended.

B. West Jordan, for itself, its personal representatives, successors in interest, and assigns, as a part of the consideration hereof, hereby covenants and agrees as a covenant running with the land that: (1) no person on the grounds of race, color, or national origin shall be excluded from participation in, denied the benefits of, or be otherwise subjected to discrimination in the use of said facilities, (2) that in the construction of any improvements on, over, or under such land and the furnishing of services thereon, no person on the grounds of race, color, or national origin shall be excluded from participation in, denied the benefits of, or otherwise be subjected to discrimination, (3) that West Jordan shall use the premises in compliance with all other requirements imposed by or pursuant to 49 CFR Part 21, Nondiscrimination in Federally Assisted Programs of the Department of Transportation, and as said regulations may be amended.

C. In the event of a breach of any of the nondiscriminatory covenants pursuant to Part 21 of the Regulations of the Office of the Secretary of Transportation, as amended, the City shall have the right to terminate this Agreement and to re-enter and repossess the Leased Property and hold the same as if said Agreement had never been made or issued.

D. West Jordan does hereby agree to include the above clauses in all subleases and cause sublessees to similarly include clauses in further subleases.

E. Nothing herein contained shall be construed to grant or authorize the granting of an exclusive right forbidden by Section 308 of the Federal Aviation Act of 1958, as amended.

ARTICLE 7

UTILITIES

All reasonable utility services required by West Jordan during the term of this Agreement for the Leased Property or facilities located thereon shall be provided by West Jordan.

ARTICLE 8

MAINTENANCE AND REPAIRS

A. West Jordan shall maintain the entire Leased Property and every improvement thereon in good and neat appearance, repair and safe condition during the entire term hereof.

B. We-1 West Jordan shall provide or cause to be provided a complete and proper arrangement for the adequate sanitary handling and disposal, away from the Leased Property, of all trash, garbage, and other refuse caused as a result of the operations conducted on the Leased Property.

ARTICLE 9

TAXES AND LICENSES

West Jordan agrees to pay, on or before the last day on which payment therefor may be made without penalty, all nondiscriminatory taxes, assessments or charges which during the term hereof may become a lien or be levied by the State, County, City or other tax levying body on all personal property of West Jordan, upon all improvements made to the Leased Property by West Jordan in connection with issues and occupancy thereof, and upon the possessory interest, if any, of West Jordan in the Leased Property, which shall specifically include, but not by way of limitation, any taxes levied under Section 59-4-101 et seq, Utah Code Ann., 1953, as amended or its successor, if applicable.

ARTICLE 10

RULES AND REGULATIONS

In conducting its operations hereunder, West Jordan shall comply with all applicable Federal, State, County, and City laws, rules and regulations in its use of the Leased Property.

ARTICLE 11

INSURANCE

A. West Jordan, at its own cost and expense, shall secure and maintain comprehensive third-party public liability insurance for injury to property and person to protect City herein from such claims and actions. Said insurance shall have limits of not less than $1,000,000 combined single limit each occurrence.

B. West Jordan City currently participates in the Utah Risk Management Mutual Association, a consortium of Utah municipalities which have, pursuant to interlocal agreement, established the Association which is a "public mutual" insurance company, licensed as such by the Utah Insurance Department. West Jordan's participation in the Association and the "public liability" insurance coverage thereunder is acceptable to the City. In the event West Jordan shall terminate its membership in the Association and shall not participate in a similarly-established public liability insurance program or shall become "self-insured", West Jordan shall procure a policy of insurance from an insurance company listed on the current Department of the Treasury Fiscal Services List 570 or having a general policy holders rating of not less than "A" in the most current available "Best's Insurance Reports," and be qualified to do business in the State of Utah.

C. Certificates evidencing such insurance coverage shall be filed with City upon execution of this Agreement. Such certificates shall provide that such insurance coverage will not be canceled or reduced without at least thirty (30) days prior written notice to City. At least thirty (30) days prior to the expiration of any such policy, a certificate showing that such insurance coverage has been renewed shall be filed with City. If such insurance coverage is canceled or reduced, West Jordan shall within fifteen (15) days after receipt of written notice from City of such cancellation or reduction in coverage, file with City a certificate showing that the required insurance has been reinstated or provided through an insurance company or companies qualifying under Subparagraph B hereof.

D. In the event that West Jordan shall at any time fail to furnish City the certificate or certificates required, City, upon written notice to West Jordan of its intention to do so, shall have the right to secure the required insurance, at the cost and expense of West Jordan, and West Jordan agrees to reimburse City promptly for the cost thereof and ten percent (10%) for cost of administration.

E. All insurance policies shall name and certificates shall show the City as an insured.

ARTICLE 12

TERMINATION & DEFAULT

A. This Agreement shall expire at the end of the full term hereof, unless sooner terminated as provided hereinafter.

B. This Agreement may be terminated by the City in the event West Jordan shall:

1. Make a voluntary or involuntary assignment contrary to Article 17 hereof.

2. Abandon the Leased Property.

3. Except for payment of rents and fees, be in default in the performance of any of the covenants and conditions required herein to be kept and performed by West Jordan, and such default continues for a period of thirty (30) days after receipt of written notice from City of said default. If the nature of the default is such that it cannot be cured within thirty (30) days, City in its sole judgment may determine to terminate this Agreement or permit a cure.

C. In the case of any of the aforesaid events of termination, City may exercise the above right of termination by delivering a written notice of termination to West Jordan at the address set forth herein, and this Agreement shall terminate as of that date and time. Delivery may be by hand or by certified mail. Thereafter, City may take immediate

possession of the Leased Property and all improvements thereon and remove West Jordan's personal property. Any rental due hereunder shall be payable to said date of termination.

D. It is agreed that failure to declare this Agreement terminated upon the default of West Jordan for any reasons set forth above shall not operate to bar or destroy the right of City to declare this Agreement null and void by reason of any subsequent violation of the terms of this Agreement.

ARTICLE 13

ASSIGNMENT AND SUBLEASING

West Jordan shall not assign, transfer, sublease, pledge, hypothecate, surrender or otherwise encumber or dispose of this Agreement or any estate created by this Agreement, or any interest in any portion of the same, or permit any other person or persons, company or corporation to occupy the Leased Property without written consent of the City being first obtained, which consent, except for involuntary actions, shall not be unreasonably withheld.

ARTICLE 14

REMOVAL OF PERSONAL PROPERTY

A. Title to personal property shall at all times remain in West Jordan, and West Jordan shall have the right at any time to remove any or all personal property of every kind and nature whatsoever which West Jordan may have placed or installed upon the Leased Property. Any and all fixtures, tools, devices, appliances, furniture, pictures, furnishings,

equipment, and supplies, of every kind and nature, heretofore or hereafter placed or installed by West Jordan on the Leased Property, as between City and West Jordan, shall be and remain the personal property of West Jordan, notwithstanding the same are or may be attached or affixed to the floors, ceilings, or any other parts of any buildings or structures on the Leased Property. West Jordan shall have said right to remove same provided that, upon any such removal, West Jordan shall repair, at its own expense, any damage resulting therefrom and leave the Leased Property in a clean and neat condition, with all improvements in place.

B. West Jordan at its sole cost and expense, shall remove all personal property from the Leased Property prior to termination of this Agreement. City shall be entitled to remove all personal property from the Leased Property if West Jordan fails to remove said personal property, and City shall store such property at West Jordan's expense, plus 30% of the removal and storage expense and cost of administration.

ARTICLE 15

INSPECTION OF LEASED Property

City, its agents, or employees may enter upon the Leased Property, at any and all reasonable times during the term hereof for the purpose of determining whether or not West Jordan is complying with the terms and conditions hereof or for any other purpose incidental to rights of City. If West Jordan is in violation of any of the covenants of this Agreement and fails to correct said violations as provided herein, the

City may elect, in lieu of cancellation, to provide that the necessary action be taken at the cost and expense of West Jordan, and West Jordan agrees to reimburse City promptly for the cost thereof together with ten percent (10%) for the cost of administration.

ARTICLE 16

FORCE MAJEURE

Any prevention, delay, or stoppage of performance of West Jordan's or City's obligations hereunder due to acts of God, governmental restrictions, governmental controls, governmental regulations, enemy or hostile government action, civil commotion, fire or other casualty, or any other causes beyond the reasonable control of either shall not be deemed to be a breach of this agreement or a violation of or failure to perform any covenants hereof, and either shall have a reasonable time after cessation of any of such causes within which to render performance delayed thereby.

ARTICLE 17

SPONSOR'S ASSURANCES

This Agreement shall be subordinate to the provisions of any existing or future agreements between City and the United States Government, and any applicable Federal laws or regulations relative to the operation, security or maintenance of the Airport, the execution of or compliance with which is, or will be required as a condition precedent to the granting of Federal funds for the development of the Airport to the extent that the provisions of any such existing or future agreements are generally required by the United States at other civil air carrier airports receiving Federal funds

and provided that City agrees to give West Jordan written notice in advance of the execution of such agreements of any provisions which will modify the terms of this Agreement.

ARTICLE 18

QUIET ENJOYMENT

City represents that the Leased Property is zoned to permit the uses provided for in this Agreement. City represents that it has a marketable title and unencumbered fee interest to the Leased Property. City will defend West Jordan's right to quiet enjoyment of the Leased Property from the claims of third persons.

ARTICLE 19

RIGHT OF FLIGHT

West Jordan understands and agrees that City reserves the right of flight for the passage of aircraft above the surface of the Leased Property hereunder in accordance with Federal Aviation Administration criteria, and such right of flight shall include the right to cause in such airspace such noises as may be inherent to the operation of aircraft now known or hereafter used for navigation of or flight in the air; and that City reserves the right to use said airspace for landing at, taking off from or operating aircraft on or over said Airport.

ARTICLE 20

REDELIVERY OF LEASED PROPERTY

West Jordan shall, upon termination of this Agreement quit and deliver up the Leased Property to City peaceably, quietly, and in as good order and condition as the

same now are or may hereafter be improved by West Jordan or City, reasonable use, wear, tear and deterioration excepted.

ARTICLE 21

HOLDING OVER

In the event West Jordan remains in possession of the Leased Property after the expiration of this Agreement without any written renewal thereof, such holding over shall not be deemed as a renewal or extension of this Agreement but shall create only a tenancy at will from month to month, which may be terminated at any time by City giving thirty (30) days prior written notice of termination.

ARTICLE 22

THIRD PARTIES

This Agreement does not and shall not be deemed or construed to confer upon or grant to any third party or parties any rights to claim damages or to bring any suit, action or other proceeding against the City because of any breach hereof or because of any of the terms, covenants, agreements or conditions herein contained.

ARTICLE 23

AGREEMENT MADE IN UTAH

This Agreement has been made in, shall be construed in accordance with and enforced under the laws of the State of Utah.

ARTICLE 24

SUCCESSORS

This Agreement shall bind and inure to the benefit of any successor of City and any successor, assignee, or sublessee of West Jordan.

ARTICLE 25

HEADINGS

The Article headings contained herein are for convenience in reference and are not intended to define or limit the scope of any provision of this Agreement.

ARTICLE 26

NON-WAIVER

Any waiver of any breach of covenants herein contained to be kept and performed by West Jordan shall not be deemed or considered as a continuing waiver and shall not operate to bar or prevent the City from declaring a forfeiture or termination for any succeeding breach either of the same condition or covenant or otherwise.

ARTICLE 27

TIME OF ESSENCE

Time is of the essence of this Agreement.

ARTICLE 28

NOTICES

Notices to City provided for herein shall be sufficient if sent by certified mail, postage prepaid, addressed to:

Executive Director - Salt Lake City Airport Authority
Salt Lake City International Airport
AMF Box 22084
Salt Lake City, Utah 84122

and

Manager, Denver ADO
5440 Roslyn, Suite 300
Denver, Colorado 80216

and notices to West Jordan, if sent by certified mail, postage prepaid, addressed to:

West Jordan City Manager
8000 S. Redwood Road
West Jordan, Utah 84088

or at such other addresses as the parties may designate to each other in writing from time to time.

ARTICLE 29

ASSIGNMENT

This Agreement cannot be assigned by either party without the prior written consent of the other.

ARTICLE 30

ENTIRE AGREEMENT AND ALTERATIONS

A. This Agreement supersedes and revokes all previous negotiations, arrangements, letters of intent, offers to lease, lease proposals, brochures, representations, and information conveyed, whether oral or in writing, between the parties hereto or their respective representatives or any other person purporting to represent the City or West Jordan. West

Jordan acknowledges that it has not been induced to enter into this Agreement by any representations not set forth in this Agreement, it has not relied on any such representation or construction of this Agreement, and the City shall have no liability for any consequences arising as a result of any such Representations.

B. No alteration, amendment, change or addition to this Agreement shall be binding upon the City or West Jordan unless in writing and signed by both parties.

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be executed as of the day and year first above written.

RECORDED
NOV 2 8 1995
CITY RECORDER

SALT LAKE CITY CORPORATION

EXECUTIVE DIRECTOR
SALT LAKE CITY AIRPORT AUTHORITY

ATTEST:

CHIEF DEPUTY CITY RECORDER

SALT LAKE CITY, UTAH CORPORATE SEAL

THE CITY OF WEST JORDAN, UTAH

MAX R. HOGAN, MAYOR

ATTEST:

CITY RECORDER

CITY OF WEST JORDAN West Jordan State of Utah

STATE OF UTAH)
: ss.
COUNTY OF SALT LAKE)

On NOV 28 1995, personally appeared before me LOUIS E. MILLER and S. R. Kivett, who being by me duly sworn, did say that they are the EXECUTIVE DIRECTOR, SALT LAKE CITY AIRPORT AUTHORITY and CHIEF DEPUTY CITY RECORDER, respectively, of SALT LAKE CITY CORPORATION, and said persons acknowledged to me that said corporation executed the same.

NOTARY PUBLIC, residing in
Salt Lake County, Utah

NOTARY PUBLIC
STATE OF UTAH
My Commission Expires
July 10, 1999
SCOTT K. CORANDALL
451 South State #415
Salt Lake City, Utah 84111

My Commission Expires:

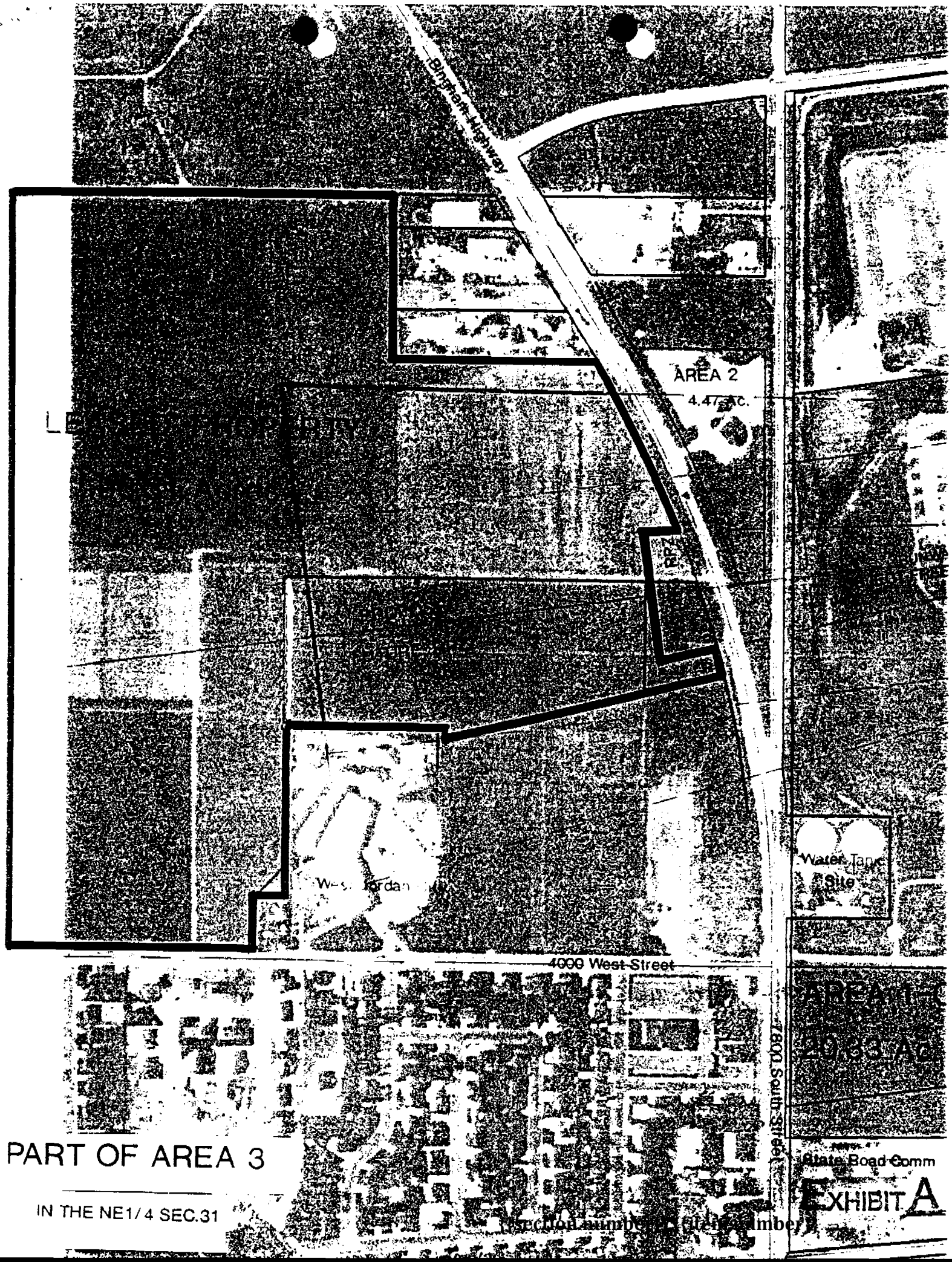
STATE OF UTAH)
: ss
COUNTY OF SALT LAKE)

On October 26, 1995, personally appeared before me Max R. Hogan, who being by me duly sworn did say that (s)he is the Mayor of the City of West Jordan, Utah, a municipal corporation of the State of Utah, and that the foregoing instrument was signed in behalf of said corporation by authority of a resolution (or bylaws) of its Board of Directors; and said persons acknowledged to me that said corporation executed the same.

Melanie S. Briggs, Salt Lake County
NOTARY PUBLIC, residing in

My Commission Expires:
July 21, 1997

NOTARY PUBLIC
MELANIE S. BRIGGS
8000 SOUTH REDWOOD
WEST JORDAN, UT
My Commission Expires July 21, 1997
State of Utah


Bingham Highway
AREA 2
4.47 AC.
RR
Water Tank Site
4000 West Street
7800 South Street
PART OF AREA 3
IN THE NE1/4 SEC.31
State Road Comm
EXHIBIT A

SALT LAKE CITY DEPARTMENT OF AIRPORTS

DEEDEE CORRADINI, MAYOR

July 28, 1999

Rory Andreason
West Jordan City – Recorders Office
8000 South Redwood Road
West Jordan, Utah 84088

RE: Lease Agreement – Soccer Complex

Dear Rory:

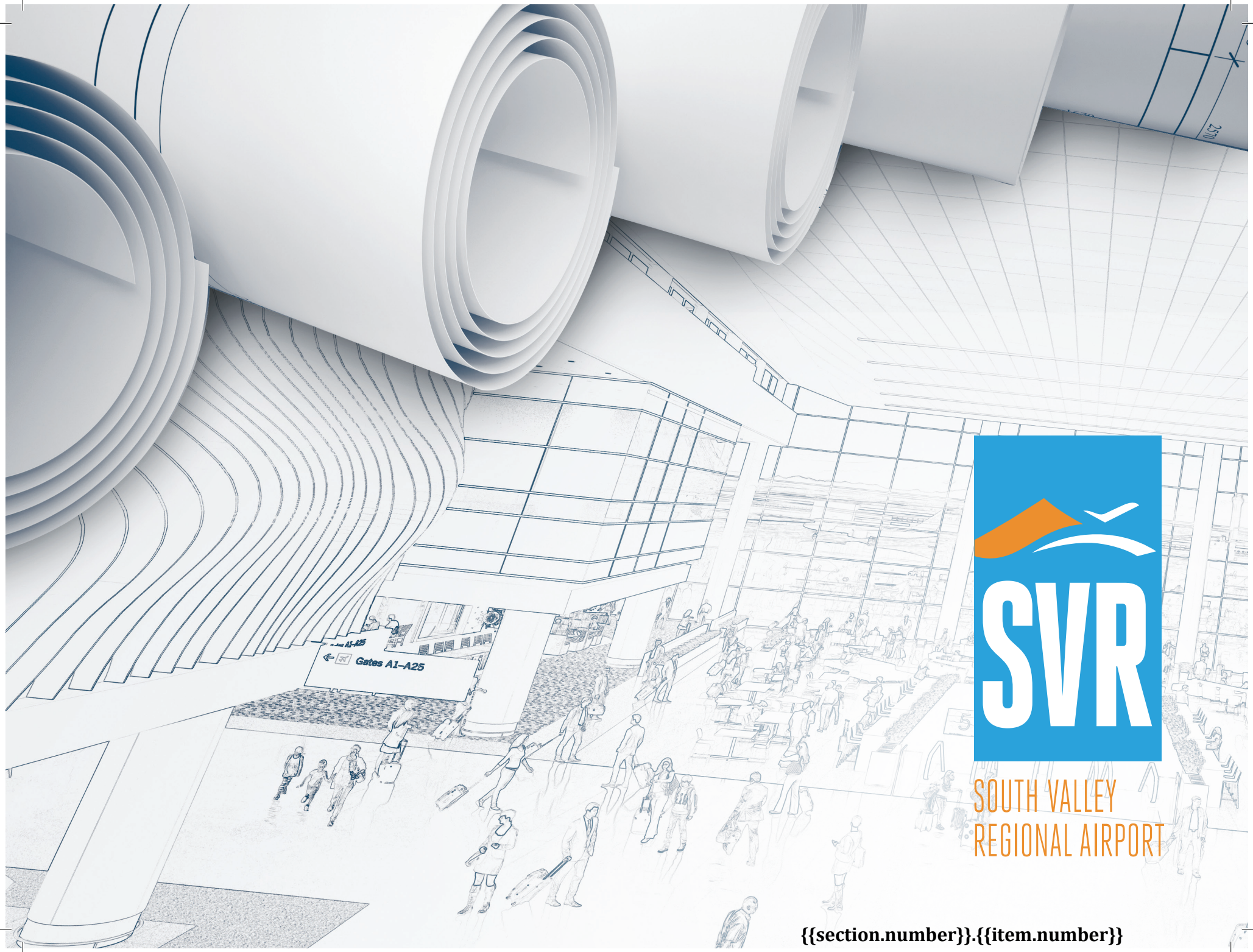
As you requested, enclosed please find a copy of the lease agreement between Salt Lake City Corporation and West Jordan City. If you have any questions or require additional information, please don't hesitate to contact me at 575-2894.

Sincerely,

Lorraine Carlton
Property & Contract Specialist

RECYCLED PAPER

AMF BOX 22084, SALT LAKE CITY, UTAH 84122 • PHONE 801.575.2400 • FAX 801.575.2679



SOUTH VALLEY
REGIONAL AIRPORT

SOUTH VALLEY REGIONAL AIRPORT
MASTER PLAN MEETING

The Salt Lake City Department of Airports (SLCDA) is planning for the future of South Valley Regional Airport (SVR) and we want to hear from you! Please join SLCDA—owner and operator of SVR—at a public meeting to learn about the master planning process and to ask questions about the future of SVR.

Tuesday, October 18 from 6 to 8 p.m.
West Jordan Public Works Building, 7960 South 4000 West

A virtual option is available and can be accessed from 6 to 7 p.m. through Zoom:
https://rsandh.zoom.us/webinar/register/WN_c0kFPZ4NQ62if9-1L8j16A

SLC
DEPARTMENT OF AIRPORTS

P.O. Box 145550
Salt Lake City, Utah 84114-5550

U.S. Department
of Transportation
**Federal Aviation
Administration**

Airport Compliance and Management Analysis

800 Independence Ave., SW.
Washington, DC 20591

July 3, 2013

Mr. David Everitt
Chief of Staff
Salt Lake City Corporation
451 South State Street, Room 306
PO Box 145474
Salt Lake City, UT 84114-5474

Dear Mr. Everitt:

Thank for your February 4 letter, concerning the corrective actions proposed to the Federal Aviation Administration's (FAA) compliance review of Salt Lake City Department of Airports (DOA). The items sent were in response to our request for additional information and modifications of the original corrective action plan submitted by the City on August 2, 2012. We appreciate the fact that your letter recognizes the City's full commitment to implement corrective actions for violations of FAA's Policy and Procedures Concerning the Use of Airport Revenue (Revenue Use Policy).

Your responses to the five findings indicated, in part:

West Jordan Soccer Field: The City will allow the initial term of the soccer field to run its course through October, 2025, but the City will not allow West Jordan to exercise an option for a second, 20-year term.

Land Swap/Easement: The City's General Fund, subject to annual appropriation, will reimburse the DOA $983,943.19 ($912,656 plus statutory interest of $71,287.19) over a 10-year pay period on the following schedule (which accounts for accumulating interest on the unpaid balance):

	Principal	Accumulated Interest	Total
7/01/13	$94,047.33	$9,839.43	$103,886.76
7/01/14	$94,987.81	$8,898.96	$103,886.76
7/01/15	$95,934.68	$7,949.08	$103,886.76
7/01/16	$96,897.06	$6,989.70	$103,886.76
7/01/17	$97,866.03	$6,020.73	$103,886.76

7/01/18	$98,844.69	$5,042.07	$103,886.76
7/01/19	$99,833.14	$4,053.63	$103,886.76
7/01/20	$100,831.47	$3,055.29	$103,886.76
7/01/21	$101,839.79	$2,046.98	$103,886.76
7/01/22	$102,858.18	$1,028.58	$103,886.76
Total	$983,943.19	$54,924.46	$1,038,868.65

The DOA will annually certify to the FAA that these amounts have been properly withheld from the DOA's payments to the General Fund for city services rendered to the airport system.

Boeing Lease: Based on the appraised fair market value of the subject property, Boeing will pay a rental rate of $0.27/sf for the "Premises" lease, effective January 1, 2013. If Boeing exercises its options on the "Land Bank" or "additional property" over the next five years, Boeing will be required to pay the appraised fair market value of $0.23/sf. These lease rates will be updated every five years to reflect then-current appraised value in conjunction with Boeing's options to renew the lease.

Wingpointe Golf Course: The City would make reasonable efforts to rezone the property to allow aeronautical uses over the next five years. The DOA would amend the existing MOU so that the MOU expires on December 31, 2017 (instead of June 30, 2087) and, effective July 2, 2013 (the start of the next fiscal year), require the City, subject to appropriation, to reimburse the DOA for its costs (currently about $55,000/year) for maintaining security, managing wildlife and otherwise ensuring that the use of the property as a golf course does not impair the use of Salt Lake City International Airport (SLC) as an airport.

The MOU would also be amended to provide if, as of December 31, 2017, the property is not needed for aeronautical use, the MOU may be extended for an additional 5-year term, but only if the City pays the DOA the current appraised fair market value rent for the golf course. The City has agreed to the following annual payment schedule, subject to appropriation:

	Annual Payment
FY 2014	$55,000
FY 2015	$60,000
FY 2016	$65,000
FY 2017	$70,000
7/17-12/17	$37,500

Cost Allocation Plan: As recommended by the FAA, the DOA's internal auditor will review the City's cost allocation plan on an annual basis.

Based on your responses, FAA has agreed to your corrective action plan. However, you noted that both payments for the Golf Course and Easement are subject to annual appropriations. We understand the DOA's annual budget is subject to City Council approval and that the City is committed to resolving the findings. However, failure to not appropriate

these annual payments could place the DOA in noncompliance with Federal law. Sanctions for noncompliance can include:

- Withholding of future and existing grants;
- Withholding approval of an application to impose a passenger facility charge;
- Federal court action; and
- Civil penalties as stated in FAA's Revenue Use Policy.

In an effort to alleviate FAA's concerns over the "subject to annual appropriations" language, the Executive Director of SLC provided a plan to formalize the repayment for the Golf Course and Easement. It states that if the City's golf course enterprise fund does not make the proposed rental payments, the City will close the golf course and return it to the Airport. For the Easement, the City will include the payments in the City's nondepartmental budget schedule, where it will be described as "10 Year Plan – Airport Trail Reimbursement Required by FAA Corrective Action Plan." The DOA believes that this expressly shows the City's full commitment to making the scheduled payments and inclusion in the non-departmental budget will formalize the obligation.

FAA will continue to monitor the lease arrangements and/or repayments for the Golf Course, Boeing, and the Soccer Field. In the future, please submit copies of supporting documentation to the FAA on an annual basis for the payments made to the DOA for the Golf Course and Easement. In addition, we fully expect the DOA and the City to fulfill its promises with regard to the proposed current and future lease modifications.

Should you have any further questions, please contact David Duchow at (202) 493-4604.

Sincerely,

Randall S. Fiertz
Director of Airport Compliance
and Management Analysis

cc: Maureen Riley, Executive Director, SLC
Scott Lewis, Anderson & Kreiger, LLP.
John Bauer, Denver Airports District Office
Joelle Briggs, Northwest Mountain Airports Division

REQUEST FOR COUNCIL ACTION

Action: Need Council to take action

Presenter: Kelvin Green/Kayleen Whitelock

Department Sponsor: Council Office

Agenda Type: DISCUSSION TOPICS

Time Requested: 10 minutes presentation, 10 minutes council

Meeting Date Requested : 02/15/2023

Deadline of item :

(Council may elect to provide more or less time)

1. **AGENDA SUBJECT**
   Discussion on proposed sewer lift station language for Title 13 Zoning Regulations

2. **EXECUTIVE SUMMARY**
   Is there council direction to have staff add a prohibition of Sewer Lift Stations within city code?

   Current City Engineering standards part 2.14 and 2.15 do not permit sewer lift stations on public systems. City Engineers must approve private installations of sewer lift stations.

   At this time, there are currently no public sewer lift stations in the City of West Jordan. There is one private lift station near the Jordan River.

3. **TIME SENSITIVITY / URGENCY**
   none

4. **FISCAL NOTE**
   There should be no fiscal impact to the City

5. **PLANNING COMMISSION RECOMMENDATION**
   None at this time. Any Title 13 amendments, additions, and deletions would need to be heard before the Planning Commission

6. **STAFF ANALYSIS**

7. **MOTION RECOMMENDED**
   Committee of the Whole sends this to affected departments for refinement and processing.

8. **MAYOR RECOMMENDATION**

9. **PACKET ATTACHMENT(S)**
   Ordinance and Engineering Standards

10. **OTHER INFORMATION**

Title 13
Chapter 20
SEWER LIFT STATIONS

13-20-1 Definitions

A. Lift station means a sewer pumping facility greater than three horsepower or serving more than one residential or commercial unit that takes the place of the gravity flow sewer system.
B. Force main means a principal conduit through which water is pumped as distinguished from one through which it flows by gravity.
C. Gravity flow sewer means the part of the wastewater system that uses gravity, as opposed to lift stations, pumps, or pressure lines, to transport sewage.
D. Sewage means any liquid or water-carried industrial or sanitary wastes, whether treated or untreated, including polluted heating and/or cooling water from dwellings, commercial buildings, industrial facilities and institutions, that is contributed or permitted to enter the public sewer system.
E. Sewer means a pipe or conduit that collects and carries wastewater.
F. Ejector pump means a mechanical unit through which sewage is lifted to an elevation where gravity flow sewer is available.

13-20-2 Private Lift Station - Permission And Liability

A. Lift stations are permitted only when gravity sewer to the property being served is unobtainable as defined by this chapter.
B. No lift stations and/or force main shall be permitted where installation is not incompliance with the City's Sanitary Sewer Master Plan.
C. Lift stations shall not be allowed as part of any development or real property regardless of the number of units or type of development being constructed or other constraints including offsite improvements:
    1. An application shall be submitted to public works by the applicant proposing a lift station. The application will include specific information on ownership, maintenance, and engineering studies regarding the proposed lift station.
    2. The director of public works, in coordination with the city engineer, shall review all proposed lift stations and provide a recommendation to the city council for its consideration prior to approval of any submittal.
    3. The City Council, by ordinance, will approve or deny any application.
D. West Jordan City does not maintain any publicly owned lift stations.
E. Lift stations are only permitted on private property. No lift station shall be dedicated to the city and will not be owned, maintained, or operated by the city.
F. Lift stations or force mains are prohibited any public right of way or public easement, including public utility easements.
G. Any and all damages resulting from lift stations, including, but not limited to, overflows, spills, and backflows, are the responsibility of the owner/applicant.

H. Overflows, spills and backflows shall be subject to fines, penalties or regulatory enforcement by the city.

13-20-3 General Requirements

1. All lift stations and connecting infrastructure shall be private. All drainage/flow to the lift station shall result from private infrastructure. No public infrastructure shall supply sewage either to or from a lift station.
2. All connections into the city's public infrastructure shall occur through a privately owned gravity flow sewer.
3. All lift stations shall be below grade with no less than duplex submersible pumps operating in a lead-lag configuration such that the pumps alternate after each pump cycle.
4. Each lift station shall have an above-grade access hatch of a size, configuration, and elevation that is readily accessible for a human being and suitable for easy installation and removal of the pumps. The hatch shall be designed and located such that surface water flow cannot enter the lift station.
5. All pumps shall be able to pass a three-inch diameter solid.
6. The lift stations shall be made of fiberglass, or other material approved by the city engineer.

13-20-4 Design Requirements

A. The owner/applicant shall furnish and install the entire lift station/force main system. The system shall be designed, at the sole cost and expense of the owner/applicant, by an engineer licensed in the State of Utah. The design must be reviewed and approved by the city engineer. The designer shall consult with the city engineer during the design of the system.
B. Development and design plans shall provide the following:
    1. Connection to the city's infrastructure through a privately-owned gravity flow sewer line;
    2. Design calculations, including pump curves, showing the pump and system head curves;
    3. Private infrastructure plan, including delineation of the basin and sub-basins that drains to the lift station, along with contours and projected flow calculations;
    4. Details of the lift station installation including grades, materials of construction, control systems, etc.;
    5. Plan and profile views;
    6. Electrical supply and control diagrams showing all electrical requirements, as well as control logic diagram (or a written description of the control logic);
    7. Site plan showing finished grade contour lines (two-foot intervals) in and around lift station and access road and all existing and proposed utilities; and;
    8. Any other specifications and details reasonably required by the city engineer.

13-20-5 Safety Requirements

Lift stations shall have the following:

A. Fenced area eight-foot-high fabric nine-gauge wire (chain-link type) with top rails and bottom tension wires; three strands barbed wire at top on angled extension arms; posts embedded in a minimum of three-feet of concrete; posts are to be spaced a maximum of ten feet apart;
B. Fourteen-foot wide gate on four-inch diameter posts;
C. High pressure sodium security light on twenty-foot pressure treated pole with automatic eye;
D. The wetwell shall be sized to prevent excessive cycling of the pumps.
E. Hatch doors shall be sized by the pump supplier to allow adequate clearance to easily remove the pumps;
F. The force main must have a cutoff valve positioned after the check valve pit.
G. No conduit runs or junction boxes are to be installed inside or on top of wet well.
H. Lift stations shall have factory-installed hour meters to show pump's running times to the tenth of an hour.

13-20-6 Maintenance

A. Lift stations shall be operated under the direction of a certified Wastewater Collection Systems Operator Grade II or higher. The current name and contact information of the systems operator acting as the direct responsible charge shall be on file with the city, and shall be accessible at all times.
B. The lift station and/ or force main shall be inspected by a qualified contractor no less than quarterly. Based upon system design and capacity, more frequent inspections may be required.
C. A record of all inspections shall be maintained.
D. All inspection records and logs shall be provided to the city upon request and no later than December 31 of each year.

13-20-7 Warning System And Emergency Response

A. An emergency action plan shall be established by the owner/applicant of the lift station.
B. Lift stations shall be equipped with a remote telemetry unit to establish radio-based telemetry communication data connection twenty-four hours per day to be monitored by a certified Wastewater Collection Systems Operator Grade II or higher. The name and contact information for the qualified contractors(s) shall be provided to the city.
C. Lift stations shall have an electrical panel containing an audible alarm, flashing light alarm, and lightning arrestor.

D. Alarm parameters for each lift station shall include a loss of communication, power failure, high levels in the wet well and if pump run time is longer than programmed.
E. An emergency generator or power supplied from two independent sources with automatic switchover capability. All gasoline or diesel powered emergency generators shall have secondary containment to protect against releases of fuel.

shall be installed across the trench line at 20-feet intervals to reduce erosion.

Slopes above 35-percent (2.86 horizontal to 1 vertical) shall require sand/cement bags be placed along the trench line at the intervals specified in Standard Drawing No. SS-095 to reduce the flow of water within the pipe trench.

Concrete anchors in accordance with Standard Drawing No. SS-115 will only be required in special instances, where such anchorage is deemed necessary to prevent pipe movement.

2.14 PRIVATE SEWER LINE REQUIREMENTS

A. All private sewer line construction shall be required to meet these standards, and/or be subject to review of City Engineer.

B. Sanitary sewer pumping stations, where they cannot be avoided, may be permitted within a private sewer line and shall not be located within a public sewer line.

2.15 PRIVATE (RESIDENTIAL) PUMPING SYSTEMS

General City policy is to avoid private residential pumping systems except in those cases where such a system is either: (1) in the City's best interest or (2) the only method for sewering a lot which cannot be adapted to a gravity system or eliminated. In any case, the use of a private pumping system requires special Engineering Department approval.

Where such a system is employed, the City will not accept responsibility for the satisfactory operation and maintenance of the private system; a document recorded against the property shall confirm this.

A. All equipment and accessories shall be standard manufactured items with those in contact with sewage being specifically manufactured for sewage use.

B. The Engineer shall submit, if required, a listing of satisfactory installations using the same products.

C. Individual systems shall meet the City Engineer’s requirements. Of particular importance are the following:

1. The sump shall have a minimum 400-gallon capacity.
2. The system shall be of the duplex type (2 pumps) and have duplex controls, which will automatically alternate the pumps and energize both pumps and an alarm during high liquid level.
3. Pumps shall be heavy-duty centrifugal non-clog type with mechanical seals and cast iron construction. Each pump shall have a minimum 60-gpm capacity when pumping against a total dynamic head of 20-feet. The impeller shall have a 2-inch solids handling capacity. The motors shall be completely oil filled and fully submersible.
4. Discharge line shall be 3-inches in diameter with a working pressure of not less than 150-psi. All underground discharge piping shall be PVC schedule 40, and above ground piping shall be

PVC schedule 80.

5. The shutoff valve shall be either the ballcentric or eccentric type with a working pressure of not less than 150-psi and suitable for sanitary sewer use. The check valve shall be a rubber flapper swing non-slamming type with a working pressure of not less than 150-psi and suitable for sanitary sewer use.

D. The discharge lines shall be arranged such that there is gravity flow into the main sewer from the property line.

E. Where a unit serves a number of homes, it shall be sized to handle daily flows of at least 500-gallons per day and a peak discharge into the unit to reflect the number of residences.

F. All controls shall be non-fouling type and all mechanical and electrical equipment shall equal or exceed City or other pertinent codes.

G. Backflow prevention devices as required to prevent water system contamination shall be installed.

H. Where a pumping unit is proposed, it shall be requested prior to preliminary plat map approval, except for those cases where the City may decide to approve the unit at a later date.

2.16 FORCE MAINS AND LIFT STATIONS

All sewage shall reach the system by gravity flow, in a fresh (non-septic) condition susceptible to conventional sewage treatment processes. Where extreme hardship conditions prevail and a substantial area cannot be sewered by gravity sewers, in accordance with these requirements, a sewage pumping station may be considered. No pumping facilities shall be designed or incorporated in sewer plans without prior approval.

A. Lift Stations Design: Lift stations, where permitted, shall be of the dry-pit type incorporating the following features:

1. Pumps or other devices shall be provided in duplicate, arranged for positive priming.
2. Capacity shall be provided to handle ultimate peak flow from the tributary area with the largest pump out of service. Stage installation of pumps will be permitted if space is provided for future pump units.
3. Access shall be provided to site for removal and repair of equipment.
4. A means for dewatering force mains shall be provided.
5. Holding capacity in the wet well equivalent to a 24-hour accumulation of sewage from the fully developed area tributary to the pump station.
6. Bottom of wet well shall slope to suction lines at least 1.75 vertical to 1.0 horizontal. It is recommended that the width of the flat bottom in the wet well not exceed twice the diameter of the suction pipes.
7. Pump stations for newly developed areas shall not be located in road right of way, but shall be located on a separate parcel of land and shall include fence, gates, landscaping, etc. Pump stations located in road right of way will only be considered when it can be demonstrated to

the governing body of the road right of way and the Director of Engineering that no other site out of the road right of way is possible and such facility is not temporary.

8. A pump station shall have suitable adjustable level control, sump pump, dehumidifier, ventilation, lights, locking entrance door, running time meters, and cathodic corrosion control.
9. Pump and fittings shall be designed to permit the passage of a 3-inches diameter sphere through the pump.
10. Standby power with automatic pump drive transfer shall be provided except when waived by the Director of Engineering. Consideration should be given to using natural gas engines.
11. Compressor to inject air into the force main at a point outside of pump station so that air will not collect back of check valve with possibility of air locking pump.

B. Force Mains - Force mains shall be laid on a continuous positive grade and to grades designed to eliminate air pockets in the line.

C. Construction of Special Structures - Design criteria for special facilities (i.e. junction boxes, etc.) that are not covered in previous sections are to be prepared individually for each specific job, and shall be as approved.

2.17 INDUSTRIAL WASTE DISCHARGE

The Developer/Developer's Engineer is to be aware that the City regulates the physical and chemical content of sanitary sewers discharged to the sewerage system. These regulations are contained in an Appendix G to this Manual and are the requirements of the South Valley Water Reclamation Facility (SVWRF). The SVWRF requirements have been adopted by the City by Ordinance in Title 90 of the City's Municipal Code.

Typically, this ordinance only applies to those developments without a discharge of other than domestic sanitary sewer. However, the ordinance should be reviewed if sanitary sewer will contain any hazardous toxic materials, heavy metals, or any other substances, which may be harmful to the operation and maintenance of the sewerage system. The ordinance then requires either the substance be prohibited from discharge or pretreated prior to its discharge to the sewer. Questions and further details concerning these regulations should be directed to the South Valley Water Reclamation Facility industrial waste inspector.

2.18 ABANDONMENT OF SANITARY SEWER LINES

Refer to Section 8.0 of this Manual.

2.19 SPECIAL REQUIREMENTS

A. Commercial, and Industrial Uses - Prior to the installation of a sewer lateral into a commercial, industrial, or municipal building the developer is required to obtain approval from South Valley Water Reclamation Facility. They will determine the requirements related to the installation of a grease interceptor, sand trap, or sewer monitoring manhole. The city will not grant a Certificate of Occupancy until written notification of compliance is received from a SVWRF representative.

REQUEST FOR COUNCIL ACTION

Action: Request feedback from Council	**Meeting Date Requested** : 03/15/2023
Presenter: Kayleen Whitelock and Pamela Bloom	**Deadline of item** : 03/15/2023
Department Sponsor: Council Office	
Agenda Type: DISCUSSION TOPICS	
Time Requested: 10 minutes presentation, 10 minutes council	*(Council may elect to provide more or less time)*

1. **AGENDA SUBJECT**
   Consider amending Title 13 Zoning Regulations and Title 14 Subdivision Regulations to include parameters for PRD Zones (Planned Residential Development) similar to PC Zones (Planned Community).

