The Bountiful City Code

April 24, 2024

Bountiful City Code

Title 1
General Provisions

Chapter 1: Code Adoption

1-1-101. Adoption of Ordinance.

These ordinances of the City of Bountiful, Utah, shall be known as "The Bountiful City Code."

1-1-102. Construction.

(a) The adoption of this Code shall not affect or impair any right which has accrued, any duty which was imposed, any prosecution pending, or any penalty which has or may be applied, under previous ordinances.

(b) All previously existing ordinances which are re-enacted in this Code shall be construed as simply continued herein. All previously existing ordinances inconsistent with the provisions herein are hereby amended or repealed.

(c) This Code shall be subject to the following rules of construction: (i) the singular includes the plural; (ii) words used in the present tense include the past and future tense; (iii) words used in the masculine include the feminine; (iv) the term "may" is permissive, and the terms "must" and "shall" are mandatory.

1-1-103. Severability.

If any phrase, clause, sentence, paragraph, section, chapter or title of this Code shall be declared invalid or unconstitutional for any reason by a court of competent jurisdiction, it shall not affect the validity of the remaining parts of this Code. The City Council hereby declares that it would have adopted each part of this Code irrespective of the validity of any other part.

Chapter 2: Definitions

1-2-101. Definitions.

Unless otherwise clearly intended from its context, in the construction of this Code the following words shall have the meaning stated in this section:

"City" means the City of Bountiful, Utah;

"City Council" means the City Council of Bountiful, Utah;

"County" means Davis County, Utah;

"Person" means individuals, bodies politic, corporations, partnerships, or associations;

"Property" means both real and personal property;

"State" means the State of Utah;

"Street" means public streets, highways, roads, alleys, lanes, boulevards, public ways, public places and sidewalks.

Chapter 3: City Seal

1-3-101. City Seal.

The City Seal of Bountiful, Utah, shall be circular in form, one and three-fourths inches in diameter, with a sheaf of wheat in the center thereof, and containing within the circle the words "Bountiful, Utah", "Corporate Seal" and "Incorporated A.D. 1892".

Chapter 4: Code Violations

1-4-101. Code Violations.

Unless expressly stated otherwise, all violations of this Code constitute a class C misdemeanor, which shall be punishable as provided by State law for that classification of offense.

Title 2
Administration and City Government

Chapter 1: Governing Body

2-1-101. Governing Body.

This City shall have a governing body which shall exercise the legislative and executive powers of the municipality, and which may perform such other functions as may be specifically or necessarily implied by law.

2-1-102. Membership.

The governing body shall be a City Council composed of six members, one of whom shall be the Mayor and the remaining five shall be Council members. They shall be elected and shall serve terms of office in the manner prescribed by State law, and, in the event of a vacancy, shall be appointed as prescribed by State Law.

2-1-103. Meetings.

Meetings of the Council shall be held and conducted in accordance with the provisions of State law. Regular meetings of the City Council shall take place at 7:00 p.m. on the second and fourth Tuesdays of each month at Bountiful City Hall, 790 South 100 East. Bountiful, Utah.

2-1-104. Candidate Filing Fee.

Individuals filing as candidates for the Bountiful City Council or for Mayor shall pay a $25 fee at the time of filing their candidacy with the City Recorder. This filing fee shall be refundable only if it is determined that the person filing is not qualified to be a candidate, or is found to have improperly filed.

Chapter 2: Legislation

2-2-101. Legislative Power.

The legislative power of the City is vested in the governing body, which power shall be exercised through ordinances, as provided by State law.

Chapter 3: Administration

2-3-101. Administrative Powers.

The administrative power of the City is vested in the Mayor, as provided by State law.

2-3-102. Rules and Regulations.

Unless otherwise required by law, the governing body may exercise all administrative powers by resolution. It may prescribe rules and regulations which are not inconsistent with State law for the efficient administration, organization, operation, conduct and business of the City.

2-3-103. Creating Offices.

The governing body may create any office deemed necessary for the government of the City, provide for filling vacancies therein, and may prescribe the powers and duties to be performed by its officers and employees.

2-3-104. Appointive Officers.

The governing body shall appoint a qualified person to serve as City Manager. On or before the first Monday in February following a municipal election, the Mayor, with the advice and consent of the City Council, shall appoint a qualified person to each of the offices of City Recorder and City Treasurer. The Mayor, with the advice and consent of the City Council, shall appoint a qualified person to the office of Finance Director. The City Manager shall appoint or remove other Department Heads (who are identified in the Bountiful City Personnel Policies & Procedures Manual). Those officers shall perform such duties as are required by State law and by City ordinance, resolution, rule or regulation.

2-3-105. City Manager

(a) The office of City Manager which has heretofore been created shall continue in force and effect as an office of the City.

(b) The appointment of a person to be known as the City Manager shall be by the governing body.

(c) The City Manager shall serve at the pleasure of the governing body, except that the governing body may employ the Manager for a term not to exceed three years. The term of employment may be renewed at any time. Any person serving as Manager of the municipality under this section may be removed with or without cause by a majority vote of the governing body.

(d) The City Manager shall be at all times under the control and supervision of the Mayor and City Council. Subject to such supervision and control, his powers and duties shall be as follows:

(1) (Subject to Section 2-3-104 concerning the appointment and removal of Department Heads) To make appointments and dismiss from employment all non-elective employees, with the recommendation of the various department heads.

(2) To have direct supervision and responsibility over operations in the City office and the departments of police, inspection, parks, streets, cemetery and other public improvements, water, and including as a part thereof direct supervision of the construction, improvements, repairs and maintenance of streets, sidewalks, alleys, lanes, bridges, and other public highways; of storm sewers, drains, ditches, culverts, streams and water courses, of gutters and curbs; of all public buildings, boulevards parks, playgrounds, squares and other grounds belonging to the City, and to collect and dispose of waste material.

(3) To exercise supervision and have responsibility over operation of the Electrical Light and Power System.

(4) To care for and preserve all machinery, tools, appliances and property belonging to the City.

(5) To oversee the issuing of building permits; the inspection of buildings, plumbing and wiring, and plumbing inspector; to direct and oversee all functions of the Police Department.

(6) To create no liability against the City in excess of $10,000.00 without the sanction of the City Council.

(7) To act as purchasing agent for the City and to approve all claims before presentation to the City Council for payment; to see that all goods purchased by and for the City are received as per contract.

(8) To attend all meetings of the City Council with the right to take part in the discussion but not to vote; to recommend to the City Council for adoption of such measures as he may deem necessary or expedient.

(9) To serve as Budget Officer.

(10) To prepare the annual budget (to be construed as a financial estimate only) and keep the City Council advised as to the financial condition and needs of the City.

(11) To notify the Mayor and the City Council of any emergency existing in any department under his supervision.

(12) To perform such other duties as may be required of him by Ordinance or Resolution of the City Council.

2-3-106. Bonds; Salaries.