2. **EXECUTIVE SUMMARY**
   Council is being asked to discuss the potential of a code amendment that would add parameters for PRD Zones similar to those found in PC Zones including setbacks, frontages, building height, and any other parameters council wishes to discuss.

   The amendments could help both staff, council, and developers to have a clearer picture of what is desired. An amendment to code has the potential of saving time for everyone involved in the process.

3. **TIME SENSITIVITY / URGENCY**
   The discussion and possible amendment should take place prior to the next infill development.

4. **FISCAL NOTE**
   An amendment to code has the potential of cost savings for staff as they would have a clear picture of what the desire of the council is for residential infill.

5. **STAFF ANALYSIS**
   Council discretion.

6. **MOTION RECOMMENDED**
   For discussion and direction only. No motion necessary.

7. **PACKET ATTACHMENT(S)**
   Title 13 – Zoning Regulations
   Title 14 – Subdivision Regulations

ARTICLE C. PLANNED DEVELOPMENT ZONES

SECTION:

13-5C-1: Purpose And Intent

13-5C-2: Process For Zone Change To Planned Development Designation; Master Development Plan Required

13-5C-3: Density Designations

13-5C-4: Permitted And Conditional Uses

13-5C-5: Area, Setbacks And Height

13-5C-6: Dedication And Maintenance Of Open Space Required

13-5C-7: Development Plan Requirements

13-5C-8: General Provisions

13-5C-1: PURPOSE AND INTENT:

A. Planned Residential Development Zone: The purpose of the Planned Residential Development (PRD) Zone is to encourage imaginative, creative and efficient utilization of land by establishing development standards that provide design flexibility, allow integration of compatible residential uses, encourage consolidation of open spaces, clustering of dwelling units, and optimum land planning with greater efficiency, convenience and amenity than may be possible under the procedures and regulations of conventional zoning classifications. A Planned Residential Development should incorporate a diversity of architectural design throughout the project. A diversity of architecture creates "timeless" communities that do not become dated or go out of style.

B. Planned Community Zone: The purpose of the Planned Community (PC) Zone is to encourage imaginative and efficient utilization of land through the clustering of buildings, and the integration of compatible uses (i.e., residential, commercial, recreational). The mix of uses is encouraged in order to create a convenient, efficient and effective integration of uses that create an attractive and desirable environment where employment, residential uses and leisure are close to each other. This zone is characterized by attractive buildings within a well-planned setting. It is also characterized by a design intended to mitigate the negative effects of noise, traffic and undue congestion.

C. Overall Intent: It is the intent of the City that the site and building plans for planned developments be prepared by a designer or team of designers having professional competence in urban planning, site planning, and architectural and landscape architectural design. However, it is not the City's intent that design control be so rigidly exercised that individual initiative is stifled or that substantial additional expense is incurred. Rather, it is the intent of this section that the control exercised be the minimum necessary to achieve the purpose of this chapter. The intent of planned developments (PC or PRD) is to:

1. Create more attractive and more desirable environments in the City;

2. Allow a variety of uses and structures;

3. Encourage imaginative concepts in the design of neighborhood housing and mixed use projects;

4. Provide flexibility in the location of buildings on the land;

5. Facilitate and encourage social and community interaction and activity among those who live within a neighborhood;

6. Encourage the creation of a distinctive visual character and identity for each planned development;

7. Produce a market-balanced and coordinated mixture of residential uses and related public areas and design integrated private commercial facilities;

8. Encourage a range of housing types, including owner and renter occupied units, single-family detached dwellings and multiple- family structures, as well as other structural types;

9. Preserve and take the greatest possible aesthetic advantage of existing trees and other natural site features and, in order to do so, minimize the amount of grading necessary for construction of a development;

10. Provide land for the community and public at large for recreation and social purposes;

11. Achieve physical and aesthetic integration of uses and activities within each development;

12. Develop pedestrian circulation networks separated from vehicular roadways in order to create linkages between residential areas, open spaces, recreational areas and public and private facilities;

13. Planned developments are best realized in large scale developments, therefore, development on a large, planned scale is required;

14. Assure compatibility and coordination of each development with existing and proposed surrounding land uses;

15. Plan for a minimum of five percent (5%) and no more than ten percent (10%) of the overall development unit count as affordable housing as defined in Utah Code. Affordable housing shall be integrated into neighborhoods of comparably sized market rate homes. (2001 Code § 89-3-401; amd. Ord. 19-13, 5-8-2019)

13-5C-2: PROCESS FOR ZONE CHANGE TO PLANNED DEVELOPMENT DESIGNATION; MASTER DEVELOPMENT

PLAN REQUIRED:

A. Feasibility: Before application is made for a zone change to the PC or PRD Zone, the entity proposing the change shall first meet with the City to review and assess the feasibility of the change.

B. Approval Criteria:

1. A zone change to the PC or PRD Zone shall not be approved until a written master development agreement ("Master Development Agreement" or "MDA") governing development in a proposed PC or PRD zone is approved by the City.

2. An application to develop in a PC or PRD Zone shall be initiated by completing the required application forms provided by the City. The application shall also include a Master Development Plan ("MDP"). The completed application, including the MDP, shall be presented to the Planning Commission as part of the application review prior to consideration of the application by the City Council.

C. Design Guidelines: Design guidelines shall be submitted with each MDP and shall be approved by the City Council, after receiving a recommendation from the Planning Commission and the Design Review Committee.

D. Phase Sub-Area Development Plans: Each phase described in an MDP shall be submitted in the form of a Phase Sub-Area Development Plan, following the standards and guidelines established in the MDP, and shall be approved by City staff, unless density bonuses are requested. In this case, City Council approval is required, after a Planning Commission recommendation.

E. Ownership At Time Of Application: Each planned residential development shall be in single or corporate ownership at the time of application, or the subject of an application filed jointly by all owners of the property.

F. Specification Of Mixed Uses In PC Zones: The general categories of uses to be established in a Planned Community Zone shall be specified in the MDP. The areas to be devoted to each of the land use classifications shall be clearly shown in the MDP, together with the acreage of each land use area. The following classifications should be used in making these designations:

1. Commercial.

2. Multi-family residential.

3. Single-family residential.

4. Institutional (schools, churches, etc.).

5. Recreational and amenities (specified types).

G. Conditions Of Approval: The City Council may impose conditions on the approval of the MDP in order to ensure that:

1. The applicant has the financial capability to carry out the proposed project;

2. The development will be planned as one integrated land use rather than as an aggregation of individual and unrelated buildings, uses or developments;

3. The development as planned and shown in the MDP will accomplish the purpose and intent of this article;

4. An accurate phasing plan for the development is provided showing that each phase can operate independently without relying on a subsequent phase;

5. The phasing of amenities; and

6. The type and amount of open space and amenities are determined and described in the MDP and not in the development plans of individual phases (Phase Development Plans).

H. Council Authority To Waive Requirements: The City Council may waive or modify density or open space requirements in either a PC or a PRD Zone consistent with the following:

1. Density in the PRD Zone may be modified by fifteen percent (15%) of the overall density requirements.

2. Open space requirements can be reduced from the required twenty percent (20%) open space requirement to a minimum of seventeen percent (17%) gross area requirement.

3. Any modifications or waivers granted shall be based upon specific benefits the City will realize as a result of the modifications or waivers as determined by the City Council. The MDA shall specifically identify (i) the modifications or waivers granted, and (ii) the benefits anticipated as a result of the modifications or waivers. The ordinance or resolution approving the MDA shall (i) specifically reference such modification or waivers as well as the benefits anticipated, and (ii) include findings by the City Council that the modifications or waivers as well as the benefits flowing therefrom are in the best interests of the City.

4. Any waiver or modification is non-precedential for any future development in the City under this code. (2001 Code § 89-3-402; amd. Ord. 13-33, 11-13-2013; Ord. 16-21, 5-11-2016; Ord. 19-13, 5-8-2019; Ord. 20-41, 10-28-2020)

13-5C-3: DENSITY DESIGNATIONS:

Density in Planned Development Zones is calculated by dividing the number of proposed dwelling units by the number of gross acres designated for residential development shown in the Master Development Plan. Proposed parks and public or private open space, roads and trails may be included in determining the number of acres used in this calculation. However, areas proposed for nonresidential uses (i.e., commercial, office, church or school sites) shall not be used in determining residential density. Density ranges for subcategories of planned developments are specified below. If a proposed development does not qualify for bonus density as outlined in subsection 13-5C-8B of this article, the minimum density shall apply.

A. Density In PRD Zones:

1. PRD(L): The PRD(L) classification typically will be used in conjunction with areas that are designated as "low density" on the general land use map. Densities may range from 1.0 unit per acre to 3.0 units per acre.

2. PRD(M): The PRD(M) classification typically will be used in conjunction with areas that are designated as "medium density" on the general land use map. Densities may range from 3.1 units per acre to 5.5 units per acre.

3. PRD(H): The PRD(H) classification typically will be used in conjunction with areas that are designated as "high density" on the general land use map. Densities may range from 5.6 units per acre to ten (10) units per acre.

4. PRD(MF): The PRD(MF) classification typically will be used in conjunction with areas that are designated as "very high density" on the general land use map. Densities may range from 10.1 units per acre to twenty four (24) units per acre.

B. Density In PC Zones: To the extent maximum density is not established by the TSOD or other applicable overlay zone, final density in PC Zones shall be approved as part of Master Development Plan approval by the City Council after receiving a recommendation from the Planning Commission. (2001 Code § 89-3-403; amd. 2009 Code; Ord. 10-20, 7-28-2010; Ord. 19-13, 5-8-2019)

13-5C-4: PERMITTED AND CONDITIONAL USES:

A. Uses allowed in Planned Development Zones are listed in the table below. Those uses identified as "permitted" (P) are allowed by right; provided, that they comply with all other requirements of this article and all other applicable requirements of this title. Uses identified as "conditional" (C) must be approved by the Planning Commission pursuant to the standards and procedures for conditional uses set forth in chapter 7, article E of this title and title 15 of this Code, and comply with all other applicable requirements of this title. Uses identified as "administrative conditional uses" (AC) shall be approved by the Zoning Administrator pursuant to the standards set forth in chapter 7, article E of this title, except that the public hearing shall be conducted by the Zoning Administrator, and shall comply with title 15 of this Code, and all other applicable requirements of this title. Uses not specifically listed in this section shall not be allowed in Planned Development Zones.

PERMITTED AND CONDITIONAL USES IN PLANNED RESIDENTIAL DEVELOPMENTS (PRD) AND PLANNED COMMUNITIES (PC)

GENERAL NOTE: Any permitted or conditional alcoholic beverage uses allowed in these zones are listed in the use table in section 17-10-4, with any applicable definitions, starting with the words "alcoholic beverage," being listed in section 17-1-6.

Legend:		
P	=	Permitted use
C	=	Conditional use
AC	=	Administrative conditional use

Use	**PRD**	**PC**
Use	**PRD**	**PC**
Accessory Dwelling Unit External [1]		P
Accessory Dwelling Unit Internal [1]	P	P
Active and independent adult community	P	P
Adult daycare, general	C	C
Adult daycare, limited	AC	AC
Assisted living facility	C	C
Athletic field	C	C
Auditorium or stadium		C
Bank or financial institution		P
Building moved from another site (see section 13-8-12 of this title)	C	C
Church/place of worship	P	P
Continuing care retirement facility/community	C	C
Convalescent care facility	C	C
Cultural service		C
Daycare, general	AC	AC
Daycare, limited	P	P
Dwelling, multiple-family	P	P
Dwelling, single-family	P	P
Dwelling, single-family, attached (no more than 8 units per building with no more than 2 walls in common and no units above other units)	P	P
Dwelling, two-family	P	P
Gated community	C	
Government service	C	P

Group home, large	C	C
Group home, small	P	P
Hotel or motel		C
Household pets, subject to regulations of animals in title 6, chapter 3 of this Code, or successor ordinance	P	P
Large scale public utilities	C	C
Mass transit railway system	P	P
Massage therapy		P
Media service		C
Medical service	C	AC
Mental health care facility for elderly persons	C	C
Model home	P	P
Neighborhood commercial	C	P
Nursing home	C	C
Office		P
Personal care service		P
Personal instruction service		C
Pet groomer		P
Preschool	AC	AC
Public park, playgrounds and athletic areas	P	P
Reception center		C
Recreation and entertainment, indoor		P
Recreation and entertainment, outdoor		P
Repair service, limited		P
Residential substance abuse treatment home, large	C	C
Residential substance abuse treatment home, small	AC	AC
Restaurant, fast food (general)		C
Restaurant, fast food (limited)		C
Restaurant, general		P
Retail, general		P
School, vocational		P
Schools, K - 12	P	P
Secondhand store		C
Temporary office	AC	AC
Transitional home, large	C	C
Transitional home, small	AC	AC
Utility, major	C	C
Vehicle and equipment repair, limited		C [2]
Veterinarian services	C	C

Notes:

1. In the Planned Community (PC) zone External Accessory Dwelling Units are only permitted on lots platted 10,000 square feet and larger. See 13-5B-8 for Requirements for both internal and external Accessory Dwelling Units.

2. Only if immediately adjacent to an arterial street and if not included in a residential development.

B. The following land uses are only allowed as either permitted or conditional uses in Planned Development Zones that are designated as transit oriented developments on the general land use plan map:

PERMITTED AND CONDITIONAL USES IN PLANNED RESIDENTIAL DEVELOPMENTS (PRD) AND

PLANNED COMMUNITIES (PC) THAT ARE ALSO DESIGNATED AS TRANSIT ORIENTED DEVELOPMENT OVERLAY ZONES

Legend:		
P	=	Permitted use
C	=	Conditional use

AC	=	Administrative conditional use

Use	PRD	PC
Use	PRD	PC
Farmers' market		P
Laundry or dry cleaning, limited		P
Medical service	C	P
Neighborhood commercial	P	P
Office, except pawnshop and bail bond services		P
Parking, commercial		P
Pet groomer		P
Printing and copying, limited		P
Restaurant, fast food (general)		P
Restaurant, fast food (limited)		P

(2001 Code § 89-3-404; amd. 2009 Code; Ord. 09-12, 4-14-2009; Ord. 10-09, 2-24-2010; Ord. 10-20, 7-28-2010; Ord. 11-03, 2-9-2011; Ord. 11-35, 11-22-2011; Ord. 12-01, 2-22-2012; Ord. 12-14, 6-13-2012; Ord. 13-10, 3-27-2013; Ord. 13-17, 4-24-2013; Ord. 13-33, 11-13-2013; Ord. 14-09, 5-14-2014; Ord. 16-06, 1-13-2016; Ord. 16-13, 3-9-2016; Ord. 17-39, 7-12-2017; Ord. 21-18. 6-9-2021; Ord. 21-31, 8-25-2021; Ord. 22-15, 4-27-2022)

13-5C-5: AREA, SETBACKS AND HEIGHT:

A. Minimum Site Area:

1. PRD Zones: No Planned Residential Development shall have an area less than twenty (20) acres, except that the City Council may approve a rezone request to the Planned Residential Development Zone classification for a parcel smaller than twenty (20) acres if: a) the applicant can reasonably show that the surrounding neighborhood will not be adversely affected by the granting of such zone classification; and b) the provisions of this article will be complied with. No Planned Residential Development shall have an area greater than thirty (30) acres.

2. PC Zones: The minimum size for a Planned Community Zone shall be two hundred (200) undeveloped acres, except that the City Council may approve a rezone request to the Planned Community Zone classification for a parcel smaller than two hundred (200) acres if the City Council, in its sole discretion, determines that the surrounding neighborhood will not be adversely affected by the granting of such zone classification and that the provisions of this article will be complied with.

B. Lot Area:

1. PC Zones: Lot sizes in Planned Community Zones shall be established by the City Council through approval of the Master Development Plan following the density designation of the Future Land Use Map, unless a different density is approved in conjunction with the Master Development Plan.

C. Building Coverage And Setbacks: With the following exceptions, dwellings and permitted structures may be located as approved in the Master Development Plan. Location and arrangement of buildings on lots shall be sited in a manner that will best utilize the lot area and create an attractive living environment. The following exceptions shall be considered minimum requirements:

1. Garages In PRD Zones:

a. Street facing garage doors shall be even with, or recessed behind, either the front facade of the living area portion of the dwelling or a covered porch which measures at least six feet by eight feet (6' x 8').

b. Garage doors may be located on the side or rear of a dwelling; provided, that the side of the garage facing the front street has windows or other architectural details that mimic the features of the living portion of the dwelling.

c. Garage doors shall not comprise more than fifty percent (50%) of the ground floor street facing linear building frontage. Alleys are exempt from this standard.

d. Attached and multi-family dwellings which front on two (2) streets or on a major walkway spine shall be exempt from subsections C1a, C1b and C1c of this section. The facade oriented to the second street or walkway spine should include windows, doorways and a structured transition from public to private areas using built elements such as porch features, pediments, arbors, low walls, fences, trelliswork and/or similar elements integrated with plants.

e. Alternative garage door treatments may be approved by the Zoning Administrator if the configuration of the lot or other existing physical condition of the lot makes the application of these standards impractical and the proposed design substantially meets the intent of these provisions, which is to line streets with active living spaces, create pedestrian oriented streetscape, and provide variety and visual interest in the exterior design of residential buildings.

2. Garages In PC Zones:

a. Unless different setbacks are approved in the Master Development Plan, garages facing directly on a public or private street, whether in the front or side yard, shall be set back behind the front facade of the living area portion of the dwelling or a covered porch at least five feet (5').

b. Unless different setbacks are approved in the Master Development Plan, side or rear loaded garages in PC Zones shall be

set back at least twenty two feet (22') from the property line.

3. Residential Building Setbacks: Unless different setbacks are approved with the Master Development Plan, the following setbacks shall apply: main residential buildings in PC Zones shall be set back at least twenty two feet (22') from front and rear property lines; side yard setback for interior side lots shall be at least a total of thirteen feet (13') but no less than five feet (5') on each side; corner lot setbacks shall be a minimum of fifteen feet (15') where no garage will be accessed from corner and twenty two feet (22') on lots where a garage will be accessed from the corner side. The foregoing requirement shall not apply within a TSOD (Transit Station Overlay District).

4. Planned Development Setbacks; Abutting Property: Setbacks shall be maintained along peripheral property lines of planned developments that are equal to setbacks required by the zone on abutting property. The foregoing requirement shall not apply within a TSOD (Transit Station Overlay District).

5. Planned Development Setbacks; Existing Public Streets: In instances where a proposed planned development will front on one or more existing public streets, the setback from the street shall be equal to that required by the most restrictive zoning on property immediately adjacent or across the public street from the proposed planned development. The foregoing requirement shall not apply within a TSOD (Transit Station Overlay District).

D. Maximum Height Of Buildings And Structures:

1. PRD Zones: Maximum height of buildings and structures in Planned Residential Zones shall be established by the City Council through approval of the Master Development Plan. Where feasible, lower height and intensity of buildings, uses or impacts shall be arranged around the boundaries of the development.

2. PC Zones: The maximum height of buildings and structures shall be:

a. Single-Family Residential Buildings: Two (2) stories or thirty five feet (35'), whichever is greater.

b. Multiple-Family Residential Buildings: Three (3) stories or forty five feet (45'), whichever is greater.

c. Commercial Buildings And Structures: Sixty feet (60') or five (5) stories, whichever is greater. Greater heights may be established by the City Council by approval in the Master Development Plan.

d. Institutional Buildings And Structures: Two (2) stories or forty five feet (45'), whichever is greater.

e. Recreational Buildings And Structures: Two (2) stories or forty five feet (45'), whichever is greater.

f. TOD (Transit Oriented Development): Buildings or other structures in areas identified as a TOD on the general plan land use map or on the zoning map shall be limited in height to seventy five feet (75'), unless a greater height is established pursuant to the applicable overlay zone or otherwise as approved by the City Council through the approval of a Master Development Plan. (2001 Code § 89-3-405; amd. 2009 Code; Ord. 10-20, 7-28-2010; Ord. 13-33, 11-13-2013; Ord. 16-21, 5-11-2016; Ord. 19-13, 5-8-2019; Ord. 20-25, 7-29-2020)

13-5C-6: DEDICATION AND MAINTENANCE OF OPEN SPACE REQUIRED:

A. Dedication Of Open Space: All planned developments shall provide roadways, trails, open space, open land, common areas and parks within the project area that shall either be dedicated to the City or maintained in perpetuity by a development home owners association according to the following standards:

1. PRD Zones: A minimum of fifteen percent (15%) of the gross area of Planned Residential Development shall be retained as permanent parks, which are groomed and irrigated.

2. PC Zones: A minimum of twenty percent (20%) of the gross area of a Planned Community as described in the Master Development Plan shall be retained in permanent open space and/or open land and/or parks. As part of the required twenty percent (20%) open space a minimum of eight percent (8%) shall be developed as groomed irrigated park space. Each park space shall have a pavilion and playground equipment installed. The park space can be developed as one large space or dispersed throughout the development, but in no case shall a groomed park be smaller than two (2) acres in area. The park space shall be maintained by the development's home owners association, unless dedicated to the City and the City agrees to maintain the same as part of the Master Development Plan and Development Agreement.

B. Computation Of Area: Land proposed to be devoted to vehicular streets or roads, parking, driveways, required setbacks, park strips, commercially paved areas and slopes greater than thirty percent (30%) shall not be included in computations of permanent open space. All open space is required to be usable open space.

C. Design Of Common Open Space, Open Land, Parks And Common Areas: Diversity in the design and use of common open space, open land, parks and common areas is encouraged, and approval shall be judged as to its appropriateness based on the following criteria:

1. Areas intended for public use shall be freely accessible from streets and/or other common areas that have unrestricted entry. The configuration of such space shall be to accommodate parks, play fields, and play areas as directed by the City.

2. Areas intended for restricted use shall be interspersed within residential development so as to convey a sense of openness within the neighborhood. Residential developments shall not totally exclude open space from fronting on streets at appropriate intervals.

3. Agricultural lands shall be located in areas having suitable production capabilities, including soil conditions, fertility, water, access and land configuration to accommodate the intended cultivation practices.

D. Trail System Required: A pedestrian trail system around and through the development that connects to established and planned trails in the area. The minimum width of the trail shall be twelve feet (12') wide and constructed of asphalt per City

standards.

E. Additional Amenities In PC Zone: Based on the overall planned unit count and in addition to all required amenities (trails, open space, parks, etc.), additional amenities shall be provided as defined in subsections E1 through E9 of this section and as described in the Master Development Plan. More than one additional amenity may be provided from a single category, and there is no requirement to provide additional amenities from any given category.

Residential Unit Count	
0 - 199	No additional amenities required
200 - 500	2 total additional amenities
501 - 800	4 total additional amenities
801 - 1,100	6 total additional amenities
1,101 - 1,400	8 total additional amenities
1401 and up	10 total additional amenities

1. Active Recreational Facilities: These facilities may include sports courts, tennis courts, pedestrian bridges, community parks, swimming pools, sports fields, playgrounds, bike paths, skate parks, pavilions, community gardens, cemeteries, plazas, public squares, dog parks, and other items deemed similar in nature and intensity as proposed by the developer and approved by the City Council after receiving a recommendation from the Planning Commission.

2. Common Buildings Or Facilities: Developments which contain buildings or facilities that are constructed for use by the residents of the Planned Community or citizens of the community for meetings, indoor recreation, receptions, classes, or other items deemed similar in nature and intensity as proposed by the developer and approved by the City Council after receiving a recommendation from the Planning Commission.

3. Civic Sites: Developments which set aside and/or donate property for civic uses including police or fire satellite stations, Municipal buildings, schools, public recreation facilities and other public buildings or facilities, or other items deemed similar in nature and intensity as proposed by the developer and approved by the City Council after receiving a recommendation from the Planning Commission.

4. Street Beautification: Along all collector streets (as determined by the City) in the development ten foot (10') wide park strips with minimum two inch (2") caliper trees planted twenty five feet (25') on center along with six foot (6') sidewalks. Trees species shall be approved by the Urban Forester and may be clustered where needed or other items deemed similar in nature and intensity as proposed by the developer and approved by the City Council after receiving a recommendation from the Planning Commission or other items deemed similar in nature and intensity as proposed by the developer and approved by the City Council after receiving a recommendation from the Planning Commission.

5. Pedestrian And Bicycle Enhancements Along All Collector Streets: Pedestrian and bicycle amenities not typically required as part of the street improvements may include, but are not limited to, raised planters, bulb-outs or curb extensions, pedestrian plazas with seating areas and tables, additional bike lanes/facilities not already required, or other items deemed similar in nature and intensity as proposed by the developer and approved by the City Council after receiving a recommendation from the Planning Commission.

6. Water Features: Water features, exclusive of any features provided as part of an entry sign area, such as fountains, streams, ponds, or other similar features that are used commonly and are highly visible in the Planned Community, or other items deemed similar in nature and intensity as proposed by the developer and approved by the City Council after receiving a recommendation from the Planning Commission.

7. Theme Lighting Or Other Theme Design: A theme may be incorporated into the development such as decorative street lights/lamp posts, lighting along walkways or trails, entrance way lighting, and exterior building lighting in addition to the normal street lighting requirements or other design themes unique to the development, or other items deemed similar in nature and intensity as proposed by the developer and approved by the City Council after receiving a recommendation from the Planning Commission.

8. Design Features: Architecture that is unique, visionary and timeless as determined by the Planning Commission and City Council.

9. Entry Monuments: Planned Communities which provide a landscaped entry sign(s) area(s) for residential areas.

F. Use Of Open Space: Use of open space is limited to the following:

1. Natural areas of undisturbed vegetation or areas replanted with vegetation after development, including woodlands, floodplains, waterways and natural areas. Use and maintenance is limited to removal of litter and accumulated plant material. Natural waterways are to be maintained as free flowing and devoid of debris. Stream channels shall conform to the City stormwater master plan and be maintained so as not to alter base flood elevations.

2. Agricultural uses where conditions are suitable for agricultural production. Minimum areas for agricultural use designation shall be five (5) acres.

3. Garden plots for the common use of residents.

4. Greenways and waterways may include pedestrian ways, trails, bike paths and equestrian trails linking residential areas with other open space uses.

5. Recreation areas designed for specific recreational activities such as parks, athletic fields, tot lots, play fields, playgrounds, tennis courts and similar facilities.

6. Stormwater control and management in conjunction with other allowed uses described in this section. (2001 Code § 89-3-406; amd. 2009 Code; Ord. 10-20, 7-28-2010; Ord. 19-13, 5-8-2019)

13-5C-7: DEVELOPMENT PLAN REQUIREMENTS:

A. Development Plan Review: The steps outlined in section 15-3-8 of this code and title 13, chapter 7, article I shall be followed in connection with applications for approval of a development plan, along with the required fees and other specific processes required by this code to complete a specific project.

B. Development Plan Submittal Requirements: A developer seeking city approval of a development plan shall follow the submittal requirements as outlined in title 13, chapter 7, article I. (2001 Code § 89-3-407; amd. Ord. 10-09, 2-24-2010; Ord. 19-13, 5-8-2019; Ord. 22-13, 5-11-2022)

13-5C-8: GENERAL PROVISIONS:

A. Compliance With Related Sections: No provision of this article shall be interpreted so as to relieve the developer of a planned development from complying with all applicable development standards, technical standards, subdivision standards and development approval processes of the City.

B. Density Bonuses: Density bonuses may be applied in any PRD Zone. If no bonus is applied, the lowest density defined in subsection 13-5C-3A1 of this article shall be used. If bonus densities are approved, they may only increase density to the maximum density as defined in the General Plan and on the Future Land Use Map of the City, unless otherwise approved as part of the Master Development Plan. Density bonus awarding shall occur according to section 13-5J-10 of this chapter. Bonus densities in units per acre (u/a) may be applied for the following amenities:

1. Each one percent (1%) of additional open space equals 0.25 u/a.
2. A detached garage equals 0.15 u/a.
3. Ten foot (10') park strips along with six foot (6') sidewalks equal 0.10 u/a.
4. Recreational facilities as follows:
   a. Tennis courts and tot lots equal 0.15 u/a.
   b. Barbecue pits, picnic facilities, etc., equal 0.10 u/a.
5. Theme lighting equals 0.15 u/a.
6. Alleys equal 0.10 u/a.
7. Upgraded architectural features (as per section 13-10-2 of this title) equal 0.15 u/a.

C. Alley Access: Whenever a lot has frontage along an alley, any new off street parking area located on such lot must obtain access from such adjoining alley; provided, however, that such alley access shall not be required when a new detached garage is proposed to be accessed from an existing driveway that has a curb cut along a public street, or when alley access is determined by the City Engineer to be a hazard to persons or vehicles.

D. Street Development Standards: All streets developed and maintained within a planned development shall be developed to technical standards established by City for the class of street being constructed. However, in instances where the developer can show that, due to severe topography, security requirements, or other special circumstances, dedication or development to City standards is impractical or undesirable, the City Council, after receiving recommendations from the City Engineer and Fire Chief, may approve modified street standards as part of the Master Development Plan.

E. Parking And Loading: All uses in Planned Development Districts shall comply with provisions governing off street parking in chapter 12 of this title; provided however an alternative set of sign standards may be approved as part of a Master Development Plan.

F. Signs: All signs in Planned Development Districts shall comply with the provisions governing signs in this title and title 12 of this Code. (2001 Code § 89-3-408; amd. 2009 Code; Ord. 13-33, 11-13-2013; Ord. 16-21, 5-11-2016; Ord. 19-13, 5-8-2019)

ARTICLE I. DEVELOPMENT PLAN PROCESS

SECTION:

13-7I-1: Purpose And Scope

13-7I-2: Development Plan Submittal Requirements

13-7I-3: Ownership At Time Of Application

13-7I-4: Expiration Of Development Plans

13-7I-5: Variations From Approved Plans And Development Standards

13-7I-1: PURPOSE AND SCOPE:

Application for approval of a development plan shall comply with and meet the requirements of this article and section15-3-8 of this code, shall be accompanied by the required fees, and shall meet the requirements of all other specific processes required by this code to complete a specific project. (Ord. 22-13, 5-11-2022)

13-7I-2: DEVELOPMENT PLAN SUBMITTAL REQUIREMENTS:

A. Preapplication Conference: A preapplication conference shall be held with the city staff for the applicant/developer to become acquainted with the development plan process and submittal requirements. City staff will give feedback on the proposed project based on the information that is presented for the proposed project. To be scheduled for a preapplication conference, the applicant/developer shall submit a concept site plan of the proposed development, submitted in accordance with the concept site plan checklist as provided by the development services department.

B. Master Development Plan: Following the initial preapplication conference and review of the conceptual master development plan, a master development plan shall be prepared and submitted. The intent of the master development plan is to illustrate the area(s) within a specific geographic boundary which are intended to be a part of a single, cohesive large development. In general, the master development plan is intended to act as a project's guiding document for all future development (consisting of subdevelopments) where more detailed planning will follow with submittal and approval of subarea plans. The planning commission shall forward a recommendation to the city council regarding the master development plan, where in turn, the plan shall then be approved, conditionally approved, or denied by the city council. Upon approval, the master development plan shall be the sole guiding document for all subsequent development within the defined master plan area.

C. Preliminary Subarea Development Plan: Following review and approval of the master development plan, the applicant/developer shall submit a subarea development plan, accompanied by all required application information. For the West Side Planning Area Zones, it is during the subarea plan review process that bonus density may be awarded (see title 13, chapter 5, article J, especially section 13-5J-10).

D. Final Development Plan: Following all preliminary approvals, the applicant/developer shall submit a final development plan for the subarea planned project area, accompanied by any other required process information (i.e., subdivision plat, site plan, etc.). The plan shall be submitted in the same format as outlined in this section. All submitted text and drawings shall reflect any changes, modifications, updates, and references resulted from the master development plan, subarea development plan, site plan, subdivision/condominium plat, and/or conditions of approval, required by the city council. All documents attached to or included with the plan shall be in final format (i.e., no references to preliminary documents). Any major design changes related to roadway placement, product type, density, and/or amenities, shall require an amendment to the preliminary development plan in accordance with this section.

E. Planning Commission Public Hearing: If a planning commission public hearing is required for a development plan (or amendment to a development plan) referenced in this section, once the publishing of the planning commission public hearing notices has been completed, including, if applicable, the placement in the mail of any required notices, the public hearing date for the application shall not be canceled or changed, except by the planning commission, according to its rules of conduct and procedure.

F. City Council Public Hearing And Ordinance: A development plan (or amendment to a development plan) referenced in this section, together with any accompanying development agreement, which is considered by the city council, shall, if adopted, be adopted by the city council by ordinance. If a city council public hearing is required for a development plan (or amendment to a development plan) referenced in this section, together with any accompanying development agreement, once the publishing of the city council public hearing notices has been completed, including, if applicable, the placement in the mail of any required notices, the public hearing date for the application shall not be canceled or changed, except by the city council, according to its rules of conduct and procedure. (Ord. 22-13, 5-11-2022; amd. Ord. 23-05, 2-8-2023)

13-7I-3: OWNERSHIP AT TIME OF APPLICATION:

All property subject to a development plan review shall be in single or corporate ownership at the time of application, or the subject of an application. The application shall be filed jointly by all owners of the property and the applicant if the applicant is other than the owners of the property. (Ord. 22-13, 5-11-2022)

13-7I-4: EXPIRATION OF DEVELOPMENT PLANS:

A. Master Development Plan And Preliminary Subarea Development Plan Expiration: Preliminary approval of a master development plan or subarea development plan shall remain valid for a period of two (2) years upon receiving approval by the city council; wherein, the allowable maximum density, derived from the approval of the plan shall become void by resolution from the city council. Upon expiration of a development plan and the invalidation of density for the project, the density for the defined project area shall revert to the base density for the underlying zoning district and the zoning designation shall revert to the previous zone established prior to the concept development plan approval.

B. Final Development Plan Expiration: A final development plan shall remain valid for a period of three (3) years upon receiving approval by city staff or the planning commission; wherein, the allowable maximum density, derived from the approval of the preliminary development plan, shall become void by resolution from the city council. Upon expiration of the final development plan and the invalidation of density for the project, the density for the defined project area shall revert to the base density for the underlying zoning district. On multi-phased developments, substantial completion of the phases shall ensure the validity of the final development plan; wherein, a phased development may continue and be considered "active" so long as the last approved phase in the development is not left dormant for more than a three (3) year period.

C. Extension: One (1) six (6) month extension may be granted by the Zoning Administrator for either the preliminary or final development plan if the applicant/developer provides adequate justification for such an extension. (Ord. 22-13, 5-11-2022)

13-7I-5: VARIATIONS FROM APPROVED PLANS AND DEVELOPMENT STANDARDS:

A. Qualified Variations: Variations or modifications to an approved development plan ("variation") are classified as either major or minor. Any variation of or change to an approved development plan, whether major or minor, may only occur as set forth in this section.

B. Major Variation:

1. A variation to an approved development plan is considered "major" if the variation requested would change, alter, or eliminate an issue or condition addressed in the approved development plan which:

a. Is unique to the approved development plan;

b. Was recommended and/or adopted as a condition of approval of the development plan by the Planning Commission;

c. Was adopted as a condition of approval of the development plan by the city council; or

d. Was suggested or offered by an applicant as part of the initial application or following submission of the initial application suggested or offered to be included in the development plan by the applicant.

2. A major variation to an approved development plan may only occur by an amendment to the approved development plan. The amendment may only be made by either the planning commission or the city council, whichever approved the original development plan.

3. A request for an amendment to an approved development plan shall require an application, the payment of the applicable fee, and submission of all information required by this chapter.

C. Minor Variation:

1. A variation is considered "minor" only if the Zoning Administrator determines in writing that (i) the following conditions of the approved development will exist if the variation is approved, and (ii) that the following characteristics of the development will exist following the implementation of the variance in the development:

a. No additional uses are added to the approved development plan or the development (residential, commercial, office space, medical, or otherwise);

b. All footprints, setbacks, and other requirements of city ordinances, standards, and regulations are met;

c. The heights of the buildings are the same or lower than in the approved development plan and in the development;

d. The density of the housing units, if any, is the same or lower than in the approved development plan and in the development;

e. The amount of office space, commercial space, or other similar required space, if any, is the same or more than in the approved development plan and in the development;

f. The amount or number of improvements and amenities, if any, is the same or more than in the approved development plan and in the development; and

g. All other similar measurable criteria are the same or more or "better" on the approved development plan and in the development, as determined by the Zoning Administrator. For example: owner-occupied residential units are deemed to be better than leased or rented residential units; or vinyl fencing is not the same or better than pre-cast concrete decorative fence.

2. The request for a minor variation shall be submitted in writing to the Zoning Administrator and shall include the following:

a. A detailed description and/or depiction of the nature of the variation or modification request; and

b. A detailed explanation of how the variation will not affect the overall intent and purpose of the approved development plan.

3. The Zoning Administrator may reject any minor variation request that fails to include any required information.

4. The Zoning Administrator is authorized to grant a minor variation in his or her sole discretion only upon a written determination and explanation by the Zoning Administrator, including specific facts related to the development ("written determination"), as follows:

a. How and why the variation is consistent with the intent of this article;

b. That the variation does not increase the overall allowable maximum density granted to the development;

c. Why the variation does not affect an approved preliminary or final site plan;

d. Why the variation does not affect an approved preliminary or final subdivision or condominium plat;

e. Specific facts as to why the variation does not constitute a major variation and therefore may be granted by the Zoning Administrator; and

f. The written determination shall be provided to the council office. (Ord. 22-13, 5-11-2022)

TITLE 14

SUBDIVISION REGULATIONS

Purpose And Applicability 1

Rules Of Clarification And Definitions 2

Review Process 3

Condominiums 4

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CHAPTER 1

PURPOSE AND APPLICABILITY

SECTION:

14-1-1: Title

14-1-2: Authority And Purpose

14-1-3: Applicability

14-1-4: State And Federal Property Exempt

14-1-5: Conflicting Provisions

14-1-6: Severability

14-1-7: Relationship To This Title And Title 15

14-1-1: TITLE:

This title shall be known as the *CITY OF WEST JORDAN SUBDIVISION ORDINANCE* or *TITLE 14, WEST JORDAN MUNICIPAL CODE.* It may be cited and pleaded under either designation. (2001 Code § 87-1-101; amd. 2009 Code)

14-1-2: AUTHORITY AND PURPOSE:

A. Authority: This title is adopted pursuant to the municipal land use development and management act, Utah Code Annotated section 10-9a-101 et seq., other applicable statutory law, and the police power authority inherent in local government as established and defined by state and federal common law.

B. Purpose: The regulations and restrictions contained in this title are adopted and enacted to:

1. Promote the health, safety, convenience and general welfare of the city and its present and future inhabitants;

2. Encourage and facilitate the orderly growth and subdivision of the city and implement the goals and policies of the city;

3. Provide adequate open space for light and air, prevent overcrowding of the land, and lessen congestion on the streets;

4. Secure economy in municipal expenditures and encourage adequate provisions for transportation, water, sewage, schools, parks, and other public facilities and services; and

5. Ensure safety from fire and other dangers. (2001 Code § 87-1-102; amd. 2009 Code)

14-1-3: APPLICABILITY:

This title shall apply to all property within the corporate limits of the city, except such property expressly exempted therefrom by the provisions of this title or other lawful exemption. (2001 Code § 87-1-103)

14-1-4: STATE AND FEDERAL PROPERTY EXEMPT:

Unless otherwise provided by law, nothing contained in this title shall be construed as giving the city jurisdiction over properties owned by the state or the United States. When state or federal law requires compliance with local regulations, this section shall not be construed to abrogate such requirement. (2001 Code § 87-1-104)

14-1-5: CONFLICTING PROVISIONS:

A. CC&Rs, HOA Agreements and Similar Covenants or Agreements: This title shall not nullify the more restrictive provisions of covenants and agreements like covenants, conditions and restrictions (CC&Rs), homeowners' association agreements and similar covenants and agreements.

B. Substantive Ordinances: This title contains substantive ordinances governing its subject matter and scope. In the event of a conflict between the substantive terms of this title or between this title and the substantive terms of any other title, law, ordinance or rule, the more restrictive provision shall apply. (2001 Code § 87-1-105; amd. 2009 Code; Ord. 19-51, 12-11-2019, Effective at 12

noon on January 6, 2020)

14-1-6: SEVERABILITY:
The chapters, sections, paragraphs, sentences, clauses and phrases of this title are hereby declared to be severable. If any chapter, section, paragraph, sentence, clause or phrase of this title is declared invalid by a court of competent jurisdiction or deleted through amendment or repeal, such invalidation or deletion shall not affect the remaining parts of this title. (2001 Code § 87-1-106)

14-1-7: RELATIONSHIP TO THIS TITLE AND TITLE 15:
A. Procedural Ordinances: Title 15 of this code is designed to contain procedural ordinances governing the procedures involved in the application of this title and other property development and use titles. The boundary between what is substantive and what is procedural is imprecise. Persons using this title should look for procedural requirements in this title and in title 15 of this code. The procedures, if any, contained in this title and those contained in title 15 of this code should be followed. If a procedural provision of this title clearly and obviously conflicts with a provision in title 15 of this code, the provision in title 15 of this code shall govern. (2009 Code)

CHAPTER 2

RULES OF CLARIFICATION AND DEFINITIONS

SECTION:

14-2-1: Rules Of Clarification

14-2-2: Definitions

14-2-3: Payment Of Fees

14-2-4: Relationship To Contaminated Soils Provisions

14-2-1: RULES OF CLARIFICATION:
The "rules of clarification" contained in section 13-2-1 of this code shall have the same meaning and application in this title. (2001 Code § 87-2-101; amd. 2009 Code)

14-2-2: DEFINITIONS:
The terms defined in title 12 of this code, the sign regulation ordinance, and title 13 of this code, the zoning ordinance shall have the same meaning and application in this title. (2001 Code § 87-2-102; amd. 2009 Code)

14-2-3: PAYMENT OF FEES:
Approval of all subdivisions, and the start of any soil disturbance or construction therein, shall be subject to the prior payment in full of all applicable application, review, permit and impact fees. (2001 Code § 87-2-103; amd. 2009 Code)

14-2-4: RELATIONSHIP TO CONTAMINATED SOILS PROVISIONS:
Title 5 of this code contains substantive environmental compliance requirements applicable to all subjects otherwise regulated by this code. Specifically, title 5, chapter 2 of this code applies to all land disturbance and land development applications filed with the city. Persons considering filing applications for land disturbance or land development should consult title 5, chapter 2 of this code, in addition to the applicable provisions of this title and titles 9, 10, 11 and 13 of this code. (2001 Code § 87-2-104)

CHAPTER 3

REVIEW PROCESS

SECTION:

14-3-1: Approval Required

14-3-2: Application Fees

14-3-3: Types Of Subdivisions

14-3-4: Lot Line Adjustments

14-3-5: Preliminary Subdivision Plat Requirements

14-3-6: Final Subdivision Plat Requirements

14-3-7: Findings For Approval

14-3-8: Expiration Of Subdivision Approval

14-3-9: Covenants, Conditions And Restrictions

14-3-10: Amendment Of Approved Subdivision Plat

14-3-11: Final Plat Recorded Prior To Issuance Of Building Permits

14-3-12: Services Available Prior To Occupancy

14-3-1: APPROVAL REQUIRED:

A. Selling Lots Without Approval: It is unlawful and punishable as a class C misdemeanor for any person to sell or transfer any part of a larger tract or parcel of land which has not been approved according to the provisions of this title or otherwise exempted pursuant to state law.

B. Recording Lots Without Approval: It is also unlawful and punishable as a class C misdemeanor for any person to record in the office of the Salt Lake County recorder any subdivision of land unless approved according to the provisions of this title or otherwise exempted pursuant to state law. This applies to all properties regardless of land use designation.