(a) Bonds shall be filed for all elective and appointive officers as required by State law, and in the amounts determined by resolution of the governing body.

(b) Salaries of elective and appointive officers shall be fixed by ordinance by the governing body.

2-3-107. Fiscal Procedures.

(a) The Uniform Fiscal Procedures Act for Utah Cities, which is set forth in Chapter 6 of Title 10 of the Utah Code, is hereby adopted.

(b) There is hereby created the position of Finance Director to perform the financial duties and responsibilities of the City Recorder, the financial administrative duties prescribed in the Uniform Accounting Manual for Utah Cities, and such other duties as may be assigned by the City Manager. The Finance Director shall be a qualified person, appointed and removed by the mayor with the advice and consent of the City Council, and may not assume the duties of the City Treasurer.

2-3-108. Duties When Mayor and City Manager Absent.

If any of the following City officers are unavailable to exercise the powers and duties of the office they hold, then the officers stated below shall, in the order named, exercise the powers and duties of that office until the incumbent officer shall become available:

(a) Mayor: (1st) the Mayor Pro-Tem; (2nd) the senior-most City Council member (in years on the Council) available.

(b) City Manager: The City Manager shall designate an acting city manager to serve in his/her absence or temporary incapacity, to exercise the powers and duties of the position. During such absence or disability, the City Council may change the designation at any time to another officer of the city to serve until the City Manager shall return, or his/her disability shall cease.

2-3-109. Government Records Access and Management.

(a) The Bountiful City Recorder is designated as the Records Officer under the Utah Government Records Access and Management Act.

(b) Appeals of decision as to classification, designation and access shall be made to the City Manager.

2-3-110. Disposition of City's Real Property.

(a) Before disposing of a significant parcel of real property owned by the City, a public hearing for public comment shall be held by the City Council. Before the City may dispose of a significant parcel of real property, the City shall give notice as required by this section.

(b) Notice of that public hearing shall be given by publication in a locally distributed newspaper at least 14 days prior to the hearing.

(c) "A significant parcel of real property" means any parcel that either (a) is larger than ten acres, or (b) has a current market value of $1,000,000.00 or more.

Chapter 4: Appeal Board

2-4-101. Appeal Board.

There is hereby established an Appeal Board, pursuant to Section 10-3-1106, Utah Code Annotated.

2-4-102. Designation of Appeal Board.

The Appeal Board shall consist of an impartial Hearing Officer appointed by the City for the purpose of conducting a hearing and ruling on the appeal. The Hearing Officer shall be a person with experience in law, human resources, mediation or arbitration. The Hearing Officer shall be chosen, by the City and all costs and expenses of the hearing and any fees paid to the Hearing Officer shall be the responsibility of the City.

2-4-103. Investigation, Decision and Findings.

(a) The Hearing Officer, upon receipt of the assignment from the City, shall forthwith commence an investigation, take and receive evidence and fully hear and determine the matter which relates to the cause for the discharge, suspension, or transfer. The employee who is the subject of the discharge, suspension or transfer may appear in person and be represented by counsel, have a public hearing, confront the witnesses whose testimony is to be considered, and examine the evidence to be considered by the Hearing Officer.

(b) The Hearing Officer shall uphold the disciplinary process and action imposed by the City if the Hearing Officer finds that the City has presented sufficient evidence to justify the discipline imposed. "Sufficient evidence to justify the discipline imposed" means that the City has presented substantial evidence (more than a scintilla but less than a preponderance) that the proposed transfer, suspension or termination is justified under the City's adopted personnel

policies and procedures.

(c) If the Hearing Officer overturns the employee disciplinary action because there is no sufficient evidence to justify the discipline imposed:

(1) If the employee is completely exonerated, he/she shall be reinstated without any loss of pay associated with the disciplinary action, and the disciplinary action shall be removed from the employee's personnel file;

(2) If the employee is reinstated but the Hearing Officer determines that a lesser disciplinary action is appropriate under the circumstances, the Hearing Officer may reduce the discipline to that lesser action. Such lesser actions may include, but are not limited to, demotion rather than termination, or suspension without pay for a period of time.

(d) The Appeal Board shall adopt written findings in support of its actions.

Chapter 5: Procurement

2-5-101. Scope.

(a) No purchases shall be made and no encumbrances shall be incurred for the benefit of the City, except as provided in this Chapter.

(b) No purchase shall be made and no encumbrance shall be incurred unless funds sufficient to cover the purchase or encumbrance have been budgeted and are available and the purchase is approved by the appropriate City officials as herein provided.

(c) The City Manager or his designee shall present to the governing body for review all purchases made and contracts awarded pursuant to this Chapter.

(d) Notwithstanding the provisions of subsection (a), whenever any purchase or encumbrance is made with State or Federal funds and the applicable State or Federal law or regulations are in conflict with this Chapter to the extent that following the provisions of this Chapter would jeopardize the use of those or future State or Federal funds, such conflicting provisions of this Chapter shall not apply and the City shall follow the procedure required by the State or Federal law or regulation.

2-5-102. Purchases

(a) Except as otherwise provided, all purchases of supplies, materials, equipment, and all contracts for services awarded shall be made as follows:

(1) Amounts to be paid by the City of less than $20,000, may be approved by the respective department heads or designees authorized by the City Manager or department heads..

(2) Amounts to be paid by the City of $20,000 or more, must be approved by the City Council. However, advance approval is not required for emergency expenditures or for actions which require prompt execution to avoid financial harm or loss, or to save cost, as determined by the City Manager. The City Council shall be notified of any such purchases as soon as reasonably possible. Ongoing, routine expenses exceeding $20,000 such as utilities, gasoline, natural gas, or electrical energy, which may be approved by the City Manager, department heads, or their designees.

(3) Amounts to be paid by the City of $5,000 or more, shall be awarded only after comparative price quotations have been solicited and received.

(4) Purchases made under State contract do not require additional bids.

(5) Purchases of supplies, materials, equipment, and all contracts awarded to a sole source provider are exempt from competitive bid requirements.

(b) In order to promote overall economy and the best use for the purposes intended, each department head shall be responsible for assuring that all purchases made and contracts for services awarded by his/her department shall obtain the desired goods and services for the lowest possible price.

(c) Change orders to Council-approved bid awards and contracts must be approved by the City Council if the change is both 10% or more of the original bid award and that change also exceeds $50,000 on construction contracts or $20,000 on other projects or contracts. Change orders involving less than these amounts may be approved by the City Manager when the change is deemed to be in the best interests of the City.

(d) Unethical purchasing practices. All employees engaged in the procurement process for the City will act in accordance with the Utah Public Officers' and Employees' Ethics Act. Employees are expected to avoid the following practices as outlined in State code:

(1) Dividing a procurement to avoid following policy;

(2) Kickbacks and gratuities;

(3) Failure to disclose conflicts; and

(4) Cost-plus-percentage-of-cost contracts.