C. Alteration of Land Prior to Final Approval: Any person subdividing land shall not alter the terrain or remove any vegetation from the proposed subdivision site or engage in any site development until the necessary approvals as outlined in this chapter have been obtained. (2001 Code § 87-3-101; amd. 2009 Code; Ord. 19-51, 12-11-2019, Effective at 12 noon on January 6, 2020)

14-3-2: APPLICATION FEES:

At the time application to subdivide is made, the owner/developer shall pay an application fee as adopted by resolution of the city council. (2001 Code § 87-3-102; amd. 2009 Code)

14-3-3: TYPES OF SUBDIVISIONS:

A. Major Subdivisions: Major subdivisions are subdivisions consisting of eleven (11) or more lots and/or which require the dedication of any land for right of way or other public purposes.

B. Minor Subdivisions:

1. Minor subdivisions are subdivisions consisting of ten (10) lots or less.

2. Minor subdivisions may be approved without a plat by the zoning administrator if:

a. The zoning administrator certifies in writing that:

(1) The city has provided notice as described in title 15 of this code; and

(2) The proposed subdivision:

(A) Is not traversed by the mapped lines of a proposed street as shown in the general plan and does not require the dedication of any land for street or other public purposes;

(B) Has been approved by the culinary water and sanitary sewer authorities;

(C) Is located in a zoning district; and

(D) Conforms to all applicable ordinances or has properly received a variance; and

b. The minor subdivision application is uncontested.

3. If a minor subdivision application is approved by the zoning administrator, as described in subsection B2 of this section:

a. The boundaries of each lot or parcel in the minor subdivision shall be graphically illustrated on a record of survey map;

b. The record of survey map shall be approved by the same officers designated by the city to approve plats;

c. The zoning administrator's written certification of approval required by subsection B2a of this section shall be attached to the record of survey map; and

d. The record survey of map shall be recorded with the county recorder.

4. If a minor subdivision application is contested, it shall be processed, reviewed and approved like a major subdivision. (2001 Code § 87-3-103; amd. 2009 Code)

14-3-4: LOT LINE ADJUSTMENTS:

A. Requirements for Approval: Lot line adjustments may be approved by the zoning administrator; provided, that:

1. No property or part of a property needed to meet the width, yard, area, coverage, parking, frontage or other requirements for a building lot may be transferred, sold, bequeathed or leased apart from such lot, unless other space so complying is provided;

2. No land shall be sold which will result in a lot being created for building purposes that does not comply with the requirements of the zoning ordinance;

3. The lot line adjustment will not affect any street right of way; and

4. The lot line adjustment will not create any new lots.

B. Application Requirements: Applications for lot line adjustments shall be submitted to the zoning administrator and shall include the following:

1. A completed application form filed jointly by the owners of the two (2) affected lots;

2. A fee as established by resolution of the city council;

3. Three (3) copies of a survey, prepared by a licensed land surveyor or professional engineer, showing the two (2) affected lots, the location of existing buildings on the lots, the proposed location of the new lot line, and the size of the two (2) lots before and after

the lot line adjustment. The survey shall be accurately drawn to scale and shall be certified by the surveyor or engineer who prepared it; and

4. An agreement between the record owner of the adjoining lots consenting to relocation of the property boundary line. (2001 Code § 87-3-104; amd. 2009 Code; Ord. 19-51, 12-11-2019, Effective at 12 noon on January 6, 2020)

14-3-5: PRELIMINARY SUBDIVISION PLAT REQUIREMENTS:
The preliminary plat submittal shall include the following:

A. Planning commission application;

B. Preliminary review fees as provided in section 14-3-2 of this chapter, established by resolution of the city council, which entitles the owner/developer to two (2) preliminary reviews if necessary;

C. Eight (8) copies of the preliminary plat for the entire project area drawn on a twenty four inch by thirty six inch (24" x 36") sheet, at a scale not exceeding one inch equals one hundred feet (1" = 100'), and one copy of the preliminary plat reduced to fit on an eight and one-half inch by eleven inch ($8^1/_2$" x 11") sheet; and

D. The preliminary plat shall include a preliminary grading plan and all other applicable information required by the city public improvement standards, specifications and plans manual. (2001 Code § 87-3-106; amd. 2009 Code)

14-3-6: FINAL SUBDIVISION PLAT REQUIREMENTS:
A. General Requirements:

1. The final plat drawing shall reflect compliance with all city ordinances and all planning commission requirements as specified in the preliminary plat approval.

2. The area of the final plat shall correspond to the boundaries of the approved preliminary plat and any phasing line which may have been designated as part of the preliminary plat approval. Plats which do not meet the above requirements may require an amendment to the approved preliminary plat.

B. Final Plat Submittal Requirements: The final plat submittal shall include the following:

1. Final plat application;

2. Final review fee, as established by resolution of the city council;

3. An original twenty four inch by thirty six inch (24" x 36") mylar print, eight (8) full size copies, drawn to a scale not exceeding one inch equals one hundred feet (1" = 100') and one eight and one-half inch by eleven inch ($8^1/_2$" x 11") reduced copy of the final plat for the subdivision phase to be recorded. The final plat shall contain all applicable information required by the city public improvement standards, specifications and plans manual;

4. Department approval of subdivision construction plans, including, but not limited to, city engineer review that the proposed subdivision will have appropriate connections to the city water and sewer utility systems, and its water meter and pipe design has due regard to the public health, safety and welfare;

5. A preliminary title report;

6. If included or required as a condition of subdivision approval, submit the original, notarized copy of the covenants, conditions and restrictions;

7. Stormwater pollution prevention plan (SWPPP) as required by the city engineer or designated representative; and

8. If applicable, tax clearance or the written obligation to assume and pay all taxes for any dedication as required in section 8-3D-1 of this code. (2001 Code § 87-3-107; amd. 2009 Code; Ord. 10-24, 8-25-2010)

14-3-7: FINDINGS FOR APPROVAL:
Preliminary and final subdivision plats shall be approved only if:

A. The proposed plat conforms to, and is consistent with, the adopted goals, objectives and policies as set forth in the city general plan;

B. The proposed site has adequate access to public streets and highways to carry the type and quantity of traffic which may be generated by the subject use, and that proposed vehicular and pedestrian circulation is adequate to permit movement in a manner which is safe and efficient;

C. Public facilities and services intended to serve the subject development, including, but not limited to, roadways, parks and recreational facilities, police and fire protection, stormwater drainage systems, water supplies, wastewater, power, and refuse collection, are adequate to serve the site; and

D. The proposed plat complies with all provisions of this title, the zoning ordinance and other development standards of the city. (2009 Code; amd. Ord. 13-33, 11-13-2013)

14-3-8: EXPIRATION OF SUBDIVISION APPROVAL:
A. Preliminary Subdivision Plat: An approved preliminary subdivision plat shall remain valid for one year following the date of approval.

1. A preliminary subdivision plat consisting of phases will remain valid provided a final plat on at least one phase is approved, recorded and developed within twelve (12) months of the date of preliminary approval, and provided each successive phase is

approved, recorded and developed within twelve (12) months of the previous phase's recording date.

2. One 6-month extension may be granted by the zoning administrator if, upon written request by the owner/developer, the zoning administrator finds that the extension will not adversely affect the public health, safety or welfare of the city. The decision of the zoning administrator may be appealed to the planning commission as provided in section 15-5-2 of this code.

B. Final Subdivision Plat: An approved, unrecorded final subdivision plat shall remain valid for two (2) years. One 6-month extension may be granted by the zoning administrator if, upon written request by the owner/developer, the zoning administrator finds that the extension will not adversely affect the public health, safety or welfare of the city. (2001 Code § 87-3-108; amd. 2009 Code)

14-3-9: COVENANTS, CONDITIONS AND RESTRICTIONS:

A. The owner/developer may establish covenants, conditions and restrictions (covenants) governing uses, development and maintenance standards for the subdivision. Unless otherwise provided for by the Community Development Director, the proposed covenants shall be printed on good quality letter size (8 1/2 inch by 11 inch) paper, printed on one side only. At least a two inch (2") margin shall be left at the top of the first page for use by the county recorder. The covenants shall be signed and acknowledged by all persons having an ownership interest in the parcel to be developed and encumbered by the covenants, and shall be notarized by a licensed notary public. If the property is held in trust, the trustee shall sign the covenants in addition to the equitable owners. If a partnership or corporation has ownership rights, an authorized corporate officer or partner may sign the covenants for and on behalf of the entity and the acknowledgment should so state.

B. The covenants will be recorded by the city recorder. The owner/developer shall pay the recording fee for the recording of the covenants.

C. Covenants are private agreements among property owners and are only enforceable by the owners. The city shall not enforce private covenants. (2001 Code § 87-3-109; amd. 2009 Code; Ord. 19-51, 12-11-2019, Effective at 12 noon on January 6, 2020; Ord. 21-11, 3-24-2021)

14-3-10: AMENDMENT OF APPROVED SUBDIVISION PLAT:

Amendment of an approved subdivision plat shall follow the submittal requirements of section14-3-6 of this chapter. (2001 Code § 87-3-110)

14-3-11: FINAL PLAT RECORDED PRIOR TO ISSUANCE OF BUILDING PERMITS:

A. Recording of Final Plat: After final approval of a subdivision plat, filing of an improvement guarantee as required by title 8, chapter 3, article C of this code, and signing of the plat by the mayor, the plat shall be presented by the city recorder to the Salt Lake County recorder for recordation. Lots shall not be transferred, sold or offered for sale, and a building permit shall not be issued for any structure on a lot, until a subdivision has received final approval from the city, an improvement guarantee has been filed, and the final plat or metes and bounds description has been recorded.

B. Exception for Property Subject to Eminent Domain: A building permit may be issued prior to recording the final plat, or metes and bounds description, if all of the following conditions are met:

1. The building permit applicant has initiated an eminent domain proceeding to acquire the real property for development;

2. The court has issued an order of immediate occupancy to the building permit applicant, a copy of which shall be submitted to the city by the building permit applicant;

3. The court has ordered that the money deposited in the court in the eminent domain proceeding, pursuant to Utah Code Annotated section 78-34-9(3)(a), be paid to the property owner pursuant to Utah Code Annotated section 78-34-9(6)(a);

4. All defenses in the eminent domain proceeding have been abandoned by the property owner pursuant to Utah Code Annotated section 78-34-9(6), and the only remaining issue in the eminent domain proceeding is a claim for greater compensation;

5. The building permit applicant has prepared and signed a plat and received final plat approval from the city;

6. An authorized representative of the city has possession of the signed final plat for recording, at the city's sole discretion;

7. The building permit applicant agrees to provide a copy of the final order of condemnation to the city prior to recordation of the final plat;

8. The building permit applicant has submitted an improvement guarantee, if required by city ordinance;

9. The building permit applicant agrees, in writing, to indemnify, defend and hold the city harmless for all damages the property owner has sustained and all reasonable and necessary expenses actually incurred by the property owner because of the eminent domain proceeding, including attorney fees, if the eminent domain proceeding is abandoned pursuant to Utah Code Annotated section 78-34-16; and

10. All other requirements for issuance of a building permit have been met.

C. Notification of Abandonment: If the building permit applicant, under subsection B of this section, abandons the eminent domain proceeding pursuant to Utah Code Annotated section 78-34-16, it shall immediately notify the city.

D. Immediate Filing Required: The final subdivision plat will be recorded immediately upon notice that the eminent domain proceeding is complete. (2001 Code § 87-3-111; amd. 2009 Code; Ord. 19-51, 12-11-2019, Effective at 12 noon on January 6, 2020)

14-3-12: SERVICES AVAILABLE PRIOR TO OCCUPANCY:

No building which will depend on public or quasi-public services, including water, sewer, gas, electricity or fire protection, shall be occupied until infrastructure for such services is constructed, inspected, accepted and fully operational. (2001 Code § 87-3-113)

CHAPTER 4

CONDOMINIUMS

SECTION:

14-4-1: Applicability; General Provisions

14-4-2: Condominiums Subject To Provisions Of State Law And Local Codes

14-4-3: Covenants, Conditions And Restrictions

14-4-4: Record Of Survey; Declaration

14-4-5: Condominium Conversion

14-4-1: APPLICABILITY; GENERAL PROVISIONS:

A. Applicability: This chapter establishes subdivision review procedures for condominium development and condominium conversions.

B. Required Plans: The owner/developer of a condominium project or planned community shall submit preliminary and final plats in accordance with chapter 3 of this title. Site plans shall also be provided which illustrate proposed landscaping and improvements of the common open space, the intended use of the open space, and provide details of how the improvements thereon are to be financed and the area maintained. A condominium project must meet the requirements of this title, must assure proper use, construction and maintenance of open space facilities, and must result in a development that will benefit future residents of the condominium project, surrounding residents and the general public.

C. Conditions Relating to Open Space: The planning commission may place additional conditions or restrictions to ensure development and maintenance of the desired character of the subdivision. Plans for the disposition or reuse of property designated as open space shall be reviewed by the planning commission if the property is not maintained in the manner agreed upon or is abandoned by the owners.

D. Open Space Easement: As assurance of continuation of common open space use in accordance with the plans approved by the planning commission, the owner/developer shall grant to the city an open space easement on and over the common open space prior to the recording of the final plat, which easement will not give the general public the right of access, but will provide that the common open space remains open. The easement shall allow the construction of structural recreational facilities by the homeowners' association as long as not more than thirty percent (30%) of the open space is occupied by such facilities. (2001 Code § 87-4-101; amd. 2009 Code; Ord. 19-51, 12-11-2019, Effective at 12 noon on January 6, 2020)

14-4-2: CONDOMINIUMS SUBJECT TO PROVISIONS OF STATE LAW AND LOCAL CODES:

A. State Provisions:

1. The subdivision, marketing for sale, sale, operation and amendments of a condominium project, or any unit thereof, is subject to the provisions of the Utah condominium ownership act, Utah Code Annotated section 57-8-1 et seq.

2. The definitions contained in the Utah condominium ownership act, Utah Code Annotated section 57-8-3, as amended periodically, are hereby incorporated as though set forth in their entirety.

B. Local Codes:

1. Nothing in subsection A1 of this section shall be construed to state or imply that a condominium project, unit, association of unit owners, or management committee is exempt from compliance with the zoning ordinances, building and sanitary codes, and similar subdivision regulations which have been adopted by the city.

2. No condominium project or any use, unit or structure within the project shall be permitted unless it complies with the city ordinances, regulations and codes. (2001 Code § 87-4-102; amd. 2009 Code)

14-4-3: COVENANTS, CONDITIONS AND RESTRICTIONS:

A. May be Established: The owner/developer may establish covenants, conditions and restrictions (covenants) governing uses, development and maintenance standards for the condominium.

1. Unless otherwise provided for by the Community Development Director, the proposed covenants shall be typed on good quality letter size (81/2 inch by 11 inch) paper, printed on one side only. At least a two inch (2") margin shall be left at the top of the first page for use by the Salt Lake County recorder. The covenants must be signed and acknowledged by all persons having an ownership in the parcel to be developed and encumbered by the covenants and shall be notarized by a licensed notary public. If the property is held in trust, the trustee shall sign the covenants in addition to the equitable owners. If a partnership or corporation has ownership rights, an authorized corporate officer or partner may sign the covenants for and on behalf of the entity and the acknowledgment should so state.

2. The covenants will be recorded by the city recorder. The owner/developer shall pay the recording fee for the recording of the covenants.

3. Covenants are private agreements among property owners and are only enforceable by the owners. The city shall not enforce private covenants.

B. Homeowners' Association: To ensure maintenance of the common open space and other improvements where so required, the owner/developer shall cause to be incorporated under the laws of the state a homeowners' association prior to recording the final plat. By proper covenants running with the land and through the articles of incorporation and bylaws of the association, it shall be

provided at a minimum that:

1. Membership in the association shall be mandatory for each lot purchaser, their guarantees, successors and assigns;

2. The common open space restrictions shall be permanent and not just for a period of years;

3. The association shall be responsible for maintaining liability insurance, paying general property taxes, and maintaining recreational and all other facilities;

4. All lot owners shall pay their prorated share of the costs of upkeep, maintenance and operation;

5. Any assessment levied by the association may become a lien on the real property of any homeowner; and

6. If the homeowners' association does not maintain the common open space and improvements as required, the city may, at its option, perform the maintenance or contract to have the maintenance performed. The city may recover all costs incident thereto by means of a lien against the involved properties of the members of the homeowners' association. (2001 Code § 87-4-103; amd. 2009 Code; Ord. 19-51, 12-11-2019, Effective at 12 noon on January 6, 2020; Ord. 21-11, 3-24-2021)

14-4-4: RECORD OF SURVEY; DECLARATION:

A. Record of Survey Map: The owner/developer shall provide a record of survey map in lieu of a final plat. The record of survey shall be prepared by a licensed surveyor on thirty four inch by twenty two inch (34" x 22") Mylar sheet, and shall include the following information:

1. A description of the land included within the project, including all angular and linear data along the exterior boundaries of the property;

2. The linear measurement and location of the exterior boundaries of the building or buildings, if any, located or to be located on the property, other than within the boundaries of any convertible lands;

3. Diagrammatic floor plans of the building or buildings, if any, built or to be built on the property, other than within the boundaries of any convertible lands, identifying each convertible space and physical unit contained within a building, including its identifying number or symbol, the official datum elevations of the finished or unfinished interior surfaces of the floor and ceilings, and the linear measurements of the finished or unfinished interior surfaces of the perimeter walls and the lateral extensions of every convertible space and unit;

4. A description or delineation of the boundaries of any unit or convertible space not contained or to be contained in a building or whose boundaries are not to be coextensive with walls, ceilings or floors within a building, other than units located within the boundaries of any convertible lands, including the horizontal (upper and lower) boundaries, if any, as well as the vertical (lateral or parametric) boundaries;

5. A distinguishing number or other symbol for every physical unit identified on the record of survey map;

6. The location and dimensions of all easements appurtenant to the land included within the project;

7. The label "convertible space" for each such space, if any;

8. The location and dimensions of any convertible lands within the condominium project. Each convertible land shall be labeled as convertible. If multiple convertible lands are intended, each shall be labeled with a different letter or number; and

9. The location and dimensions of any withdrawable lands, if any.

B. Declaration: A declaration, as required by Utah Code Annotated section 57-8-10, which shall include the following information, among other things:

1. A description of the building, if any, stating the architecture, the number of stories and basements, the number of units, the principal materials of which it is or is to be constructed, and a description of all other improvements contained or to be contained in the project;

2. A description of the common areas and facilities;

3. The name and residential or business address of a person authorized to receive service of process. The address provided shall be within the city or county in which the property is located;

4. If the condominium project contains any convertible land, the declaration shall also contain:

a. A statement of the maximum number of units that may be created within each convertible land; and

b. A statement of the extent to which any structure erected on any convertible land will be compatible with structures on other portions of the land within the condominium project in terms of quality of construction, the principal materials to be used, and the architectural style. (2001 Code § 87-4-104; amd. 2009 Code; Ord. 19-51, 12-11-2019, Effective at 12 noon on January 6, 2020)

14-4-5: CONDOMINIUM CONVERSION:

A. Report of Property Condition: As an element of any application for a condominium which includes the conversion of existing structures, the owner/developer shall submit a report of property condition which is intended to ensure that the standards of the declaration appropriately address existing and future conditions related to maintenance, upkeep and operation, as referenced by Utah Code Annotated section 57-8-13, as amended.

B. Information Required: The report of property condition shall be submitted on a form provided by the city. After evaluating the report, the city may refer it back to the owner/developer for additional detail which the city deems necessary to adequately evaluate the physical condition of the building, equipment and premises. The report shall contain the following information:

1. The age of the building or buildings, with copies of original building plans and a disclosure of whether or not the actual building conforms to the plans;

2. The condition of structural elements, including roof, foundations, walls, mechanical systems, electrical system, plumbing system, and boiler and/or furnace. A plan showing which parts of the system will be maintained in common and which will be maintained by individual units;

3. The size of water service lines from meter to main and from main to buildings;

4. The size and location of sewer laterals;

5. The capacity of electrical service for each unit (amps);

6. The condition of paving materials on private streets (if any);

7. The condition of paving or surfacing material on driveways, parking areas, sidewalks, curbs and similar areas;

8. A detailed plan for parking and traffic circulation. This plan shall include a statement as to whether or not existing parking on the site is in compliance with current parking standards and, if not, how and where additional parking will be provided;

9. The condition of paint and/or exterior surfaces of all buildings and structures;

10. All known conditions constituting deficiencies; and

11. All known conditions which may require repair or replacement within five (5) years from the date of the report.

C. Report of Building Official: When application for condominium conversion is submitted, the chief building official shall make an inspection of the building to be converted to determine compliance with the life safety provisions of the international building code. Prior to planning commission consideration of the application, the building official shall prepare a report either specifying any deficiencies found relating to the existing building or verifying compliance with condominium construction standards. This report shall be submitted to the planning commission along with the report of property condition.

D. Notice to Tenants: As part of the application to approve a condominium conversion where the building is occupied by tenants at the time of application, the owner/developer shall provide notice of intended conversion to the tenants by certified mail. Notice shall be provided at least ninety (90) days prior to the date tenants will be required to vacate the building and at least one hundred twenty (120) days before any construction associated with the conversion begins. The notice shall include the following information:

1. A statement of the intent of the owner to convert the building to a condominium;

2. The date by which tenants will need to vacate the building; and

3. The approximate date when construction will begin to convert the building.

E. Submission of Notice Verification: Prior to consideration of an application for condominium conversion by the planning commission, the owner/developer shall submit a copy of the notice, together with a list identifying the names and apartment or unit numbers for all tenants within the condominium conversion project. The notice and list shall also be accompanied by an affidavit certifying that all tenants within the condominium project were personally delivered a copy of the notice or sent a notice by certified mail and that the notices were in fact delivered. (2001 Code § 87-4-105; amd. 2009 Code; Ord. 19-51, 12-11-2019, Effective at 12 noon on January 6, 2020)

CHAPTER 5

DESIGN AND DEVELOPMENT STANDARDS

SECTION:

14-5-1: Public Improvement Standards, Specifications And Plans

14-5-2: Lots

14-5-3: Flag Lots

14-5-4: Blocks

14-5-5: Streets

14-5-6: Development Of Lots On Private Streets

14-5-7: Sidewalks

14-5-8: Landscaping

14-5-9: Utilities And Utility Easements

14-5-10: Soils

14-5-11: Multiuse And Equestrian Trails

14-5-1: PUBLIC IMPROVEMENT STANDARDS, SPECIFICATIONS AND PLANS:

All subdivisions shall comply with the standards, specifications and plans in title 8 of this code, and the design and development standards in this chapter. (2001 Code § 87-5-101; amd. 2009 Code)

14-5-2: LOTS:

A. Arrangement: All lots will be arranged and designed to comply with all requirements of this title.

B. Size: All lots shall conform to the minimum area and width requirements for the zone in which the subdivision is located.

C. Frontage: Each lot shall have frontage on a public street dedicated by the subdivision plat or on an existing public street. Lots having frontages on two (2) or more streets shall be prohibited, except for corner lots and lots in subdivisions which back onto arterial and collector streets outside of the subdivision boundary.

D. Side Lot Lines: Side lines of lots shall be at approximately right angles to the street line or radial to the street line.

E. All Land to be Included In Lots: All land within the subdivision shall be included in building lots, designated open space, or within areas dedicated for public use. The subdivision shall not create lots or parcels that do not conform to the city ordinances.

F. Survey Stakes: Survey stakes shall be placed at both front and back lot corners to identify the lot boundaries on the ground. Back lot corners shall be marked with a metal pipe or rod driven into the ground and front lot corners shall be identified with permanent plugs in the back of the curb. All lot corners shall be in place prior to the issuance of building permits and after the completion of all subdivision improvements. It shall be the responsibility of the lot owner to ensure that all lot corners are in place prior to the final inspection of the house.

G. Public Utilities: Public utilities are exempted from certain requirements of this code as provided in section13-15-4 of this code. (2001 Code § 87-5-102; amd. 2009 Code; Ord. 14-08, 3-12-2014; Ord. 19-51, 12-11-2019, Effective at 12 noon on January 6, 2020)

14-5-3: FLAG LOTS:

Flag lots may be created in any single-family or agricultural zone, provided all of the following requirements are met:

A. The owner/developer shall demonstrate to the city planner or planning commission that use of the subject lot cannot occur unless a flag lot is allowed because of topographic features, shape, location of the lot or surrounding development associated with the lot.

B. The lot shall have at least twenty feet (20') of frontage on a dedicated public street. A minimum twenty foot (20') wide paved driveway shall provide access to the dwelling on the flag lot. Not more than one lot may be served by each driveway. The stem portion of the lot shall not exceed three hundred thirty feet (330') in length.

C. The total area of the flag lot shall meet or exceed the minimum lot size required by the underlying zone, not including the stem portion, and shall meet or exceed the width requirement of the zone in which the lot is located.

D. The lot shall meet all fire department standards for emergency access, turnaround, and fire hydrant proximity. A fire hydrant shall be located within two hundred fifty feet (250') of the location, or proposed location, of the dwelling on the lot.

E. The address of the dwelling located on the flag lot shall be clearly visible from the public street that provides access to the flag lot. (2001 Code § 87-5-104; amd. 2009 Code; Ord. 13-17, 4-24-2013; Ord. 19-51, 12-11-2019, Effective at 12 noon on January 6, 2020)

14-5-4: BLOCKS:

A. Length: The maximum length of blocks shall be one thousand feet (1,000') and the minimum length of blocks shall be two hundred feet (200'), unless otherwise approved by the city engineer.

B. Width: The width of blocks shall be sufficient to allow at least two (2) tiers of lots or as otherwise approved by the planning commission due to topography, shape or surrounding development. (2001 Code § 87-5-105; amd. 2009 Code)

14-5-5: STREETS:

A. Street Layout: Streets in new subdivisions shall connect to existing stub streets from adjacent subdivisions. If adjacent land is undeveloped, stub streets shall be provided at reasonable locations to provide convenient access for future development.

B. Multiple Access Points Required: A minimum of two (2) points of ingress and egress are required for residential subdivisions unless the fire chief or his/her designee determines that more than one access point is not necessary to protect the public health and safety. The owner/developer may comply with this requirement by platting stub streets which will connect to future streets.

C. General Design Principles:

1. Public and private streets shall be designed to minimize cut through traffic in residential areas.

2. Local streets shall incorporate traffic calming measures to reduce vehicle speeds and promote pedestrian safety. Four-way intersections should be avoided.

3. Streets shall be designed to provide safe and convenient access between neighborhoods. Local streets should be extended to provide access between adjoining neighborhoods at appropriate intervals.

D. Compliance with Transportation Master Plan: As a condition of subdivision approval, the owner/subdivider shall install street extensions and widening as recommended by the city transportation master plan.

E. Eminent Domain: Nothing in this section shall obligate the city to purchase rights of way or to exercise its right of eminent domain, or to create or recognize any right of inverse condemnation whatsoever.

F. Cul-De-Sacs: Unless otherwise approved by the city engineer, rights of way terminating in cul-de-sacs shall be no longer than four hundred fifty feet (450') in length. Turnaround areas, with a right of way diameter of one hundred feet (100') and a paved

diameter of not less than eighty feet (80'), shall be provided at the terminus of all cul-de-sacs. When dead end streets providing access for one or more lots are proposed in a subdivision, adequate turnarounds shall be provided as follows:

1. Where a street dead ends into a subsequent phase of the same subdivision, a temporary, paved, eighty foot (80') diameter turnaround and permanent right of way easement shall be required.

2. Where a street dead ends at property that is not part of a subsequent subdivision phase, either a bubble inside the subdivision, as shown in the city standard drawings, or an asphalted eighty foot (80') diameter turnaround and permanent right of way easement on the adjacent property, shall be provided.

G. Streets Along Subdivision Boundaries: Streets along a proposed subdivision boundary shall be constructed to city standards and according to the city master transportation plan.

H. Half Streets: Half streets along subdivision boundaries or within any part of a subdivision are not permitted unless specifically approved by the city council as part of a development agreement.

I. Dedication: Except as provided in section 14-5-6 of this chapter, all streets shall be dedicated for use by the public.

J. Street Name and Traffic Control Signs Required: The owner/developer shall install street name and traffic control signs to identify all public and private streets. Street signs shall be located at all intersections, including cul-de-sacs.

1. Streets may be given names in addition to numbers. When so named, street signs shall include both the name and street number. Names for streets must be approved by the city and by the Salt Lake County recorder.

2. All signs shall comply with the "Manual On Uniform Traffic Control Devices".

3. The owner/developer shall pay for and install traffic regulatory signs in accordance with the "Manual On Uniform Traffic Control Devices", as required by the city engineer.

K. Protection Strips:

1. Private Protection Strips Prohibited: Any subdivision, dedication or conveyance of any kind which results in the creation of a private protection strip is hereby declared to constitute an illegal subdivision of land.

2. City-Owned Protection Strips Allowed: City owned protection strips are allowed for the purpose of distributing and recovering costs to benefiting properties related to off site improvements not covered by impact fees. Fees collected for the release of protection strips shall reflect the proportionate benefit of the developing property to the remainder value of the right of way and improvements.

L. Utilities Installed Before Paving: Asphalt paving operations shall not begin until all public utilities (electrical power, natural gas, telephone, cable television, culinary water, irrigation water, sanitary sewer, and storm sewer) are installed under the streets. Provisions shall be made for future installation of electrical power, traffic signal conduit, natural gas, telephone, and cable television through sleeves or conduits placed under the pavement. The owner/developer shall be responsible for coordinating the timely installation of these utilities. The owner/developer shall provide, at or before the preconstruction conference, written verification acceptable to the city engineer that the utilities have been notified of the locations available for installation of the utilities and the timetable for the street paving. (2001 Code § 87-5-106; amd. 2009 Code; Ord. 13-17, 4-24-2013; Ord. 19-51, 12-11-2019, Effective at 12 noon on January 6, 2020)

14-5-6: DEVELOPMENT OF LOTS ON PRIVATE STREETS:

A. Permitted: The development of lots on private streets may be approved by the planning commission where it finds that:

1. The lot is part of a condominium, planned development or multi-family development and otherwise has a sufficient access to a public street; or

2. The private street serves a limited, infill development which the planning commission finds cannot otherwise be practicably developed with lots on a public street.

B. Minimum Requirements: A private street shall meet the following minimum requirements:

1. The pavement width of the street shall comply with the city specifications for street pavement;

2. A clear area of five feet (5') is required on each side of the pavement, except in cases where lots adjoin only one side of the pavement. In such cases, a clear area of five feet (5') is required on the same side as the lots. Such clear area shall be free from bushes, trees and/or structures;

3. A sufficient turnaround at or near the end of the street shall be provided in order to accommodate emergency vehicles;

4. Private streets having paved travel width less than twenty eight feet (28') shall be posted with "No Parking" signs; and

5. No private street may be constructed as the direct linkage between two (2) public streets, except where approved by the planning commission. A traffic study acceptable to the engineering department may be required with any request to create such connection. (2001 Code § 87-5-107; amd. 2009 Code; Ord. 13-17, 4-24-2013)

14-5-7: SIDEWALKS:

A. Sidewalks in and around subdivisions shall provide convenient pedestrian access to transit stops along arterial or collector streets.

B. Where adjacent pedestrian circulation systems are existing or warranted, the developer shall provide sidewalk facilities. In industrial areas, sidewalks shall be provided on arterial and collector streets, unless approved otherwise by the planning commission. (2001 Code § 87-5-108; amd. 2009 Code; Ord. 11-35, 11-22-2011)

14-5-8: LANDSCAPING:
Landscaping of street rights of way, parks and common areas shall be provided by the owner/developer and installed according to approved streetscape plans and the city public improvement standards, specifications and plans manual. (2001 Code § 87-5-110; amd. 2009 Code)

14-5-9: UTILITIES AND UTILITY EASEMENTS:
All utilities shall be designed and constructed in accordance with section 8-2-4 of this code and with the following standards:

A. Public Utility and Drainage Easements on Lots: The owner/developer shall dedicate public utility, postal and drainage easements as follows:

1. Ten feet (10') across the front lot line;

2. Seven and one-half feet ($7^1/_2$') across the back lot line;

3. Ten feet (10') across the back lot line of lots located on the perimeter of the subdivision;

4. Three foot by five foot (3' x 5') postal service easements, located on adjacent property lines and adjacent to the public right of way at such locations as approved by the city engineer after consultation with the city postmaster or designee for the location of neighborhood box units;

5. Drainage easements shall be required along the side lot lines between alternating lots. The accumulation of water from more than two (2) lots along interior lot lines shall not be permitted unless provision is made for the appropriate disposal of accumulated water; and

6. The city engineer may require public utility and other public easements at additional locations, or at different locations as reasonably necessary to accommodate other easements or public facilities.

B. Fire Protection:

1. Fire Hydrants: Fire hydrants shall be located as specified by the fire chief or designee. Fire hydrants shall be provided and installed in compliance with the city public improvement standards, specifications and plans manual.

2. Water Pressure: Where existing distribution pipelines are available for fire protection services, the owner/developer may connect to such pipelines. However, the city will not provide pressure and flow capacity greater than the capabilities of the existing system. Fluctuations in the existing system conditions may occur as the overall city system is modified. (2001 Code § 87-5-111; amd. 2009 Code; Ord. 10-03, 1-27-2010; Ord. 19-51, 12-11-2019, Effective at 12 noon on January 6, 2020)

14-5-10: SOILS:
A. Geotechnical Report: A geotechnical report shall be prepared by a licensed geotechnical engineer and submitted to the city for any proposed subdivisions. The report shall be prepared in accordance with requirements of the city public improvement standards, specifications and plans manual. Recommendations in the report shall be incorporated into the design of the subdivision.

B. Excavations or Fill Near Jordan River: Subdivision of land adjacent to the Jordan River or its natural tributaries, or within any marsh or wetlands of the Jordan River, which will result in any discharge of excavated or fill materials into the navigable waters of the Jordan River, shall require a permit from any state or federal agency having jurisdiction prior to the issuance of local permits. This determination shall be made as part of the staff review of a preliminary plat. The owner/developer shall comply with the rules, regulations and conditions imposed by any agency having jurisdiction over such channels. (2001 Code § 87-5-113; amd. 2009 Code; Ord. 19-51, 12-11-2019, Effective at 12 noon on January 6, 2020)

14-5-11: MULTIUSE AND EQUESTRIAN TRAILS:
A. Multiuse and Equestrian Trail Layout: Trails shall be required in all locations shown on the West Jordan trails map, and shall connect to existing trails from adjacent subdivisions.

B. General Design Principles:

1. All primary trail (drainage) corridors shall adhere with the standards and guidelines of the West Jordan "Parks, Recreation, Trails And Open Space Handbook" including required dedication widths, trail standards, fencing/wall requirements, and landscape requirements.

2. Multiuse trails shall have a minimum twelve foot (12') paved section with a two foot (2') graded path on either side.

3. Trails along a wash/creek shall be set back a minimum of ten feet (10') from the top of bank, which shall be a landscape buffer. If the wash/creek has a slope greater than three to one (3:1), a fence or other type of separation may be required, as determined by the city engineer and the planning commission.

Fencing shall comply with the provisions of subsection 13-14-3D of this code, and shall be located within said landscape buffer.

4. The equestrian trail shall be a minimum ten foot (10') graded path. Unless other construction material is approved by the city engineer the path shall be constructed of decomposed granite with a diameter of one-half inch ($^1/_2$") or less, to a depth of three (3) or four inches (4"), underlayed with a weed barrier fabric per subsection 13-7B-6G of this code. A minimum four and one-half foot ($4^1/_2$') vegetative buffer shall be required from the multiuse trail and a nine and one-half foot ($9^1/_2$') minimum vegetative buffer from the proposed or existing property lines.

5. Pedestrian trails and equestrian trails should be located on opposite sides of the creek or wash.

6. A minimum seven foot by fourteen foot (7' x 14') rest stop shall be provided every one-fourth ($^1/_4$) mile along the length of the

trail. The minimum rest stop amenities shall be a bench, trash receptacle, trail signage and two (2) shade trees. All trees and manicured landscaping areas shall be irrigated.

7. Trail landscaping shall be native to the area and provide a food source for wildlife. Refer to the West Jordan "Landscape Guidelines Handbook" for the type of landscaping to be used within the corridors.

8. The landscape design shall be consistent with title 13, chapter 13 of this code.

9. Trails shall maintain a minimum vertical clearance of ten feet (10').

10. Unless otherwise approved by the planning commission, the open space corridor shall be separated from residential lots which back onto the space by a fence in accordance with subsection 13-14-3E of this code. (2001 Code § 87-5-116; amd. 2009 Code; Ord. 13-17, 4-24-2013; Ord. 19-51, 12-11-2019, Effective at 12 noon on January 6, 2020)

CHAPTER 6

ADMINISTRATION AND ENFORCEMENT

SECTION:

14-6-1: Enforcement Authority

14-6-2: Issuance Of Permits

14-6-3: Existing Laws And Enforcement Actions

14-6-4: Types Of Violations

14-6-5: Remedies And Enforcement Powers

14-6-1: ENFORCEMENT AUTHORITY:

This title shall be enforced by the development services director or his/her designee. (2001 Code § 87-8-101; amd. 2009 Code; Ord. 19-51, 12-11-2019, Effective at 12 noon on January 6, 2020)

14-6-2: ISSUANCE OF PERMITS:

All department officials and public employees of the city who are vested with the duty or authority to issue permits shall conform to the provisions of this title and shall issue no permit, certificate or license for uses, buildings or purposes in conflict with the provisions of this title. Any permit, certificate or license issued in conflict with the provisions of this title, intentionally or otherwise, shall be null and void. Any certificate or permit issued upon a false statement of fact which is material to the issuance thereof shall be void. (2001 Code § 87-8-102)

14-6-3: EXISTING LAWS AND ENFORCEMENT ACTIONS:

A. This chapter does not invalidate any other title or ordinance. It shall be read in conjunction with those titles and ordinances as an additional remedy.

B. Nothing in this chapter shall prohibit the continuation of previous enforcement action undertaken by the city. (2009 Code)

14-6-4: TYPES OF VIOLATIONS:

It is a violation of this title to:

A. Use any land, building or structure for any purpose or use not allowed in the zone in which such land, building and structure is located;

B. To engage in any subdivision of land and improvements thereon without all of the required permits, approvals, certificates and other forms of authorization required by this title or other city ordinance;

C. Fail to comply with this title or any condition imposed by the development services department, zoning administrator, board of adjustment, planning commission, city council, or other duly authorized city officer.

D. Interfere in any way with enforcement action under this chapter.

E. Fail to comply with any enforcement action under this chapter. (2001 Code § 87-8-103; amd. 2009 Code; Ord. 19-51, 12-11-2019, Effective at 12 noon on January 6, 2020)

14-6-5: REMEDIES AND ENFORCEMENT POWERS:

The city shall have the remedies, enforcement powers and penalties and use the enforcement procedures in title 13, chapter 4 of this code. (2001 Code § 87-8-104; amd. 2009 Code)

REQUEST FOR COUNCIL ACTION

Action: Need Council to take action

Meeting Date Requested : 03/22/2023

Presenter: Brock Hudson

Deadline of item :

Department Sponsor: Comm. Development - Bus. Lic

Agenda Type: BUSINESS ITEMS

Time Requested: 5 minutes presentation, 10 minutes council

(Council may elect to provide more or less time)

1. **AGENDA SUBJECT**

   Ordinance No. 23-12 an ordinance amending the 2009 West Jordan City Code (General Business Regulations and Licensing Requirements; amending city code sections 4-1A-1 through 4-1D-5 inclusive)

2. **EXECUTIVE SUMMARY**

   Council is being asked to approve the updated Business Licensing code to bring it current with state statutes as well as update the application process to include online applications and payment options. The proposed language will improve the process and simplify the requirements to obtain a license.

   During a Committee of the Whole meeting on November 16, 2022 Council discussed proposed amendments to the business regulations and licensing requirements. Council directed staff to further simplify the application process and make it more user friendly for businesses and citizens to obtain licenses and include the following suggestions:

   - Determine if BCI background checks are really needed for all license types
   - Numerous deletions of unnecessary definitions and other changes in the Definition section (i.e. removal of Shooting Gallery definition)
   - Update and remove the following Application Requirements:
     --50% or more of employees need to be stockholders
     --Do not require knowing who signs checks in the company
     --Do not require US Citizenship
     --Do not require posting of business hours
   - Can't give anything to a minor without parents' consent – why?
   - Reduce license posting and display required section to one line instead of 11
   - Encourage creative business of felons
     - Ensure restrictions were pertinent to the type of business being run
   - Do not require someone that transfers their business to go start the license process over
   - Work with applicant on questions rather than throwing out the license altogether
   - Change facsimile to copy
   - Allow all types of payments
   - Strike out the requirements regarding curfew
   - Research whether the owner was liable for employees acts of violation
   - Streamline and simplify the process – make it user friendly

   The updated code incorporates Council suggestions. Text highlighted in blue incorporates council suggestions along with further clarification. Text highlighted in yellow indicates language proposed at the November meeting.

3. **TIME SENSITIVITY / URGENCY**

   No Urgency

4. **FISCAL NOTE**
   No fiscal impact

5. **PLANNING COMMISSION RECOMMENDATION**
   N/A

6. **STAFF ANALYSIS**
   The Business License regulation changes will establish a less restrictive process to obtain a business license as well as streamline the application process.

7. **MOTION RECOMMENDED**
   Motion to approve Ordinance No. 23-12 amending City Code (General Business Regulations and Licensing requirements, amending city code sections 4-1A-1 through 4-1D-5 inclusive)

8. **MAYOR RECOMMENDATION**
   N/A

9. **PACKET ATTACHMENT(S)**
   Ordinance No. 23-12
   Attachment 1 – Business License Amendments - Legislative
   Attachment 2 – Business License Amendments - Clean

THE CITY OF WEST JORDAN, UTAH
ORDINANCE NO. 23-12

AN ORDINANCE AMENDING THE 2009 WEST JORDAN CITY CODE (GENERAL BUSINESS REGULATIONS AND LICENSING REQUIREMENTS; AMENDING CITY CODE SECTIONS 4-1A-1 THROUGH 4-1D-5 INCLUSIVE)

WHEREAS, the City of West Jordan ("**City**") adopted West Jordan City Code ("**City Code**") in 2009; and the City Council of the City ("**City Council**") desires to amend certain sections of the City Code, regarding and related to General Business License Regulations, which include City Code Sections 4-1A-1 through 4-1D-5 inclusive ("**proposed City Code amendments**"); and

WHEREAS, the proposed City Code amendments are not land use regulations; and

WHEREAS, the City Council held Committee of the Whole Meetings ("**Work Sessions**") on August 10, 2022 and November 16, 2022, and has held a regular public meeting on March 22, 2023, regarding the proposed City Code amendments; and

WHEREAS, the City Council finds it to be in the best interest of the public health, safety, and welfare of the residents of the City to adopt the following proposed City Code amendments.

NOW THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF WEST JORDAN, UTAH AS FOLLOWS:

Section 1. Amendment of Code Provisions. City Code Sections 4-1A-1 through 4-1D-5 inclusive are amended to read as shown in Attachments 1 and 2.

Section 2. Severability. If any provision of this Ordinance is declared to be invalid by a court of competent jurisdiction, the remainder shall not be affected thereby.

Section 3. Effective Date. This Ordinance shall become effective immediately upon posting or publication as provided by law and upon (i) the Mayor signing the Ordinance, (ii) the City Council duly overriding the veto of the Mayor as provided by law, or (iii) the Mayor failing to sign or veto the Ordinance within fifteen (15) days after the City Council presents the Ordinance to the Mayor.

PASSED BY THE CITY COUNCIL OF THE CITY OF WEST JORDAN, UTAH, THIS _____DAY OF _____ 2023.

CITY OF WEST JORDAN

By: _____
Christopher McConnehey
Council Chair

ATTEST:

_____
Cindy M. Quick, MMC
Council Office Clerk

Voting by the City Council	**"YES"**	**"NO"**
Council Chair Christopher McConnehey	☐	☐
Council Vice-Chair Pamela Bloom	☐	☐
Council Member Kelvin Green	☐	☐
Council Member Zach Jacob	☐	☐
Council Member David Pack	☐	☐
Council Member Kayleen Whitelock	☐	☐
Council Member Melissa Worthen	☐	☐

PRESENTED TO THE MAYOR BY THE CITY COUNCIL ON _____.

Mayor's Action: _____ Approve _____ Veto

By: _____ _____
Mayor Dirk Burton Date

ATTEST:

_____
Tangee Sloan, CMC
City Recorder

STATEMENT OF APPROVAL/PASSAGE (check one)

_____ The Mayor approved and signed Ordinance No. 23-12.

_____ The Mayor vetoed Ordinance No. 23-12 on _____ and the City Council timely overrode the veto of the Mayor by a vote of _____ to _____.

_____ Ordinance No. 23-12 became effective by operation of law without the Mayor's approval or disapproval.

_____
Tangee Sloan, CMC
City Recorder

CERTIFICATE OF PUBLICATION

I, Tangee Sloan, certify that I am the City Recorder of the City of West Jordan, Utah, and that a short summary of the foregoing ordinance was published on the Utah Public Notice Website on the _____ day of _____ 2023. The fully executed copy of the ordinance is retained in the Office of the City Recorder pursuant to Utah Code Annotated, 10-3-711.

_____
Tangee Sloan, CMC
City Recorder

(Attachments on the following pages)

Attachments to

ORDINANCE NO. 23-12

AN ORDINANCE AMENDING THE 2009 WEST JORDAN CITY CODE (GENERAL BUSINESS REGULATIONS AND LICENSING REQUIREMENTS; AMENDING CITY CODE SECTIONS 4-1A-1 THROUGH 4-1D-5 INCLUSIVE)

(See the following pages)

Attachment 1

[Attachment to ORDINANCE NO. 23-12

AN ORDINANCE AMENDING THE 2009 WEST JORDAN CITY CODE (GENERAL BUSINESS REGULATIONS AND LICENSING REQUIREMENTS; AMENDING CITY CODE SECTIONS 4-1A-1 THROUGH 4-1D-5 INCLUSIVE)]

Legislative Version:

TITLE 4

BUSINESS AND LICENSE REGULATIONS

CHAPTER 1
GENERAL BUSINESS REGULATIONS AND LICENSING REQUIREMENTS

ARTICLE A. GENERAL PROVISIONS

SECTION:

4-1A-1: Purpose

4-1A-2: Definitions

4-1A-3: Applicability Of This Chapter

4-1A-4: General Business And Special Business Licenses Needed

4-1A-1: PURPOSE:

Pursuant to its inherent police powers within statutory authority granted by the state to protect the health and welfare of its ~~citizens~~ residents and businesses, the city intends by this title to regulate and license businesses and occupations undertaken and operating within its corporate limits; to maintain a current index of licensed businesses and occupations; and to raise revenues sufficient, among other things, to offset the costs of administering this title by imposing license fees upon such businesses and occupations. (Ord. 12-13, 6-13-2012)

4-1A-2: DEFINITIONS:

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

meaning. The definitions in this section are also applicable to all subsequent chapters in this title. For words, terms, and phrases which are not defined in this title, the definitions in sections 13-2-3 or 17-1-6 or elsewhere in this code or in the Utah Code Ann. shall have the meanings ascribed to them in those sections in this code or in the Utah Code Ann., except where the context clearly indicates a different meaning; these definitions may also be used to supplement the definitions in this title.

Unless otherwise indicated, the definitions found within the Utah alcoholic beverage control act, Utah Code Ann. ~~Annotated~~ title 32B, are incorporated into this chapter as though set forth in their entirety. In addition to these definitions, the following words and phrases used in this chapter shall have the following meanings unless a contrary meaning is clearly indicated. The definitions in this section are also applicable to all other chapters in this title.

ACCESSORY DWELLING UNIT: A separately leasable dwelling unit on a subdivided lot that is incidental to the principal dwelling unit, as further described in title 13.

ADULT: A person who is either: (a) "emancipated" pursuant to the definition in Utah Code Ann. section 80-7-102 or successor provisions; or (b) age eighteen (18) years of age or older; and who is not the subject of a court order for guardianship which limits the person's rights. For purposes of alcohol, tobacco, and other substances, the applicable definitions in the Utah Code Ann. should be used.

~~ADULT BOOKSTORE OR ADULT VIDEO STORE: Any commercial establishment which:~~

~~A. Excludes minors from more than fifteen percent (15%) of the retail floor or shelf spaces of the premises; or~~

~~B. As one of its principal purposes, offers for sale or rental, for any form of consideration: 1) any pictures or written material, whether alone or in a book or magazine; 2) motion pictures, on film, tape or electronic media; or 3) sound recordings, the central theme of any of which depicts or describes specified sexual activities or specified anatomical areas; or 4) instruments, devices or paraphernalia which are designated for use in connection with specified sexual activities, except for legitimate medically recognized contraceptives. As used in this definition, "principal purposes" means fifteen percent (15%) or more of the business's gross yearly sales measured in any year.~~

~~ADULT BUSINESSES: All adult bookstores, adult video stores, adult motion picture theaters and adult theaters.~~

~~ADULT MOTION PICTURE THEATER: A commercial establishment which:~~

~~A. Excludes minors from the showing of two (2) consecutive exhibitions; repeated showings of any single exhibition shall not be considered a consecutive exhibition; or~~

~~B. Shows for any form of consideration motion pictures, slides, or similar photographic reproductions which are primarily characterized by the depiction or description of specified sexual activities or specified anatomical areas.~~

~~ADULT THEATER: 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; or~~

~~C. Features persons who appear in live performances in a state of nudity, or which are characterized by the exposure of specified anatomical areas or by specified sexual activities.~~

~~ADVOCATING: Speech or conduct intended to inform, promote or support religious belief, political position or charitable activities.~~

AGREEMENT: Unless otherwise indicated ~~qualified~~, the binding agreement entered with the city as part of the good landlord program.

~~AGRICULTURAL VENDOR: A person engaged in the sale of fruits and/or vegetables from stands, motor vehicles or roadsides.~~

ALCOHOLIC BEVERAGE (AND RELATED TERMS): ~~Means and includes "beer" and "liquor", as they are defined in this section.~~ See the definitions found within the Utah alcoholic beverage control act, Utah Code Ann. title 32B, and in section 17-1-6 of this code.

~~ANTIQUE DEALER: Any person engaging in the business of purchasing, bartering, exchanging or selling old or archaic items which are indicative of an older culture, excluding numismatic items, bullion items, and precious metals and/or precious gems.~~

APPLICANT: A person ~~or business~~ possessing a business license from the city, and any person ~~or business~~ seeking a business license from the city. If the application is made by a ~~corporation, partnership, limited partnership, individual or~~ business entity (as defined in this section) doing business under an assumed name, each partner, principal, officer, director, manager, assistant manager, and any shareholder (corporate or personal) of ~~more than twenty percent (20%)~~ fifty one percent (51%) or more of the stock of the business entity shall also be considered an applicant. Any holding company or any entity holding ~~more than twenty percent (20%)~~ fifty one percent (51%) or more of an applicant shall be considered an "applicant" for purposes of this title.

APPLICATION: The completed forms provided by the business licensing authority with all attachments required by this title for the issuance of a permit or license.

~~ARCADE: A place of business containing more than three (3) automatic amusement devices.~~

~~AUCTION HOUSE: A business where property is sold on an ongoing basis by auction to the highest bidder.~~

~~AUCTIONEER: A person who conducts an auction.~~

~~AUTOMATIC AMUSEMENT DEVICES: Each machine which, upon the insertion of a coin, trade token, slug, or similar object, operates, or may be operated, as a game or contest of skill or amusement of any kind or description, and which contains no automatic payoff for~~

~~the return of money to the player. An "automatic amusement device" is hereby further defined as any machine, apparatus or contrivance which is used, or which may be used, as a game of skill and amusement wherein, or whereby, the player initiates, employs or directs any force generated by the machine, but specifically excludes a "musical mechanical device" as defined in this section. Such term shall include, but is not limited to, such devices as mechanical or electronic marble machines, pinball machines, skill balls, mechanical grab machines which yield prizes, electronic skill games of all types and all games, operations or similar transactions however called or by whatever name indicated. This definition is intended to be broadly construed and to include, but not be limited to, devices and activities otherwise defined in this section; provided, however, that this definition does not include single coin operated devices held for private amusement in private residences.~~

BCI BACKGROUND CHECK: An original or copy, dated no older than one hundred eighty (180) days prior to the date of the application, of either:

A. A Utah department of public safety bureau of criminal identification, verified criminal history report personal to the applicant; ~~or~~

B. Verification by the Utah department of public safety bureau of criminal identification that no criminal history rising to the level of a "disqualifying factor" (pursuant to the definition in this section or any other applicable meaning) status exists for the applicant; or

C. A government-issued and verified criminal history report form the applicant's current state of residence or recent state of residence.

~~BEER, LIGHT BEER, MALT LIQUOR AND MALTED BEVERAGE: Any beverage containing sixty three one-hundredths of one percent (0.63%) of alcohol by volume, or one-half of one percent (0.5%) of alcohol by weight, but not more than four percent (4%) of alcohol by volume or three and two-tenths percent (3.2%) by weight, fermentation, infusion or decoction of any malted grain. Beer may or may not contain hops or other vegetable products. Beer includes products referred to as malt liquor, malted beverages or malt coolers.~~

~~BILLIARD HALL: Business premises containing more than three (3) tables on which billiards, bagatelle or pool is played by the public for a fee. This definition includes virtual games operating through computer simulation.~~

~~BOWLING ALLEY: An amusement hall where bowling and related activities are played by the public for a fee.~~

~~BULLION: Items of or containing gold, silver, platinum or palladium in any form or shape, including, but not limited to, bars, ingots or medallions which:~~

~~A. Are gold or silver coins originally minted or manufactured as legal tender in their country of origin, but which, because of their physical condition, have little or no numismatic value and which are bought, sold, bartered or exchanged based on the value of the gold or silver they contain and are commonly known as "junk silver" or "junk gold"; or~~

~~B. Carry a hallmark which:~~

~~1. Identifies the manufacturer;~~

~~2. States the degree or percentage of purity; and~~

~~3. States the weight of the item; and~~

~~C. Are of a purity at or exceeding eighty percent (80%), i.e., the item is composed of or contains eighty (80) parts of gold, silver, platinum and/or palladium to twenty (20) parts of other metal.~~

~~"Bullion" does not include sterling silver flatware or utensils and does not include jewelry containing gold, silver, platinum or palladium.~~

~~BULLION DEALER: Any person who engages in the business of purchasing, selling, bartering or exchanging bullion.~~

BUSINESS: Means and includes:

A. All activities, trades, professions or callings undertaken, operated or engaged in within the corporate limits of the city of West Jordan carried on for the purpose of economic gain or economic benefit, except that the acts of employees rendering service to employers shall not be included in the term "business" unless otherwise specifically prescribed.

B. As used in this title, the owning and operating of one or more residential rental units, whether a single-family home, a residential dwelling complex (such as a duplex, triplex or larger apartment complex) or mobile home park, or otherwise, for economic gain, ~~or~~ economic benefit, or personal benefit shall be deemed to be a business.

C. Activities, trades, professions or callings undertaken, operated, or engaged in for the purpose of economic gain, ~~or~~ economic benefit, or personal benefit within the confines of a ~~person's~~ individual's residence building or within or from an ancillary structure on the same property as the ~~person's~~ individual's building will constitute a "business" subject to the requirements of this title.

D. There is no regulatory distinction in this title between a "business" and an "occupation". Both are a "business".

BUSINESS ENTITY: A specific partnership, limited partnership, corporation, association, limited liability company, or other entity, but not a "dba", listed as "active" and "current" on the Utah division of corporations' business entity website or the equivalent website of another state or territory of the Unites States of America.

BUSINESS LICENSE AUTHORITY: The city administrator or an authorized designee.

~~CARD ROOM: Any room where there is played any backgammon, cards, checkers, chess, or other games of similar nature, or any game played with beans, buttons, dice or similar devices, or to keep, maintain or operate in the city any table on which said games are played, where charge is made for the use of the room, use of the tables or for the privilege of playing on such tables or in such room. This definition includes virtual games operating through computer simulation.~~

~~CERTIFICATE: A card representing an issued city solicitor's license.~~

~~CHARITABLE ACTIVITIES: Advocating by persons or entities that either are, or support, a charitable organization.~~

CHARITABLE ORGANIZATION (AND RELATED TERMS): ~~Includes any person, joint venture, partnership, limited liability company, corporation, association, group, or other entity that is organized or established: a) as a benevolent, educational, voluntary health, philanthropic, humane, patriotic, religious or eleemosynary, social welfare or advocacy, public health, environmental or conservation, or civic organization; b) for the benefit of a public safety, law enforcement or firefighter fraternal association; or c) for any charitable purpose. A "charitable organization" includes a chapter, branch, area or office, or similar affiliate or any person soliciting contributions within the state for a charitable organization, that has its principal place of business outside the city or the state of Utah pursuant to~~ See the definitions in Utah Code Ann. ~~Annotated~~ section 13-22-2, or successor provisions ~~its successor statute~~.

~~CHRISTMAS TREE: A cut tree, usually fir or evergreen, but including any tree sold to be decorated and used as part of the Christmas celebration and commemoration.~~

~~CHRISTMAS TREE BUSINESS: To sell, offer to sell or display for sale Christmas trees to the public for profit. Each location at which Christmas trees are sold, offered or displayed for sale shall be considered a separate business.~~

CITY ADMINISTRATOR: The city administrator of the city.

~~COINS: Pieces of metal money issued by any government as legal tender in the country of origin and includes commemorative coins, mint sets and proof sets, but does not include items manufactured primarily for transfer as bullion, including, but not limited to, Krugerrands, Maple Leafs and Austrian Coronas. "Coin" refers to a single piece of money as defined in this definition.~~

COMMUNITY LOCATION (AND RELATED TERMS):

See the definitions in:

A. For alcoholic beverages, Utah Code Ann. section 32B-1-102, or successor provisions;

B. For cannabis production establishments, Utah Code Ann. section 4-41a-102, or successor provisions;

C. For medical marijuana, Utah Code Ann. section 26-61a-102, or successor provisions;

D. For retail tobacco specialty business, Utah Code Ann. sections 10-8-41.6 and 17-50-333, or successor provisions; and

E. For tobacco, electronic cigarette, and nicotine product retail permits, Utah Code Ann. section 26-62-102, or successor provisions.

~~A. A public or private kindergarten, elementary, middle, junior high, or high school;~~

~~B. A licensed childcare facility or preschool;~~

~~C. A trade or technical school;~~

~~D. A church;~~

~~E. A public library;~~

~~F. A public playground;~~

~~G. A public park;~~

~~H. A youth center or other space used primarily for youth oriented activities;~~

~~I. A public recreational facility; or~~

~~J. A public arcade.~~

COMPETENT INDIVIDUAL: ~~A person~~ An individual claiming or appearing to be at least eighteen (18) years of age and of sufficiently sound mind and body, to be able to engage in rational thought, conversation, and conduct.

COMPLETED APPLICATION: A fully completed application form; a BCI check; two (2) copies of the original identification, relied on by the applicant to establish proof of identity; and the tendering of all required fees.

~~CONVENIENCE STORE: An establishment serving a limited market area and engaged in the retail sale or rental, from the premises, of primarily food, beverages and other frequently or recurrently needed items for household use, excluding gasoline sales. These products must constitute forty five percent (45%) or more of the store's gross monthly proceeds. The store's signage must clearly identify it as a convenience store and not as another type of store.~~

CRIMINAL CONVICTION OR CRIMINALLY CONVICTED: The final entry of a conviction, whether by a plea of no contest, guilty, entry of a judicial or jury finding of guilt, which judicial determination has not been set aside on appeal or pursuant to a writ of habeas corpus. The criminal conviction is that offense of which the applicant or registered solicitor was convicted, without regard to the reduced status of the charge after completion of conditions of probation or parole, and charges dismissed under a plea in abeyance or diversion agreement.

~~CURRENCY: Paper money or money of a material other than metal which was originally printed, minted or manufactured as legal tender in the country of origin and includes commemorative currency.~~

~~DANCE STUDIO: A place where people are taught to dance, with or without the payment of a fee.~~

DISQUALIFYING FACTORS: Anything specifically defined in this title as requiring the denial or suspension of a ~~certificate~~ license, plus any of the following:

A. Criminal charges are currently pending against the applicant or a key employee and the criminal charges bear a substantial relationship to the applicant's or licensee's ability to safely, competently, or legally practice the occupation, profession, or type of business;

B. The applicant or a key employee has been criminally convicted of a felony, within the last ten (10) years and the criminal conviction bears a substantial relationship to the applicant's or licensee's ability to safely, competently, or legally practice the occupation, profession, or type of business;

C. The applicant or a key employee has been criminally convicted of a misdemeanor within the past five (5) years and the criminal conviction bears a substantial relationship to the applicant's or licensee's ability to safely, competently, or legally practice the occupation, profession, or type of business;

D. A final civil judgment has been entered against the applicant or a key employee within the last five (5) years indicating that: 1) the applicant or key employee had either engaged in fraud or intentional misrepresentation; or 2) the applicant or key employee engaged in ~~wilful~~ willful and malicious activity causing injury to another entity or to the property of another entity;

E. The applicant or key employee is currently subject to a protective order based on physical or sexual abuse issued by a court of competent jurisdiction;

~~F. The applicant is currently on parole or probation to any court, penal institution or governmental entity, including being under house arrest or subject to a tracking device (for this purpose probation includes pleas in abeyance, diversions, etc.); or~~

F~~G~~. The applicant has an outstanding arrest warrant from any jurisdiction~~.~~;or

G~~H~~. The applicant, or any principal of the applicant, has administrative, civil or criminal citations or charges pending or on appeal, brought or assessed by the state or another jurisdiction, and based on violations of applicable licensing or regulatory requirements in connection with the business proposed to be conducted.

DOOR TO DOOR SOLICITATION, HOME SOLICITATION, OR RESIDENTIAL SOLICITATION: The practice of engaging in or attempting to engage in conversation with any ~~person~~ individual at a residence, whether or not that ~~person~~ individual is a competent individual, while making or seeking to make or facilitate a ~~home~~ door to door solicitation sale, or attempting to further the sale of goods and/or services. See sections 4-2F-1 through 4-2F-16 inclusive.

DOOR TO DOOR SOLICITATION SALE, HOME SOLICITATION SALE, OR RESIDENTIAL SOLICITATION SALE: 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 purchase; 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.

EMPLOY: Hiring an individual to work for pecuniary or any other form of compensation, whether such ~~person~~ individual is hired on the payroll of the employer, as an independent contractor, as an agent, or in any other form of employment relationship.

EMPLOYEE: The operator, owner, or manager of a business and any ~~persons~~ individuals employed by such ~~person~~ operator, owner, or manager in the operation of the business in any capacity, and also any salesperson, agent, leased employee or independent contractor engaged in the business in any capacity.

~~EMPLOYMENT AGENCY: Any person or persons, including an entity, procuring or obtaining for money or other valuable consideration, either directly or indirectly, any work or employment for persons seeking the same, or to otherwise engage in such business, or in any way to act as a broker or go-between between employers and persons seeking work; provided that the term "employment agency" does not include any person operating such an office or business exclusively for schoolteachers provided such an office or business does not receive directly or indirectly, for employment information or assistance rendered, a commission or other remuneration valued in excess of five percent (5%) of the amount of the first year's salary of the person to whom such information is furnished.~~

ENGAGING IN BUSINESS: Means and includes, but is not limited to, the sale or offer for sale of tangible personal property at retail or wholesale, the manufacturing of goods, including foodstuffs, the owning or operating of rental property, the building and development of real property, and the rendering of personal services for others for compensation, but does not include the rendering of personal services by an employee to ~~his~~ the employee's employer under any arrangement or contract of personal employment.

~~ESCORT: Any person who, for pecuniary compensation, dates, socializes, visits, consorts with or accompanies or offers to date, consort, socialize, visit or accompany another person or other persons 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. An "escort" shall not be construed to include persons who provide business or personal services, such as 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. An "escort" shall also not be construed to include persons providing services such as singing telegrams, birthday greetings, or similar activities characterized by appearances in a public place, contracted by a party other than the person for whom the service is being performed and of a duration not longer than one hour.~~

~~ESCORT SERVICE: An individual or entity who, for pecuniary compensation, furnishes or offers to furnish one or more escorts, or provides or offers to introduce patrons to escorts.~~

~~ESCORT SERVICE RUNNER: 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.~~

~~EXEMPT RENTAL DWELLING UNIT: A rental dwelling unit contained within a single building containing up to three (3) other dwelling units (i.e., a duplex, triplex or fourplex) wherein one of the dwelling units is owner occupied by the owner of the building.~~

FEES OR FEE SCHEDULE: The city's ~~comprehensive~~ consolidated fee schedule as it relates to business license fees, disproportionate rental dwelling unit fees, and the discount fees associated with the good landlord program.

~~GENERAL SECONDHAND DEALER: Any person engaging in the business of purchasing, bartering, exchanging or selling of any secondhand merchandise of value other than antiques, precious metals or numismatic pieces. For the purpose of this title, a "general secondhand dealer" shall not include any person who:~~

~~A. Deals solely in the purchasing, bartering, exchanging or selling of used motor vehicles or trailers;~~

~~B. Is a scrap metal processor;~~

~~C. Is a store, office or place of business operated by a charitable organization which acquires secondhand goods or merchandise exclusively by charitable donation;~~

~~D. Engages in a business which requires a license pursuant to this title; or~~

~~E. Is a person who deals solely in the consignment sale of used clothing, provided such clothing does not include jewelry or furs.~~

~~GROSS SALES:~~

~~A. Total sales at invoice values, not reduced by customer discounts, returns or allowances, or other adjustments. Gross sales includes the amount of any manufacturer's or importer's excise tax included in the price of the product or property sold, even though the manufacturer or importer is also the wholesaler or retailer thereof, and whether or not the amount of such tax is stated as a separate charge.~~

~~B. "Gross sales" shall not include:~~

~~1. The amount of any federal tax, except excise taxes imposed upon or with respect to retail or wholesale sales, whether imposed upon the retailer, wholesaler, jobber or upon the consumer, and regardless of whether or not the amount of federal tax is stated to customers as a separate charge; and~~

~~2. The amount of net Utah state sales tax.~~

HOME SOLICITATION: See the "Door To Door Solicitation" definition in this section.

HOME SOLICITATION SALE: ~~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 purchase; 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.~~ See the "Door To Door Solicitation Sale" definition in this section.

~~ICE CREAM WAGON: A vehicle holding, offering and selling ice cream products by means of cruising residential neighborhoods and parks and thus seeking customers.~~

INDIVIDUAL: A natural or physical person; in other words, an individual human being, who is an "adult", as defined in this section.

~~JUKEBOX OR MUSICAL MECHANICAL AMUSEMENT DEVICE: Includes each machine vending recorded music, or a period of radio or television entertainment in return for the insertion or deposit therein of a coin, trade token, slug, or similar object.~~

~~LEGITIMATE ARTISTIC MODELING: A person contracted in writing for nude modeling or appearance, whether on an outcall basis or otherwise, which contract is signed more than forty eight (48) hours in advance of the modeling or appearance; provided that during such nude modeling or appearance, 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 any other person;~~

~~C. Allow, offer or agree to commit prostitution, solicitation of prostitution, solicitation of a minor, or undertaking activities harmful to a minor;~~

~~D. Allow, offer, commit or agree to any specified sexual activities;~~

~~E. Allow, offer, agree or permit any personl 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 feet (5') of any other person while performing or while nude or seminude.~~

LICENSED PREMISES: Any building, enclosure, room, or equipment used in connection with the conduct of the business, including, but not limited to, the sale, storage, service, manufacture, distribution or consumption of alcoholic beverages.

LIQUOR (AND RELATED TERMS): ~~Alcohol, or any alcoholic, spirituous, vinous, fermented, malt or other liquid or combination of liquids, a part of which is spirituous, vinous or fermented, and all other drinks or drinkable liquids, which contain more than one-half of one percent (0.5%) of alcohol by volume which is suitable to use for beverage purposes; except that the term shall not include any beverage defined as beer, malt liquor or malted beverage that has an alcohol content of less than four percent (4%) alcohol by volume.~~ See the definitions found within the Utah alcoholic beverage control act, Utah Code Ann. title 32B, and in section 17-1-6 of this code.

MASSAGE THERAPY AND MASSAGE THERAPIST (AND RELATED TERMS): See the definitions found in Utah Code Ann. section 58-47b-102. ~~The practice whereby a person, either by the hands or with a mechanical or electrical apparatus, administers to another person effleurage (stroking), friction (rubbing), petrissage (kneading), tapotement (percussion) and vibration (shaking or trembling), or variations of these, and the use of rehabilitative procedures involving the muscles by nonintrusive means and without spinal manipulation. The practice of massage may include the use of oil rubs, heat lamps, salt~~

~~glows, hot and cold packs or tub, shower, steam or cabinet baths. For purposes of this title, "massage" also includes shiatsu and reiki therapy.~~

~~MASSAGE APPRENTICE: A person who is licensed as a massage apprentice by the state of Utah.~~

~~MASSAGE ESTABLISHMENT: Any place where massages are given for hire.~~

~~MASSAGE TECHNICIAN: A person who is licensed as a massage technician by the state of Utah.~~

~~MECHANICAL BULL: An automatic amusement device that is ridden by the public.~~

MINOR: Any ~~person~~ individual ~~under the age of twenty one (21) years~~ who does not meet the definition of "adult" as set forth in this section, or as otherwise set forth in the applicable provisions of the Utah Code Ann.

NO SOLICITATION SIGN: A reasonably visible and legible sign that states "No Soliciting", "No Solicitors", "No Salespersons", "No Trespassing", or words of similar import.

~~NONPUBLIC DANCES: Dances conducted and sponsored by public or private schools, not for profit associations, the city or churches for the students or members thereof, even though an admission fee is charged. Dances conducted in private homes on a private basis shall not be deemed to be public dances, and shall be exempt from the licensing provisions of this title.~~

~~NUDE DANCING AGENCY AND SEMINUDE DANCING AGENCY: Any person who furnishes, books or engages or offers to furnish, book or otherwise engage the service of a professional dancer licensed pursuant to this title for performance or appearance at a business licensed for nude entertainment, seminude dancing bars, or adult theaters.~~

~~NUDE ENTERTAINMENT BUSINESS: Any business, including an adult theater, where employees perform or appear, in the presence of patrons of the business, in a state of nudity or seminudity. A business shall also be presumed to be a nude entertainment business if the business holds itself out as such a business. Notwithstanding the foregoing, "nude entertainment business" does not include:~~

~~A. A preparatory school licensed by the state, or a college, junior college or university supported entirely or partly by taxation.~~

~~B. A private college or university which maintains and operates educational programs in which credits are transferable to a college, junior college or university supported entirely or partly by taxation.~~

NUDITY (AND RELATED TERMS) ~~STATE OF NUDITY~~: See the definitions found in Utah Code Ann. section 10-8-41.5 or successor provisions.

~~A. The human body in a state of undress allowing the viewing of the anus, genitals, or female nipple or areola.~~

~~B. A state of dress which fails to opaquely cover the anus, genitals, or nipple or areola of the female breast.~~

NUMBER OF EMPLOYEES: The average number of employees engaged in business at the place of business each regular working day during the preceding calendar year. ~~In computing such number, each regular full time employee shall be counted as one full time employee and each employee which is not a regular full time employee shall be counted as a part time employee.~~

~~NUMISMATIC DEALER: Any person who engages in the business of purchasing, selling, bartering or exchanging coins or currency.~~

OPERATOR: The manager or other ~~natural person~~ individual principally in charge of a ~~sexually oriented~~ business.

~~OUTCALL SERVICES: Services of a type performed by a sexually oriented business employee away from the licensed premises, including, but not limited to, escorts, models, dancers, entertainers and other similar employees, regardless of the location of the premises of the licensed business employing the outcall employee.~~

OWNER: The person having ownership.

OWNER OCCUPIED: A residence occupied as a primary residence by the legal owner of the building within which the residence exists. For example a single-family home occupied as a primary residence by the legal owner of the building is owner occupied. Similarly a residence within a fourplex building occupied as a primary residence by the legal owner of the building, even though the other three (3) residences in the building are occupied by third parties under rental agreements, is owner occupied.

PARTICIPANT: A temporary merchant, not licensed as such, participating in a sales event.

PATRON: Any ~~person~~ individual who contracts with or employs any escort services or escort, or is a customer of any business licensed pursuant to this title.

~~PAWNBROKER: Any person who loans money on deposit of personal property, or deals in the purchase, exchange or possession of personal property on condition of selling the same back again to the pledger or depositor, or who loans or advances money on personal property by taking chattel mortgage security thereon and takes or receives such personal property into his or her possession, and who sells the unredeemed pledges together with such new merchandise as will facilitate the sale of same.~~

~~PECUNIARY COMPENSATION: Any commission, fee, salary, tip, gratuity, hire fee, profit, reward or any other form of consideration given in return for goods or services offered by a business.~~

PERSON: Includes any individual, group of individuals, ~~partnership, corporation, association~~ business entity, group of business entities, or other legal entity or legal entities.

PLACE OF BUSINESS: Each separate location at or from which business is conducted or transacted. For this purpose branch locations and mobile business locations are each considered a separate place of business requiring a business license.

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

PREMISES: Any room, house, building, structure, or place licensed by or defined in this title.

~~PRIVATE SCHOOL: For the purposes of this title, any school accredited by the state of Utah, whether by formal state action or by state acceptance of accreditation given to an academic program, which has been accepted as an alternative to public schools.~~

PROGRAM: As used in this title, the good landlord program of the city.

PROPRIETOR: Any person who, as the owner, lessee, or ~~proprietor~~ manager, has under that person's control ~~an arcade~~ a business.

~~PUBLIC DANCE: Any dance to which the general public may gain admission, with or without the payment of a fee, or any dance which is conducted in the normal course of business on the premises of a restaurant, tavern or private club, but shall not include any dance conducted on or in any public park, street or public grounds by permission of the city, under the supervision of the city administrator or his/her assignee, or the Salt Lake County recreation department.~~

~~PUBLIC DANCE HALL: Any room, place or space in which a public dance is held and in which dancing or providing space for dancing is the principal business.~~

~~PUBLIC SCHOOLS: The public education system and higher education system as defined in article X of the Utah constitution and as implemented by appropriate state statutes.~~

REGISTERED SOLICITOR: Any ~~person~~ individual who has been issued a current ~~certificate~~ residential solicitation license by the city (see sections 4-2F-1 through 4-2F-16 inclusive).

~~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.~~

~~RELIGIOUS OR CHARITABLE ORGANIZATION: Any organization which can provide written approval from the internal revenue service that the organization has been granted tax exempt status under section 501(c)(3) of the internal revenue code, or its successor.~~

RENTAL DWELLING UNIT: Any individual dwelling unit~~, other than an exempt dwelling unit,~~ that is rented, leased, ~~or~~ hired out, or provided as a benefit to be used or occupied as a home or residence. This definition is inclusive of any ~~buildings or~~ accessory dwelling units, apartment buildings, or other buildings so arranged, designed, built, rented, let, or hired out to be used or occupied as the home, residence, or dwelling unit of one or more families living independently of each other. For the purpose of this definition, a residence that is under a bona fide contract of sale to an occupying purchaser is not a rental dwelling unit.

RESIDENCE: Any living unit contained within any building or structure that is occupied by any ~~person~~ individual as a dwelling, together with the lot or other real property on which the living unit is located. This term does not include the sidewalk, public street or public rights of way.

RESIDENTIAL SOLICITATION: See the "Door To Door Solicitation" definition in this section.

RESIDENTIAL SOLICITATION SALE: See the "Door To Door Solicitation Sale" definition in this section.

~~RESIDENTIAL TREATMENT FACILITIES: An adult daycare (limited and general), group home (large and small), residential substance abuse treatment home (large and small), and/or transitional home (large and small), all as defined in title 13 of this code. "Residential treatment facilities" is a special purpose definition used to apply general requirements to each of its constituent defined facilities.~~

RESPONSIBLE PERSON ~~OR ENTITY~~: That person ~~or entity~~ responsible to refund any money or reversing any credit card charges for persons who timely rescind any sale pursuant to applicable contractual rights or legal requirements, 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 home solicitation sale.

SALE OF GOODS OR SERVICES: The conduct and agreement of a solicitor and the competent individual in a residence regarding particular goods or services that entitles the consumer to rescind the same within three (3) days under any applicable federal, state or local law.

SALES EVENT: An event where two (2) or more temporary merchants, not more than one of whom is licensed as a temporary merchant, display any goods, wares or services at a location in the city for the purpose of sale or soliciting orders to be filled in the future, for financial gain or profit.

~~SCRAP METAL PROCESSOR: Any person who, from a fixed location, utilizes machinery and equipment for processing and manufacturing iron, steel or nonferrous scrap into prepared grades, and whose principal product is scrap iron, scrap steel or nonferrous metallic scrap for sale for remelting purposes.~~

~~SECONDHAND COMPACT DISC DEALER: Any person engaging in the business of purchasing, bartering, exchanging or selling secondhand compact discs or "CDs", including DVDs.~~

~~SECONDHAND COMPUTER DEALER: Any person engaging in the business of purchasing, bartering, exchanging or selling secondhand computers and/or computer parts.~~

~~SECONDHAND JUNK COLLECTOR: Any person not having a fixed place of business within the corporate limits of the city who goes from house to house or place to place gathering, collecting, or otherwise dealing solely in secondhand rags, papers, metals or other articles commonly known as "junk" for his own account.~~

~~SECONDHAND JUNK DEALER: Any person engaging in the business of purchasing, bartering, exchanging or selling:~~

~~A. Secondhand metals other than precious metals; or~~

~~B. Glass, rags, rubber, paper or other articles commonly known as "junk" from a fixed place of business.~~

~~For the purpose of this title, a "junk dealer" shall not include a scrap metal processor.~~

~~SECONDHAND PRECIOUS METAL AND/OR PRECIOUS GEM DEALER: Any person engaging in the business of purchasing, bartering, exchanging or selling, in any form:~~

~~A. Secondhand gold, silver, platinum or other precious metals, or secondhand articles containing any of such metals, but not including "coins", "currency" or "bullion"; or~~

~~B. Secondhand precious gems or any secondhand articles containing any precious gems.~~

SELL, SALE, AND TO SELL: Any transaction, exchange, or barter whereby, for any consideration, an alcoholic beverage is either directly or indirectly transferred, solicited, ordered, delivered for value, or by any means or under any pretext is promised or obtained, whether done by a person as principal, proprietor, or as an agent, servant or employee, unless otherwise defined in the alcoholic beverage control act or regulations adopted by the state alcoholic beverage control commission.

~~SEMINUDE: A state of human undress in which opaque cloth or other opaque material fully covers only the areola of the female breast, the genitals, pubic region, and anus.~~

~~SEMINUDE BOOKING AGENCY: Any person which furnishes, books, or otherwise engages or offers to furnish, book, or otherwise engage the service of a professional dancer licensed pursuant to this title for seminude performance or appearance.~~

~~SEMINUDE ENTERTAINMENT BUSINESS: A business, including adult theater, where employees perform or appear in the presence of patrons of the business seminude. A business shall also be presumed to be a seminude entertainment business if the business holds itself out as such a business.~~

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

SEXUALLY ORIENTED BUSINESS (AND RELATED TERMS): See the definitions found in Utah Code Ann. section 10-8-41.5 or successor provisions. ~~An adult bookstore, adult video store, adult motion picture theater, adult theater, escort service, nude and/or seminude dancing agency, nude and/or seminude entertainment business or entertainer, and/or an outcall service. "Legitimate artistic modeling", as defined in this article, is not a sexually oriented business. This definition does not include a sex therapist or similar individual licensed by the state to provide bona fide sexual therapy or counseling, licensed medical practitioner, licensed nurse, psychiatrist, psychologist, nor shall it apply to any educator licensed by the state for activities in the classroom.~~

~~SEXUALLY ORIENTED BUSINESS EMPLOYEES:~~

~~A. Those employees who work on the premises of the sexually oriented business in activities related to the sexually oriented portion of the business. This includes all managing employees, dancers, entertainers, escorts, models and other similar employees whether or not hired as employees, agents or as independent contractors.~~

~~B. Sexually oriented business employees do not include individuals whose work is not directly related to the sexually oriented portion of the business such as janitors, bookkeepers and similar employees, cooks, serving persons, bartenders and similar employees, except where they are managers or supervisors of the business or where the employee will be required or chooses to appear in the sexually oriented business in a nude or seminude condition.~~

~~C. All persons making outcall meetings, including escorts, models, entertainers, guards, escort runners, drivers, chauffeurs and other similar employees, are sexually oriented business employees, regardless of the location of the premises of the licensed business employing the outcall employee.~~

~~SHOOTING GALLERY: A place of business where shooting of any kind is done, including a shooting range.~~

SOLICITING, SOLICIT, SOLICITATION: Any of the following activities when conducted on a door to door home contact basis:

A. Seeking to obtain sales or orders for the exchange of goods, wares, merchandise or perishables of any kind, for any kind of remuneration or consideration, regardless of whether advance payment is sought;

B. Seeking to obtain prospective customers to apply for or to purchase insurance, subscriptions to publications, or publications;

C. Seeking to obtain contributions of money or any other thing of value for the benefit of any person ~~or entity~~;

D. Seeking to obtain orders or prospective customers for goods or services;

E. 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 a home solicitation sale.

F. Other activities falling within the commonly accepted definition of soliciting, such as hawking or peddling.

SOLICITOR, SOLICITORS: ~~A person or persons~~ An individual or individuals engaged in door to door solicitation. A ~~solicitor's~~ residential solicitation license ~~and certificate~~ does not authorize or enable hawking goods or contacting people in public places, in a park or on the street. See sections 4-2F-1 through 4-2F-16 inclusive.

633 ~~SPECIFIED ANATOMICAL AREAS: The human male or female pubic area or anus with less~~
634 ~~than a full opaque covering, or the human female breast from the beginning of the areola,~~
635 ~~or nipple to its end with less than full opaque covering.~~

636 SPECIFIED CRIMINAL ACTS: Any act defined in title 76 of the Utah Code Ann. or in titles 6
637 or 7 of this code as a crime.

638 ~~A. Providing material harmful to minors;~~

639 ~~B. Prostitution or prostitution offenses;~~

640 ~~C. Unlawful sexual intercourse with a minor;~~

641 ~~D. Lewdness or gross lewdness;~~

642 ~~E. Rape;~~

643 ~~F. Object rape;~~

644 ~~G. Forcible sexual abuse;~~

645 ~~H. Contributing to the delinquency of a minor;~~

646 ~~I. Pornographic, obscene harmful materials, or lewd performance offenses;~~

647 ~~J. Any sexual offense involving a child;~~

648 ~~K. Any offense involving theft or dishonest practices;~~

649 ~~L. Any offense against government order;~~

650 ~~M. Racketeering enterprise offenses;~~

651 ~~N. Money laundering and currency transportation reporting offenses;~~

652 ~~O. Furnishing alcohol, drugs or paraphernalia, or sale of firearms to a minor;~~

653 ~~P. Offenses committed in other jurisdictions which are substantially similar to those~~
654 ~~listed in this definition, regardless of the exact title of the offense; or~~

655 ~~Q. Attempt, aiding, abetting, solicitation, or conspiracy to commit any of the offenses~~
656 ~~described in this definition.~~

657 SPECIFIED SEXUAL ACTIVITIES: Any sexual act defined in title 76 of the Utah Code Ann. or
658 in titles 6 or 7 of this code as a crime.

659 ~~A. Acts of:~~

660 ~~1. Masturbation;~~

661 ~~2. Human sexual intercourse;~~

662 ~~3. Sexual copulation between a person and a beast;~~

~~4. Fellatio;~~

~~5. Cunnilingus;~~

~~6. Bestiality; or~~

~~7. Anal copulation between two (2) persons or person and a beast.~~

~~B. Manipulating, caressing or fondling by any person of:~~

~~1. The genitals of a human, including oneself;~~

~~2. The pubic area of a human, including oneself; or~~

~~3. The covered or uncovered female nipple or areola, including of oneself.~~

~~C. 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 one so clothed.~~

SUBSTANTIATED REPORT: An oral, written or electronic report that is submitted to and documented by the city that provides any of the following information regarding a person ~~or business~~ holding a city business license of any type:

A. Documented verification of a previously undisclosed disqualifying factor;

B. Probable cause that the person ~~or business~~ has committed a disqualifying factor which has not yet been determined to be a disqualifying factor;

C. Documented, eyewitness accounts that the person ~~or business~~ has engaged in repeated patterns of behavior that demonstrates failure by the person ~~or business~~ to adhere to the requirements of this title; or

D. Probable cause that continued licensing of the person ~~or business~~ demonstrates exigent circumstances that threaten the health, safety or welfare of any ~~individuals or entities~~ person or persons within the city.

TEMPORARY MERCHANT:

A. Any person, whether a resident of the city or not, who within the limits of the city:

1. Engages in a temporary business of selling and/or delivering goods, wares or services, or who conducts meetings open to the general public where franchises, distributorships, contracts or business opportunities are offered to the public; or

2. Sells, offers or exhibits for sale any goods, wares or services, franchises, distributorships, contracts or business opportunities, during the course of or any time within six (6) months after a lecture or public meeting pertaining to such goods, wares, services, franchises, business opportunities, contracts or distributorships.

B. The foregoing notwithstanding, a "temporary merchant", for the purposes of this title, shall not include the following:

1. A person who shall occupy any business establishment for the purpose of conducting a permanent business therein; provided, however, that no person shall be relieved from the provisions of this title by reason of a temporary association with any local dealer, trader, merchant or auctioneer, or by conducting such temporary or transient business in connection with, as a part of, or in the name of any local dealer, trader, merchant or auctioneer; or

2. Any sales of merchandise damaged by smoke or fire, or of bankrupt concerns, where such stock has been acquired from a merchant or merchants of the city regularly licensed and engaged in business; provided, however, no such stock of merchandise shall be augmented by new goods; or

3. A person who sells ~~his or her~~ the person's own property which was not acquired for resale, barter or exchange, and who does not conduct such sales more than twice during any calendar year; or

4. Art exhibits, where participating artists sell their original works, and which do not contain any sales of artwork purchased or taken on consignment and held for resale, providing such art exhibits are sponsored by a local, responsible organization; or

5. "Religious or charitable organizations", as defined in this section; or

6. Sales of goods, wares or services at a convention, meeting or exposition which is not open to nor advertised to the general public, to the extent such sales are made to registered members of the sponsoring organization, provided the sponsoring organization or its designated agent delivers to the city license supervisor, at least fifteen (15) days in advance of such convention, meeting or exposition, a statement of the organization's qualification for this exemption and a statement of the common interest or category of those who will be attending such convention, meeting or exposition; and providing all persons selling or purchasing goods, wares or services at such convention, meeting or exposition shall wear or display in a conspicuous manner a tag stating the name of the sponsoring organization.

TEMPORARY MERCHANT SPONSOR: Any person who leases or rents a building or portion of a building, or other space, for the purpose of conducting a sales event with two (2) or more participants.