2-5-103. Formal Competitive Bidding

Formal competitive bidding shall be conducted as required by State law.

2-5-104. Performance Bond

A performance bond in an amount as shall be reasonably necessary to protect the best interests of the City may be required. The form and amount of said bond shall be described in the notice inviting bids or soliciting price quotation.

2-5-105. Rejection of Bids or Price Solicitation.

Any and all bids or price quotations may be rejected without cause and the City may re-invite bids or re-solicit price quotations.

2-5-106. Lowest Responsive Responsible Bidder

(a) With respect to bids awarded by Bountiful City, the "lowest responsive responsible bidder" shall meet the following criteria:

(1) The bidder must have submitted a bid in compliance with the invitation to bid and within the requirements of the plans and specifications for the project;

(2) The bidder must:

(a) demonstrate that it has the financial strength to do the project;
(b) be appropriately licensed to do the job;
(c) be insurable and have the ability to acquire required bonding and insurance;
(d) have the requisite ability, expertise, equipment, personnel, capacity and skill to do the required work, both in quality and quantity, and in a timely manner;
(e) have a satisfactory record of past performance in similar projects;
(f) have, and have a reputation for, integrity, reliability and good faith in performing work, without a record of contract default, malfeasance, late performance, relationship difficulties or other negative work history;
(g) have a history of cooperation with government officials or other companies, entities or people who have utilized the bidder's services in the past; and
(h) have a history of good public relations, and courteous and professional treatment of the citizens with whom it deals;
(i) meet such other criteria as may reasonably be required under the circumstances of the project and the history and qualifications of the bidder.

(3) The bidder must furnish a bid bond or equivalent in money as a condition to the award of the contract.

(4) The bidder must furnish required payment and performance bonds.

(b) The lowest responsive responsible bidder may or may not be the lowest bidder. The staff and City Council will exercise reasonable discretion in evaluating these criteria to determine which is the lowest responsive responsible bidder. Informalities and minor discrepancies may be waived by the City Council. Inability, refusal or delay by the bidder in providing proof of meeting these criteria may, at the discretion of the City Council, disqualify a bidder from consideration. The City reserves the right to reject any and all bids.

2-5-107. Personal Use Expenditures.

(a) City officers and employees are granted municipal authority, in the interest of economy and efficiency, to expend public funds or incur indebtedness on behalf of the City for travel -and-training personal use expenditures provided that the officer or employee reimburse the City in full for any expenditure or indebtedness within fourteen (14) days from the date of the expenditure or the date the indebtedness was incurred.

(b) If the City determines that an officer or employee has intentionally made a personal use expenditure in violation of Utah Code 11-57-103 and this Subsection (a); the City shall provide written notice to the officer or employee determined to be in violation and:

(1) require the officer or employee to deposit the amount of the personal use expenditure into the fund or account from which:

(a) the personal use expenditure was disbursed; or
(b) be appropriately licensed to do the job;

(2) the officer or employee to remit an administrative penalty in the amount equal to 50% of the personal use expenditure to the City which the City shall deposit into the operating fund of the City.

(4) The bidder must furnish required payment and performance bonds.

(c) Any officer or employee of the City who has been found by the City to have made a personal use expenditure in violation of this Subsection (2) may appeal the finding of the City. A Request for Review before the City Manager may be requested within ten (10) business days after the City has provided written notice as described in Subsection (2). The Request for Review must be submitted to the City Manager in writing. All related documentation must be submitted with the Request. The Requesting party has the burden of proof. The standard of review shall be preponderance of the evidence.

(d) Upon receipt of the Request for Review, the City Manager shall review the Request, including all information submitted with the Request, as well as any relevant City records.

(e) The City Manager shall determine to uphold or overturn the City's original finding and provide written notice of decision to the requesting party within fourteen (14) days.

Chapter 6: Constitutional Taking Guidelines.

2-6-101. Purpose.

These guidelines are adopted in this Act are established pursuant to the requirements of §63-90a-3. They are only advisory, and shall not be construed to expand or limit the scope of the City's liability in any

claim for a constitutional taking, or to impose any liability upon the City for failure to comply with the guidelines. This chapter does not apply to formal eminent domain proceedings.

2-6-102. Definition of "Constitutional Taking."

The term "constitutional taking" means a governmental action that results in a taking of private property so that compensation to the owner of the property is required by:
(i) the Fifth or Fourteenth Amendment of the Constitution of the United States; or (ii) Utah Constitution Article I, Section 22.

2-6-103. Policy Considerations.

It is the policy of the City to carefully consider any matter involving constitutional taking claims, and to afford citizens the right to state their claims in an inexpensive and expeditious manner. It is the intent of this ordinance to preserve the ability of the City to lawfully regulate real property and fulfill its other duties and functions, while at the same time protecting the rights of property owners.

2-6-104. Appeal.

(a) Any owner of private property whose interest in the property is subject to a physical taking or exaction by a political subdivision may appeal the political subdivision's decision within 30 days after the decision is made.

(b) The City Council, or an individual or body designated by it, shall hear and approve or reject the appeal within 14 days after it is submitted.

(c) If the legislative body of the political subdivision fails to hear and decide the appeal within 14 days, the decision is presumed to be approved.

(d) The appeal must be made in writing, and filed with the City Recorder 30 days of the decision appealed from.

(e) The appeal must contain the following information:

(1) the name, address and telephone number of the appellant;

(2) a description of the real property involved;

(3) a description of the appellant's interest in the property, and the names and addresses of any joint owners;

(4) a detailed description of the grounds for the claim that there has been a constitutional taking;

(5) evidence and documentation as to the value of the property taken, including the date the property was acquired. This should include any evidence of the value of the property at the time of the alleged constitutional taking and after the alleged constitutional taking, and any appraisal(s) of the property within three years prior to the date of the appeal;

(6) information from a title policy or other source showing all recorded liens or encumbrances upon the property;

(7) a statement of whether the property has been for sale during the last three years, and if so, the price asked;

(8) any other information reasonably requested by the City Council to assist in making a determination in the claim of a constitutional taking.

2-6-105. City Council Hearing.

The City Council shall review the facts and information presented by the appellant to determine whether the protested action of the City is a constitutional taking. In doing so, they shall consider:

(a) Whether a legitimate governmental interest exists for the action taken by the City.

(b) Whether the physical taking or exaction of the private real property bears an essential nexus to that legitimate governmental interest.

(c) Whether the property and exaction taken is roughly proportionate and reasonably related, on an individual property basis, both in nature and extent, to the impact caused by the activities that are the subject of the decision being reviewed.

(d) Other considerations required by applicable law.

Chapter 7: Self Insurance

2-7-101. Election to Self-Insure.

Bountiful City has for many years elected, and continues to choose, to manage its liability risks by a combination of self-insurance and excess commercial insurance, as permitted in §63-30d-801 of the Utah Code.

2-7-102. Liability Coverage under Self-Insurance.