TOBACCO PRODUCT: As defined in Utah Code Ann. subsection 10-8-41.6(1)(j) or successor provisions.

~~A. Any cigar, cigarette, or electronic cigarette as defined in Utah code section 76-10-101;~~

~~B. A tobacco product as defined in Utah code section 59-14-102, including:~~

~~1. Chewing tobacco; or~~

~~2. Any substitute for a tobacco product, including flavoring or additives to tobacco; and~~

~~C. Tobacco paraphernalia as defined in Utah code section 76-10-104.1.~~

TOBACCO SPECIALTY BUSINESS: As defined in Utah Code Ann. subsection 10-8-41.6(1)(h) or successor provisions. ~~A commercial retail establishment that, through signage, floor space allocation and sales revenue, demonstrates it is substantially engaged in the offer and sale of tobacco products. Any one or more of the following factors indicate the operation of a tobacco specialty business:~~

~~A. The sale of tobacco products accounts for more than thirty five percent (35%) of the total quarterly gross receipts for the establishment for two (2) successive calendar quarters; to facilitate the city's perception of this factor, a licensee operating a retail sales business that includes the offer of tobacco products shall send to the city's business license administrator quarterly gross sales information within ten (10) business days of the end of each calendar quarter. This quarterly data provision requirement does not apply to businesses already licensed as a tobacco specialty business, or to business locations within which an area is licensed by the state of Utah as a pharmacy;~~

~~B. The name of the business evidences holding oneself out as a tobacco specialty business; e.g., "Smoke Shop", "Vape Shop", etc., as opposed to "Tommy's Trinkets" or "Nonie's Notions";~~

~~C. The allocation of floor and shelf space inside the business shows a focus on tobacco products. Forty percent (40%) or more is devoted to the offer, display and/or storage of tobacco products.~~

~~TRANSIENT AUCTION HOUSE: Any person or any agent, servant or employee of any person who shall sell, or offer for sale at auction, any goods, wares, merchandise or articles for value in or from any hotel, rooming house, dwelling house, boarding house, store, storeroom, stall, tent, building, structure, stand or other place indoors or outdoors, and who shall occupy such place for the purpose of conducting a temporary business in that place.~~

WAIVER: The written form provided to an applicant by the city wherein applicant agrees that the city may obtain a name/date of birth BCI background check on the applicant for licensing purposes under this title and which contains applicant's signature, which is either executed in the presence of the business licensing authority, or notarized at the time the waiver is signed. (Ord. 12-13, 6-13-2012; amd. Ord. 13-14, 3-27-2013; Ord. 16-01, 1-13-2016; Ord. 16-06, 1-13-2016; Ord. 16-11, 3-23-2016; Ord. 21-04, 2-10-2021)

4-1A-3: APPLICABILITY OF THIS CHAPTER:

The provisions of this chapter apply to all businesses and employees in the city. (Ord. 12-13, 6-13-2012)

4-1A-4: GENERAL BUSINESS AND SPECIAL BUSINESS LICENSES NEEDED:

Certain types of businesses have additional and special licensing and business conduct requirements, and these are set forth in chapter 2 of this title. For these specially addressed

types of business, a general business license and a special business license will be required, including the payment of such license fees as are provided from time to time by the city council. (Ord. 12-13, 6-13-2012)

ARTICLE B. BUSINESS LICENSES

SECTION:

4-1B-1: Unlawful To Conduct Business Within The City Without A Business License

4-1B-2: ~~Responsibility For Obtaining A Business License~~ [Reserved]

4-1B-3: Business License Authority

4-1B-4: Powers Of Business License Authority, Including Applicant Investigation

4-1B-5: City Inspection Authority

4-1B-6: License ~~Nontransferable;~~ Limited To Licensed Name ~~And Premises~~

4-1B-7: License Application Requirements

4-1B-8: Furnishing False Information

4-1B-9: Application Numbering And Filing

4-1B-10: Engaging In Business Prohibited During Investigation

4-1B-11: ~~Applicant Investigation~~ [Reserved]

4-1B-12: Issuance Of License

4-1B-13: Index Of Licensed Persons And Businesses

4-1B-14: License Available for Inspection ~~Posting And Display Required~~

4-1B-15: ~~Exemptions For Nonprofit Businesses, Organizations And Other Entities~~ [Reserved]

4-1B-16: License Fees

4-1B-17: License Year; Fee Payments ~~And Prorations~~

4-1B-18: Late Payment Penalty And Consequences

4-1B-19: Fee Exemptions For Businesses ~~Operating For Profit~~

4-1B-20: Mistakes In Fee Calculations

4-1B-21: Deviations Prohibited

4-1B-22: License Fee Collection; Civil Actions Authorized

4-1B-23: Refunds

4-1B-24: No License Transfers; and Change of License Information

4-1B-25: Designation Of Agent For Service Of Process

4-1B-26: Recordkeeping Required

4-1B-27: ~~Illegality Or Deceptive Artifices~~ [Reserved]

4-1B-28: Hours Of Operation

4-1B-29: ~~Dealing With Certain Persons Prohibited~~ [Reserved]

4-1B-30: License Termination Following Cessation Of Operations

4-1B-31: ~~Equivalent Alternative Methods Of Regulation~~[Reserved]

4-1B-1: UNLAWFUL TO CONDUCT BUSINESS WITHIN THE CITY WITHOUT A BUSINESS LICENSE:

A. Unless specifically exempt from such requirement in this title or other applicable law, it shall be unlawful for any person to engage in or carry on any business within the ~~City~~ city, without first procuring a business license, or for any person to continue to engage in or carry on a business when the required business license has been suspended or revoked; and

B. Every person engaging in business within the city shall apply for and maintain in full force and effect a valid city business license. (Ord. 12-13, 6-13-2012)

4-1B-2: ~~RESPONSIBILITY FOR OBTAINING A BUSINESS LICENSE~~ [Reserved]:

~~Every person engaging in business within the City shall apply for and maintain in full force and effect a valid City business license.~~ (Ord. 12-13, 6-13-2012)

4-1B-3: BUSINESS LICENSE AUTHORITY:

The business license authority shall have responsibility for issuing business licenses and ~~collecting~~ ensuring all business license fees are paid ~~and taxes~~, based on the rates and charges established by ~~law~~ ordinance or resolution and as set forth in the ~~City's general~~ city's consolidated fee schedule~~, and assist in the enforcement of civil and criminal actions brought against persons violating this title~~. (Ord. 12-13, 6-13-2012)

4-1B-4: POWERS OF BUSINESS LICENSE AUTHORITY, INCLUDING APPLICANT INVESTIGATION:

The business license authority and all license inspectors in the performance of their official duties shall have and exercise all the powers allowed by law ~~the following powers~~:

~~A. Notices Of Violation; Criminal Referrals: The business license authority may issue notices of violation and seek suspension or revocation of a license and/or assess fines for violations of the provisions of this title using the procedures set forth in title 16 of this Code, and may refer cases to the criminal authorities for prosecution as crimes.~~

~~B. Inspections: The business license authority and any authorized agent may enter free of charge, during normal business hours, the physical space being used or occupied by any business, in conformity with law, and demand the exhibition of the applicable City license for the current term from any person engaged or employed in the operation or transaction of such business or the operation of such vehicle, and may generally inquire into and inspect the conduct and operations of the business.~~

~~C. Right To Consider Individual Officers Of An Artificial Entity: In determining whether the applicant is entitled to a business license, the business license authority may disregard the corporate or business entity status, if any, of the applicant and examine the qualifications, or lack of qualifications, of the individual owners, officers, agents and employees of the business entity.~~

~~D. Conditions Precedent To License Issuance: The business license authority shall not issue a license unless the application forms have been properly completed and the annual business license fee for the first year has been paid in advance. The business license authority may require the applicant to fully disclose the nature and scope of the proposed business activity. In making the determination to issue the business license, the business license authority may look to the previous activities of the business or its principals and employees.~~

~~E~~A. Time Period Within Which To Act On License; Denial: The business license authority may take up to ~~ninety (90)~~ thirty (30) days from the date when the ~~license~~ completed application is received by the business license authority, to review an application and investigate the relevant facts. If the business license authority concludes to deny an application, a statement of the facts and reasons for the denial shall be given to the applicant.

~~F. Time Extensions: Upon a showing of good cause, the business license authority may grant extensions of time.~~

~~G~~B. License Authority Denial: The business license authority shall have the authority, without a hearing, to deny a license for the reasons provided for in this article, subject to appeal rights.

~~H~~C. Business License Authority Investigation: The business license authority may, on ~~his or her~~ the business license authority's own initiative or in response to complaints from the

general public or any city department or division, investigate and gather evidence of violations of this title or other circumstances which may give rise to a denial, suspension or revocation; or seek the police department's or other investigative organization's assistance or investigations. In particular, the business license authority may, prior to the issuance of any business license required by this title, investigate any applicant for such license, if there is reasonable cause to believe that the applicant:

1. Has filed an application which is incomplete, erroneous, or false in any respect, except that any individual name or business entity name that is substantially similar to the correct name shall not be deemed to be incomplete, erroneous, or false;

2. Fails in any respect to qualify to do business in the city under any federal, state or city law, rule or regulation;

3. Has committed such act or acts as may be grounds for revocation or denial of a license application under any federal, state or city law, rule or regulation; or

4. Investigation is required by city ordinance. (Ord. 12-13, 6-13-2012)

4-1B-5: CITY INSPECTION AUTHORITY:

A. New Business Premises Inspections: Prior to the issuance of a license to a person to engage in a new business not previously licensed under this title, the person or applicant shall, subject to constitutional limitations, permit inspections to be made of the prospective place of business by representatives of the appropriate departments of the city to ensure compliance with zoning, building, fire and health, and other codes, statutes, ordinances, and laws which may apply to the business and premises for which a license application was submitted. No license shall be granted without the approval of all such required inspections.

B. Periodic Inspection; Time To Correct: Places of business licensed within the city shall be inspected periodically by departments of the city, county or the state for compliance with zoning, building, fire and health codes. Written notice shall be given by a code enforcement officer ~~the business license authority~~ to a licensed person or business upon the finding of any code infractions, which shall provide for time ~~sixty (60) days~~ in which to correct such infractions, pursuant to title 16, unless the noncompliant issue constitutes a hazard or exigent circumstance requiring immediate remediation under law. Failure to bring the licensed premises into legal compliance may result in the revocation of the license by the city.

C. Identifying Violations: From time to time one or more agents of the city, including, but not limited to, police officers, code enforcement officers, and community enforcement officers, are authorized and required to enter and examine the physical locations and space occupied and used by any business or vehicle, for which a city license is required. They shall determine if such places of business, persons and vehicles are properly licensed and that no business, other than the one described in and covered by the license, is operating or transacting business. They may issue citations or otherwise enforce the law, and shall

advise the business license authority of each person doing business in violation of this title. (Ord. 12-13, 6-13-2012)

4-1B-6: LICENSE ~~NONTRANSFERABLE;~~ LIMITED TO LICENSED NAME ~~AND PREMISES~~:

~~A. No Transfer Of License: No license granted or issued under the provisions of this title shall be in any manner assignable or transferable unless authorized by the business license authority in writing; or authorize any person, other than is therein named, to do business; or authorize any other business, calling, trade or profession than is therein described to be done or transacted; or the business, calling, trade or profession therein described to be done or transacted, at any place other than is therein provided.~~

~~B. No Transfer Of Entity Ownership: If an entity is the licensee, the licensee may not transfer more than ten percent (10%) of the ownership interest in such entity within any two (2) year period without notice to and approval by the business license authority.~~

~~C. Duty To Use Name Identified In License Application:~~ It is unlawful for a business to do business under any name other than the business name specified in the application. (Ord. 12-13, 6-13-2012)

4-1B-7: LICENSE APPLICATION REQUIREMENTS:

A. ~~Written~~ Application: Applications for licenses and permits required by this title shall be made ~~in writing~~ online to the business license authority in the absence of provision to the contrary~~, which applications shall be made upon forms provided by the city~~. The application shall show:

1. Legal Name: The correct legal name of each applicant, corporation, partnership, limited partnership or entity doing business under an assumed name.

2. Doing Business Under Assumed Name: If the applicant is a ~~corporation, partnership, limited partnership, individual or~~ business entity doing business under an assumed name, submittal of the information required for individual applicants for each partner, principal, officer, director, and any shareholder (corporate or personal) of ~~more than twenty percent (20%)~~ fifty-one percent (51%) or more of the ownership interest ~~of the stock~~ of any applicant. Any ~~holding company or any~~ business entity holding ~~more than twenty percent (20%)~~ fifty-one percent (51%) or more of the ownership interest of an applicant shall be considered an applicant for purposes of disclosure under this article.

~~3. Signatories: Identification by all corporations, partnerships or noncorporate entities included on the application of each individual authorized by the corporation, partnership or noncorporate entity to sign the checks for such corporation, partnership or noncorporate entity.~~

4. Applicant Information: For all applicants, a statement of the business address, contact information, and other information requested of the forms provided by the business license authority which are not disallowed by law~~:~~

~~a. Any other names or aliases used by the individual;~~

~~b. The age, date and place of birth;~~

~~c. Present business address and telephone number (if applicable);~~

~~d. Present residence and telephone number; and~~

~~e. Utah driver's license, social security or identification number~~.

5. Age or Business Entity~~; Citizenship~~: Acceptable written proof that ~~an individual is at least twenty one(21) years of age and a U. S. citizen~~ each applicant is a person, as defined in section 4-1A-2, and is either (a) an individual and an adult, as defined in section 4-1A-2 of this code, or (b) a business entity, as defined in section 4-1A-2; provided that the business license authority is empowered to waive ~~this~~ the age requirement in appropriate cases.

~~6. Employment History: A statement of the business, occupation and employment history of the applicant for three (3) years immediately preceding the date of the filing of the application.~~

6~~7~~. License Type: The kind of license desired, stating in detail the business to be performed, practiced or carried on.

7~~8~~. License Class: The class of license desired, if the particular business activity has special licenses divided into classes.

8~~9~~. Place: The place where such business, calling, trade or profession is to be carried on, giving the street number if such business is to be carried on in any building or enclosure.

9~~10~~. Term: The period of time for which such license is desired to be issued (i.e., an ongoing business activity or a temporary business activity).

~~11. Convictions: Disclosure of all class B misdemeanor and higher criminal convictions for five (5) years prior to the application date and all felony criminal convictions for the applicant, individual or other entity subject to disclosure under this article. This disclosure shall include the date, place, nature of each conviction or plea of no contest, 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.~~

10~~12~~. Application Fee: A nonrefundable application fee in an amount adopted by the city council in its ~~uniform~~ consolidated fee schedule.

~~13. Additional Information:~~

~~a. The application may also request such additional information as may reasonably be needed to demonstrate that the applicant:~~

~~(1) Meets all requirements of applicable city ordinances, including requirements regarding unexpunged criminal convictions;~~

~~(2) Is not in default under the provisions of any city ordinance; and~~

~~(3) Is not overdue on any indebtedness or obligation owed to the city.~~

~~b. The application may also require information reasonably calculated to demonstrate that the proposed use of any premises by the applicant will not be in violation of city zoning regulations, that the principals of the applicant's business are properly bonded if bonding is required, and that the applicant will otherwise be in full compliance with all applicable city, state and federal laws and ordinances.~~

B. Accuracy And Veracity Required: The truthfulness, completeness and accuracy of all of information provided by an applicant shall be attested to by the applicant or an authorized representative thereof.

C. Misleading Prohibited: Failure to provide all required information or providing false or misleading information in the application shall constitute grounds for denial of the application or revocation of an existing permit or license, and shall constitute a misdemeanor, if done ~~wilfully~~ willfully with the intent to mislead the city.

D. Notice Of Change To Application Information: Any change in the information required to be submitted under this article for a business license shall be given in writing to the business license authority within fourteen (14) days after such change. (Ord. 12-13, 6-13-2012)

4-1B-8: FURNISHING FALSE INFORMATION:

It is unlawful for any person to ~~wilfully~~ willfully give the licensee or ~~his or her~~ the licensee's agents or employees false or misleading information which the licensee is required by this chapter to obtain from such person. (Ord. 12-13, 6-13-2012)

4-1B-9: APPLICATION NUMBERING AND FILING:

The license application, with any other accompanying documents ~~statements and bonds~~, shall be numbered by the business license authority in the manner deemed to be appropriate by the business license authority. ~~order in which they appear in the license supervisor's office and, after numbering, the bonds shall be filed in the office of the business license authority, and the applications shall be filed in the office of the business license authority in the order in which they are recorded in the business license master list. Each application shall bear its proper number and shall be filed in said office.~~ (Ord. 12-13, 6-13-2012)

4-1B-10: ENGAGING IN BUSINESS PROHIBITED DURING INVESTIGATION:

It is unlawful for any person applying for a business license which requires investigation by the business license authority to engage in the business for which license application is made, until such investigation is completed and the license approved and issued. (Ord. 12-13, 6-13-2012)

4-1B-11: ~~APPLICANT INVESTIGATION~~ [Reserved]:

~~A. Investigation: The business license authority may, prior to the issuance of any business license required by this title, investigate any applicant for such license, if there is reasonable cause to believe that the applicant:~~

~~1. Has filed an application which is incomplete, erroneous or false in any respect;~~

~~2. Fails in any respect to qualify to do business in the city under any federal, state or city law, rule or regulation; or~~

~~3. Has committed such act or acts as may be grounds for revocation or denial of a license application under any federal, state or city law, rule or regulation; or~~

~~4. Investigation is required by city ordinance.~~

~~B. Documents And Witnesses: The business license authority may compel the production of documents and witnesses in order to conduct such investigation as provided by this section.~~ (Ord. 12-13, 6-13-2012)

4-1B-12: ISSUANCE OF LICENSE:

A. License Issuance: Within thirty (30) days after receiving a completed application and completion of any needed investigation, or as in law specifically required, the business license authority shall issue the license, provided all fees are paid and legal requirements met, or shall deny the license if the legal requirements are not met.

B. Formal Requirements: All ~~certificates of~~ licenses shall be signed by the business license authority, which may be by ~~facsimile~~ electronic signature, and shall contain the following information:

1. The name of the person to whom such ~~certificate~~ license has been issued;

2. The kind of license, and the class of license, if such licenses are divided into classes;

3. The term of the license, stating the commencing date and the expiration date.

C. Issuance Approval: No new business license ~~certificate~~ which requires inspection or approval of any department of city government, whether new or renewal, shall be delivered or mailed to the applicant, until all legal requirements for the issuance or renewal have been met. (Ord. 12-13, 6-13-2012; amd. Ord. 15-22, 8-25-2015)

4-1B-13: INDEX OF LICENSED PERSONS AND BUSINESSES:

The business license authority shall keep a registry containing the names of the businesses and persons holding business licenses. (Ord. 12-13, 6-13-2012)

4-1B-14: LICENSE AVAILABLE FOR INSPECTION ~~POSTING AND DISPLAY REQUIRED~~:

Each license shall be available for inspection during business hours. ~~Every certificate of license issued shall be posted by the applicant in a conspicuous place upon the wall of the building, room or office of the store or place in which such licensed business is carried on, so that the same may be easily seen, and when such certificate of license shall have expired or be revoked or suspended, it shall be removed by the applicant from such place in which it has been posted; and no certificate of license which is not in force and effect shall be permitted to remain posted upon the wall or any part of any room, store, office or place of business after the period of such certificate or license has expired. It shall be the duty of each and every person and business holding a business license from the city to show the license certificate at any proper time when requested so to do by any police officer or license inspector. Any person holding a separate business license must have such license on their person at all times during the business activity.~~ (Ord. 12-13, 6-13-2012)

4-1B-15: ~~EXEMPTIONS FOR NONPROFIT BUSINESSES, ORGANIZATIONS AND OTHER ENTITIES~~ [Reserved]:

~~The provisions of this title shall not be deemed or construed to require the payment of a license fee for the issuance of a license to any institution or organization which is conducted, managed or carried on wholly for the benefit of charitable purposes from which profit is not derived, directly or indirectly, by any person; nor shall the payment of a license fee be required to issue a license for the conducting of any entertainment, concert, exhibition or lecture whenever the receipts from such are to be appropriated to any church, school, governmental entity, or nonprofit organization.~~ (Ord. 12-13, 6-13-2012)

4-1B-16: LICENSE FEES:

Annual license and other fees shall be those periodically adopted by the city council in its ~~uniform~~ consolidated fee schedule. (Ord. 12-13, 6-13-2012)

4-1B-17: LICENSE YEAR; FEE PAYMENTS ~~AND PRORATIONS~~:

A. Fees To Be Paid In Advance In U.S. Legal Tender: All license fees shall be paid in advance in legal tender of the United States ~~at the main office of~~ in any manner allowed by the city.

B. License Year; Renewal Date~~; Prorations~~:

1. License Year; Good Landlord Program: Except for any first year prorations, a "license year" will run for twelve (12) consecutive calendar months following the date of commencement and end on the last day of the twelfth month. Notwithstanding the foregoing, participants in the city's "good landlord" program, governed by chapter 2, article R of this title, must renew their good landlord certification every four (4) years and provide the business license authority with a copy of the certificate of completion, and thus good landlord certification will run for forty eight (48) consecutive calendar months.

2. Administratively Assigning License Year Dates: Annual licenses issued pursuant to this title need not be issued on a calendar year basis. ~~In order to have city licenses come due for renewal and spread city administrative handling of license issuance and renewals in a roughly uniform basis throughout the calendar year, the business license authority shall cause the city to be divided into four (4) geographic quadrants that are periodically established to equalize estimated licensing activity in the city into fourths. Each geographic quadrant will be assigned a month of commencement. Licenses issued within each quadrant shall commence on the first day of that quadrant's designated commencement month, also known as the "renewal date", as follows: quadrant A, July; quadrant B, October; quadrant C, January; and quadrant D, April. Licenses for preschools and daycares will not use the geographic quadrant system.~~

~~3. Pro Rata Charges For Initial License Period: The initial license period shall run from the first day of the month the license was issued through the last day of the month immediately preceding the applicable quadrant's renewal date. The first year's annual license fee shall be reduced on a pro rata basis, for each quarter of a year for which the license was not in effect. Any partial quarter or three (3) month period of the license year in which the initial license was granted shall be counted as a period for which full pro rata payment is required. This pro rata payment shall be administered so that a license applicant shall pay a percentage of the annual license fee periodically established in the city council uniform fee schedule, computed on a license year quarter, as follows:~~

~~a. One hundred percent (100%) for a license issued in the first three (3) calendar months of the initial license year;~~

~~b. Seventy five percent (75%) for a license issued in the second three (3) calendar months of the initial license year;~~

~~c. Fifty percent (50%) for a license issued in the third three (3) calendar months of the initial license year; and~~

~~d. Twenty five percent (25%) for a license issued in the fourth three (3) calendar months of the initial license year.~~

~~4. Renewal License Fee: Following the pro rata payment, renewal license fees shall be for a full twelve (12) month license year period.~~

C. Payments: Each license fee shall be paid at the time of an application's filing, whether as a new or a late renewal application. The application shall not be processed until the fee is paid. (Ord. 12-13, 6-13-2012; amd. Ord. 15-22, 8-25-2015)

4-1B-18: LATE PAYMENT PENALTY AND CONSEQUENCES:

A. Late Renewal Fee Penalties: If a license renewal fee is not paid by the due date, a penalty in the amount provided in the ~~uniform~~ consolidated schedule of fees and service charges shall be added to the original amount.

B. Duty To Cease Business Operations: Any person holding a business license from the city whose license renewal fee and accrued penalties remain unpaid for thirty (30) calendar days from the original due date shall terminate business operations. No business shall be conducted thereafter by such person, ~~unless and~~ until:

1. The business license authority approves a reinstatement application or petition for renewal of a license following payment of all overdue fees and costs; or

2. A new license application is filed and a new license issued by the business license authority.

C. Initial Fee Nonpayment Penalty: When any person engages in any business or occupation requiring a license and fee by the provisions of this title, or engages in any additional activities which require an additional license and fee, without first paying the required license fee, a penalty in the amount provided in the ~~uniform~~ consolidated schedule of fees and service charges shall be added to the original amount thereof.

D. Collection: All penalties provided for in this section shall be collected by the business license authority and the payment thereof shall be enforced by him or her in the same manner as the license fees are collected and payment enforced.

E. No License Issuance: No license shall be issued, until all penalties legally assessed have been paid in full.

F. Other Enforcement Not Precluded: Nothing in this section shall be construed to prevent or in any manner interfere with the enforcement of any criminal or civil penalty provision contained in any other title of this code, including, but not limited to, those provisions pertaining to operation of businesses without a current and valid business license. (Ord. 12-13, 6-13-2012; amd. Ord. 15-22, 8-25-2015)

4-1B-19: FEE EXEMPTIONS FOR BUSINESSES ~~OPERATING FOR PROFIT~~:

Although they shall apply in all respects for the obtaining of a business license pursuant to this title, the following persons are exempt from the payment of license fees:

A. Building Contractors: Building contractors having no retail product sales and who pay construction permit fees, pursuant to applicable city ordinances, but do not have an actual

business location within city limits. However, contractors who operate a construction business from a home located within the city are not exempt.

B. Insurance Companies: Insurance companies paying license fees to the state pursuant to the provisions of Utah Code Annotated title 31A, chapter 1, or any successor provisions.

C. Nonprofit/Charitable Organizations: The provisions of this title shall not be deemed or construed to require the payment of a license fee for the issuance of a license to any institution or organization which is conducted, managed or carried on wholly for the benefit of charitable purposes from which profit is not derived, directly or indirectly, by any person; nor shall the payment of a license fee be required to issue a license for the conducting of any entertainment, concert, exhibition or lecture whenever the receipts from such are to be appropriated to any church, school, governmental entity, or nonprofit organization. (Ord. 12-13, 6-13-2012)

4-1B-20: MISTAKES IN FEE CALCULATIONS:

In no event shall any mistakes made by an applicant or the city in the calculation of a license fee prevent or prejudice the collection by the city of the amount actually due from any person subject to licensing under this title. Likewise, no such mistakes shall prevent or prejudice the refund to licensees of amounts overpaid by reason of mistakes. (Ord. 12-13, 6-13-2012)

4-1B-21: DEVIATIONS PROHIBITED:

No greater or lesser amounts shall be charged or received for licenses, and no license shall be issued for any period of time other than as specifically provided in this title. (Ord. 12-13, 6-13-2012)

4-1B-22: LICENSE FEE COLLECTION; CIVIL ACTIONS AUTHORIZED:

A. Civil Actions: In all cases where a city ordinance requires that a license be obtained to carry on or to engage in any business, occupation or calling within the city, and a fee for such license is authorized by ordinance, and the fee is not paid at the time or in the manner provided in said ordinance, a civil action may be brought in the name of the city against the person failing to pay such license fee, in any court of this state having jurisdiction of such action, to recover the fee and any penalty due, together with reasonable attorney fees and reasonable costs of collection. In any case where several or diverse amounts of license fees remain due and unpaid by any such person, such several amounts of unpaid license fees may be joined as separate causes of action in the same complaint in such civil actions. The provisions of title 16 may be utilized, as applicable.

B. Other Enforcement: Nothing in this section shall be construed to prevent or in any manner interfere with the enforcement of any penalty provision contained in any

ordinance of the city, or to prevent or in any manner interfere with the use of any remedy available to the city. (Ord. 12-13, 6-13-2012)

4-1B-23: REFUNDS:

No refund shall be made for any fee paid for a license issued pursuant to this title, unless the fee paid was incorrect due to a calculation error or not legally owed under the provision of this title. (Ord. 12-13, 6-13-2012)

4-1B-24: NO LICENSE TRANSFERS; AND CHANGE OF LICENSE INFORMATION:

~~Upon the written consent of the business license authority endorsed on the license, licenses issued pursuant to the provisions of this title may be transferred from one place of business to another, provided the business or person holding the business license remains the same and the nature of the business is unchanged. A transfer fee shall be paid in a sum established periodically by the city council in its uniform fee schedule.~~ No transfers of licenses are allowed. Any change of ownership, business name, address, or other main license information shall require a new application for a new license. (Ord. 12-13, 6-13-2012)

4-1B-25: DESIGNATION OF AGENT FOR SERVICE OF PROCESS:

A. Duty To Designate Service Of Process Agent: Before any business license shall be issued to a person, the applicant shall file with the business license authority an instrument naming a true and lawful agent of such applicant with full power and authority to accept service or notice of process for or on behalf of such applicant with respect to any matters connected with or arising in connection with such license, which agent, for an individual, can be him or herself. The instrument shall also state that applicant for the license consents and agrees that any service or notice of process shall be made upon the agent and when so made shall be taken and held to be valid, as if personally served upon the applicant according to the laws of this or any other state, waiving all claim or right of error by reason of such acknowledgment of service or manner of service. (Ord. 12-13, 6-13-2012)

4-1B-26: RECORDKEEPING REQUIRED:

Every person liable for the payment of any license fee imposed by this title shall keep all records required by law ~~for three (3) years records which accurately state the amount of such person's gross annual sales of goods and services. Such records shall also state the number of employees of the business in a manner and format which reasonably permits the amount of any license fee for which such person to be liable under the provisions of this title may be determined~~. (Ord. 12-13, 6-13-2012)

4-1B-27: ~~ILLEGALITY OR DECEPTIVE ARTIFICES:~~ [Reserved]

~~Notwithstanding anything else in this title, the business license authority shall not issue a business license for any business or business activity which would, in the reasonable opinion of the business license authority:~~

~~A. Involve the violation of any city ordinance, county ordinance, state statute or federal statute, or lawful regulations issued under such ordinances or statutes;~~

~~B. Involve activities, under the guise of conducting a legitimate business, which are fraudulent or deceptive.~~ (Ord. 12-13, 6-13-2012)

4-1B-28: HOURS OF OPERATION:

A. Duty To Post Operating Hours: Every licensed business in the city is required to post in plain sight, clearly visible by all participants, the relevant operating hours of said place of business.

B. Curfew Law Applicable: Any business accepting or catering to minors shall not be operated in a manner contrary to the curfew provisions of any applicable state, county or municipal curfew statutes. (Ord. 12-13, 6-13-2012)

4-1B-29: ~~DEALING WITH CERTAIN PERSONS PROHIBITED~~ [Reserved]:

~~It is unlawful for any person licensed pursuant to this article, or any employee of any person licensed pursuant to this article, to receive any items from a person who is under eighteen (18) years of age, without the written consent of the parent or guardian of such person, or who is either intoxicated or obviously mentally deficient.~~ (Ord. 12-13, 6-13-2012)

4-1B-30: LICENSE TERMINATION FOLLOWING CESSATION OF OPERATIONS:

Any business license issued pursuant to this article will expire no later than ten (10) calendar days following the continuous closure or cessation of business operations for which the license was issued, except when cessation or closure is required to repair damage caused by flood, fire, earthquake or other natural disaster. (Ord. 12-13, 6-13-2012)

4-1B-31: ~~EQUIVALENT ALTERNATIVE METHODS OF REGULATION:~~ [Reserved]

~~A. City Administrator Alternate Regulatory Rules: Whenever a person regulated under this chapter and/or chapter 2 of this title alleges that specified requirements are impracticable or excessively burdensome as applied to such person, s/he may file with the~~

~~city administrator a written petition setting forth such allegations and presenting suggested methods of regulation of such person by the city in lieu of enforcement of the specified requirements of this chapter so objected to. The city administrator may either approve or deny the proposed alternative methods of regulation proposed by the petitioner or may approve other alternative methods of regulation. Upon approval by the city administrator, such alternative regulation shall be as obligatory upon the petitioner as if such had been specific requirements set forth in this chapter, the violation of any of which alternate regulations shall be a misdemeanor.~~

~~B. Standards For Approval: The standard for approval of any such alternative regulation shall be that they are equivalent to the existing requirements which they would supplant, in meeting the objectives of enhancing and protecting the public health, safety and welfare, including, but not limited to, inhibiting theft and trafficking of stolen merchandise and providing adequate opportunity for examination by the police of suspect transactions.~~
(Ord. 12-13, 6-13-2012; amd. Ord. 19-47, 12-04-2019, Effective at 12 noon on January 6, 2020; Ord. 21-04, 2-10-2021)

ARTICLE C. DENIAL, SUSPENSION, REVOCATION; ~~LICENSE DENIAL APPEAL BOARD~~ LICENSE APPEAL AUTHORITY

SECTION:

4-1C-1: Denial Of A Business License

4-1C-2: Revocation Or Suspension Of License

4-1C-3: Procedure For Suspension Or Revocation

4-1C-4: Effect Of Revocation And Suspension

4-1C-5: ~~License Denial Appeal Board~~ License Appeal Authority Established

4-1C-6: ~~Authority And Duties Of Board~~ Administrative Law Judge as the License Appeal Authority

4-1C-7: Filing An Appeal Of A Denial, Suspension, or Revocation

4-1C-8: Appeal Hearing

4-1C-9: Decision Of ~~License Denial Appeal Board~~ the License Appeal Authority

4-1C-10: Appeal Of ~~License Denial Appeal Board~~ a License Appeal Authority Decision

4-1C-11: Licensing After Revocation

4-1C-12: Validity Of Business License During Appeal

4-1C-1: DENIAL OF A BUSINESS LICENSE:

A. Reasons For Denial: After a person has made application to the city for a business license, including a renewal of an existing business license, the application may be denied for any lawful reason, including, but not limited to, the following reasons:

1. The business will be involved in activities that will violate a city, county, state or federal law or regulation;

2. The business will be involved in activities on the licensed premises which would constitute a public nuisance, or otherwise a menace to the health, welfare and peace of the city;

3. The business would involve activities by patrons of the business or business activity where it could be shown the patrons are reasonably likely to constitute a public nuisance, or to commit violations of law;

4. The business is not in compliance with the city zoning standards or requirements applicable to the licensed premises;

5. Issuance of the license would result from fraud or misrepresentation of a material fact in the procurement of or application for the license;

6. The business or its employees will be undertaking activities which would constitute grounds for revocation or suspension of a business license; or

7. Issuance of the license will jeopardize or unreasonably endanger the public health, safety or welfare, or the safety or welfare of any individual, because the applicant or a key employee:

a. Does not possess the requisite state or federal licensing to conduct the business activity for which the city license is applied;

b. Does not possess the required training, experience, professional degrees or licensing normally required for or associated with such business activity;

c. Has been guilty of unprofessional conduct, as proscribed by applicable statute or regulation or by applicable regulations or standards of conduct promulgated by the professional association or regulatory agency normally associated with that business activity;

d. Has been criminally convicted of a class B misdemeanor or greater offense and the criminal conviction bears a substantial relationship to the applicant's or licensee's ability to safely, competently, or legally practice the occupation, profession, or type of business or is subject to one or more "disqualifying factors" (as defined in ~~article A of this chapter~~ section 4-1A-2); or

8. For a new application, nonpayment of ~~a returned check for~~ the required license fees at the time the application is made. For a renewal application, nonpayment of the required license renewal fees, plus any penalty due under this title;

9. One of the reviewing departments or divisions of the city, whose approvals are required under law has lawfully disapproved the application pursuant to any applicable provision of the city code or other applicable law;

10. False, or misleading, or incomplete information given on the application;

11. Noncompliance with any requirement or condition imposed in a conditional use permit, a variance or a special exception in connection with any location of the proposed business activities;

12. Noncompliance with any ~~City, State or Federal Statutes~~ city, state or federal statutes or any Health Department regulations governing the applicant's proposed business.

B. Refusal To Renew: The ~~City~~ city may refuse to renew the business license based on any of the grounds provided for revocation or suspension of a license in this title arising at or before the time of the submittal and consideration of a license application. (Ord. 12-13, 6-13-2012)

4-1C-2: REVOCATION OR SUSPENSION OF LICENSE:

A. License Revocable: Under the provisions of this title, the issuance of a license grants only a revocable privilege to engage in business and confers no vested rights of any kind or nature upon the business or person holding the business license.

B. Revocation Or Suspension: Every business license issued by the ~~City~~ city may be revoked or suspended for:

1. Substantiated report of any violation by the licensed person or business or by an agent, officer, employee, or invitee of any provisions of this title or any other applicable ordinance or law governing the business or activity. The person or business holding a business license shall be strictly responsible for the operation of the business or activity in conformance with all applicable laws;

2. Substantiated report of fraud or misrepresentation of a material fact in the procurement of the license;

3. Failure to pay when due any license fee, tax, charge and/or penalty provided in ~~State Statute~~ state statute or ~~City~~ city ordinance;

4. Substantiated report of the violation of ~~City~~ city ordinance or ~~Federal~~ federal or ~~State Statute~~ state statute relating to the licensed business and resulting from the conduct of such business or activity;

5. Substantiated report of any condition or conduct at or in connection with the business;

6. Substantiated report of using or possessing for use a false weight or measure or any other device for falsely determining or recording any quantity or quality;

7. Substantiated report of selling, offering or exposing for sale products or commodities which vary from the standard of composition or quality described in connection with the offer or sale;

8. Substantiated report of activities at or in connection with the business, which are fraudulent or deceptive;

9. Substantiated report of failure of the applicant to retain the legal qualifications necessary for the business license, including the continuing absence of "disqualifying factors" (as defined in ~~article A of this chapter~~ section 4-1A-2); or

10. Substantiated report of failure to properly maintain operational business records and other records required in this title for inspection and audit by the ~~City~~ city.

C. Pendency Of License: The ~~City~~ city may revoke or suspend a license for any of the grounds listed for denying a license application or a renewal application in this chapter arising during the pendency of a business license. (Ord. 12-13, 6-13-2012)

4-1C-3: PROCEDURE FOR SUSPENSION OR REVOCATION:

The business license authority may prosecute a suspension or revocation administratively as provided in title 16 of this ~~Code~~ code, and/or as a Class B misdemeanor. (Ord. 12-13, 6-13-2012)

4-1C-4: EFFECT OF REVOCATION AND SUSPENSION:

A. If the license is revoked, no new application shall be considered by the business license authority until expiration of the time period, in any event not less than one year, specified in the order of revocation.

B. A suspension shall be for a period not exceeding six (6) months, following which the license shall be reinstated. Should the license be under suspension at the time the license would have otherwise been renewed or renewable, the license shall not be renewed until expiration of the period of time imposed on the original suspension. (Ord. 12-13, 6-13-2012)

4-1C-5: ~~LICENSE DENIAL APPEAL BOARD~~ LICENSE APPEAL AUTHORITY ESTABLISHED:

The ~~administrative law judge~~ license appeal authority shall hear and decide all appeals of license denials, suspensions, revocations, and similar actions (collectively referred to as "appeals"). The license appeal authority shall have authority to hear evidence in all appeals referred to the license appeal authority and, after an appeal hearing, shall prepare a written decision and order, as provided in this title and in title 16. ~~Whether as an individual or when constituted of more than one person, the person or persons~~ The individual designated to hear an appeal shall hereafter be designated as the ~~license denial appeal~~

~~board~~ license appeal authority. (Ord. 12-13, 6-13-2012; amd. Ord. 19-47, 12-04-2019, Effective at 12 noon on January 6, 2020; Ord. 21-04, 2-10-2021)

4-1C-6: ~~AUTHORITY AND DUTIES OF BOARD~~ ADMINISTRATIVE LAW JUDGE AS THE LICENSE APPEAL AUTHORITY:

~~The license denial appeal board shall have authority to hear evidence in all business license denial matters referred to the board and, after such hearing, shall prepare a written decision and order, as provided herein.~~ Unless the mayor retains by contract another individual to fulfill the responsibilities of the license appeal authority set forth in this title, the administrative law judge, identified in title 16, shall be and shall fulfill all the responsibilities of the license appeal authority. (Ord. 12-13, 6-13-2012)

4-1C-7: FILING AN APPEAL OF A DENIAL, SUSPENSION, OR REVOCATION:

Appeals of a business license authority's decision to deny, suspend, or revoke a business license may be made by filing a written notice of appeal with the city recorder, within fifteen (15) days of receipt of the notice of denial, suspension, or revocation. The appeal notice shall contain a specific and detailed explanation of the alleged mistake made by the business license authority and a specific statement of the relief desired. (Ord. 12-13, 6-13-2012; amd. Ord. 19-47, 12-04-2019, Effective at 12 noon on January 6, 2020; Ord. 21-11, 3-24-2021)

4-1C-8: APPEAL HEARING:

A. Hearing Date And Time: All hearings shall be conducted at a time, place and day set by the ~~license denial appeal board~~ license appeal authority through a written notice of hearing provided to all parties. The hearing shall be scheduled ~~to occur no sooner than four (4) working days and no later than twenty (20) working days following the city recorder's receipt of the notice of appeal~~ and held pursuant to title 16.

B. City ~~Attorney~~ To Present Case: At the hearing, a representative from the city ~~attorney's office or another~~ or designee of the business license authority shall present the reasons for the decision to deny, suspend, or revoke the license.

C. Licensee Presentation: The applicant, in person or through ~~his or her~~ the applicant's attorney, may then present any evidence and/or argument showing reason why the business license authority's decision was in error.

D. Sworn Witnesses: All witnesses, if any, shall be sworn to testify truthfully. Either party is entitled to confront and cross examine any witnesses.

E. Evidentiary Rules: ~~Any oral or documented evidence may be received, but the license denial appeal board shall exclude all privileged, irrelevant, immaterial, or unduly~~

~~repetitious evidence.~~ The license appeal authority shall apply the evidentiary rules identified in title 16.

F. Grounds For Decision Under Review: If the denial appealed is based on a determination of the business license authority that sufficient grounds existed under city, state or federal law, the ~~license denial appeal board~~ license appeal authority may reexamine the factual nature of the grounds and determine whether they are sufficient to sustain the decision of the business license authority.

G. ~~Board~~ License Appeal Authority Lacks Authority To Waive Compliance With Requirements: The ~~license denial appeal board~~ license appeal authority does not have the authority to waive compliance with ~~applicable provisions of this title, nor can the license denial appeal board~~ or to extend deadlines set forth in this title or in title 16, except as specifically identified therein.

H. Preponderance Of Evidence Standard Of Review: All factual determinations made by the ~~license denial appeal board~~ license appeal authority shall be supported by a preponderance of the evidence, presented to the ~~license denial appeal board~~ license appeal authority during hearing proceedings. (Ord. 12-13, 6-13-2012; amd. Ord. 21-11, 3-24-2021)

4-1C-9: DECISION OF ~~LICENSE DENIAL APPEAL BOARD~~ THE LICENSE APPEAL AUTHORITY:

A. Date Decision Due; Findings: The ~~license denial appeal board~~ license appeal authority, after hearing all the evidence, shall announce its decision within ~~seven (7)~~ fourteen (14) calendar days from the date of hearing, unless for good cause, it extends the time for rendering a decision. The ~~board~~ license appeal authority may affirm or reverse the decision of the business license authority, and may remand the matter for further action by the business license authority. The decision shall be in writing and shall be based upon findings of fact and conclusions of law. The ~~board~~ license appeal authority may designate that the prevailing party draft the findings of fact and order. If the prevailing party drafts the decision, the opposing party shall have five (5) working days from the date the draft is submitted within which to file objections to the draft. Upon resolution of all objections to the draft, the ~~board~~ license appeal authority shall issue its decision.

B. Service Of Appeal Decision: The decision of the ~~license denial appeal board~~ license appeal authority shall be delivered to the applicant by mail, postage prepaid, by electronic means, or by personal service, at the discretion of the ~~board~~ license appeal authority.

C. Reversal Of Decision: The denial of the license shall be reversed by the ~~appeals officer~~ license appeal authority if, upon review of the written appeal and information submitted, the ~~appeal board~~ license appeal authority finds that the licensing officer made a material mistake of law or fact in denying or suspending the applicant's or registered solicitor's ~~certificate~~ license.

D. Affirmation Of Decision: If the written appeal and information submitted indicates that the licensing officer properly denied a license the denial shall be affirmed.

E. Administrative Exhaustion Of Remedies: After the ruling of the ~~appeal board~~ license appeal authority, the applicant or solicitor is deemed to have exhausted all administrative remedies with the city. (Ord. 12-13, 6-13-2012)

4-1C-10: APPEAL OF ~~LICENSE DENIAL APPEAL BOARD~~ A LICENSE APPEAL AUTHORITY DECISION:

The ~~license denial appeal board's~~ license appeal authority's decision may be appealed by the applicant or the city to the district court within thirty (30) days from the date on which the ~~board's~~ license appeal authority's written decision is issued. (Ord. 12-13, 6-13-2012)

4-1C-11: LICENSING AFTER REVOCATION:

A person, whose business license has been revoked, may not be issued a new license for a period of twelve (12) months following the revocation. (Ord. 12-13, 6-13-2012)

4-1C-12: VALIDITY OF BUSINESS LICENSE DURING APPEAL:

A. Right To Operate During Appeal: A person or business holding a business license subject to an order of the business license authority suspending or revoking the license may continue to legally operate the licensed business in compliance with federal, state and all other local laws pending a final decision on appeal, or until the time for appeal has passed, whichever event occurs first.

B. No Right To Operation Without Valid License Having Been Issued: An applicant for a currently unlicensed business shall not operate, and it shall be unlawful for any person to conduct business for which a license is required at the premises until a valid business license is issued, notwithstanding the city's denial of that license has been appealed. (Ord. 12-13, 6-13-2012)

ARTICLE D. ENFORCEMENT

SECTION:

4-1D-1: Powers And Duties Of Police And Inspectors

4-1D-2: Penalties For Violation

4-1D-3: Effect Of Conviction; Prosecution Not Barred

4-1D-4: Injunction

4-1D-5: Liability For Acts Of Employees

4-1D-1: POWERS AND DUTIES OF POLICE AND INSPECTORS:

A. Authorized Enforcement Personnel:

1. All police officers, community enforcement officers, code enforcement officers, and ~~City~~ city building inspectors are appointed to act as business license inspectors, and are empowered and required to examine all places of business and persons who are required to have a business license and to determine if ~~posted~~ licenses are valid and ~~displayed in a conspicuous place within the place of business, as required by law~~ available for inspection.

2. Police officers and inspectors shall have and exercise the power to enter free of charge, during normal business hours, any place open to the general public and for which a license is required. They may require the exhibition of a current license by any person engaged or employed in the conduct of such business.

B. Duty To Enforce: It shall be the duty of the ~~City~~ city police officers, community enforcement officers, code enforcement officers, and the ~~City~~ city building inspectors, as well as the ~~City~~ city business license authority, to cause complaints to be filed against all persons violating any of the provisions of this title. Enforcement against pawnshops is limited as provided in Utah Code section 13-32a-112.5. (Ord. 12-13, 6-13-2012)

4-1D-2: PENALTIES FOR VIOLATION:

A. Administrative Fines And Penalties: If the ~~City Council~~ city council so authorizes, the ~~business license authority~~ license appeal authority may assess administrative penalties for violations of this title. ~~Such penalties shall not exceed five hundred dollars ($500.00) for each violation.~~

B. Violation: Any violation of this title may be prosecuted administratively as provided in title 16 of this ~~Code~~ code, and/or as a Class B misdemeanor.

C. Each Sale Without A License Is A Separate Offense: The sale of each article by a temporary merchant, a temporary merchant sponsor or a participant, without a license

therefor, shall be a separate offense under and a separate violation of this title. (Ord. 12-13, 6-13-2012)

4-1D-3: EFFECT OF CONVICTION; PROSECUTION NOT BARRED:

The conviction and punishment of any person for transacting business without a license shall not excuse or exempt such person from the payment of any license fees, penalties or fines due or unpaid at the time of such conviction, and nothing in this title shall prevent a criminal prosecution for any violation of the provisions of this title. (Ord. 12-13, 6-13-2012)

4-1D-4: INJUNCTION:

An entity or individual who operates or causes to be operated a business without a valid license in violation of the provisions of this chapter is subject to a suit for an injunction in addition to the civil and criminal violations provided in this chapter and any other remedy available at law or in equity. (Ord. 12-13, 6-13-2012)

4-1D-5: LIABILITY FOR ACTS OF EMPLOYEES:

The holder of a ~~City~~ city business license is strictly liable for any and all acts of ~~his or her~~ the holder's own employees and for any violation by them of any provisions of this title. (Ord. 12-13, 6-13-2012)

Attachment 2

[Attachment to ORDINANCE NO. 23-12

AN ORDINANCE AMENDING THE 2009 WEST JORDAN CITY CODE (GENERAL BUSINESS REGULATIONS AND LICENSING REQUIREMENTS; AMENDING CITY CODE SECTIONS 4-1A-1 THROUGH 4-1D-5 INCLUSIVE)]

Clean Version:

TITLE 4

BUSINESS AND LICENSE REGULATIONS

CHAPTER 1
GENERAL BUSINESS REGULATIONS AND LICENSING REQUIREMENTS

ARTICLE A. GENERAL PROVISIONS

SECTION:

4-1A-1: Purpose

4-1A-2: Definitions

4-1A-3: Applicability Of This Chapter

4-1A-4: General Business And Special Business Licenses Needed

4-1A-1: PURPOSE:

Pursuant to its inherent police powers within statutory authority granted by the state to protect the health and welfare of its residents and businesses, the city intends by this title to regulate and license businesses and occupations undertaken and operating within its corporate limits; to maintain a current index of licensed businesses and occupations; and to raise revenues sufficient, among other things, to offset the costs of administering this title by imposing license fees upon such businesses and occupations. (Ord. 12-13, 6-13-2012)

4-1A-2: DEFINITIONS:

The following words, terms, and phrases, when used in this title, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning. The definitions in this section are also applicable to all subsequent chapters in

this title. For words, terms, and phrases which are not defined in this title, the definitions in sections 13-2-3 or 17-1-6 or elsewhere in this code or in the Utah Code Ann. shall have the meanings ascribed to them in those sections in this code or in the Utah Code Ann., except where the context clearly indicates a different meaning; these definitions may also be used to supplement the definitions in this title.

Unless otherwise indicated, the definitions found within the Utah alcoholic beverage control act, Utah Code Ann. title 32B, are incorporated into this chapter as though set forth in their entirety. In addition to these definitions, the following words and phrases used in this chapter shall have the following meanings unless a contrary meaning is clearly indicated. The definitions in this section are also applicable to all other chapters in this title.

ACCESSORY DWELLING UNIT: A separately leasable dwelling unit on a subdivided lot that is incidental to the principal dwelling unit, as further described in title 13.

ADULT: A person who is either: (a) “emancipated” pursuant to the definition in Utah Code Ann. section 80-7-102 or successor provisions; or (b) age eighteen (18) years of age or older; and who is not the subject of a court order for guardianship which limits the person’s rights. For purposes of alcohol, tobacco, and other substances, the applicable definitions in the Utah Code Ann. should be used.

AGREEMENT: Unless otherwise indicated, the binding agreement entered with the city as part of the good landlord program.

ALCOHOLIC BEVERAGE (AND RELATED TERMS): See the definitions found within the Utah alcoholic beverage control act, Utah Code Ann. title 32B, and in section 17-1-6 of this code.

APPLICANT: A person possessing a business license from the city, and any person seeking a business license from the city. If the application is made by a business entity (as defined in this section) doing business under an assumed name, each partner, principal, officer, director, manager, assistant manager, and any shareholder (corporate or personal) of fifty one percent (51%) or more of the stock of the business entity shall also be considered an applicant. Any holding company or any entity holding fifty one percent (51%) or more of an applicant shall be considered an "applicant" for purposes of this title.

APPLICATION: The completed forms provided by the business licensing authority with all attachments required by this title for the issuance of a permit or license.

BCI BACKGROUND CHECK: An original or copy, dated no older than one hundred eighty (180) days prior to the date of the application, of either:

A. A Utah department of public safety bureau of criminal identification, verified criminal history report personal to the applicant;

B. Verification by the Utah department of public safety bureau of criminal identification that no criminal history rising to the level of a “disqualifying factor” (pursuant to the definition in this section or any other applicable meaning) status exists for the applicant; or

C. A government-issued and verified criminal history report form the applicant’s current state of residence or recent state of residence.

BUSINESS: Means and includes:

A. All activities, trades, professions or callings undertaken, operated or engaged in within the corporate limits of the city of West Jordan carried on for the purpose of economic gain or economic benefit, except that the acts of employees rendering service to employers shall not be included in the term "business" unless otherwise specifically prescribed.

B. As used in this title, the owning and operating of one or more residential rental units, whether a single-family home, a residential dwelling complex (such as a duplex, triplex or larger apartment complex) or mobile home park, or otherwise, for economic gain, economic benefit, or personal benefit shall be deemed to be a business.

C. Activities, trades, professions or callings undertaken, operated, or engaged in for the purpose of economic gain, economic benefit, or personal benefit within the confines of a individual's residence building or within or from an ancillary structure on the same property as the individual's building will constitute a "business" subject to the requirements of this title.

D. There is no regulatory distinction in this title between a "business" and an "occupation". Both are a "business".

BUSINESS ENTITY: A specific partnership, limited partnership, corporation, association, limited liability company, or other entity, but not a "dba", listed as "active" and "current" on the Utah division of corporations' business entity website or the equivalent website of another state or territory of the Unites States of America.

BUSINESS LICENSE AUTHORITY: The city administrator or an authorized designee.

CHARITABLE ORGANIZATION (AND RELATED TERMS): See the definitions in Utah Code Ann. section 13-22-2, or successor provisions.

CITY ADMINISTRATOR: The city administrator of the city.

COMMUNITY LOCATION (AND RELATED TERMS):

See the definitions in:

A. For alcoholic beverages, Utah Code Ann. section 32B-1-102, or successor provisions;

B. For cannabis production establishments, Utah Code Ann. section 4-41a-102, or successor provisions;

C. For medical marijuana, Utah Code Ann. section 26-61a-102, or successor provisions;

D. For retail tobacco specialty business, Utah Code Ann. sections 10-8-41.6 and 17-50-333, or successor provisions; and

E. For tobacco, electronic cigarette, and nicotine product retail permits, Utah Code Ann. section 26-62-102, or successor provisions.

COMPETENT INDIVIDUAL: An individual claiming or appearing to be at least eighteen (18) years of age and of sufficiently sound mind and body, to be able to engage in rational thought, conversation, and conduct.

COMPLETED APPLICATION: A fully completed application form; a BCI check; two (2) copies of the original identification, relied on by the applicant to establish proof of identity; and the tendering of all required fees.

CRIMINAL CONVICTION OR CRIMINALLY CONVICTED: The final entry of a conviction, whether by a plea of no contest, guilty, entry of a judicial or jury finding of guilt, which judicial determination has not been set aside on appeal or pursuant to a writ of habeas corpus. The criminal conviction is that offense of which the applicant or registered solicitor was convicted, without regard to the reduced status of the charge after completion of conditions of probation or parole, and charges dismissed under a plea in abeyance or diversion agreement.

DISQUALIFYING FACTORS: Anything specifically defined in this title as requiring the denial or suspension of a license, plus any of the following:

A. Criminal charges are currently pending against the applicant or a key employee and the criminal charges bear a substantial relationship to the applicant's or licensee's ability to safely, competently, or legally practice the occupation, profession, or type of business;

B. The applicant or a key employee has been criminally convicted of a felony, within the last ten (10) years and the criminal conviction bears a substantial relationship to the applicant's or licensee's ability to safely, competently, or legally practice the occupation, profession, or type of business;

C. The applicant or a key employee has been criminally convicted of a misdemeanor within the past five (5) years and the criminal conviction bears a substantial relationship to the applicant's or licensee's ability to safely, competently, or legally practice the occupation, profession, or type of business;

D. A final civil judgment has been entered against the applicant or a key employee within the last five (5) years indicating that: 1) the applicant or key employee had either engaged in fraud or intentional misrepresentation; or 2) the applicant or key employee engaged in willful and malicious activity causing injury to another entity or to the property of another entity;

E. The applicant or key employee is currently subject to a protective order based on physical or sexual abuse issued by a court of competent jurisdiction;

F. The applicant has an outstanding arrest warrant from any jurisdiction.;or

G. The applicant, or any principal of the applicant, has administrative, civil or criminal citations or charges pending or on appeal, brought or assessed by the state or another jurisdiction, and based on violations of applicable licensing or regulatory requirements in connection with the business proposed to be conducted.

DOOR TO DOOR SOLICITATION, HOME SOLICITATION, OR RESIDENTIAL SOLICITATION: The practice of engaging in or attempting to engage in conversation with any individual at a residence, whether or not that individual is a competent individual, while making or seeking to make or facilitate a door to door solicitation sale, or attempting to further the sale of goods and/or services. See sections 4-2F-1 through 4-2F-16 inclusive.

DOOR TO DOOR SOLICITATION SALE, HOME SOLICITATION SALE, OR RESIDENTIAL SOLICITATION SALE: 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 purchase; 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.

EMPLOY: Hiring an individual to work for pecuniary or any other form of compensation, whether such individual is hired on the payroll of the employer, as an independent contractor, as an agent, or in any other form of employment relationship.

EMPLOYEE: The operator, owner, or manager of a business and any individuals employed by such operator, owner, or manager in the operation of the business in any capacity, and also any salesperson, agent, leased employee or independent contractor engaged in the business in any capacity.

ENGAGING IN BUSINESS: Means and includes, but is not limited to, the sale or offer for sale of tangible personal property at retail or wholesale, the manufacturing of goods, including foodstuffs, the owning or operating of rental property, the building and development of real property, and the rendering of personal services for others for compensation, but does not include the rendering of personal services by an employee to the employee's employer under any arrangement or contract of personal employment.

FEES OR FEE SCHEDULE: The city's consolidated fee schedule as it relates to business license fees, disproportionate rental dwelling unit fees, and the discount fees associated with the good landlord program.

HOME SOLICITATION: See the "Door To Door Solicitation" definition in this section.

HOME SOLICITATION SALE: See the "Door To Door Solicitation Sale" definition in this section.

INDIVIDUAL: A natural or physical person; in other words, an individual human being, who is an "adult", as defined in this section.

LICENSED PREMISES: Any building, enclosure, room, or equipment used in connection with the conduct of the business, including, but not limited to, the sale, storage, service, manufacture, distribution or consumption of alcoholic beverages.

LIQUOR (AND RELATED TERMS): See the definitions found within the Utah alcoholic beverage control act, Utah Code Ann. title 32B, and in section 17-1-6 of this code.

MASSAGE THERAPY AND MASSAGE THERAPIST (AND RELATED TERMS): See the definitions found in Utah Code Ann. section 58-47b-102.

MINOR: Any individual who does not meet the definition of “adult” as set forth in this section, or as otherwise set forth in the applicable provisions of the Utah Code Ann.

NO SOLICITATION SIGN: A reasonably visible and legible sign that states "No Soliciting", "No Solicitors", "No Salespersons", "No Trespassing", or words of similar import.

NUDITY (AND RELATED TERMS): See the definitions found in Utah Code Ann. section 10-8-41.5 or successor provisions.

NUMBER OF EMPLOYEES: The average number of employees engaged in business at the place of business each regular working day during the preceding calendar year.

OPERATOR: The manager or other individual principally in charge of a business.

OWNER: The person having ownership.

OWNER OCCUPIED: A residence occupied as a primary residence by the legal owner of the building within which the residence exists. For example a single-family home occupied as a primary residence by the legal owner of the building is owner occupied. Similarly a residence within a fourplex building occupied as a primary residence by the legal owner of the building, even though the other three (3) residences in the building are occupied by third parties under rental agreements, is owner occupied.

PARTICIPANT: A temporary merchant, not licensed as such, participating in a sales event.

PATRON: Any individual who contracts with or employs any escort services or escort, or is a customer of any business licensed pursuant to this title.

PERSON: Includes any individual, group of individuals, business entity, group of business entities, or other legal entity or legal entities.

PLACE OF BUSINESS: Each separate location at or from which business is conducted or transacted. For this purpose branch locations and mobile business locations are each considered a separate place of business requiring a business license.

PREMISES: Any room, house, building, structure, or place licensed by or defined in this title.

PROGRAM: As used in this title, the good landlord program of the city.

PROPRIETOR: Any person who, as the owner, lessee, or manager, has under that person's control a business.

REGISTERED SOLICITOR: Any individual who has been issued a current ~~certificate~~ residential solicitation license by the city (see sections 4-2F-1 through 4-2F-16 inclusive).

RENTAL DWELLING UNIT: Any individual dwelling unit that is rented, leased, hired out, or provided as a benefit to be used or occupied as a home or residence. This definition is inclusive of any accessory dwelling units, apartment buildings, or other buildings so arranged, designed, built, rented, let, or hired out to be used or occupied as the home, residence, or dwelling unit of one or more families living independently of each other. For

the purpose of this definition, a residence that is under a bona fide contract of sale to an occupying purchaser is not a rental dwelling unit.

RESIDENCE: Any living unit contained within any building or structure that is occupied by any individual as a dwelling, together with the lot or other real property on which the living unit is located. This term does not include the sidewalk, public street or public rights of way.

RESIDENTIAL SOLICITATION: See the "Door To Door Solicitation" definition in this section.

RESIDENTIAL SOLICITATION SALE: See the "Door To Door Solicitation Sale" definition in this section.

RESPONSIBLE PERSON: That person responsible to refund any money or reversing any credit card charges for persons who timely rescind any sale pursuant to applicable contractual rights or legal requirements, 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 home solicitation sale.

SALE OF GOODS OR SERVICES: The conduct and agreement of a solicitor and the competent individual in a residence regarding particular goods or services that entitles the consumer to rescind the same within three (3) days under any applicable federal, state or local law.

SALES EVENT: An event where two (2) or more temporary merchants, not more than one of whom is licensed as a temporary merchant, display any goods, wares or services at a location in the city for the purpose of sale or soliciting orders to be filled in the future, for financial gain or profit.

SELL, SALE, AND TO SELL: Any transaction, exchange, or barter whereby, for any consideration, an alcoholic beverage is either directly or indirectly transferred, solicited, ordered, delivered for value, or by any means or under any pretext is promised or obtained, whether done by a person as principal, proprietor, or as an agent, servant or employee, unless otherwise defined in the alcoholic beverage control act or regulations adopted by the state alcoholic beverage control commission.

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

SEXUALLY ORIENTED BUSINESS (AND RELATED TERMS): See the definitions found in Utah Code Ann. section 10-8-41.5 or successor provisions.

SOLICITING, SOLICIT, SOLICITATION: Any of the following activities when conducted on a door to door home contact basis:

A. Seeking to obtain sales or orders for the exchange of goods, wares, merchandise or perishables of any kind, for any kind of remuneration or consideration, regardless of whether advance payment is sought;

B. Seeking to obtain prospective customers to apply for or to purchase insurance, subscriptions to publications, or publications;

C. Seeking to obtain contributions of money or any other thing of value for the benefit of any person;

D. Seeking to obtain orders or prospective customers for goods or services;

E. 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 a home solicitation sale.

F. Other activities falling within the commonly accepted definition of soliciting, such as hawking or peddling.

SOLICITOR, SOLICITORS: An individual or individuals engaged in door to door solicitation. A residential solicitation license does not authorize or enable hawking goods or contacting people in public places, in a park or on the street. See sections 4-2F-1 through 4-2F-16 inclusive.

SPECIFIED CRIMINAL ACTS: Any act defined in title 76 of the Utah Code Ann. or in titles 6 or 7 of this code as a crime.

SPECIFIED SEXUAL ACTIVITIES: Any sexual act defined in title 76 of the Utah Code Ann. or in titles 6 or 7 of this code as a crime.

SUBSTANTIATED REPORT: An oral, written or electronic report that is submitted to and documented by the city that provides any of the following information regarding a person holding a city business license of any type:

A. Documented verification of a previously undisclosed disqualifying factor;

B. Probable cause that the person has committed a disqualifying factor which has not yet been determined to be a disqualifying factor;

C. Documented, eyewitness accounts that the person has engaged in repeated patterns of behavior that demonstrates failure by the person to adhere to the requirements of this title; or

D. Probable cause that continued licensing of the person demonstrates exigent circumstances that threaten the health, safety or welfare of any person or persons within the city.

TEMPORARY MERCHANT:

A. Any person, whether a resident of the city or not, who within the limits of the city:

1. Engages in a temporary business of selling and/or delivering goods, wares or services, or who conducts meetings open to the general public where franchises, distributorships, contracts or business opportunities are offered to the public; or

2. Sells, offers or exhibits for sale any goods, wares or services, franchises, distributorships, contracts or business opportunities, during the course of or any time

within six (6) months after a lecture or public meeting pertaining to such goods, wares, services, franchises, business opportunities, contracts or distributorships.

B. The foregoing notwithstanding, a "temporary merchant", for the purposes of this title, shall not include the following:

1. A person who shall occupy any business establishment for the purpose of conducting a permanent business therein; provided, however, that no person shall be relieved from the provisions of this title by reason of a temporary association with any local dealer, trader, merchant or auctioneer, or by conducting such temporary or transient business in connection with, as a part of, or in the name of any local dealer, trader, merchant or auctioneer; or

2. Any sales of merchandise damaged by smoke or fire, or of bankrupt concerns, where such stock has been acquired from a merchant or merchants of the city regularly licensed and engaged in business; provided, however, no such stock of merchandise shall be augmented by new goods; or

3. A person who sells the person’s own property which was not acquired for resale, barter or exchange, and who does not conduct such sales more than twice during any calendar year; or

4. Art exhibits, where participating artists sell their original works, and which do not contain any sales of artwork purchased or taken on consignment and held for resale, providing such art exhibits are sponsored by a local, responsible organization; or

5. "Religious or charitable organizations", as defined in this section; or

6. Sales of goods, wares or services at a convention, meeting or exposition which is not open to nor advertised to the general public, to the extent such sales are made to registered members of the sponsoring organization, provided the sponsoring organization or its designated agent delivers to the city license supervisor, at least fifteen (15) days in advance of such convention, meeting or exposition, a statement of the organization's qualification for this exemption and a statement of the common interest or category of those who will be attending such convention, meeting or exposition; and providing all persons selling or purchasing goods, wares or services at such convention, meeting or exposition shall wear or display in a conspicuous manner a tag stating the name of the sponsoring organization.

TEMPORARY MERCHANT SPONSOR: Any person who leases or rents a building or portion of a building, or other space, for the purpose of conducting a sales event with two (2) or more participants.

TOBACCO PRODUCT: As defined in Utah Code Ann. subsection 10-8-41.6(1)(j) or successor provisions.

TOBACCO SPECIALTY BUSINESS: As defined in Utah Code Ann. subsection 10-8-41.6(1)(h) or successor provisions.

WAIVER: The written form provided to an applicant by the city wherein applicant agrees that the city may obtain a name/date of birth BCI background check on the applicant for licensing purposes under this title and which contains applicant's signature, which is either executed in the presence of the business licensing authority, or notarized at the time the waiver is signed. (Ord. 12-13, 6-13-2012; amd. Ord. 13-14, 3-27-2013; Ord. 16-01, 1-13-2016; Ord. 16-06, 1-13-2016; Ord. 16-11, 3-23-2016; Ord. 21-04, 2-10-2021)

4-1A-3: APPLICABILITY OF THIS CHAPTER:

The provisions of this chapter apply to all businesses and employees in the city. (Ord. 12-13, 6-13-2012)

4-1A-4: GENERAL BUSINESS AND SPECIAL BUSINESS LICENSES NEEDED:

Certain types of businesses have additional and special licensing and business conduct requirements, and these are set forth in chapter 2 of this title. For these specially addressed types of business, a general business license and a special business license will be required, including the payment of such license fees as are provided from time to time by the city council. (Ord. 12-13, 6-13-2012)

ARTICLE B. BUSINESS LICENSES

SECTION:

4-1B-1: Unlawful To Conduct Business Within The City Without A Business License

4-1B-2: [Reserved]

4-1B-3: Business License Authority

4-1B-4: Powers Of Business License Authority, Including Applicant Investigation

4-1B-5: City Inspection Authority

4-1B-6: License Limited To Licensed Name

4-1B-7: License Application Requirements

4-1B-8: Furnishing False Information

4-1B-9: Application Numbering And Filing

4-1B-10: Engaging In Business Prohibited During Investigation

4-1B-11: [Reserved]

4-1B-12: Issuance Of License

4-1B-13: Index Of Licensed Persons And Businesses

4-1B-14: License Available for Inspection

4-1B-15: [Reserved]

4-1B-16: License Fees

4-1B-17: License Year; Fee Payments

4-1B-18: Late Payment Penalty And Consequences

4-1B-19: Fee Exemptions For Businesses

4-1B-20: Mistakes In Fee Calculations

4-1B-21: Deviations Prohibited

4-1B-22: License Fee Collection; Civil Actions Authorized

4-1B-23: Refunds

4-1B-24: No License Transfers; and Change of License Information

4-1B-25: Designation Of Agent For Service Of Process

4-1B-26: Recordkeeping Required

4-1B-27:-[Reserved]

4-1B-28: Hours Of Operation

4-1B-29: [Reserved]

4-1B-30: License Termination Following Cessation Of Operations

4-1B-31: [Reserved]

4-1B-1: UNLAWFUL TO CONDUCT BUSINESS WITHIN THE CITY WITHOUT A BUSINESS LICENSE:

A. Unless specifically exempt from such requirement in this title or other applicable law, it shall be unlawful for any person to engage in or carry on any business within the city, without first procuring a business license, or for any person to continue to engage in or carry on a business when the required business license has been suspended or revoked; and

B. Every person engaging in business within the city shall apply for and maintain in full force and effect a valid city business license. (Ord. 12-13, 6-13-2012)

4-1B-2: [Reserved]:

(Ord. 12-13, 6-13-2012)

4-1B-3: BUSINESS LICENSE AUTHORITY:

The business license authority shall have responsibility for issuing business licenses and ensuring all business license fees are paid, based on the rates and charges established by ordinance or resolution and as set forth in the city's consolidated fee schedule. (Ord. 12-13, 6-13-2012)

4-1B-4: POWERS OF BUSINESS LICENSE AUTHORITY, INCLUDING APPLICANT INVESTIGATION:

The business license authority and all license inspectors in the performance of their official duties shall have and exercise all the powers allowed by law:

A. Time Period Within Which To Act On License; Denial: The business license authority may take up to thirty (30) days from the date when the completed application is received by the business license authority, to review an application and investigate the relevant facts. If the business license authority concludes to deny an application, a statement of the facts and reasons for the denial shall be given to the applicant.

B. License Authority Denial: The business license authority shall have the authority, without a hearing, to deny a license for the reasons provided for in this article, subject to appeal rights.

C. Business License Authority Investigation: The business license authority may, on the business license authority's own initiative or in response to complaints from the general public or any city department or division, investigate and gather evidence of violations of this title or other circumstances which may give rise to a denial, suspension or revocation; or seek the police department's or other investigative organization's assistance or investigations. In particular, the business license authority may, prior to the issuance of any business license required by this title, investigate any applicant for such license, if there is reasonable cause to believe that the applicant:

1. Has filed an application which is incomplete, erroneous, or false in any respect, except that any individual name or business entity name that is substantially similar to the correct name shall not be deemed to be incomplete, erroneous, or false;

2. Fails in any respect to qualify to do business in the city under any federal, state or city law, rule or regulation;

3. Has committed such act or acts as may be grounds for revocation or denial of a license application under any federal, state or city law, rule or regulation; or

4. Investigation is required by city ordinance. (Ord. 12-13, 6-13-2012)

4-1B-5: CITY INSPECTION AUTHORITY:

A. New Business Premises Inspections: Prior to the issuance of a license to a person to engage in a new business not previously licensed under this title, the person or applicant shall, subject to constitutional limitations, permit inspections to be made of the prospective place of business by representatives of the appropriate departments of the city to ensure compliance with zoning, building, fire and health, and other codes, statutes, ordinances, and laws which may apply to the business and premises for which a license application was submitted. No license shall be granted without the approval of all such required inspections.

B. Periodic Inspection; Time To Correct: Places of business licensed within the city shall be inspected periodically by departments of the city, county or the state for compliance with zoning, building, fire and health codes. Written notice shall be given by a code enforcement officer to a licensed person or business upon the finding of any code infractions, which shall provide for time in which to correct such infractions, pursuant to title 16, unless the noncompliant issue constitutes a hazard or exigent circumstance requiring immediate remediation under law. Failure to bring the licensed premises into legal compliance may result in the revocation of the license by the city.

C. Identifying Violations: From time to time one or more agents of the city, including, but not limited to, police officers, code enforcement officers, and community enforcement officers, are authorized and required to enter and examine the physical locations and space occupied and used by any business or vehicle, for which a city license is required. They shall determine if such places of business, persons and vehicles are properly licensed and that no business, other than the one described in and covered by the license, is operating or transacting business. They may issue citations or otherwise enforce the law, and shall advise the business license authority of each person doing business in violation of this title. (Ord. 12-13, 6-13-2012)

4-1B-6: LICENSE LIMITED TO LICENSED NAME:

It is unlawful for a business to do business under any name other than the business name specified in the application. (Ord. 12-13, 6-13-2012)

4-1B-7: LICENSE APPLICATION REQUIREMENTS:

A. Application: Applications for licenses and permits required by this title shall be made online to the business license authority in the absence of provision to the contrary. The application shall show:

1. Legal Name: The correct legal name of each applicant, corporation, partnership, limited partnership, or entity doing business under an assumed name.

2. Doing Business Under Assumed Name: If the applicant is a business entity doing business under an assumed name, submittal of the information required for individual applicants for each partner, principal, officer, director, and any shareholder (corporate or personal) of fifty-one percent (51%) or more of the ownership interest of any applicant. Any business entity holding fifty-one percent (51%) or more of the ownership interest of an applicant shall be considered an applicant for purposes of disclosure under this article.

3. Applicant Information: For all applicants, a statement of the business address, contact information, and other information requested of the forms provided by the business license authority which are not disallowed by law.

4. Age or Business Entity: Acceptable written proof that each applicant is a person, as defined in section 4-1A-2, and is either (a) an individual and an adult, as defined in section 4-1A-2 of this code, or (b) a business entity, as defined in section 4-1A-2; provided that the business license authority is empowered to waive the age requirement in appropriate cases.

5. License Type: The kind of license desired, stating in detail the business to be performed, practiced or carried on.

6. License Class: The class of license desired, if the particular business activity has special licenses divided into classes.

7. Place: The place where such business, calling, trade or profession is to be carried on, giving the street number if such business is to be carried on in any building or enclosure.

8. Term: The period of time for which such license is desired to be issued (i.e., an ongoing business activity or a temporary business activity).

9. Application Fee: A nonrefundable application fee in an amount adopted by the city council in its consolidated fee schedule.

B. Accuracy And Veracity Required: The truthfulness, completeness and accuracy of all of information provided by an applicant shall be attested to by the applicant or an authorized representative thereof.

C. Misleading Prohibited: Failure to provide all required information or providing false or misleading information in the application shall constitute grounds for denial of the application or revocation of an existing permit or license, and shall constitute a misdemeanor, if done willfully with the intent to mislead the city.

D. Notice Of Change To Application Information: Any change in the information required to be submitted under this article for a business license shall be given in writing to the business license authority within fourteen (14) days after such change. (Ord. 12-13, 6-13-2012)

4-1B-8: FURNISHING FALSE INFORMATION:

It is unlawful for any person to willfully give the licensee or the licensee's agents or employees false or misleading information which the licensee is required by this chapter to obtain from such person. (Ord. 12-13, 6-13-2012)

4-1B-9: APPLICATION NUMBERING AND FILING:

The license application, with any other accompanying documents, shall be numbered by the business license authority in the manner deemed to be appropriate by the business license authority. (Ord. 12-13, 6-13-2012)

4-1B-10: ENGAGING IN BUSINESS PROHIBITED DURING INVESTIGATION:

It is unlawful for any person applying for a business license which requires investigation by the business license authority to engage in the business for which license application is made, until such investigation is completed and the license approved and issued. (Ord. 12-13, 6-13-2012)

4-1B-11: [Reserved]:

(Ord. 12-13, 6-13-2012)

4-1B-12: ISSUANCE OF LICENSE:

A. License Issuance: Within thirty (30) days after receiving a completed application and completion of any needed investigation, or as in law specifically required, the business license authority shall issue the license, provided all fees are paid and legal requirements met, or shall deny the license if the legal requirements are not met.

B. Formal Requirements: All licenses shall be signed by the business license authority, which may be by electronic signature, and shall contain the following information:

1. The name of the person to whom such license has been issued;

2. The kind of license, and the class of license, if such licenses are divided into classes;

3. The term of the license, stating the commencing date and the expiration date.

C. Issuance Approval: No new business license which requires inspection or approval of any department of city government, whether new or renewal, shall be delivered or mailed to the applicant, until all legal requirements for the issuance or renewal have been met. (Ord. 12-13, 6-13-2012; amd. Ord. 15-22, 8-25-2015)

4-1B-13: INDEX OF LICENSED PERSONS AND BUSINESSES:

The business license authority shall keep a registry containing the names of the businesses and persons holding business licenses. (Ord. 12-13, 6-13-2012)

4-1B-14: LICENSE AVAILABLE FOR INSPECTION:

Each license shall be available for inspection during business hours. (Ord. 12-13, 6-13-2012)

4-1B-15: [Reserved]:

(Ord. 12-13, 6-13-2012)

4-1B-16: LICENSE FEES:

Annual license and other fees shall be those periodically adopted by the city council in its consolidated fee schedule. (Ord. 12-13, 6-13-2012)

4-1B-17: LICENSE YEAR; FEE PAYMENTS:

A. Fees To Be Paid In Advance In U.S. Legal Tender: All license fees shall be paid in advance in legal tender of the United States in any manner allowed by the city.

B. License Year; Renewal Date:

1. License Year; Good Landlord Program: Except for any first year prorations, a "license year" will run for twelve (12) consecutive calendar months following the date of commencement and end on the last day of the twelfth month. Notwithstanding the foregoing, participants in the city's "good landlord" program, governed by chapter 2, article R of this title, must renew their good landlord certification every four (4) years and provide the business license authority with a copy of the certificate of completion, and thus good landlord certification will run for forty eight (48) consecutive calendar months.

2. Administratively Assigning License Year Dates: Annual licenses issued pursuant to this title need not be issued on a calendar year basis.

C. Payments: Each license fee shall be paid at the time of an application's filing, whether as a new or a late renewal application. The application shall not be processed until the fee is paid. (Ord. 12-13, 6-13-2012; amd. Ord. 15-22, 8-25-2015)

4-1B-18: LATE PAYMENT PENALTY AND CONSEQUENCES:

A. Late Renewal Fee Penalties: If a license renewal fee is not paid by the due date, a penalty in the amount provided in the consolidated schedule of fees and service charges shall be added to the original amount.

B. Duty To Cease Business Operations: Any person holding a business license from the city whose license renewal fee and accrued penalties remain unpaid for thirty (30) calendar days from the original due date shall terminate business operations. No business shall be conducted thereafter by such person, until:

1. The business license authority approves a reinstatement application or petition for renewal of a license following payment of all overdue fees and costs; or

2. A new license application is filed and a new license issued by the business license authority.

C. Initial Fee Nonpayment Penalty: When any person engages in any business or occupation requiring a license and fee by the provisions of this title, or engages in any additional activities which require an additional license and fee, without first paying the required license fee, a penalty in the amount provided in the consolidated schedule of fees and service charges shall be added to the original amount thereof.

D. Collection: All penalties provided for in this section shall be collected by the business license authority and the payment thereof shall be enforced by him or her in the same manner as the license fees are collected and payment enforced.

E. No License Issuance: No license shall be issued, until all penalties legally assessed have been paid in full.

F. Other Enforcement Not Precluded: Nothing in this section shall be construed to prevent or in any manner interfere with the enforcement of any criminal or civil penalty provision contained in any other title of this code, including, but not limited to, those provisions pertaining to operation of businesses without a current and valid business license. (Ord. 12-13, 6-13-2012; amd. Ord. 15-22, 8-25-2015)

4-1B-19: FEE EXEMPTIONS FOR BUSINESSES:

Although they shall apply in all respects for the obtaining of a business license pursuant to this title, the following persons are exempt from the payment of license fees:

A. Building Contractors: Building contractors having no retail product sales and who pay construction permit fees, pursuant to applicable city ordinances, but do not have an actual business location within city limits. However, contractors who operate a construction business from a home located within the city are not exempt.

B. Insurance Companies: Insurance companies paying license fees to the state pursuant to the provisions of Utah Code Annotated title 31A, chapter 1, or any successor provisions.

C. Nonprofit/Charitable Organizations: The provisions of this title shall not be deemed or construed to require the payment of a license fee for the issuance of a license to any institution or organization which is conducted, managed or carried on wholly for the benefit of charitable purposes from which profit is not derived, directly or indirectly, by any person; nor shall the payment of a license fee be required to issue a license for the conducting of any entertainment, concert, exhibition or lecture whenever the receipts from such are to be appropriated to any church, school, governmental entity, or nonprofit organization. (Ord. 12-13, 6-13-2012)

4-1B-20: MISTAKES IN FEE CALCULATIONS:

In no event shall any mistakes made by an applicant or the city in the calculation of a license fee prevent or prejudice the collection by the city of the amount actually due from any person subject to licensing under this title. Likewise, no such mistakes shall prevent or prejudice the refund to licensees of amounts overpaid by reason of mistakes. (Ord. 12-13, 6-13-2012)

4-1B-21: DEVIATIONS PROHIBITED:

No greater or lesser amounts shall be charged or received for licenses, and no license shall be issued for any period of time other than as specifically provided in this title. (Ord. 12-13, 6-13-2012)

4-1B-22: LICENSE FEE COLLECTION; CIVIL ACTIONS AUTHORIZED:

A. Civil Actions: In all cases where a city ordinance requires that a license be obtained to carry on or to engage in any business, occupation or calling within the city, and a fee for such license is authorized by ordinance, and the fee is not paid at the time or in the manner provided in said ordinance, a civil action may be brought in the name of the city against the person failing to pay such license fee, in any court of this state having jurisdiction of such action, to recover the fee and any penalty due, together with reasonable attorney fees and reasonable costs of collection. In any case where several or diverse amounts of license fees remain due and unpaid by any such person, such several amounts of unpaid license fees may be joined as separate causes of action in the same complaint in such civil actions. The provisions of title 16 may be utilized, as applicable.

B. Other Enforcement: Nothing in this section shall be construed to prevent or in any manner interfere with the enforcement of any penalty provision contained in any ordinance of the city, or to prevent or in any manner interfere with the use of any remedy available to the city. (Ord. 12-13, 6-13-2012)

4-1B-23: REFUNDS:

No refund shall be made for any fee paid for a license issued pursuant to this title, unless the fee paid was incorrect due to a calculation error or not legally owed under the provision of this title. (Ord. 12-13, 6-13-2012)

4-1B-24: NO LICENSE TRANSFERS; AND CHANGE OF LICENSE INFORMATION:

No transfers of licenses are allowed. Any change of ownership, business name, address, or other main license information shall require a new application for a new license. (Ord. 12-13, 6-13-2012)

4-1B-25: DESIGNATION OF AGENT FOR SERVICE OF PROCESS:

A. Duty To Designate Service Of Process Agent: Before any business license shall be issued to a person, the applicant shall file with the business license authority an instrument naming a true and lawful agent of such applicant with full power and authority to accept service or notice of process for or on behalf of such applicant with respect to any matters connected with or arising in connection with such license, which agent, for an individual, can be him or herself. The instrument shall also state that applicant for the license consents and agrees that any service or notice of process shall be made upon the agent and when so made shall be taken and held to be valid, as if personally served upon the applicant according to the laws of this or any other state, waiving all claim or right of error by reason of such acknowledgment of service or manner of service. (Ord. 12-13, 6-13-2012)

4-1B-26: RECORDKEEPING REQUIRED:

Every person liable for the payment of any license fee imposed by this title shall keep all records required by law. (Ord. 12-13, 6-13-2012)

4-1B-27: [Reserved]

(Ord. 12-13, 6-13-2012)

4-1B-28: HOURS OF OPERATION:

A. Duty To Post Operating Hours: Every licensed business in the city is required to post in plain sight, clearly visible by all participants, the relevant operating hours of said place of business.

B. Curfew Law Applicable: Any business accepting or catering to minors shall not be operated in a manner contrary to the curfew provisions of any applicable state, county or municipal curfew statutes. (Ord. 12-13, 6-13-2012)

4-1B-29: [Reserved]:

(Ord. 12-13, 6-13-2012)

4-1B-30: LICENSE TERMINATION FOLLOWING CESSATION OF OPERATIONS:

Any business license issued pursuant to this article will expire no later than ten (10) calendar days following the continuous closure or cessation of business operations for which the license was issued, except when cessation or closure is required to repair damage caused by flood, fire, earthquake or other natural disaster. (Ord. 12-13, 6-13-2012)

4-1B-31: [Reserved]:

(Ord. 12-13, 6-13-2012; amd. Ord. 19-47, 12-04-2019, Effective at 12 noon on January 6, 2020; Ord. 21-04, 2-10-2021)

ARTICLE C. DENIAL, SUSPENSION, REVOCATION; LICENSE APPEAL AUTHORITY

SECTION:

4-1C-1: Denial Of A Business License

4-1C-2: Revocation Or Suspension Of License

4-1C-3: Procedure For Suspension Or Revocation

4-1C-4: Effect Of Revocation And Suspension

4-1C-5: License Appeal Authority Established

4-1C-6: Administrative Law Judge as the License Appeal Authority

4-1C-7: Filing An Appeal Of A Denial, Suspension, or Revocation

4-1C-8: Appeal Hearing

4-1C-9: Decision Of the License Appeal Authority

4-1C-10: Appeal Of a License Appeal Authority Decision

4-1C-11: Licensing After Revocation

4-1C-12: Validity Of Business License During Appeal

4-1C-1: DENIAL OF A BUSINESS LICENSE:

A. Reasons For Denial: After a person has made application to the city for a business license, including a renewal of an existing business license, the application may be denied for any lawful reason, including, but not limited to, the following reasons:

1. The business will be involved in activities that will violate a city, county, state or federal law or regulation;

2. The business will be involved in activities on the licensed premises which would constitute a public nuisance, or otherwise a menace to the health, welfare and peace of the city;

3. The business would involve activities by patrons of the business or business activity where it could be shown the patrons are reasonably likely to constitute a public nuisance, or to commit violations of law;

4. The business is not in compliance with the city zoning standards or requirements applicable to the licensed premises;

5. Issuance of the license would result from fraud or misrepresentation of a material fact in the procurement of or application for the license;

6. The business or its employees will be undertaking activities which would constitute grounds for revocation or suspension of a business license; or

7. Issuance of the license will jeopardize or unreasonably endanger the public health, safety or welfare, or the safety or welfare of any individual, because the applicant or a key employee:

a. Does not possess the requisite state or federal licensing to conduct the business activity for which the city license is applied;

b. Does not possess the required training, experience, professional degrees or licensing normally required for or associated with such business activity;

c. Has been guilty of unprofessional conduct, as proscribed by applicable statute or regulation or by applicable regulations or standards of conduct promulgated by the professional association or regulatory agency normally associated with that business activity;

d. Has been criminally convicted of a class B misdemeanor or greater offense and the criminal conviction bears a substantial relationship to the applicant's or licensee's ability to safely, competently, or legally practice the occupation, profession, or type of business or is subject to one or more "disqualifying factors" (as defined in section 4-1A-2); or

8. For a new application, nonpayment of the required license fees at the time the application is made. For a renewal application, nonpayment of the required license renewal fees, plus any penalty due under this title;

9. One of the reviewing departments or divisions of the city, whose approvals are required under law has lawfully disapproved the application pursuant to any applicable provision of the city code or other applicable law;

10. False, or misleading, or incomplete information given on the application;

11. Noncompliance with any requirement or condition imposed in a conditional use permit, a variance or a special exception in connection with any location of the proposed business activities;

12. Noncompliance with any city, state or federal statutes or any Health Department regulations governing the applicant's proposed business.