With respect to motor vehicles owned or operated by Bountiful City, the liability coverage provided by this self-insurance is the minimum required by §31A-22-304 of the Utah Code or other applicable law.

2-7-103. Uninsured / Underinsured Motorist Coverage.

As permitted by §31A-22-305 of the Utah Code, Bountiful City elects not to provide uninsured / underinsured motorist coverage for Bountiful City-owned vehicles, as vehicles operated by City employees in the course of business are covered by the City's workers compensation program. Because there is no uninsured or underinsured motorist coverage, there is no process for filing such claims.

Chapter 8: Appeals to Administrative Law Judge

2-8-101. Appeals

(a) Appeals provided for in this Bountiful City Code shall be heard by the Bountiful City Administrative Law Judge, unless otherwise expressly stated.

(b) All appeals must be filed with the Bountiful City Recorder within the applicable time period, and must be accompanied by a filing fee of $250.00. Appeals must be in writing, dated and signed, and at a minimum state the name, address and phone number of the person or entity making the appeal, the decision being appealed, and a summary of the basis of the appeal.

2-8-102. Administrative Law Judge

The Bountiful City Council shall appoint a qualified individual to serve as the Bountiful City Administrative Law Judge, who shall serve for a period of two years. The Judge may be removed from office by a vote of the City Council.

2-8-103. Hearings

(a) The Administrative Law Judge shall act in a quasi-judicial manner, holding an informal hearing. Notice of the hearing shall be given by mailing it to the appellant at the address given in the written appeal at least eight days prior to the hearing.

(b) At the hearing formal rules of procedure, discovery and evidence shall not apply. The City shall have the burden of proof, which shall be established by a preponderance of the evidence. The appellant may present his/her case or may be represented by an attorney.

(b) The Judge may uphold the previous decision, overturn it, or make a new decision as appropriate under the circumstances. The Judge shall issue a written decision including findings, which is effective on the date of issuance and is a final decision of the City's administrative process.

(c) A person who fails to appear at a hearing shall be deemed to have waived all rights in connection with the hearing, including the right to appeal. Providing that proper notice has been given, a decision may then be entered against the appellant based upon the failure to appear.

Title 3
City Commissions

Chapter 1: Bountiful Light and Power Commission

3-1-101. Commission, Membership and Appointment.

There is hereby established the "Bountiful Light and Power Commission." It shall be composed of seven members, all of whom shall be appointed by the Mayor with the advice and consent of the City Council and one of whom shall be a member of the City Council.

3-1-102. Duty and Powers.

(a) The determining of the general policy and administration of the Electrical Light and Power Department is vested in the City Council.

(b) The extent of the authority and discretion to be vested in the Director of the Electrical Light and Power Department shall be determined by the City Council.

(c) It is hereby declared as policy that matters pertaining to the general policy of the Electrical Light and Power Department be referred to the Bountiful Light and Power Commission for its advice, counsel, and recommendations.

3-1-103. Term, Vacancies, Qualifications, Removal.

(a) Term. Each appointed member shall serve for a term of four (4) years, except that term of the member who is likewise a member of the City Council shall be as determined by the Mayor with the advice and consent of the City Council.

(b) Vacancies. Vacancies occurring due to death, disability, resignation or removal, shall be filled by appointment by the Mayor with the advice and consent of the City Council. The term of such appointment shall be for the remainder of the unexpired term.

(c) Qualifications. The members of the Power Commission shall be residents of the city and shall be selected without regard to political considerations and solely on the basis of qualification for the position.

(d) Removals. Any member of the Power Commission may be removed, with or without cause, by the Mayor with the advice and consent of the City Council.

3-1-104. Rules.

The Commission shall formulate its own rules for selection of a chairman, the time, place and manner of calling the meetings and other procedural matters.

3-1-105. Salary.

Each member of the Power Commission shall receive compensation as fixed by resolution of the City Council.

3-1-106. Rates.

Electrical rates shall be set by the City Council of Bountiful, Utah by resolution.

Chapter 2: Bountiful Historic Preservation Commission

3-2-101. Historic Preservation Ordinance.

This Ordinance shall be known and may be cited as the "Historic Preservation Ordinance".

3-2-102. Purpose.

Recognizing that the historical heritage of this City is among its most valued and important assets, it is the intent of this Ordinance to provide for the preservation, protection and enhancement of its history. This preservation, protection and enhancement shall include, but not be limited to, the written and visual history of Bountiful, its early settlers and its historic sites, the planning for and celebration of important historical events relating to Bountiful's history, the education of all segments of the community so that Bountiful's history can be fully and properly appreciated, and the establishment of a repository for items, artifacts, and other materials which have historical significance to the City of Bountiful. The purpose of the Ordinance shall also be to establish a Committee which shall recommend to the City Council necessary and desirable protection of historic areas and sites within the community.

3-2-103. Historic Preservation Commission.

(a) Commission, Members and Appointment. There is created a Historic Preservation Commission, which shall be an advisory body of and shall report to the City Council of Bountiful. The Commission

shall be composed of six (6) members appointed by the Mayor with the advice and consent of the City Council. One of the members shall always be the Mayor, who shall be an ex-officio member; one (1) of the members shall always be a member of the City Council; two (2) members shall be professional members from the disciplines of history, archaeology, planning, urban planning, American studies, American civilization, cultural geography, cultural anthropology, to the extent that such professionals are available in the City, and two (2) members shall be residents at large. With exception of the Mayor and City Council Member on the Commission, two or more members of the Commission shall not serve on the same board, commission or other leadership position within another organization while serving on the Commission.

(b) Terms. The term of each member of the Commission, with the exception of the Mayor and City Council member on the Commission, shall be for four (4) years. Initial members of the Commission shall be staggered as determined by the Mayor with the advice and consent of the City Council.

(c) Advisory Body. The Historic Preservation Commission shall be an advisory body of, and shall report to, the City Council.

3-2-104. Powers and Duties of the Commission.

The Commission shall have the following duties:

(a) Conduct research and collect information on the history of Bountiful, including the establishment of a repository for important documents, artifacts and other items of historical significance.

(b) Provide a written history of the City of Bountiful, as well as an historical program which outlines Bountiful's history for various age groups in the community. This may include, but not be limited to, the use of written summaries of history, visual exhibits, video tapes, displays, and other media.

(c) Increase the awareness of Bountiful's history through the commemoration of historical events.

(d) Designate entries on the Utah State Register of Historic and Cultural sites and recommend to the State Historic Preservation Officer nominations for the National Register of Historic places, utilizing the criteria for evaluation from the National Register.

(e) Attend at least one informational or educational meeting each year, sponsored by the State Historic Preservation Office, pertaining to the work and functions of the Commission or to historic preservation.

(f) Submit an annual report of the activities of the Commission to the State Historic Preservation Office and to the City Council.

(g) Review all proposed National Register nominations for properties within the boundaries of the City.