B. Refusal To Renew: The city may refuse to renew the business license based on any of the grounds provided for revocation or suspension of a license in this title arising at or before the time of the submittal and consideration of a license application. (Ord. 12-13, 6-13-2012)

4-1C-2: REVOCATION OR SUSPENSION OF LICENSE:

A. License Revocable: Under the provisions of this title, the issuance of a license grants only a revocable privilege to engage in business and confers no vested rights of any kind or nature upon the business or person holding the business license.

B. Revocation Or Suspension: Every business license issued by the city may be revoked or suspended for:

1. Substantiated report of any violation by the licensed person or business or by an agent, officer, employee, or invitee of any provisions of this title or any other applicable ordinance or law governing the business or activity. The person or business holding a business license shall be strictly responsible for the operation of the business or activity in conformance with all applicable laws;

2. Substantiated report of fraud or misrepresentation of a material fact in the procurement of the license;

3. Failure to pay when due any license fee, tax, charge and/or penalty provided in state statute or city ordinance;

4. Substantiated report of the violation of city ordinance or federal or state statute relating to the licensed business and resulting from the conduct of such business or activity;

5. Substantiated report of any condition or conduct at or in connection with the business;

6. Substantiated report of using or possessing for use a false weight or measure or any other device for falsely determining or recording any quantity or quality;

7. Substantiated report of selling, offering or exposing for sale products or commodities which vary from the standard of composition or quality described in connection with the offer or sale;

8. Substantiated report of activities at or in connection with the business, which are fraudulent or deceptive;

9. Substantiated report of failure of the applicant to retain the legal qualifications necessary for the business license, including the continuing absence of "disqualifying factors" (as defined in section 4-1A-2); or

10. Substantiated report of failure to properly maintain operational business records and other records required in this title for inspection and audit by the city.

C. Pendency Of License: The city may revoke or suspend a license for any of the grounds listed for denying a license application or a renewal application in this chapter arising during the pendency of a business license. (Ord. 12-13, 6-13-2012)

4-1C-3: PROCEDURE FOR SUSPENSION OR REVOCATION:

The business license authority may prosecute a suspension or revocation administratively as provided in title 16 of this code, and/or as a Class B misdemeanor. (Ord. 12-13, 6-13-2012)

4-1C-4: EFFECT OF REVOCATION AND SUSPENSION:

A. If the license is revoked, no new application shall be considered by the business license authority until expiration of the time period, in any event not less than one year, specified in the order of revocation.

B. A suspension shall be for a period not exceeding six (6) months, following which the license shall be reinstated. Should the license be under suspension at the time the license would have otherwise been renewed or renewable, the license shall not be renewed until expiration of the period of time imposed on the original suspension. (Ord. 12-13, 6-13-2012)

4-1C-5: LICENSE APPEAL AUTHORITY ESTABLISHED:

The license appeal authority shall hear and decide all appeals of license denials, suspensions, revocations, and similar actions (collectively referred to as “appeals”). The license appeal authority shall have authority to hear evidence in all appeals referred to the license appeal authority and, after an appeal hearing, shall prepare a written decision and

order, as provided in this title and in title 16. The individual designated to hear an appeal shall hereafter be designated as the license appeal authority. (Ord. 12-13, 6-13-2012; amd. Ord. 19-47, 12-04-2019, Effective at 12 noon on January 6, 2020; Ord. 21-04, 2-10-2021)

4-1C-6: ADMINISTRATIVE LAW JUDGE AS THE LICENSE APPEAL AUTHORITY:

Unless the mayor retains by contract another individual to fulfill the responsibilities of the license appeal authority set forth in this title, the administrative law judge, identified in title 16, shall be and shall fulfill all the responsibilities of the license appeal authority. (Ord. 12-13, 6-13-2012)

4-1C-7: FILING AN APPEAL OF A DENIAL, SUSPENSION, OR REVOCATION:

Appeals of a business license authority's decision to deny, suspend, or revoke a business license may be made by filing a written notice of appeal with the city recorder, within fifteen (15) days of receipt of the notice of denial, suspension, or revocation. The appeal notice shall contain a specific and detailed explanation of the alleged mistake made by the business license authority and a specific statement of the relief desired. (Ord. 12-13, 6-13-2012; amd. Ord. 19-47, 12-04-2019, Effective at 12 noon on January 6, 2020; Ord. 21-11, 3-24-2021)

4-1C-8: APPEAL HEARING:

A. Hearing Date And Time: All hearings shall be conducted at a time, place and day set by the license appeal authority through a written notice of hearing provided to all parties. The hearing shall be scheduled and held pursuant to title 16.

B. City To Present Case: At the hearing, a representative from the city or designee of the business license authority shall present the reasons for the decision to deny, suspend, or revoke the license.

C. Licensee Presentation: The applicant, in person or through the applicant’s attorney, may then present any evidence and/or argument showing reason why the business license authority's decision was in error.

D. Sworn Witnesses: All witnesses, if any, shall be sworn to testify truthfully. Either party is entitled to confront and cross examine any witnesses.

E. Evidentiary Rules: The license appeal authority shall apply the evidentiary rules identified in title 16.

F. Grounds For Decision Under Review: If the denial appealed is based on a determination of the business license authority that sufficient grounds existed under city, state or federal law, the license appeal authority may reexamine the factual nature of the

grounds and determine whether they are sufficient to sustain the decision of the business license authority.

G. License Appeal Authority Lacks Authority To Waive Compliance With Requirements: The license appeal authority does not have the authority to waive compliance with or to extend deadlines set forth in this title or in title 16, except as specifically identified therein.

H. Preponderance Of Evidence Standard Of Review: All factual determinations made by the license appeal authority shall be supported by a preponderance of the evidence, presented to the license appeal authority during hearing proceedings. (Ord. 12-13, 6-13-2012; amd. Ord. 21-11, 3-24-2021)

4-1C-9: DECISION OF THE LICENSE APPEAL AUTHORITY:

A. Date Decision Due; Findings: The license appeal authority, after hearing all the evidence, shall announce its decision within fourteen (14) calendar days from the date of hearing, unless for good cause, it extends the time for rendering a decision. The license appeal authority may affirm or reverse the decision of the business license authority, and may remand the matter for further action by the business license authority. The decision shall be in writing and shall be based upon findings of fact and conclusions of law. The license appeal authority may designate that the prevailing party draft the findings of fact and order. If the prevailing party drafts the decision, the opposing party shall have five (5) working days from the date the draft is submitted within which to file objections to the draft. Upon resolution of all objections to the draft, the license appeal authority shall issue its decision.

B. Service Of Appeal Decision: The decision of the license appeal authority shall be delivered to the applicant by mail, postage prepaid, by electronic means, or by personal service, at the discretion of the license appeal authority.

C. Reversal Of Decision: The denial of the license shall be reversed by the license appeal authority if, upon review of the written appeal and information submitted, the license appeal authority finds that the licensing officer made a material mistake of law or fact in denying or suspending the applicant’s or registered solicitor's license.

D. Affirmation Of Decision: If the written appeal and information submitted indicates that the licensing officer properly denied a license the denial shall be affirmed.

E. Administrative Exhaustion Of Remedies: After the ruling of the license appeal authority, the applicant or solicitor is deemed to have exhausted all administrative remedies with the city. (Ord. 12-13, 6-13-2012)

4-1C-10: APPEAL OF A LICENSE APPEAL AUTHORITY DECISION:

The license appeal authority’s decision may be appealed by the applicant or the city to the district court within thirty (30) days from the date on which the license appeal authority’s written decision is issued. (Ord. 12-13, 6-13-2012)

4-1C-11: LICENSING AFTER REVOCATION:

A person, whose business license has been revoked, may not be issued a new license for a period of twelve (12) months following the revocation. (Ord. 12-13, 6-13-2012)

4-1C-12: VALIDITY OF BUSINESS LICENSE DURING APPEAL:

A. Right To Operate During Appeal: A person or business holding a business license subject to an order of the business license authority suspending or revoking the license may continue to legally operate the licensed business in compliance with federal, state and all other local laws pending a final decision on appeal, or until the time for appeal has passed, whichever event occurs first.

B. No Right To Operation Without Valid License Having Been Issued: An applicant for a currently unlicensed business shall not operate, and it shall be unlawful for any person to conduct business for which a license is required at the premises until a valid business license is issued, notwithstanding the city's denial of that license has been appealed. (Ord. 12-13, 6-13-2012)

ARTICLE D. ENFORCEMENT

SECTION:

4-1D-1: Powers And Duties Of Police And Inspectors

4-1D-2: Penalties For Violation

4-1D-3: Effect Of Conviction; Prosecution Not Barred

4-1D-4: Injunction

4-1D-5: Liability For Acts Of Employees

4-1D-1: POWERS AND DUTIES OF POLICE AND INSPECTORS:

A. Authorized Enforcement Personnel:

1. All police officers, community enforcement officers, code enforcement officers, and city building inspectors are appointed to act as business license inspectors, and are empowered and required to examine all places of business and persons who are required to have a business license and to determine if licenses are valid and available for inspection.

2. Police officers and inspectors shall have and exercise the power to enter free of charge, during normal business hours, any place open to the general public and for which a license is required. They may require the exhibition of a current license by any person engaged or employed in the conduct of such business.

B. Duty To Enforce: It shall be the duty of the city police officers, community enforcement officers, code enforcement officers, and the city building inspectors, as well as the city business license authority, to cause complaints to be filed against all persons violating any of the provisions of this title. Enforcement against pawnshops is limited as provided in Utah Code section 13-32a-112.5. (Ord. 12-13, 6-13-2012)

4-1D-2: PENALTIES FOR VIOLATION:

A. Administrative Fines And Penalties: If the city council so authorizes, the license appeal authority may assess administrative penalties for violations of this title.

B. Violation: Any violation of this title may be prosecuted administratively as provided in title 16 of this code, and/or as a Class B misdemeanor.

C. Each Sale Without A License Is A Separate Offense: The sale of each article by a temporary merchant, a temporary merchant sponsor or a participant, without a license therefor, shall be a separate offense under and a separate violation of this title. (Ord. 12-13, 6-13-2012)

4-1D-3: EFFECT OF CONVICTION; PROSECUTION NOT BARRED:

The conviction and punishment of any person for transacting business without a license shall not excuse or exempt such person from the payment of any license fees, penalties or fines due or unpaid at the time of such conviction, and nothing in this title shall prevent a criminal prosecution for any violation of the provisions of this title. (Ord. 12-13, 6-13-2012)

4-1D-4: INJUNCTION:

An entity or individual who operates or causes to be operated a business without a valid license in violation of the provisions of this chapter is subject to a suit for an injunction in addition to the civil and criminal violations provided in this chapter and any other remedy available at law or in equity. (Ord. 12-13, 6-13-2012)

4-1D-5: LIABILITY FOR ACTS OF EMPLOYEES:

The holder of a city business license is strictly liable for any and all acts of the holder's own employees and for any violation by them of any provisions of this title. (Ord. 12-13, 6-13-2012)

REQUEST FOR COUNCIL ACTION

Action: Need Council to take action	**Meeting Date Requested** : 03/22/2023
Presenter: Larry Gardner	**Deadline of item** : 03/08/2023
Department Sponsor: Community Development	
Agenda Type: BUSINESS ITEMS	
Time Requested: 5 minutes presentation, 10 minutes council	*(Council may elect to provide more or less time)*

1. **AGENDA SUBJECT**
   Ordinance No. 23-11 amending 2009 West Jordan City Code (Provisions Regarding Conditional Use Permits and Appeals, to conform to recent revisions to Utah Code Ann. Section 10-9a-507; specifically amending City Code Sections 13-7e-1 through 13-7e-13 inclusive and Sections 15-5-1, 15-5-3, 15-5-6, and 15-6-1)

2. **EXECUTIVE SUMMARY**
   Council is being asked to consider amendments regarding Conditional Use Permits and Appeals in City Code to comply with recent revisions in Utah Code.

   The State Legislature amended Utah Code 10-9a-507 regarding how conditional use permits can be administered. If this proposed text amendment is approved, the original approval criteria would be repealed and replaced with the new approval criteria contained in the proposed ordinance.

   Proposed text amendments are as follows:
   - Section 13-7E-8 replaces “Findings of Fact” with “Criteria of Fact” to coincide with State Code. The proposed amendment requires any potential detrimental effects be identified, and mitigating conditions imposed by the approving body.
   - Sections 13-7e-1 through 13-7e-13 entitled “Conditional Use Permits” will govern how conditional use permits are administered.
   - In Title 15, Sections 15-5-1 “General Provisions”, 15-5-3 “Appeals to the Board of Adjustment”, 15-5-6 “ Appeal of Conditional Use Permit Revocation”, and 15-6-1, “Judicial Review of Board of Adjustment or City Council Decision” will govern how appeals are administered.
   - Title 13 and 15 are land use ordinances that require approval of the City’s legislative body.

3. **TIME SENSITIVITY / URGENCY**
   No urgency.

4. **FISCAL NOTE**
   No fiscal or staff issues identified at this time.

5. **PLANNING COMMISSION RECOMMENDATION**

"Ammon Allen moved to forward a positive recommendation to the City Council to Amend the West Jordan 2009 Code Section 13-7E-8 Conditional Use Permits Replacing 'Findings for Approval' with 'Criteria for Approval'. The motion was seconded by Trish Hatch and passed 7-0 in favor."

6. **STAFF ANALYSIS**

The proposed ordinance would administer how detrimental effects are identified and mitigated when associated with a conditional use permit. Some conditional use permits could possibly affect operations of various city departments. If detrimental effects are identified, steps would be taken to seek input from the affected departments on the most appropriate conditions to mitigate any detrimental effects.

7. **MOTION RECOMMENDED**

Move to approve Ordinance No. 23-11 amending 2009 West Jordan City Code (Provisions Regarding Conditional Use Permits and Appeals, to conform to recent revisions in Utah Code Ann. Section 10-9a-507; specifically amending City Code Sections 13-7e-1 Through 13-7e-13 inclusive and Sections 15-5-1, 15-5-3, 15-5-6, and 15-6-1).

CITY COUNCIL STAFF REPORT

SUBJECT: Amending Criteria for Conditional Use Permit approvals to be comply with changes to Utah State Code

SUMMARY: Consider Ordinance 23-11 amending 2009 West Jordan City Code (amending provisions regarding conditional use permits and appeals, to conform to recent revisions to Utah Code Ann. Section 10-9a-507; specifically amending city code sections 13-7e-1 through 13-7e-13 inclusive and sections 15-5-1, 15-5-3, 15-5-6, and 15-6-1); city- wide applicability; City of West Jordan (applicant) [Duncan Murray]

I. BACKGROUND

The proposed ordinance will amend section 13-7E-8. The purpose of the amendment is to update the criteria for approval for Conditional Use Permits within West Jordan City to comply with recent changes to Utah State Code Section 10-9a-507.

II. GENERAL INFORMATION & ANALYSIS

The proposed ordinance will amend West Jordan City Code Sections 13-7E-1 through 13-7E-13 Inclusive; "Conditional Use Permits" which will govern how conditional use permits are administered. Title 15 sections 15-5-1 "General Provisions", 15-5-3 "Appeals to the Board of Adjustment", 15-5-6 "Appeal of Conditional Use Permit Revocation", and 15-6-1, "Judicial Review of Board of Adjustment or City Council Decision". which will govern how appeals are administered.

Legislative Version:

ARTICLE E. CONDITIONAL USE PERMITS

SECTION:

13-7E-1: Purpose

13-7E-2: Application Process

13-7E-3: Submittal Requirements

13-7E-4: Additional Submittal Requirements

13-7E-5: Public Hearing

13-7E-6: Action by Planning Commission or Zoning Administrator

13-7E-~~7~~8: ~~Findings~~ Criteria for Approval

13-7E-~~7~~8: Effect and Effective Date Of Conditional Use Permit; Appeal

13-7E-9: Expiration

13-7E-10: Revocation (by the Conditional Use Appeal/Revocation Authority)

13-7E-11: Status of Conditional Use Permit

13-7E-12: Modification of Conditional Use Permit (New Application)

13-7E-13: Reapplication (After Denial or Revocation)

13-7E-1: PURPOSE:

The city recognizes certain uses which may be appropriate in specific zone districts but have characteristics that, depending upon the location, design, and standards of operation, may have a greater impact than permitted uses on adjoining properties, businesses, or residences within the city. Such uses require a more comprehensive review, including the ability of the city to establish specific conditions for the project to mitigate any ~~potential impacts~~ reasonably anticipated detrimental effects. The planning commission and zoning administrator can evaluate only conditional uses listed on the land use tables and are ~~is~~ empowered to grant, grant with conditions, or deny any application for a conditional use permit. Such review by the planning commission and zoning administrator is subject to findings (based upon the criteria in section 13-7E-7) and the applicable hearing requirements of this article (section 13-7E-5). (2001 Code § 89-5-404; amd. 2009 Code)

13-7E-2: APPLICATION PROCESS:

Applications shall be ~~made~~ submitted in the office of and in the manner established by the community development ~~services~~ department. (2009 Code; amd. ord. 19-50, 12-11-2019, Effective at 12 noon on January 6, 2020)

13-7E-3: SUBMITTAL REQUIREMENTS:

Any person ~~or entity~~ who seeks ~~development~~ a conditional use permit application approval shall submit an application on the official form provided by the community development ~~services~~ department with required documentation specified on ~~guidelines~~ checklists provided by the community development ~~services~~ department. Submittal requirements shall be as established administratively by the community development ~~services~~ department and shall include, but not be limited to:

~~a)~~ A. E~~e~~vidence of ownership or the type of controlling interest in the property;

~~b)~~ B. L~~l~~egal description of the property;

~~c)~~ C. P~~p~~roperty owner, including a property owner affidavit, if the applicant is not the owner;

~~d)~~ D. T~~t~~he present zoning classification;

~~e)~~ E. T~~t~~he proposed use of the property; ~~and~~

~~f)~~ F. A~~a~~ scaled diagram of the subject parcel and surrounding area~~.~~, inclusive of ingress and egress points from all parcels along both sides of subject streets bounding the property;

G. The applicant shall submit the application, together with the applicable fee, according to the consolidated fee schedule, to the community development ~~services~~ department~~.~~;

H. Applications shall not be reviewed without the written consent of the property owner~~.~~;

I. The burden of proof for all applications shall be the responsibility of the applicant~~.~~; and

J. The appropriate city departments shall, in a timely manner, determine whether the application is complete for purposes of subsequent, substantive planning commission or zoning administrator review, as applicable, and shall comply with the other provisions of Utah Code Ann. sections 10-9a-509 and 10-9a-509.5 or successor provisions. Additional submittal requirements may also be imposed pursuant to section 13-7E-4 of this article. (2009 Code; amd. Ord. 11-35, 11-22-2011; Ord. 19-50, 12-11-2019, Effective at 12 noon on January 6, 2020)

13-7E-4: ADDITIONAL SUBMITTAL REQUIREMENTS:

The planning commission or community development ~~services~~ department may require an applicant to provide an analysis of any ~~impacts~~ reasonably anticipated detrimental effects (traffic, environmental, utilities, public safety, and infrastructure, etc.) affecting the health, safety or general welfare of persons residing or working within the neighborhood of the proposed conditional use. (2009 Code; amd. Ord. 19-50, 12-11-2019, Effective at 12 noon on January 6, 2020)

13-7E-5: PUBLIC HEARING:

The application, together with all pertinent information, shall be considered by the planning commission, or the zoning administrator (in the case of an administrative conditional use permit), at a public hearing. Notice of the public hearing shall be provided as outlined in title 15 of this code, including sections 15-3-9 and 15-3-10. (2009 Code)

13-7E-6: ACTION BY PLANNING COMMISSION OR ZONING ADMINISTRATOR:

A. Staff Report: Prior to the planning commission or zoning administrator, as applicable, considering an application for a conditional use permit, the community development department, in consultation with other appropriate city departments, shall review and study the application and prepare a staff report, which shall include the following:

   1. Suggestions regarding the reasonably anticipated detrimental effects of the proposed conditional use, together with the reasons why each of the suggested reasonably anticipated detrimental effects will be detrimental; and

   2. Suggestions for reasonable conditions, which will reasonably relate to mitigating each of the reasonably anticipated detrimental effects of the proposed conditional use.

B. Identifying Detrimental Effects and Conditions: Prior to approving any application for a conditional use permit, the planning commission or zoning administrator, as applicable, shall complete the following regarding the application:

   1. Identify the reasonably anticipated detrimental effects of the proposed conditional use, together with the reasons why each of the identified reasonably anticipated detrimental effects will be detrimental;

2. Identify reasonable conditions, to be required by the city, which will reasonably relate to mitigating each of the reasonably anticipated detrimental effects of the proposed conditional use; and

3. State on the record, as part of the decision, each of the identified reasonably anticipated detrimental effects and each of the identified reasonable conditions, imposed by the city, which reasonably relate to mitigating each of the reasonably anticipated detrimental effects of the proposed conditional use.

~~A~~C. Types of Conditions: A conditional use shall be approved if reasonable conditions are proposed, or can be imposed, to mitigate the reasonably anticipated detrimental effects of the proposed use in accordance with applicable standards (the criteria in section 13-7E-7 in this article). These types of conditions which may be proposed or imposed may include, but are not limited to:

1. Requirements for setbacks, open spaces, buffers, fences or walls, barriers, and landscaping to mitigate conflicts from visual, noise, lighting and similar ~~impacts~~ detrimental effects associated with the use;

2. Dedication of street or other public rights of way and control in location of access points and on site circulation to mitigate traffic ~~impacts~~ detrimental effects from increased volumes or nature of traffic activity associated with the use;

3. Regulations pertaining to hours of operation, methods of operation, and phasing of the development of the site to mitigate ~~impacts~~ detrimental effects to surrounding properties and the neighborhood; and

4. Time limits on the duration of the permit to determine if the use, after a temporary period of operation, is materially detrimental or to evaluate whether changed conditions in the neighborhood effect the capability of the use to continue to adequately mitigate ~~impacts~~ detrimental effects to the surrounding area or the city as a whole.

~~B~~D. Denial: If the reasonably anticipated detrimental effects of a proposed conditional use cannot be substantially mitigated by the proposal or the imposition of reasonable conditions to achieve compliance with applicable standards (the criteria in section 13-7E-7 of this article), the conditional use ~~shall~~ may be denied. (2009 Code)

13-7E-~~8~~7: ~~FINDINGS~~ CRITERIA FOR APPROVAL:

Prior to approving any application for a conditional use permit, the planning commission or zoning administrator, as applicable, shall find that the proposed conditional use meets all the following applicable standards, referred to herein as criteria:

A. The proposed conditional use is consistent with the intent of the goals and policies of the general plan and the purpose of the zone district in which the proposed site is located;

B~~C~~. The proposed site is adequate in size and shape to accommodate the proposed conditional use; and ~~that~~ all the requirements for the zone district, including, but not limited to, setbacks, parking, on site circulation, screening, buffering, and landscaping, are being met;

C~~D~~. The proposed site has adequate access to public streets and highways to carry the type and quantity of traffic which may be generated by the ~~subject~~ proposed conditional use ~~and on site~~

~~circulation is adequate to permit driveways, parking and loading requirements in a manner which is safe and efficient~~;

D~~G~~. Where applicable, the proposed conditional use will have appropriate connections to the ~~city~~ water, ~~and~~ sewer, and other city utility systems, ~~and its water meter and pipe design shall be reviewed by the city engineer~~ as determined by the appropriate city departments, and with due regard to the public health, safety, and welfare~~.~~;

E~~B~~. ~~The proposed use will not be materially detrimental to the health, safety or general welfare of persons residing or working in the neighborhood of the proposed use or have an adverse effect on the property, adjacent properties, the surrounding neighborhood, or the city as a whole as a result of the type of use or hours of operation~~ Reasonably anticipated effects, both detrimental and beneficial, have been identified; and reasonable conditions which reasonably relate to mitigating each of the reasonably anticipated detrimental effects of the proposed conditional use have also been identified; and

~~E. The proposed use will ensure compatibility with surrounding uses and will use building materials that are in harmony with the area; and~~

F. Adequate conditions ~~or stipulations~~ have been incorporated into the approval of the conditional use permit ~~to ensure~~ so that any reasonably anticipated detrimental effects ~~can~~ will be reasonably mitigated. (2009 Code; amd. Ord. 10-24, 8-25-2010)

13-7E-~~7~~8: EFFECT AND EFFECTIVE DATE OF CONDITIONAL USE PERMIT; APPEAL:

A. The approval of a proposed conditional use by the planning commission or the zoning administrator shall not authorize the establishment or extension of any use nor the development, construction, reconstruction, alteration, or moving of any building or structure, but shall merely authorize the preparation, filing, and processing of applications for any permits or approvals that may be required by the regulations of the city, including, but not limited to, a building permit, certificate of occupancy, and subdivision approval.

B. The decision of the planning commission or zoning administrator shall be final and effective ~~fifteen (15)~~ sixteen (16) calendar days from the date of the decision, unless an appeal is filed pursuant to the procedures in sections 15-5-1, 15-5-3, and 15-5-6 ~~15-5-2 and subsection 15-5-5B~~ of this code, except that the appeal shall be to the conditional use appeal/revocation authority, as defined in section 13-7E-10 of this article.

C. The approval of a proposed conditional use permit by the planning commission or zoning administrator shall authorize only the particular use for which it was issued. (2009 Code; amd. Ord. 10-09, 2-24-2010)

13-7E-9: EXPIRATION:

~~No~~ For each conditional use permit requiring a building permit, the conditional use permit shall not be valid for a period longer than twelve (12) months, unless:

A. A ~~a~~ building permit is issued and construction is actually begun within that period and is thereafter diligently pursued to completion; ~~, or unless~~

B. A ~~a~~ certificate of occupancy is issued and a use commenced within that period~~,~~ ; or ~~unless~~

C. A ~~a~~ longer time is requested before the expiration and then granted by the planning commission or zoning administrator, as applicable. ~~The approval of a proposed conditional use by the planning commission or zoning administrator shall authorize only the particular use for which it was issued.~~ (2009 Code)

13-7E-10: REVOCATION (BY THE CONDITIONAL USE APPEAL/REVOCATION AUTHORITY):

A. Unless the mayor retains by contract another individual or individuals to fulfill the responsibilities of the conditional use appeal/revocation authority set forth in this section, the administrative law judge, identified in title 16, shall be and shall fulfill all the responsibilities of the conditional use appeal/revocation authority.

B. A conditional use permit may be revoked by the ~~development services director after review and recommendation by the planning commission. The planning commission shall hold a public hearing prior to recommending the revocation of a conditional use permit.~~ conditional use appeal/revocation authority after:

1. A request for conditional use revocation hearing ("hearing request"), which is like an administrative code enforcement hearing described in title 16, chapter 2, article E, is submitted by the community development department to the director of community preservation; and

2. A hearing is held, pursuant to title 16, chapter 2, article E. All parties shall comply with any other applicable provisions of title 16.

C. To submit a hearing request, there is no requirement for a prior notice of violation or administrative citation, but the community development department shall attach to the hearing request a supporting statement, documents, and information.

D. Any ~~recommendation of the planning commission and any~~ final decision by the conditional use appeal/revocation authority ~~development services director~~ to revoke a conditional use permit shall require a finding of one or more of the following:

1~~A~~. The conditional use is a nuisance or is detrimental to the public health, safety or welfare;

2~~B~~. The conditional use permit was obtained by fraud;

3~~C~~. The conditional use for which the permit was granted has been altered;

4~~D~~. The conditional use for which the permit was granted has ceased or has been suspended for six (6) months or more; ~~or~~

5~~E~~. The conditions of the permit have not been complied with; or

6. Any other reason allowed by law.

E. The final decision of the conditional use appeal/revocation authority ~~development services director~~ may be appealed, by any party to the revocation hearing, as per sections 15-5-6 and 15-6-1 of this code. (2009 Code; amd. Ord. 19-50, 12-11-2019, Effective at 12 noon on January 6, 2020)

13-7E-11: STATUS OF CONDITIONAL USE PERMIT:

A conditional use permit granted pursuant to provisions of this article shall run with the land and continue to be valid regardless of ownership of the site or structure subject of the conditional use permit application, so long as it operates within the conditions~~, stipulations~~ and terms of the conditional use permit approval. (2009 Code)

13-7E-12: MODIFICATION OF CONDITIONAL USE PERMIT (NEW APPLICATION):

A request to modify, expand, or otherwise change an approved conditional use permit, not in substantial conformance with the approved permit, shall be reviewed and processed according to provisions of this article as a new application. (2009 Code)

13-7E-13: REAPPLICATION (AFTER DENIAL OR REVOCATION):

In cases where ~~the~~ a conditional use permit has been denied or revoked, and unless otherwise required by law or ordered by the conditional use appeal/revocation authority or a court, no application for a conditional use permit for the same or substantially the same use on the same or substantially the same site shall be filed within one year from the date of denial or revocation of the conditional use permit. (2009 Code)

15-5-1: GENERAL PROVISIONS:

A. Application: An application specifying the reasons for an appeal shall be submitted in writing to the community development ~~services~~ department within fifteen (15) calendar days following the administrative decision, along with any applicable fee to cover the cost of processing the application. No application shall be processed until the application is complete and the required fee has been paid.

B. Hearing Procedures: Hearing procedures shall be as set forth in the bylaws, rules, policies and/or procedures as may be adopted from time to time by the city council, conditional use appeal/revocation authority, ~~planning commission~~ and/or board of adjustment.

C. Filing Deadline: All written documents and evidence from the applicant shall be received by the community development ~~services~~ department at least fifteen (15) ~~thirty (30)~~ calendar days in advance of the public hearing.

D. Staff Report: A staff report and recommendation shall be available for inspection at least five (5) calendar days prior to the hearing.

E. Burden of Proof ("Error Standard"); and Scope of Review ("On the Record"): The person ~~or entity~~ making the appeal has the burden of proving that an error has been made and shall present every theory of relief that the person could raise in district court. The appeal shall be "on the record", not "de novo".

F. Appeal Authority: Appeals shall not be used to waive or modify the terms or requirements of this title. (2009 Code; amd. Ord. 19-52, 12-11-2019, Effective at 12 noon on January 6, 2020)

15-5-3: APPEALS TO BOARD OF ADJUSTMENT:

A. Right of Appeal: Other than for issues regarding fees, pursuant to section 15-5-2 above, or for appealing a conditional use permit decision, pursuant to section 13-7E-8 of this code, or as otherwise set forth in this code, appeals to the board of adjustment may be taken by any person aggrieved by any administrative decision or action of city staff or the planning commission on matters pertaining to the interpretation and application of ~~title 12, 13, 14, or 15~~ titles 5, 8 through 15 inclusive, or 17 of this code. The appeal shall be filed within ~~thirty (30)~~ fifteen (15) calendar days following the decision at issue. The person filing the appeal shall file written notice with the zoning administrator and with the board of adjustment specifying the reasons for the appeal. The city staff associated with the issues of the appeal shall, without delay, transmit to the board of adjustment all documents and records constituting the record upon which the action appealed from is taken.

B~~C~~. ~~Zoning~~ Land Use Decisions: ~~Zoning~~ Unless otherwise set forth in this code, land use decisions applying to ~~title 12, 13, 14, or 15~~ titles 5, 8 through 15 inclusive, or 17 of this code may be appealed to the board of adjustment. The appeal shall be filed within fifteen (15) calendar days following the decision at issue, pursuant to subsection A above. A person may not appeal, and the board of adjustment may not consider, any ~~zoning~~ land use ordinance amendments, zoning map amendments, future land use map amendments, or general plan amendments. Appeals may not be used to waive or modify the terms or requirements ~~of title 12, 13, 14, or 15~~ of this code.

C~~B~~. Burden of Proof ("Error Standard"); and Scope of Review ("On the Record"): The person ~~or entity~~ making the appeal has the burden of proving that an error has been made and shall present every theory of relief that the person could raise in district court. The appeal shall be "on the record", not "de novo".

D. Stay of Proceedings: An appeal to the board of adjustment stays all proceedings in furtherance of the action appealed from, unless the officer from whom the appeal is taken certifies to the board of adjustment after the notice of appeal has been filed that, by reason of facts stated in the certification, a stay would, in ~~his~~ the officer's opinion, cause imminent peril to life or property. In such case proceedings shall not be stayed except by a restraining order granted by the district court on application and notice and on due cause shown.

E. Time and Notice of Hearing: The board of adjustment shall fix a reasonable time for the hearing of the appeal, give public notice of the appeal as well as notice to the parties in interest, and shall decide the appeal within a reasonable time. Upon the hearing, a party may appear in person or by agent or by attorney.

F. Reverse of Decision: The board of adjustment, according to its own rules, may reverse any order, requirement, or determination of an administrative officer and may decide in favor of the appellant.

G. Other Possible Action: The board of adjustment, after reviewing the decision of city staff or the planning commission, may affirm, reverse, alter, or postpone any determination until further study can be conducted. This may include referring the matter back to city staff or the planning commission for additional review.

H. Variances: Hearing and deciding requests for variances from the terms of titles 5, 8 through 15 inclusive, or 17 of this code, shall be as described in title 13, chapter 7, article G of this code, or successor provisions. (2009 Code; §15-5-4, amd. Ord. 19-52, 12-11-2019, Effective at 12 noon on January 6, 2020; Ord. 21-11, 3-24-2021)

15-5-6: APPEAL OF ACTION BY CONDITIONAL USE ~~PERMIT REVOCATION~~ APPEAL/REVOCATION AUTHORITY:

The final action of the conditional use appeal/revocation authority, as defined in section 13-7E-10, ~~development services director revoking~~ including the appeal or revocation of a conditional use permit, made pursuant to sections 13-7E-8 or 13-7E-10 of this code, may be appealed to the district court for judicial review pursuant to section 15-6-1. ~~board of adjustment. A request for appeal must be filed in writing within fifteen (15) days. The board of adjustment shall render a written decision within a reasonable time.~~ (Ord. 10-09, 2-24-2010; §15-5-8, amd. Ord. 19-52, 12-11-2019, Effective at 12 noon on January 6, 2020)

15-6-1: JUDICIAL REVIEW OF BOARD OF ADJUSTMENT, CONDITIONAL USE APPEAL/REVOCATION AUTHORITY, OR CITY COUNCIL DECISION:

Any person aggrieved by any decision of the board of adjustment, the conditional use appeal/revocation authority (as defined in section 13-7E-10 of this code), or the city council (review process types III, IV, or V, or conditional use permit appeals and revocations) may have and maintain a plenary action for relief from any district court whose jurisdiction includes the city; provided, that a petition for such relief is presented to the court within thirty (30) calendar days after the rendering of the final decision on the matter in question, or as otherwise required by law ~~by the city council~~. (2009 Code; amd. Ord. 19-52, 12-11-2019, Effective at 12 noon on January 6, 2020)

III. FINDINGS OF FACT

Section 13-7D-7B, requires that prior approving a Zoning Ordinance text amendment, the City Council must make the following findings:

Criteria 1: ***The proposed amendment conforms to the general plan and is consistent with the adopted goals, objectives and policies described therein;***

Discussion: The General Plan supports keeping ordinances relevant and understandable. On Page 19 it states:

GOAL 2. CONTINUALLY AND CONSISTENTLY UPDATE THE FUTURE LAND USE MAP, ZONING MAP, AND ZONING ORDINANCE FOR EASE OF REFERENCE AND ADMINISTRATION.

Policy 3. The Zoning Ordinance shall be updated to incorporate necessary changes that are consistent with State Code and reflect the best and most current land use practices of the time. Zoning Ordinance modifications and updates shall be made easy for the general public and City administration to understand.

1. Consistently review the Zoning Ordinance and edit where necessary in order to eliminate redundancy and replace technical jargon with plain English."

Finding: The proposed amendment conforms to the General Plan and is consistent with the adopted goals, objectives and policies described therein.

Criteria 2: ***The proposed amendment is appropriate given the context of the request and there is sufficient justification for a modification to this title;***

Discussion: The proposed ordinance will amend the 2009 West Jordan City Code Section 13-7E and portions of Title 15. The amendment is appropriate because it brings the city into compliance with recent changes to State Code.

Finding: The proposed amendment is appropriate given the context of the request and there is sufficient justification for a modification to this title;

Criteria 3: ***The proposed amendment will not create a conflict with any other section or part of this title or the general plan; and***

Discussion: Staff has not found any conflicts with other sections or with the general plan.

Finding: The proposed amendment will not create a conflict with any other section or part of the Municipal Code or the General Plan.

Criteria 4: ***The proposed amendment does not relieve a particular hardship, nor does it confer any special privileges to a single property owner or cause, and it is only necessary to make a modification to this title in light of corrections or changes in public policy.***

Discussion: The proposed amendment will not relieve a particular hardship or grant special privileges to any one person or entity, as it updates Criteria for Approval of Conditional Use Permits for all properties within West Jordan City.

Finding: The proposed amendment does not relieve a particular hardship, nor does it confer any special privileges to a single property owner or cause, and it is only necessary to make a modification to this title in accordance with recent changes to Utah State Code.

THE CITY OF WEST JORDAN, UTAH
ORDINANCE NO. 23-11

AN ORDINANCE AMENDING THE 2009 WEST JORDAN CITY CODE (AMENDING PROVISIONS REGARDING CONDITIONAL USE PERMITS AND APPEALS, TO CONFORM TO RECENT REVISIONS TO UTAH CODE ANN. SECTION 10-9a-507; SPECIFICALLY AMENDING CITY CODE SECTIONS 13-7E-1 THROUGH 13-7E-13 INCLUSIVE AND SECTIONS 15-5-1, 15-5-3, 15-5-6, AND 15-6-1)

WHEREAS, the City of West Jordan ("**City**") adopted West Jordan City Code ("**City Code**") in 2009; and the City Council of the City ("**City Council**") desires to amend a certain section of the City Code, regarding and related to Conditional Use Permits and Appeals, to conform to the recent revisions to Utah Code Ann. Section 10-9a-507 ("**proposed City Code amendments**"); and

WHEREAS, the Planning Commission of the City ("**Planning Commission**") held a public hearing and provided a recommendation on October 18, 2022, regarding the proposed City Code amendments, which are all land use regulations, including City Code Sections 13-7E-1 through 13-7E-13 inclusive and Sections 15-5-1, 15-5-3, 15-5-6, and 15-6-1; and

WHEREAS, the City Council held a public hearing on November 16, 2022, and has held other public meetings, regarding the proposed City Code amendments; and

WHEREAS, the City Council finds it to be in the best interest of the public health, safety, and welfare of the residents of the City to adopt the following proposed City Code amendments.

NOW THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF WEST JORDAN, UTAH AS FOLLOWS:

Section 1. Amendment of Code Provisions. City Code Sections 13-7E-1 through 13-7E-13 inclusive and Sections 15-5-1, 15-5-3, 15-5-6, and 15-6-1 are amended to read as shown in Attachments 1 and 2.

Section 2. Severability. If any provision of this Ordinance is declared to be invalid by a court of competent jurisdiction, the remainder shall not be affected thereby.

Section 3. Effective Date. This Ordinance shall become effective immediately upon posting or publication as provided by law and upon (i) the Mayor signing the Ordinance, (ii) the City Council duly overriding the veto of the Mayor as provided by law, or (iii) the Mayor failing to sign or veto the Ordinance within fifteen (15) days after the City Council presents the Ordinance to the Mayor.

PASSED BY THE CITY COUNCIL OF THE CITY OF WEST JORDAN, UTAH, THIS _____DAY OF _____ 2023.

CITY OF WEST JORDAN

By: _____
Christopher McConnehey
Council Chair

ATTEST (See next page):

ATTEST:

_____
Cindy M. Quick, MMC
Council Office Clerk

Voting by the City Council	**"YES"**	**"NO"**
Council Chair Christopher McConnehey	☐	☐
Council Vice-Chair Pamela Bloom	☐	☐
Council Member Kelvin Green	☐	☐
Council Member Zach Jacob	☐	☐
Council Member David Pack	☐	☐
Council Member Kayleen Whitelock	☐	☐
Council Member Melissa Worthen	☐	☐

PRESENTED TO THE MAYOR BY THE CITY COUNCIL ON _____.

Mayor's Action: _____ Approve _____ Veto

By: _____ _____
Mayor Dirk Burton Date

ATTEST:

_____
Tangee Sloan, CMC
City Recorder

(See the following pages)

STATEMENT OF APPROVAL/PASSAGE (check one)

_____ The Mayor approved and signed Ordinance No. 23-11.

_____ The Mayor vetoed Ordinance No. 23-11 on _____ and the City Council timely overrode the veto of the Mayor by a vote of _____ to _____.

_____ Ordinance No. 23-11 became effective by operation of law without the Mayor's approval or disapproval.

_____
Tangee Sloan, CMC
City Recorder

CERTIFICATE OF PUBLICATION

I, Tangee Sloan, certify that I am the City Recorder of the City of West Jordan, Utah, and that a short summary of the foregoing ordinance was published on the Utah Public Notice Website on the _____ day of _____ 2023. The fully executed copy of the ordinance is retained in the Office of the City Recorder pursuant to Utah Code Annotated, 10-3-711.