(h) Conduct or cause to be conducted a survey of cultural resources in the City which in form and content will be compatible to the Utah inventory of historic and archaeological sites.

(i) Act in an advisory role to other officials and departments of the City regarding the protection of local cultural resources and shall act as a liaison on behalf of the City to individuals and organizations within the City concerned with historic preservation.

3-2-105. Meetings and Notification.

(a) The Commission shall provide for adequate public participation in the historic preservation programs, including the process of recommending properties for nomination to the National Register.

(b) Commission meetings shall occur at regular intervals, and at least twice a year.

(c) Minutes of all decisions, actions of the Commission, including the reasons for making those decisions shall be kept on file and available for public inspection.

(d) Rules of procedure adopted by the Commission shall be available for public inspection.

3-2-106. Survey and Inventory.

(a) The Commission shall initiate or continue an approved process to identify historic properties within the City.

(b) A detailed inventory of the designated districts, sites, and/or structures within Bountiful City shall be maintained.

(c) The inventory material shall be compatible with the Utah state-wide inventory of historic and archaeological sites and shall be made accessible to the public except where restrictions have been made for archaeological sites.

(d) The inventory shall be updated periodically and made available through duplicates at the State Historic Preservation Office and shall be able to be readily integrated into State-wide comprehensive historic preservation planning and other appropriate planning process.

3-2-107. Demolition - Notification

If a historic site is to be demolished or extensively altered, efforts will be made to document its physical appearance before that action takes place.

(a) The City will delay issuing a demolition permit for a maximum of one week and will notify a member of the Historic Preservation Commission, which will take responsibility for the documentation.

(b) Documentation will include, at minimum, exterior photographs (both black-and-white and color) of all elevations of the historic building. When possible, both exterior and interior measurements of the building will be made in order to provide an accurate floor-plan drawing of the building.

(c) The demolition permit may be issued after one week of the initial application whether or not the Commission has documented the building. The permit may be issued earlier if the Commission completes its documentation before the one-week deadline.

(d) The documentation will be kept in the City's files, which are open to the public.

3-2-109. Enforcement and Penalties.

It is unlawful to:

(a) Enter on City lands owned or controlled by the City or which have been designated as landmarks pursuant to this Ordinance for the purpose of appropriating, injuring or destroying a specimen without a permit from the Division of State history or the City.

(b) To appropriate, injure or destroy any site or specimen situated on lands or controlled by the City, or which have been designated as landmarks pursuant to this Ordinance.

(c) To reproduce, re-work or forge any specimen or make any object, whether copied or not, or falsely label, describe, identify or offer for sale or exchange any object with intent to represent the same as an original and genuine specimen, nor shall any person offer for sale or exchange any object with knowledge that it was collected or excavated in violation of this Ordinance.

Chapter 3: Planning Commission and Administrative Committee

3-3-101. Compensation.

Each member of the Bountiful Planning Commission paid $50.00 per meeting for meetings actually attended by that member. Each non-employee member of the Administrative Committee shall be paid $25.00 per meeting for meetings actually attended by that member.

Chapter 4: Bountiful Community Service Council

3-4-101. Community Council Creation and Membership.

There is hereby established the "Bountiful Community Service Council,"which shall be composed of no less than five (5) and no more than thirteen (13) members, all of whom shall be appointed by the Mayor with the approval of the City Council. One Community Council member shall be a member of the City Council.

3-4-102. Duty and Powers.

(a) The general policy and administration of the Community Council is vested in the City Council.

(b) The Community Council shall be an advisory body of, and report to, the City Council.

(c) It is the intent of the City Council that the Community Council shall render services to the community for the improvement of the citizens' health, safety, education and welfare. These services may be assigned by the City Council or may be self-initiated by the Community Council itself, subject to such review as may be deemed appropriate by the City Council.

3-4-103. Qualifications, Term, Vacancies, and Removal.

(a) Qualifications. The members of the Bountiful Community Service Council shall be residents of the City who shall be selected without regard to political and/or religious considerations.

(b) Term. Each member shall serve a term of four years, except for the City Council member, who

shall serve so long as appointed by the Mayor with the consent of the City Council. Any member appointed to fill a vacancy which occurs for any reason shall serve the remainder of the unexpired term of the vacating member.

(c) Removal. Any member of the Community Council may be removed, with or without cause, by the Mayor with the consent of the City Council.

3-4-104. Rules of the Bountiful Community Service Council.

The Community Council shall formulate its own rules for the selection of a Director, the time, place and manner of calling meetings, and other procedural matters.

Title 4
Building Regulations

Chapter 1: General Provisions

4-1-101. Enforcing Agency - Bountiful.

In the building and trade codes which are adopted in this Title, any reference to a governmental entity as the enacting and enforcing agency, is hereby amended to substitute Bountiful, Utah, as the enacting and enforcing agency.

4-1-102. Penalty.

(a) Any violation of the provisions of the trade codes adopted in this Title, or the provisions of this Title, is a class C misdemeanor and shall be punishable as provided by State law for such an offense.

(b) Any building or structure not in compliance with any of the provisions of the trade codes adopted in this Title is hereby declared to be a public nuisance, and may be abated by either criminal or civil action.

(c) Occupancy or use of any building or structure constituting a public nuisance under subsection (b) is a class C misdemeanor, and may be prevented or discontinued by civil injunction or writ, or by any other appropriate remedy available under the law, or by criminal prosecution.

(d) It is a class C misdemeanor to work on any building, structure, landscaping, excavation or other construction project after a Stop Work Order has been issued under the International Residential Code or any other Code adopted by the City or the State of Utah.

4-1-103. Inspections not an Assumption of Liability.

The adoption by the City of uniform codes shall not be construed to relieve or lessen the responsibility of any owner, contractor, sub-contractor, builder, or any other person to comply with such codes. Any inspection by, or any inspection certificate issued by, the City is not an assumption by the City or any employee of any liability by reason of the inspection or certificate.

Chapter 2: Uniform Codes.

4-2-101. Construction Codes

Bountiful City recognizes and adopts the "State Construction Code" as provided in Section 15A-2-101 et seq of the Utah Code, and the individual codes as provided therein, as may be adopted from time to time by the State of Utah.

4-2-102. Uniform Housing Code.

The 1997 edition of the Uniform Housing Code as published and copyrighted by the International Conference of Building Officials together with the revisions, additions and amendments thereto, are hereby adopted by reference and made a part of this Chapter as though fully set forth herein.

4-2-103. Uniform Code for the Abatement of Dangerous Buildings.

The 1997 edition of the Uniform Code for the Abatement of Dangerous Buildings as published and copyrighted by the International Conference of Building Officials, together with the revisions, additions and amendments thereto, are hereby adopted by reference and made a part of this Chapter as though fully set forth herein.

4-2-104. International Existing Building Code.

The 2012 edition of the International Existing Building Code as published and copyrighted by the International Conference of Building Officials, together with the revisions, additions and amendments thereto, are hereby adopted by reference and made a part of this Chapter as though fully set forth herein.

4-2-105. Uniform Administrative Code.

The 1997 edition of the Uniform Administrative Code as published and copyrighted by the International Conference of Building Officials, together with the revisions, additions and amendments thereto, are hereby adopted by reference and made a part of this Chapter as though fully set forth herein with the exception of Table No. 3-G "Grading Plan Review Fees" and Table No. 3-H "Grading Permit Fees" which are not adopted and shall not be used in administration of this Code.

4-2-106. Uniform Code for Building Conservation.

The1997 edition of the Uniform Code for Building Conservation, as published and copyrighted by the International Conference of Building Officials, together with the revisions, additions and amendments thereto, are hereby adopted by reference and made a part of this Chapter as though fully set forth herein.

4-2-107. National Electrical Code.

(a) Whenever a permit for electrical related construction is required by the codes, as adopted in this Title, the fees for such permits shall be as outlined in the Fee Schedule as set forth in the Uniform Administrative Code.

(b) The Building Official shall perform all functions of electrical inspection and shall, among other things, inspect and supervise the construction, installation and repairs of all electric light or power wiring, fixtures, appliances or apparatus installed within the limits of the City, and shall require that they conform to the provisions of the National Electrical Code. Wiring, fixtures and apparatus heretofore installed need not necessarily be made to conform strictly to all the provisions of said Code but said Building Official shall require the correction of such defects as he deems actually dangerous to life or property. The Building Official shall follow as to electrical work the procedures relating to enforcement and safety that are established by the uniform Building Code.

(c) No alterations or additions shall be made in existing wiring, nor shall any wiring be installed or any apparatus which generates, transmits, transform or utilizes any electricity, without first obtaining a permit therefor, except under minor repair work such as repairing flush and snap switches, replacing fuses, changing lamp sockets and receptacles, taping bar joints and repairing drop cords, Application for such permit, describing such work, shall be made in writing and shall conform as far as practicable to the requirements set forth in the Building Code as to extent of information disclosed. This Section shall not apply to installations in power houses and substations belonging to electric light companies. No permit shall be issued to any applicant for a permit during the time that he fails to correct any defective electrical installations after he has been duly notified to correct any defective electrical installations by the Chief of Division of Electrical Inspection.

(d) Electrical installation for signs, equipment or other facilities which create electrical disturbances that cause interference with normal radio or television receptions beyond the immediate vicinity of such electrical installations are hereby declared to be a nuisance. The owners or operators thereof shall so install and maintain such installations as to avoid or eliminate such interference, using all known means and devices for such purposes, such as proper grounding, connections, condensers, resistors and live chokes. The Building Official shall withdraw approval of any electrical installation causing the above disturbance and is hereby authorized to take all steps necessary for the abatement of such nuisances.

(e) In order to protect the electrical service supply conductors from damage or severance, all service supply conductors shall be installed in conduit from the meter pedestal to the main disconnect. For residential service the conductor wires shall be run in a 2 inch P.V.C. Schedule 40 or 80 conduit and shall be buried 18 inches below finish grade. The type of material and the size of conduit for other services shall be as required by the City Council.

4-2-108. International Fire Code.

(a) Adoption of International Fire Code. The International Fire Code, 2006 Edition, as adopted and amended by the State of Utah, is hereby adopted as the Bountiful City Fire Code, including Appendices A, B, C and D. Section 109.3 thereof is amended to read as follows: Any person convicted of violating any provisions of the IFC shall be guilty of a class B misdemeanor and such violations shall be punished by a fine not exceeding one thousand dollars ($1,000.00) or by imprisonment for a term not longer than six (6) months, or by both such fine and imprisonment. Each day that a violation continues after due notice has been served shall be deemed a separate offense.

(b) South Davis Metro Fire Agency. Bountiful City is a participant member of the South Davis Metro Fire Agency ("the Agency"), a separate legal entity duly organized and created under the laws of Utah by an Interlocal Cooperation Agreement ("the Interlocal Agreement") entered into by the participating entities of the Agency. The Agency shall provide all fire, emergency medical, and other emergency first responder services for the City in accordance with the terms and conditions of the Interlocal Agreement entered into by the participating entities, as amended.

(c) Delegation of Authority. Bountiful City hereby delegates all power and responsibility for fire suppression, prevention, investigation, enforcement, emergency medical, and other emergency and fire responder services within the jurisdiction of the City to the Agency, and hereby recognizes the Agency as the governmental and political subdivision for such purposes consistent and in accordance with the Interlocal Agreement and Fire Code.

(d) Fire Code Official. The Agency shall service as the Fire Code Official for Bountiful City, as more particularly described in Section 104 of the Fire Code.

(e) Fire Board of Appeals. The Fire Board of Appeals as created and maintained by the Agency shall hear and decide appeals of orders, decisions or determinations made the Agency's Fire Code Official relative to the application and interpretation of the Fire Code within the jurisdiction of Bountiful City.

(f) Appeals. Any person adversely affected by an order, decision or determination made by the Fire Code Official in the application and interpretation of the Fire Code within the jurisdiction of Bountiful City may appeal such order, decision or determination to the Agency's Fire Board of Appeals in accordance with the Agency's rules and regulations regarding the same, and in accordance with applicable provisions of the Fire Code.

Chapter 3: Reserved

Chapter 4: Reserved

Chapter 5: Miscellaneous Provisions

4-5-108. Fire Hazardous Roof Coverings.
4-5-109. Retaining Walls.

4-5-101. Building Permit Fees

Whenever a building permit is required by the codes which are adopted in this Chapter, permit fees shall be as outlined in the fee schedules provided in the Uniform Administrative Code, with the exception that the plan review fees will be charged in accordance with State law. The valuation of the building construction shall be determined by the current cost per square foot of floor area of such construction as established by the International Conference of Building Officials and as set forth from time to time in their bi-monthly publication entitled "Building Standards".

4-5-102. Street Damage - Cash Deposit.

(a) Deposit Requirement.

In order to guarantee the replacement of street, sidewalk, driveway approach, curb and gutter improvements along the frontage of the property where a building permit is issued, and on adjacent properties, before construction begins the permittee shall deposit a cash sum with the City in the amount set by the Bountiful City Council. Other deposit amounts may be required in the reasonable discretion of the City Engineer upon a finding that an unusual situation exists and that a different amount is appropriate. This deposit requirement applies to residential, multifamily, institutional and commercial properties and uses, and to permits issued for new construction, remodeling of or additions to existing structures, and to new outbuildings (garages, sheds, etc.). To verify the condition of the street improvements prior to construction, the permittee shall submit to the City Engineer photographs or video showing the improvements and any condition issues in such detail as to verify any preexisting problems.

(b) Inspection and Deposits in New Construction.