_____
Tangee Sloan, CMC
City Recorder

(Attachments on the following pages)

Attachments to

ORDINANCE NO. 23-11

AN ORDINANCE AMENDING THE 2009 WEST JORDAN CITY CODE (AMENDING PROVISIONS REGARDING CONDITIONAL USE PERMITS AND APPEALS, TO CONFORM TO RECENT REVISIONS TO UTAH CODE ANN. SECTION 10-9a-507; SPECIFICALLY AMENDING CITY CODE SECTIONS 13-7E-1 THROUGH 13-7E-13 INCLUSIVE AND SECTIONS 15-5-1, 15-5-3, 15-5-6, AND 15-6-1)

(See the following pages)

Legislative Version:

ARTICLE E. CONDITIONAL USE PERMITS

SECTION:

13-7E-1: Purpose
13-7E-2: Application Process
13-7E-3: Submittal Requirements
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13-7E-1: PURPOSE:

The city recognizes certain uses which may be appropriate in specific zone districts but have characteristics that, depending upon the location, design, and standards of operation, may have a greater impact than permitted uses on adjoining properties, businesses, or residences within the city. Such uses require a more comprehensive review, including the ability of the city to establish specific conditions for the project to mitigate any ~~potential impacts~~ reasonably anticipated detrimental effects. The planning commission and zoning administrator can evaluate only conditional uses listed on the land use tables and are ~~is~~ empowered to grant, grant with conditions, or deny any application for a conditional use permit. Such review by the planning commission and zoning administrator is subject to findings (based upon the criteria in section 13-7E-7) and the applicable hearing requirements of this article (section 13-7E-5). (2001 Code § 89-5-404; amd. 2009 Code)

13-7E-2: APPLICATION PROCESS:

Applications shall be ~~made~~ submitted in the office of and in the manner established by the community development ~~services~~ department. (2009 Code; amd. ord. 19-50, 12-11-2019, Effective at 12 noon on January 6 2020)

13-7E-3: SUBMITTAL REQUIREMENTS:

Any person ~~or entity~~ who seeks ~~development~~ a conditional use permit application approval shall submit an application on the official form provided by the community development ~~services~~ department with required documentation specified on ~~guidelines~~ checklists provided by the community development ~~services~~ department. Submittal requirements shall be as established administratively by the community development ~~services~~ department and shall include, but not be limited to:

~~a)~~ A. E~~e~~vidence of ownership or the type of controlling interest in the property;

~~b)~~ B. L~~l~~egal description of the property;

~~c)~~ C. P~~p~~roperty owner, including a property owner affidavit, if the applicant is not the owner;

~~d)~~ D. T~~t~~he present zoning classification;

~~e)~~ E. T~~t~~he proposed use of the property; ~~and~~

~~f)~~ F. A~~a~~ scaled diagram of the subject parcel and surrounding area~~.~~, inclusive of ingress and egress points from all parcels along both sides of subject streets bounding the property;

G. The applicant shall submit the application, together with the applicable fee, according to the consolidated fee schedule, to the community development ~~services~~ department~~.~~;

H. Applications shall not be reviewed without the written consent of the property owner~~.~~;

I. The burden of proof for all applications shall be the responsibility of the applicant~~.~~; and

J. The appropriate city departments shall, in a timely manner, determine whether the application is complete for purposes of subsequent, substantive planning commission or zoning administrator review, as applicable, and shall comply with the other provisions of Utah Code Ann. sections 10-9a-509 and 10-9a-509.5 or successor provisions. Additional submittal requirements may also be imposed pursuant to section 13-7E-4 of this article. (2009 Code; amd. Ord. 11-35, 11-22-2011; Ord. 19-50, 12-11-2019, Effective at 12 noon on January 6, 2020)

13-7E-4: ADDITIONAL SUBMITTAL REQUIREMENTS:

The planning commission or community development ~~services~~ department may require an applicant to provide an analysis of any ~~impacts~~ reasonably anticipated detrimental effects (traffic, environmental, utilities, public safety, and infrastructure, etc.) affecting the health, safety or general welfare of persons residing or working within the neighborhood of the proposed conditional use. (2009 Code; amd. Ord. 19-50, 12-11-2019, Effective at 12 noon on January 6, 2020)

13-7E-5: PUBLIC HEARING:

The application, together with all pertinent information, shall be considered by the planning commission, or the zoning administrator (in the case of an administrative conditional use permit), at a public hearing. Notice of the public hearing shall be provided as outlined in title 15 of this code, including sections 15-3-9 and 15-3-10. (2009 Code)

13-7E-6: ACTION BY PLANNING COMMISSION OR ZONING ADMINISTRATOR:

A. Staff Report: Prior to the planning commission or zoning administrator, as applicable, considering an application for a conditional use permit, the community development department, in consultation with other appropriate city departments, shall review and study the application and prepare a staff report, which shall include the following:

1. Suggestions regarding the reasonably anticipated detrimental effects of the proposed conditional use, together with the reasons why each of the suggested reasonably anticipated detrimental effects will be detrimental; and

2. Suggestions for reasonable conditions, which will reasonably relate to mitigating each of the reasonably anticipated detrimental effects of the proposed conditional use.

B. Identifying Detrimental Effects and Conditions: Prior to approving any application for a conditional use permit, the planning commission or zoning administrator, as applicable, shall complete the following regarding the application:

1. Identify the reasonably anticipated detrimental effects of the proposed conditional use, together with the reasons why each of the identified reasonably anticipated detrimental effects will be detrimental;

2. Identify reasonable conditions, to be required by the city, which will reasonably relate to mitigating each of the reasonably anticipated detrimental effects of the proposed conditional use; and

3. State on the record, as part of the decision, each of the identified reasonably anticipated detrimental effects and each of the identified reasonable conditions, imposed by the city, which reasonably relate to mitigating each of the reasonably anticipated detrimental effects of the proposed conditional use.

~~A~~C. Types of Conditions: A conditional use shall be approved if reasonable conditions are proposed, or can be imposed, to mitigate the reasonably anticipated detrimental effects of the proposed use in accordance with applicable standards (the criteria in section 13-7E-7 in this article). These types of conditions which may be proposed or imposed may include, but are not limited to:

1. Requirements for setbacks, open spaces, buffers, fences or walls, barriers, and landscaping to mitigate conflicts from visual, noise, lighting and similar ~~impacts~~ detrimental effects associated with the use;

2. Dedication of street or other public rights of way and control in location of access points and on site circulation to mitigate traffic ~~impacts~~ detrimental effects from increased volumes or nature of traffic activity associated with the use;

3. Regulations pertaining to hours of operation, methods of operation, and phasing of the development of the site to mitigate ~~impacts~~ detrimental effects to surrounding properties and the neighborhood; and

4. Time limits on the duration of the permit to determine if the use, after a temporary period of operation, is materially detrimental or to evaluate whether changed conditions in the neighborhood effect the capability of the use to continue to adequately mitigate ~~impacts~~ detrimental effects to the surrounding area or the city as a whole.

~~B~~D. Denial: If the reasonably anticipated detrimental effects of a proposed conditional use cannot be substantially mitigated by the proposal or the imposition of reasonable conditions to achieve compliance with applicable standards (the criteria in section 13-7E-7 of this article), the conditional use ~~shall~~ may be denied. (2009 Code)

13-7E-~~8~~7: ~~FINDINGS~~ CRITERIA FOR APPROVAL:

Prior to approving any application for a conditional use permit, the planning commission or zoning administrator, as applicable, shall find that the proposed conditional use meets all the following applicable standards, referred to herein as criteria:

A. The proposed conditional use is consistent with the intent of the goals and policies of the general plan and the purpose of the zone district in which the proposed site is located;

B~~C~~. The proposed site is adequate in size and shape to accommodate the proposed conditional use; and ~~that~~ all the requirements for the zone district, including, but not limited to, setbacks, parking, on site circulation, screening, buffering, and landscaping, are being met;

C~~D~~. The proposed site has adequate access to public streets and highways to carry the type and quantity of traffic which may be generated by the ~~subject~~ proposed conditional use ~~and on site circulation is adequate to permit driveways, parking and loading requirements in a manner which is safe and efficient~~;

D~~G~~. Where applicable, the proposed conditional use will have appropriate connections to the ~~city~~ water, ~~and~~ sewer, and other city utility systems, ~~and its water meter and pipe design shall be reviewed by the city engineer~~ as determined by the appropriate city departments, and with due regard to the public health, safety, and welfare~~.~~;

E~~B~~. ~~The proposed use will not be materially detrimental to the health, safety or general welfare of persons residing or working in the neighborhood of the proposed use or have an adverse effect on the property, adjacent properties, the surrounding neighborhood, or the city as a whole as a result of the type of use or hours of operation~~ Reasonably anticipated effects, both detrimental and beneficial, have been identified; and reasonable conditions which reasonably

relate to mitigating each of the reasonably anticipated detrimental effects of the proposed conditional use have also been identified; and

~~E. The proposed use will ensure compatibility with surrounding uses and will use building materials that are in harmony with the area; and~~

F. Adequate conditions ~~or stipulations~~ have been incorporated into the approval of the conditional use permit ~~to ensure~~ so that any reasonably anticipated detrimental effects ~~can~~ will be reasonably mitigated. (2009 Code; amd. Ord. 10-24, 8-25-2010)

13-7E-~~7~~8: EFFECT AND EFFECTIVE DATE OF CONDITIONAL USE PERMIT; APPEAL:

A. The approval of a proposed conditional use by the planning commission or the zoning administrator shall not authorize the establishment or extension of any use nor the development, construction, reconstruction, alteration, or moving of any building or structure, but shall merely authorize the preparation, filing, and processing of applications for any permits or approvals that may be required by the regulations of the city, including, but not limited to, a building permit, certificate of occupancy, and subdivision approval.

B. The decision of the planning commission or zoning administrator shall be final and effective ~~fifteen (15)~~ sixteen (16) calendar days from the date of the decision, unless an appeal is filed pursuant to the procedures in sections 15-5-1, 15-5-3, and 15-5-6 ~~15-5-2 and subsection 15-5-5B~~ of this code, except that the appeal shall be to the conditional use appeal/revocation authority, as defined in section 13-7E-10 of this article.

C. The approval of a proposed conditional use permit by the planning commission or zoning administrator shall authorize only the particular use for which it was issued. (2009 Code; amd. Ord. 10-09, 2-24-2010)

13-7E-9: EXPIRATION:

~~No~~ For each conditional use permit requiring a building permit, the conditional use permit shall not be valid for a period longer than twelve (12) months, unless:

A. A ~~a~~ building permit is issued and construction is actually begun within that period and is thereafter diligently pursued to completion; ~~, or unless~~

B. A ~~a~~ certificate of occupancy is issued and a use commenced within that period~~,~~ ; or ~~unless~~

C. A ~~a~~ longer time is requested before the expiration and then granted by the planning commission or zoning administrator, as applicable. ~~The approval of a proposed conditional use by the planning commission or zoning administrator shall authorize only the particular use for which it was issued.~~ (2009 Code)

13-7E-10: REVOCATION (BY THE CONDITIONAL USE APPEAL/REVOCATION AUTHORITY):

A. Unless the mayor retains by contract another individual or individuals to fulfill the responsibilities of the conditional use appeal/revocation authority set forth in this section, the administrative law judge, identified in title 16, shall be and shall fulfill all the responsibilities of the conditional use appeal/revocation authority.

B. A conditional use permit may be revoked by the ~~development services director after review and recommendation by the planning commission. The planning commission shall hold a public hearing prior to recommending the revocation of a conditional use permit.~~ conditional use appeal/revocation authority after:

1. A request for conditional use revocation hearing ("hearing request"), which is like an administrative code enforcement hearing described in title 16, chapter 2, article E, is submitted by the community development department to the director of community preservation; and

2. A hearing is held, pursuant to title 16, chapter 2, article E. All parties shall comply with any other applicable provisions of title 16.

C. To submit a hearing request, there is no requirement for a prior notice of violation or administrative citation, but the community development department shall attach to the hearing request a supporting statement, documents, and information.

D. Any ~~recommendation of the planning commission and any~~ final decision by the conditional use appeal/revocation authority ~~development services director~~ to revoke a conditional use permit shall require a finding of one or more of the following:

1~~A~~. The conditional use is a nuisance or is detrimental to the public health, safety or welfare;

2~~B~~. The conditional use permit was obtained by fraud;

3~~C~~. The conditional use for which the permit was granted has been altered;

4~~D~~. The conditional use for which the permit was granted has ceased or has been suspended for six (6) months or more; ~~or~~

5~~E~~. The conditions of the permit have not been complied with; or

6. Any other reason allowed by law.

E. The final decision of the conditional use appeal/revocation authority ~~development services director~~ may be appealed, by any party to the revocation hearing, as per sections 15-5-6 and 15-6-1 of this code. (2009 Code; amd. Ord. 19-50, 12-11-2019, Effective at 12 noon on January 6, 2020)

13-7E-11: STATUS OF CONDITIONAL USE PERMIT:

A conditional use permit granted pursuant to provisions of this article shall run with the land and continue to be valid regardless of ownership of the site or structure subject of the conditional use permit application, so long as it operates within the conditions~~, stipulations~~ and terms of the conditional use permit approval. (2009 Code)

13-7E-12: MODIFICATION OF CONDITIONAL USE PERMIT (NEW APPLICATION):

A request to modify, expand, or otherwise change an approved conditional use permit, not in substantial conformance with the approved permit, shall be reviewed and processed according to provisions of this article as a new application. (2009 Code)

13-7E-13: REAPPLICATION (AFTER DENIAL OR REVOCATION):

In cases where ~~the~~ a conditional use permit has been denied or revoked, and unless otherwise required by law or ordered by the conditional use appeal/revocation authority or a court, no application for a conditional use permit for the same or substantially the same use on the same or substantially the same site shall be filed within one year from the date of denial or revocation of the conditional use permit. (2009 Code)

15-5-1: GENERAL PROVISIONS:

A. Application: An application specifying the reasons for an appeal shall be submitted in writing to the community development ~~services~~ department within fifteen (15) calendar days following the administrative decision, along with any applicable fee to cover the cost of processing the application. No application shall be processed until the application is complete and the required fee has been paid.

B. Hearing Procedures: Hearing procedures shall be as set forth in the bylaws, rules, policies and/or procedures as may be adopted from time to time by the city council, conditional use appeal/revocation authority, ~~planning commission~~ and/or board of adjustment.

C. Filing Deadline: All written documents and evidence from the applicant shall be received by the community development ~~services~~ department at least fifteen (15) ~~thirty (30)~~ calendar days in advance of the public hearing.

D. Staff Report: A staff report and recommendation shall be available for inspection at least five (5) calendar days prior to the hearing.

E. Burden of Proof ("Error Standard"); and Scope of Review ("On the Record"): The person ~~or entity~~ making the appeal has the burden of proving that an error has been made and shall present every theory of relief that the person could raise in district court. The appeal shall be "on the record", not "de novo".

F. Appeal Authority: Appeals shall not be used to waive or modify the terms or requirements of this title. (2009 Code; amd. Ord. 19-52, 12-11-2019, Effective at 12 noon on January 6, 2020)

15-5-3: APPEALS TO BOARD OF ADJUSTMENT:

A. Right of Appeal: Other than for issues regarding fees, pursuant to section 15-5-2 above, or for appealing a conditional use permit decision, pursuant to section 13-7E-8 of this code, or as otherwise set forth in this code, appeals to the board of adjustment may be taken by any person aggrieved by any administrative decision or action of city staff or the planning commission on matters pertaining to the interpretation and application of ~~title 12, 13, 14, or 15~~ titles 5, 8 through 15 inclusive, or 17 of this code. The appeal shall be filed within ~~thirty (30)~~ fifteen (15) calendar days following the decision at issue. The person filing the appeal shall file written notice with the zoning administrator and with the board of adjustment specifying the reasons for the appeal. The city staff associated with the issues of the appeal shall, without delay, transmit to the board of adjustment all documents and records constituting the record upon which the action appealed from is taken.

B~~C~~. ~~Zoning~~ Land Use Decisions: ~~Zoning~~ Unless otherwise set forth in this code, land use decisions applying to ~~title 12, 13, 14, or 15~~ titles 5, 8 through 15 inclusive, or 17 of this code may be appealed to the board of adjustment. The appeal shall be filed within fifteen (15) calendar days following the decision at issue, pursuant to subsection A above. A person may not appeal, and the board of adjustment may not consider, any ~~zoning~~ land use ordinance amendments, zoning map amendments, future land use map amendments, or general plan amendments. Appeals may not be used to waive or modify the terms or requirements ~~of title 12, 13, 14, or 15~~ of this code.

C~~B~~. Burden of Proof ("Error Standard"); and Scope of Review ("On the Record"): The person ~~or entity~~ making the appeal has the burden of proving that an error has been made and shall present every theory of relief that the person could raise in district court. The appeal shall be "on the record", not "de novo".

D. Stay of Proceedings: An appeal to the board of adjustment stays all proceedings in furtherance of the action appealed from, unless the officer from whom the appeal is taken certifies to the board of adjustment after the notice of appeal has been filed that, by reason of facts stated in the certification, a stay would, in ~~his~~ the officer's opinion, cause imminent peril to life or property. In such case proceedings shall not be stayed except by a restraining order granted by the district court on application and notice and on due cause shown.

E. Time and Notice of Hearing: The board of adjustment shall fix a reasonable time for the hearing of the appeal, give public notice of the appeal as well as notice to the parties in interest, and shall decide the appeal within a reasonable time. Upon the hearing, a party may appear in person or by agent or by attorney.

F. Reverse of Decision: The board of adjustment, according to its own rules, may reverse any order, requirement, or determination of an administrative officer and may decide in favor of the appellant.

G. Other Possible Action: The board of adjustment, after reviewing the decision of city staff or the planning commission, may affirm, reverse, alter, or postpone any determination until further study can be conducted. This may include referring the matter back to city staff or the planning commission for additional review.

H. Variances: Hearing and deciding requests for variances from the terms of titles 5, 8 through 15 inclusive, or 17 of this code, shall be as described in title 13, chapter 7, article G of this code, or successor provisions. (2009 Code; §15-5-4, amd. Ord. 19-52, 12-11-2019, Effective at 12 noon on January 6, 2020; Ord. 21-11, 3-24-2021)

15-5-6: APPEAL OF ACTION BY CONDITIONAL USE ~~PERMIT REVOCATION~~ APPEAL/REVOCATION AUTHORITY:

The final action of the conditional use appeal/revocation authority, as defined in section 13-7E-10, ~~development services director revoking~~ including the appeal or revocation of a conditional use permit, made pursuant to sections 13-7E-8 or 13-7E-10 of this code, may be appealed to the district court for judicial review pursuant to section 15-6-1. ~~board of adjustment. A request for appeal must be filed in writing within fifteen (15) days. The board of adjustment shall render a written decision within a reasonable time.~~ (Ord. 10-09, 2-24-2010; §15-5-8, amd. Ord. 19-52, 12-11-2019, Effective at 12 noon on January 6, 2020)

15-6-1: JUDICIAL REVIEW OF BOARD OF ADJUSTMENT, CONDITIONAL USE APPEAL/REVOCATION AUTHORITY, OR CITY COUNCIL DECISION:

Any person aggrieved by any decision of the board of adjustment, the conditional use appeal/revocation authority (as defined in section 13-7E-10 of this code), or the city council (review process types III, IV, or V, or conditional use permit appeals and revocations) may have and maintain a plenary action for relief from any district court whose jurisdiction includes the city; provided, that a petition for such relief is presented to the court within thirty (30) calendar days after the rendering of the final decision on the matter in question, or as otherwise required by law ~~by the city council~~. (2009 Code; amd. Ord. 19-52, 12-11-2019, Effective at 12 noon on January 6, 2020)

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ARTICLE E. CONDITIONAL USE PERMITS

SECTION:

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13-7E-11: Status Of Conditional Use Permit
13-7E-12: Modification Of Conditional Use Permit (New Application)
13-7E-13: Reapplication (After Denial or Revocation)

13-7E-1: PURPOSE:

The city recognizes certain uses which may be appropriate in specific zone districts but have characteristics that, depending upon the location, design, and standards of operation, may have a greater impact than permitted uses on adjoining properties, businesses, or residences within the city. Such uses require a more comprehensive review, including the ability of the city to establish specific conditions for the project to mitigate any reasonably anticipated detrimental effects. The planning commission and zoning administrator can evaluate only conditional uses listed on the land use tables and are empowered to grant, grant with conditions, or deny any application for a conditional use permit. Such review by the planning commission and zoning administrator is subject to findings (based upon the criteria in section 13-7E-7) and the applicable hearing requirements of this article (section 13-7E-5). (2001 Code § 89-5-404; amd. 2009 Code)

13-7E-2: APPLICATION PROCESS:

Applications shall be submitted in the office of and in the manner established by the community development department. (2009 Code; amd. ord. 19-50, 12-11-2019, Effective at 12 noon on January 6 2020)

13-7E-3: SUBMITTAL REQUIREMENTS:

Any person who seeks a conditional use permit application approval shall submit an application on the official form provided by the community development department with required documentation specified on checklists provided by the community development department. Submittal requirements shall be as established administratively by the community development department and shall include, but not be limited to:

A. Evidence of ownership or the type of controlling interest in the property;

B. Legal description of the property;

C. Property owner, including a property owner affidavit, if the applicant is not the owner;

D. The present zoning classification;

E. The proposed use of the property;

F. A scaled diagram of the subject parcel and surrounding area, inclusive of ingress and egress points from all parcels along both sides of subject streets bounding the property;

G. The applicant shall submit the application, together with the applicable fee, according to the consolidated fee schedule, to the community development department;

H. Applications shall not be reviewed without the written consent of the property owner;

I. The burden of proof for all applications shall be the responsibility of the applicant; and

J. The appropriate city departments shall, in a timely manner, determine whether the application is complete for purposes of subsequent, substantive planning commission or zoning administrator review, as applicable, and shall comply with the other provisions of Utah Code Ann. sections 10-9a-509 and 10-9a-509.5 or successor provisions. Additional submittal requirements may also be imposed pursuant to section 13-7E-4 of this article. (2009 Code; amd. Ord. 11-35, 11-22-2011; Ord. 19-50, 12-11-2019, Effective at 12 noon on January 6, 2020)

13-7E-4: ADDITIONAL SUBMITTAL REQUIREMENTS:

The planning commission or community development department may require an applicant to provide an analysis of any reasonably anticipated detrimental effects (traffic, environmental, utilities, public safety, and infrastructure, etc.) affecting the health, safety or general welfare of persons residing or working within the neighborhood of the proposed conditional use. (2009 Code; amd. Ord. 19-50, 12-11-2019, Effective at 12 noon on January 6, 2020)

13-7E-5: PUBLIC HEARING:

The application, together with all pertinent information, shall be considered by the planning commission, or the zoning administrator (in the case of an administrative conditional use

permit), at a public hearing. Notice of the public hearing shall be provided as outlined in title 15 of this code, including sections 15-3-9 and 15-3-10. (2009 Code)

13-7E-6: ACTION BY PLANNING COMMISSION OR ZONING ADMINISTRATOR:

A. Staff Report: Prior to the planning commission or zoning administrator, as applicable, considering an application for a conditional use permit, the community development department, in consultation with other appropriate city departments, shall review and study the application and prepare a staff report, which shall include the following:

1. Suggestions regarding the reasonably anticipated detrimental effects of the proposed conditional use, together with the reasons why each of the suggested reasonably anticipated detrimental effects will be detrimental; and

2. Suggestions for reasonable conditions, which will reasonably relate to mitigating each of the reasonably anticipated detrimental effects of the proposed conditional use.

B. Identifying Detrimental Effects and Conditions: Prior to approving any application for a conditional use permit, the planning commission or zoning administrator, as applicable, shall complete the following regarding the application:

1. Identify the reasonably anticipated detrimental effects of the proposed conditional use, together with the reasons why each of the identified reasonably anticipated detrimental effects will be detrimental;

2. Identify reasonable conditions, to be required by the city, which will reasonably relate to mitigating each of the reasonably anticipated detrimental effects of the proposed conditional use; and

3. State on the record, as part of the decision, each of the identified reasonably anticipated detrimental effects and each of the identified reasonable conditions, imposed by the city, which reasonably relate to mitigating each of the reasonably anticipated detrimental effects of the proposed conditional use.

C. Types of Conditions: A conditional use shall be approved if reasonable conditions are proposed, or can be imposed, to mitigate the reasonably anticipated detrimental effects of the proposed use in accordance with applicable standards (the criteria in section 13-7E-7 in this article). These types of conditions which may be proposed or imposed may include, but are not limited to:

1. Requirements for setbacks, open spaces, buffers, fences or walls, barriers, and landscaping to mitigate conflicts from visual, noise, lighting and similar ~~impacts~~ detrimental effects associated with the use;

2. Dedication of street or other public rights of way and control in location of access points and on site circulation to mitigate traffic detrimental effects from increased volumes or nature of traffic activity associated with the use;

3. Regulations pertaining to hours of operation, methods of operation, and phasing of the development of the site to mitigate detrimental effects to surrounding properties and the neighborhood; and

4. Time limits on the duration of the permit to determine if the use, after a temporary period of operation, is materially detrimental or to evaluate whether changed conditions in the neighborhood effect the capability of the use to continue to adequately mitigate detrimental effects to the surrounding area or the city as a whole.

D. Denial: If the reasonably anticipated detrimental effects of a proposed conditional use cannot be substantially mitigated by the proposal or the imposition of reasonable conditions to achieve compliance with applicable standards (the criteria in section 13-7E-7 of this article), the conditional use may be denied. (2009 Code)

13-7E-7: CRITERIA FOR APPROVAL:

Prior to approving any application for a conditional use permit, the planning commission or zoning administrator, as applicable, shall find that the proposed conditional use meets all the following applicable standards, referred to herein as criteria:

A. The proposed conditional use is consistent with the intent of the goals and policies of the general plan and the purpose of the zone district in which the proposed site is located;

B. The proposed site is adequate in size and shape to accommodate the proposed conditional use; and all the requirements for the zone district, including, but not limited to, setbacks, parking, on site circulation, screening, buffering, and landscaping, are being met;

C. The proposed site has adequate access to public streets and highways to carry the type and quantity of traffic which may be generated by the proposed conditional use;

D. Where applicable, the proposed conditional use will have appropriate connections to the water, sewer, and other city utility systems, as determined by the appropriate city departments, and with due regard to the public health, safety, and welfare;

E. Reasonably anticipated effects, both detrimental and beneficial, have been identified; and reasonable conditions which reasonably relate to mitigating each of the reasonably anticipated detrimental effects of the proposed conditional use have also been identified; and

F. Adequate conditions have been incorporated into the approval of the conditional use permit so that any reasonably anticipated detrimental effects will be reasonably mitigated. (2009 Code; amd. Ord. 10-24, 8-25-2010)

13-7E-8: EFFECT AND EFFECTIVE DATE OF CONDITIONAL USE PERMIT; APPEAL:

A. The approval of a proposed conditional use by the planning commission or the zoning administrator shall not authorize the establishment or extension of any use nor the development, construction, reconstruction, alteration, or moving of any building or structure, but shall merely

authorize the preparation, filing, and processing of applications for any permits or approvals that may be required by the regulations of the city, including, but not limited to, a building permit, certificate of occupancy, and subdivision approval.

B. The decision of the planning commission or zoning administrator shall be final and effective sixteen (16) calendar days from the date of the decision, unless an appeal is filed pursuant to the procedures in sections 15-5-1, 15-5-3, and 15-5-6 of this code, except that the appeal shall be to the conditional use appeal/revocation authority, as defined in section 13-7E-10 of this article.

C. The approval of a proposed conditional use permit by the planning commission or zoning administrator shall authorize only the particular use for which it was issued. (2009 Code; amd. Ord. 10-09, 2-24-2010)

13-7E-9: EXPIRATION:

For each conditional use permit requiring a building permit, the conditional use permit shall not be valid for a period longer than twelve (12) months, unless:

A. A building permit is issued and construction is actually begun within that period and is thereafter diligently pursued to completion;

B. A certificate of occupancy is issued and a use commenced within that period; or

C. A longer time is requested before the expiration and then granted by the planning commission or zoning administrator, as applicable. (2009 Code)

13-7E-10: REVOCATION (BY THE CONDITIONAL USE APPEAL/REVOCATION AUTHORITY):

A. Unless the mayor retains by contract another individual or individuals to fulfill the responsibilities of the conditional use appeal/revocation authority set forth in this section, the administrative law judge, identified in title 16, shall be and shall fulfill all the responsibilities of the conditional use appeal/revocation authority.

B. A conditional use permit may be revoked by the conditional use appeal/revocation authority after:

1. A request for conditional use revocation hearing ("hearing request"), which is like an administrative code enforcement hearing described in title 16, chapter 2, article E, is submitted by the community development department to the director of community preservation; and

2. A hearing is held, pursuant to title 16, chapter 2, article E. All parties shall comply with any other applicable provisions of title 16.

C. To submit a hearing request, there is no requirement for a prior notice of violation or administrative citation, but the community development department shall attach to the hearing request a supporting statement, documents, and information.

D. Any final decision by the conditional use appeal/revocation authority to revoke a conditional use permit shall require a finding of one or more of the following:

1. The conditional use is a nuisance or is detrimental to the public health, safety or welfare;

2. The conditional use permit was obtained by fraud;

3. The conditional use for which the permit was granted has been altered;

4. The conditional use for which the permit was granted has ceased or has been suspended for six (6) months or more;

5. The conditions of the permit have not been complied with; or

6. Any other reason allowed by law.

E. The final decision of the conditional use appeal/revocation authority may be appealed, by any party to the revocation hearing, as per sections 15-5-6 and 15-6-1 of this code. (2009 Code; amd. Ord. 19-50, 12-11-2019, Effective at 12 noon on January 6, 2020)

13-7E-11: STATUS OF CONDITIONAL USE PERMIT:

A conditional use permit granted pursuant to provisions of this article shall run with the land and continue to be valid regardless of ownership of the site or structure subject of the conditional use permit application, so long as it operates within the conditions and terms of the conditional use permit approval. (2009 Code)

13-7E-12: MODIFICATION OF CONDITIONAL USE PERMIT (NEW APPLICATION):

A request to modify, expand, or otherwise change an approved conditional use permit, not in substantial conformance with the approved permit, shall be reviewed and processed according to provisions of this article as a new application. (2009 Code)

13-7E-13: REAPPLICATION (AFTER DENIAL OR REVOCATION):

In cases where a conditional use permit has been denied or revoked, and unless otherwise required by law or ordered by the conditional use appeal/revocation authority or a court, no application for a conditional use permit for the same or substantially the same use on the same or substantially the same site shall be filed within one year from the date of denial or revocation of the conditional use permit. (2009 Code)

15-5-1: GENERAL PROVISIONS:

A. Application: An application specifying the reasons for an appeal shall be submitted in writing to the community development department within fifteen (15) calendar days following the administrative decision, along with any applicable fee to cover the cost of processing the application. No application shall be processed until the application is complete and the required fee has been paid.

B. Hearing Procedures: Hearing procedures shall be as set forth in the bylaws, rules, policies and/or procedures as may be adopted from time to time by the city council, conditional use appeal/revocation authority, and/or board of adjustment.

C. Filing Deadline: All written documents and evidence from the applicant shall be received by the community development department at least fifteen (15) calendar days in advance of the public hearing.

D. Staff Report: A staff report and recommendation shall be available for inspection at least five (5) calendar days prior to the hearing.

E. Burden of Proof ("Error Standard"); and Scope of Review ("On the Record"): The person making the appeal has the burden of proving that an error has been made and shall present every theory of relief that the person could raise in district court. The appeal shall be "on the record", not "de novo".

F. Appeal Authority: Appeals shall not be used to waive or modify the terms or requirements of this title. (2009 Code; amd. Ord. 19-52, 12-11-2019, Effective at 12 noon on January 6, 2020)

15-5-3: APPEALS TO BOARD OF ADJUSTMENT:

A. Right of Appeal: Other than for issues regarding fees, pursuant to section 15-5-2 above, or for appealing a conditional use permit decision, pursuant to section 13-7E-8 of this code, or as otherwise set forth in this code, appeals to the board of adjustment may be taken by any person aggrieved by any administrative decision or action of city staff or the planning commission on matters pertaining to the interpretation and application of titles 5, 8 through 15 inclusive, or 17 of this code. The appeal shall be filed within fifteen (15) calendar days following the decision at issue. The person filing the appeal shall file written notice with the zoning administrator and with the board of adjustment specifying the reasons for the appeal. The city staff associated with the issues of the appeal shall, without delay, transmit to the board of adjustment all documents and records constituting the record upon which the action appealed from is taken.

B. Land Use Decisions: Unless otherwise set forth in this code, land use decisions applying to titles 5, 8 through 15 inclusive, or 17 of this code may be appealed to the board of adjustment. The appeal shall be filed within fifteen (15) calendar days following the decision at issue, pursuant to subsection A above. A person may not appeal, and the board of adjustment may not consider, any land use ordinance amendments, zoning map amendments, future land use map amendments, or general plan amendments. Appeals may not be used to waive or modify the terms or requirements of this code.

C. Burden of Proof ("Error Standard"); and Scope of Review ("On the Record"): The person making the appeal has the burden of proving that an error has been made and shall present every theory of relief that the person could raise in district court. The appeal shall be "on the record", not "de novo".

D. Stay of Proceedings: An appeal to the board of adjustment stays all proceedings in furtherance of the action appealed from, unless the officer from whom the appeal is taken certifies to the board of adjustment after the notice of appeal has been filed that, by reason of facts stated in the certification, a stay would, in the officer's opinion, cause imminent peril to life or property. In such case proceedings shall not be stayed except by a restraining order granted by the district court on application and notice and on due cause shown.

E. Time and Notice of Hearing: The board of adjustment shall fix a reasonable time for the hearing of the appeal, give public notice of the appeal as well as notice to the parties in interest, and shall decide the appeal within a reasonable time. Upon the hearing, a party may appear in person or by agent or by attorney.

F. Reverse of Decision: The board of adjustment, according to its own rules, may reverse any order, requirement, or determination of an administrative officer and may decide in favor of the appellant.

G. Other Possible Action: The board of adjustment, after reviewing the decision of city staff or the planning commission, may affirm, reverse, alter, or postpone any determination until further study can be conducted. This may include referring the matter back to city staff or the planning commission for additional review.

H. Variances: Hearing and deciding requests for variances from the terms of titles 5, 8 through 15 inclusive, or 17 of this code, shall be as described in title 13, chapter 7, article G of this code, or successor provisions. (2009 Code; §15-5-4, amd. Ord. 19-52, 12-11-2019, Effective at 12 noon on January 6, 2020; Ord. 21-11, 3-24-2021)

15-5-6: APPEAL OF ACTION BY CONDITIONAL USE APPEAL/REVOCATION AUTHORITY:

The final action of the conditional use appeal/revocation authority, as defined in section 13-7E-10, including the appeal or revocation of a conditional use permit, made pursuant to sections 13-7E-8 or 13-7E-10 of this code, may be appealed to the district court for judicial review pursuant to section 15-6-1. (Ord. 10-09, 2-24-2010; §15-5-8, amd. Ord. 19-52, 12-11-2019, Effective at 12 noon on January 6, 2020)

15-6-1: JUDICIAL REVIEW OF BOARD OF ADJUSTMENT, CONDITIONAL USE APPEAL/REVOCATION AUTHORITY, OR CITY COUNCIL DECISION:

Any person aggrieved by any decision of the board of adjustment, the conditional use appeal/revocation authority (as defined in section 13-7E-10 of this code), or the city council (review process types III, IV, or V, or conditional use permit appeals and revocations) may have

and maintain a plenary action for relief from any district court whose jurisdiction includes the city; provided, that a petition for such relief is presented to the court within thirty (30) calendar days after the rendering of the final decision on the matter in question, or as otherwise required by law. (2009 Code; amd. Ord. 19-52, 12-11-2019, Effective at 12 noon on January 6, 2020)

MINUTES OF THE CITY OF WEST JORDAN
CITY COUNCIL MEETING
Wednesday, November 16, 2022 – 7:00 PM
Approved December 7, 2022

Thomas M. Rees Justice Center
8040 S Redwood Road • West Jordan, UT 84088

COUNCIL: Vice Chair Kelvin Green, Chris McConnehey, Zach Jacob, Melissa Worthen, David Pack, Pamela Bloom

STAFF: Council Office Director Alan Anderson, Council Office Clerk Cindy Quick, Policy Analyst Cassidy Hansen, City Administrator Korban Lee, Mayor Dirk Burton, Community Engagement & Government Affairs Director Tauni Barker, Public Works Director Brian Clegg, Public Utilities Director Greg Davenport, Senior PC Specialist Rodney Glore, Fire Chief Derek Maxfield, Assistant City Attorney Duncan Murray, Economic Development Director Chris Pengra, Assistant City Attorney Dave Quealy

1. CALL TO ORDER

Vice Chair Green called the meeting to order at 7:01 pm and noted that Chair Whitelock was excused. He welcomed students from West Jordan High School.

2. PLEDGE OF ALLEGIANCE

David Murphy led participants in the Pledge of Allegiance.

3. PUBLIC COMMENT

Vice Chair Green thanked event staff for the recent Veteran's Day event.

Vice Chair Green opened the public comment period at 7:05 pm

Citizen Comments:

Ryan Wilkinson said he recently spoke with the Mayor on the phone and was disappointed with the answers to his questions about South Valley Regional Airport. He questioned why the City allowed the Regional Airport to continue operating when West Jordan did not benefit financially, and the noise was a nuisance to the residents.

Vice Chair Green closed public comments at 7:10 pm

4. COUNCIL ADMINISTRATIVE ITEMS

a. Resolution No. 22-051 providing advice and consent to appoint Brian Clegg to serve on the Trans-Jordan Cities Landfill Board

Mayor Burton recommended the Council appoint Brian Clegg to serve on the Trans-Jordan Cities Landfill Board. David Newton would serve as alternate. Mayor Burton recommended the Council appoint David Murphy to serve on the South Valley Water Reclamation Facility Board. Council Member Pack said the Mayoral Appointment Subcommittee unanimously approved of both appointments.

MOTION: Council Member McConnehey moved to APPROVE Resolution No. 22-051 providing advice and consent to appoint Brian Clegg to serve on the Trans-Jordan Cities Landfill Board, and Resolution No. 22-052 providing advice and consent to appoint David Murphy to serve on the South Valley Water Reclamation Facility board. Council Member Jacob seconded the motion.

The vote was recorded as follows:

Yes: Pamela Bloom, Kelvin Green, Zach Jacob, Chris McConnehey, David Pack, Melissa Worthen
No:
Absent: Kayleen Whitelock

The motion passed 6-0.

b. ***Resolution No. 22-052 providing advice and consent to appoint David Murphy to serve on the South Valley Water Reclamation Facility board as a member representing the City of West Jordan.***
Approved with the previous motion.

5. EXECUTIVE REPORTS TO COUNCIL

a. ***Mayor's Report***
Mayor Dirk Burton noted that he believed the City benefited economically from the South Valley Regional Airport and wanted the airport to be successful. Mayor Burton reported on a recent e-waste shred event, a recent Utah League of Cities and Towns meeting, the Fire Department Annual Awards Banquet, the Veterans Day event, a bike symposium, progress along the Jordan River, and a recent Arts Society auction. He spoke of upcoming Outward Mindset Training for City Department Heads. Mayor Burton said he looked forward to speaking to the Copper Hills High School U.S. Government Class.

b. ***City Administrator's Report***
Public Utilities Director Greg Davenport reported City crews would complete a permanent fix of a manhole cover at 7000 South and 2200 West that evening. Community Engagement & Government Affairs Director Tauni Barker reported on action at the State Capitol and related email communications from the City. City Administrator Korban Lee reported on the transition to a temporary City Hall location.

6. REPORTS TO COUNCIL

a. ***Annual Business Survey Report – Chris Pengra, Economic Development Director***

Council Member McConnehey commented that the Council did not receive a copy of the report or presentation prior to the meeting and suggested moving the presentation to a future meeting to allow time for the Council to review the report and come prepared with questions. Economic Development Director Chris Pengra noted that the report was sent to the Council Office late the previous day.

Council Member McConnehey moved to postpone the presentation to a date uncertain, to be determined by Council Leadership. Council Member Bloom seconded the motion.

The vote was recorded as follows:

Yes: Pamela Bloom, Kelvin Green, Zach Jacob, Chris McConnehey, David Pack, Melissa Worthen
No:
Absent: Kayleen Whitelock

The motion passed 6-0.

7. PUBLIC HEARINGS

a. Ordinance No. 22-49 amending Section 13-7E-8 Conditional Use Permits Development Procedures amending the criteria for approval to comply with recent changes in UCA 10-9a-507

Assistant City Attorney Duncan Murray explained proposed amendments to City Code Section 13-7E-8 regarding criteria for conditional use permit approval. He expressed the opinion that the proposed amendments represented a good start, but additional amendments were needed. Mr. Murray requested feedback from the Council, and recommended staff make additional changes and submit the language to the Planning Commission to make a recommendation to the City Council.

Vice Chair Green opened a public hearing at 7:35 pm

Comments:
None

Vice Chair Green closed the public hearing at 7:36 pm

Council Member McConnehey provided feedback and said he sent a copy of his suggestions to staff. Vice Chair Green said he believed Sections A-D and F were unnecessary. Vice Chair Green emphasized that conditional use was an administrative issue and stated the focus should be on mitigating detrimental impacts. He expressed the opinion that if the Planning Commission was the body that granted a conditional use, the Planning Commission should be the body to revoke the use if necessary. Council Member Jacob said he agreed Sections A-D were unnecessary because they were applicable to every business.

Vice Chair Green moved to remand Ordinance No. 22-49 back to the Planning Commission to look at all 13 Sections of 13-7E. Council Member McConnehey seconded the motion with discussion.

Council Member McConnehey said he was hesitant to expand the scope without first providing input and direction to the Planning Commission. He said he would prefer discussion in work session first.

Vice Chair Green withdrew the motion with no objection from the Council.

Council Member McConnehey moved to deny Ordinance No. 22-49. With no second, the motion was withdrawn.

Vice Chair Green moved to refer Ordinance No. 22-49 amending Section 13-7E-8 Conditional Use Permits Development Procedures amending the criteria for approval to comply with recent changes in UCA 10-9a-507 to the Committee of the Whole. Council Member McConnehey seconded the motion.

The vote was recorded as follows:

Yes: Pamela Bloom, Kelvin Green, Zach Jacob, Chris McConnehey, David Pack, Melissa Worthen
No:
Absent: Kayleen Whitelock

The motion passed 6-0.

8. CONSENT ITEMS

a. Approve Meeting Minutes

October 26, 2022 – Committee of the Whole Meeting
October 26, 2022 – Regular City Council Meeting

MOTION: Council Member McConnehey moved to approve consent items as listed. Council Member Bloom seconded the motion, which passed by unanimous voice vote (6-0).

9. CITY COUNCIL REPORTS/REMARKS

a. Council Office Report

Council Office Director Alan R. Anderson spoke of upcoming Outward Mindset Training for staff and reported the Council Office had moved to the temporary City Hall location.

b. City Council Reports / Remarks

Council Member Pack –

- Thanked event staff for the Fire Department Awards Banquet and the Veteran's Day event. He appreciated sharing the events with family and the community.

Vice Chair Green –

- Appreciated the Fire Department Awards event.
- Attended the groundbreaking for Truck Ranch.
- Expressed thanks to William Royce for the invitation to attend the Fifth Annual Legislative Shoot Out sponsored by Central Labor Federation.

Council Member Bloom –

- Expressed gratitude for being able to Tiny Tim's retirement party; so grateful for all he did for the community.
- Spoke of experiencing Remembrance Day in Canada.

c. Council Chair Housekeeping Items

Vice Chair Green mentioned the upcoming Employee Christmas Luncheon and said the Employee Association was collecting cereal boxes to bridge the gap between meals for students.

10.ADJOURN

Council Member McConnehey moved to adjourn the Council Meeting. Council Member Worthen seconded the motion, which passed by unanimous voice vote (6-0).

The meeting adjourned at 8:05 pm

I, Cindy Quick, hereby certify that the foregoing minutes represent an accurate summary of what occurred at the meeting held on November 16, 2022. This document constitutes the official minutes for the West Jordan City Council meeting.

Cindy M. Quick, MMC
Council Office Clerk

Approved this 7th day of December 2022

MINUTES OF THE WEST JORDAN PLANNING AND ZONING COMMISSION HELD OCTOBER 18, 2022, IN THE THOMAS M. REES JUSTICE CENTER COMMUNITY ROOM

PRESENT: Jay Thomas, Trish Hatch, Kent Shelton, Matt Quinney, Trish Hatch, Ammon Allen, George Winn, and McKenna Marchant.

STAFF: Larry Gardner, Ray McCandless, Mark Forsythe, Duncan Murray, Greg Davenport, Julie Davis, Isaac Astill

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3. Text Amendment – Conditional Use Permits; Amend the West Jordan 2009 Code Section 13-7E-8 Conditional Use Permits Replacing 'Findings for Approval' with 'Criteria for Approval'; City-wide applicability; City of West Jordan (applicant)

Duncan Murray said this proposed amendment was discussed in the prior training meeting. The State Legislature changed the conditional use permit section, so this amendment will bring our code into compliance. If this proposed text amendment is approved, the original criteria would be repealed and replaced with the new criteria, which he explained with examples for each.

Jay Thomas opened the public hearing.

Further public comment was closed at this point for this item.

MOTION: Ammon Allen moved to forward a positive recommendation to the City Council to Amend the West Jordan 2009 Code Section 13-7E-8 Conditional Use Permits Replacing 'Findings for Approval' with 'Criteria for Approval'. The motion was seconded by Trish Hatch and passed 7-0 in favor.

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