(1) In building permits granted for new construction the deposit described in paragraph (a) shall be held by the City for a period of 12 months after the construction is granted final approval. At the end of the 12 months, the City will inspect these items for damage. Any improvements which are in a condition of damage, whether that damage occurred during construction or in the 12 months after construction, and regardless of the cause, shall be repaired or replaced as necessary by the property owner, in accordance with the city ordinances and specifications. If the 12 months have passed but the inspection or reinspection cannot be conducted because of weather conditions such as snow, the deposit shall continue to be held until the weather permits an inspection to take place. Upon passing inspection or reinspection, the cash deposit will be returned to the current owner of the property.

(2) If the improvement repairs required by the City Engineer are not completed within three months after notice to the property owner of the inspection described in paragraph (b) and a description of the repairs needed, the City may make, or have made, the repairs necessary, and may use part or all of the deposit necessary to pay the costs of those repairs. Any amount remaining shall be refunded to the property owner, plus accrued interest as provided by law. Any deficiency unpaid by the deposit is the responsibility of the property owner, which may, if necessary, be collected by the City from the property owner by civil action.

(c) Inspection and Deposits for Remodeling and Additions.

In building permits granted for remodeling of existing buildings, additions, outbuildings, etc., when all other site improvements, including landscaping, have been installed, the provisions of subsection (b) apply. However, the sidewalk deposit shall not be held for 12 months after completion.

4-5-103. Demolition of Historic Sites – Notification.

If a historic site is to be demolished or extensively altered, the City may delay issuing a demolition permit for a maximum of one week in order for the site to be appropriately documented. Documentation may include exterior photographs of all elevations of the historic building, the taking of exterior and interior measurements of the building, and the making of floor plan drawings. The demolition permit may be issued after one week of the initial application whether or not the building has been documented the building, and the permit may be issued earlier if the documentation is completed before the one-week deadline.

4-5-104. Reserved.

4-5-105. Construction Site Cleanliness.

(a) The general contractor, or owner-builder if there is no general contractor, of every residential or commercial building construction site, shall:

(1) maintain on the premises of each building lot, and not on a street, sidewalk or other public property, from the first day through the last day of construction:

(A) a portable toilet facility meeting the health requirements of the law; and

(B) a commercial trash bin, which shall be used for refuse on the site, and which shall be emptied when full.

(2) keep the construction site in a condition of cleanliness and healthfulness by:

(A) preventing the accumulation of garbage or refuse, including boards, bricks, stones, etc., into disorderly stacks or piles;

(B) maintaining the premises in such a manner that mice, rats, rodents, or other animals do not inhabit the premises;

(C) preventing garbage, refuse, dirt, rocks or building materials from encroaching onto sidewalks, streets, public property, or the private property of neighbors without the written consent of the owner; and

(D) preventing the blowing of paper or other items onto neighboring properties.

(b) Exceptions to the requirements of a portable toilet facility and a commercial trash bin may be granted in writing by the City Building Inspector upon a showing that such facilities are otherwise reasonably accessible.

(c) Violation of this ordinance is a class C misdemeanor.

4-5-106. Construction Without Required Permits Unlawful.

(a) It is unlawful to erect or construct a building or structure, to do any kind of excavation work, or to disturb any land with a slope of 30% or greater, without first obtaining any and all permit(s) and/or approvals required by City or State law.

(b) The doing of any act described in subsection (a) without required permits and/or approvals is hereby declared to be a misdemeanor and also a public nuisance, which may be abated by civil or criminal action, and may be prevented or discontinued by civil injunction or writ, or by any other appropriate remedy available under the law.

4-5-107. Protection of Public Water Supply.

(a) It is the intent of this ordinance to protect the public potable water supply from contamination by isolating within a water customer's distribution system any contaminants or pollution from their own system which could backflow or back siphon into the public water supply.

(b) It is the responsibility of the Water Department and the Engineering Department to monitor compliance with this ordnance, and to report violations to the police

(c) It is the responsibility of each water customer to purchase and maintain any backflow prevention device or assembly required by this ordinance or the Uniform Plumbing Code, as adopted by the State of Utah. The type of backflow prevention device or assembly shall depend on the degree of hazard which exists, as defined in the Uniform Plumbing Code.

(d) All backflow prevention devices and/or assemblies shall be tested within ten days of initial installation and yearly thereafter by a certified tester as required by the Uniform Plumbing Code, as adopted by the State of Utah, at the responsibility and expense of the owner.

(e) All connections of the Bountiful City water system shall in all respects conform to the Uniform Plumbing Code, as adopted by the State of Utah, the Utah State Public Drinking Water Regulations, and the ordinances of Bountiful City.

(f) All presently installed assemblies which do not meet the requirements of this ordinance but were approved at the time of installation and have been properly maintained may be left in service in accordance with provisions of this ordinance, so long as such action does not constitute a threat to the integrity or wholesomeness of the public water supply. Any determination of whether a threat exists shall be made solely by the City. In the event that it is determined that an existing system constitutes a threat to the integrity or wholesomeness of the public water supply, the water customer shall, at his expense, replace or repair the defective assembly in complication with the Uniform Plumbing Code, as adopted by the State of Utah.

(g) The water system of every customer of the City's public water supply shall be open to inspection at treasonable times by authorized City personnel to determine compliance and whether any hazard exists.

(h) Any connection to the City water supply which actually allows or may allow backflow from any other source is hereby declared to be a public nuisance, which may be summarily abated.

4-5-108. Fire Hazardous Roof Coverings.

(a) All building construction of structures containing roofs in areas of the City lying north of Mill Creek and east of 1500 East Street, and the north/south extension thereof, and also lying south of Mill Creek and East of Bountiful Boulevard, shall be constructed with either a Class A or a Class B roof as defined in Section 1505 of the International Building Code.

(b) All building construction containing roofs in all other areas of the City, except as provided in subsection (a) above, where the new construction contains a density of more than 4 dwelling units per acre and in all commercial zones of the City, the building structures shall be constructed with either a Class A, Class B, or Class C roof, as defined by the International Building Code.

4-5-109. Retaining Walls.

(a) No retaining wall which is four feet tall or taller shall be constructed without a permit issued by the City.

(1) This requirement includes all conventional cantilever concrete retaining walls as well as non-conventional wall systems such as reinforced earth structures, rock retained slopes, etc.

(2) Wall systems four feet tall or taller which are based on organic material such as treated lumber or railroad ties are not allowed.

(b) It is unlawful for any property owner to construct, or to have constructed by another, any retaining wall four feet tall or taller without first obtaining a permit from the City, or to construct or have constructed a wall in violation of subsection (1)(b).

(c) It is unlawful for any contractor or other person to construct any retaining wall four feet tall or taller for which a permit has not been issued by the City, or to construct a wall in violation of subsection (1)(b).

(d) To obtain a permit for a retaining wall, the following shall be submitted to the Bountiful City Engineering Department for review:

(1) An engineered wall design stamped by a civil, structural or geotechnical engineer registered to perform work in the State of Utah. The design shall be specific to the site and not a generic standard design.

(2) A site plan showing the extent of cuts or fills that will be included with the wall. The City may in its discretion require that the site plan be certified by a registered surveyor or engineer.

(e) All retaining walls four feet tall or taller must be inspected by the City. Prior to final inspection of the wall by the City, the contractor shall submit to the Bountiful City Building Official a complete set of

inspection reports by the engineer of record certifying that the engineer has personally inspected all aspects and phases of the wall's construction.

(f) Retaining wall permits are subject to the same bonding requirement as any other building permit. Cash bonds will be returned when the work is satisfactorily completed and inspected, the engineer's certifications have been submitted and reviewed, and any damaged public improvements (sidewalk, curb, gutter, etc.) have been repaired.

Title 5
Business Regulations

Chapter 1: General Licensing Provisions

5-1-101. Definitions.

For the purpose of this Chapter, the following terms shall have the following meanings:

"Business" means and includes all activities engaged in within the corporate limits of Bountiful carried on for the business of gain or economic profit, except that the acts of employees rendering service to employers shall not be included in the term business unless otherwise specifically prescribed.

"Engaged in Business" includes but is not limited to the sale of tangible personal property and the rendering of personal services for others for a consideration by persons engaged in any craft, business, occupation, or other calling, except the rendering of personal services by an employee to his employer under any contract of personal employment. The foregoing shall also include the renting by a lessor of space, whether enclosed or otherwise, to be used as office space for any use or endeavor including but not

limited to commercial, medical, dental, or other professional endeavors or otherwise. The foregoing shall also include the renting by a lessor of four (4) rental units or more for the purpose of human habitation whether the said units are included or enclosed within one (1) structure or separate structures or a combination thereof.

"Employee" means the operator, owner or manager of said business and any persons employed by such person in the operation of said business in any capacity and also any salesman, agent or independent contractor engaged in the operation of said business in any capacity.

"Number of Employees" means the average number of employees engaged in business each regular working day during the preceding calendar year. In computing said number, each regular full-time employee shall be counted as one employee, and each part-time employee shall be counted as that fraction which is formed by using the total number of hours regularly worked by a full-time employee as the denominator.

"Person" means any individual, receiver, assignee, trustee in bankruptcy, trust, estate, firm, co-partnership, joint venture, club, company, joint stock company, business trust, corporation, association, society or other group of individuals acting as a unit, whether mutual, cooperative, fraternal, non-profit or otherwise.

"Gross Revenue" means the gross receipts of the business, but shall not include: 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 the amount of net Utah State Sales Tax. The term "gross sales" includes the amount of any manufacturer's or importer's excise tax included in the price of the 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.

"Temporary Business" means engaging in a business on a lot without a permanent building or on a lot with a permanent building, but disassociated with any business located within said building.

"Permanent Building" means any structure used or intended for supporting or sheltering any use or occupancy having footings and a foundation.

5-1-102. License Requirement.

(a) Except for door to door solicitation, every business and every person engaged in business in the City must annually procure a business license, plus any other license which may be required in this Code. A separate license is required for each separate business site or location.

(b) It is unlawful to engage in business without the current license or licenses required in this Code. Every day without a required license is a separate offense.

(c) All licenses are non-transferable as to both the license holder and the location.

5-1-103. License Supervisor.

The City Planning and Economic Development Director is hereby designated as the License Supervisor. The License Supervisor shall have the duty to receive applications for licenses, to review them for completeness, to collect license fees, and to issue or deny licenses as appropriate.

5-1-104. Application for License.

(a) Applications for a license shall be made in writing upon the forms provided by the City.

(b) An applicant must provide all information requested upon the application form. A license shall not be granted upon an incomplete form.

(c) It is unlawful to give to the City an application for a license which contains false or misleading information. Any such application shall be denied.

5-1-105. License Term and Fees.

(a) All licenses, unless otherwise provided in this Code, shall be valid for the calendar year in which issued, or part thereof remaining. New licenses must be obtained every calendar year.

(b) Prior to the granting of any license, the applicant must pay the license fee. All license fees shall be set by resolution of the City Council, unless otherwise specified in other chapters of this Title.

(c) Licenses fees for businesses licensed for the previous year shall be double the normal fee if renewed on or after July 1st of the current year.

5-1-106. Display of License.

(a) All licenses must be displayed on the business premises to which granted in a conspicuous place in view of the public.

(b) The license or licenses of any business shall be exhibited upon request to a City representative or any peace officer. It is unlawful to refuse to do so.

5-1-107. Appeal of License Denial.

Any person whose license application has been denied, modified, suspended or revoked by the License Supervisor has the right to appeal to the Bountiful City Administrative Law Judge. Any such appeal shall be requested in writing directed to the Bountiful City Recorder within 30 days of the denial.

5-1-108. Grounds for Denial, Modification, Suspension or Revocation.

The License Supervisor may deny, modify, suspend or revoke any license for any of the following reasons:

(a) fraud or misrepresentation in the application or procurement of the license;

(b) violation of, or failure to comply with, any provision of this Code or of the Utah State Code;

(c) failure to pay any required fee when due;

(d) failure to comply with current zoning ordinances or failure to perform any condition of a conditional use permit;

(e) failure to perform any requirement of the City made in the approval of a request to the City for any license, permit, etc., such as off-street parking, site plan provisions, architectural review, landscaping, or any other such requirement;

(f) failure to maintain qualifications for the license;

(g) maintenance of an illegal sign;

(h) conducting an illegal business upon the premises;

(i) violating any statute or ordinance involving moral turpitude;

(j) any conduct or act on the business premises, or any conduct, act or condition permitted, by the licensee or any employee which renders, or tends to render, such business or its premises a public nuisance or a menace to the health, peace, safety or general welfare of the City;

(k) failure to comply with any applicable provision of the Uniform Fire Code, Uniform Building Code, Uniform Electrical Code, or any other building code provision adopted in this Code;

(l) violation of any provision of the particular Chapter of this Code applicable to the license in question; or

(m) conducting business without any license required by State law; or

(n) conducting business in violation of any applicable State law; or

(o) for other good cause shown.

5-1-109. Procedure for Appeal, Denial, Modification, Suspension or Revocation.

An appeal shall be heard by the Bountiful City Administrative Law Judge in accordance with Section 2-8-101 et seq of this City Code.

5-1-110. Records to be Maintained.

It is the duty of every person liable for the payment of a business fee imposed by this chapter, to keep and preserve for a period of four (4) years such books and records as will accurately reflect the amount of his gross annual sales of goods and services for any year, and the number of employees from which can be determined the amount of any license fee for which he may be liable under the provisions of this chapter.

5-1-111. Exemption to License.

No license fee shall be imposed under this chapter upon any person engaged in business for solely religious, charitable eleemosynary or other type of strictly non-profit purpose who is tax exempt in such activities under the laws of the United States and the State of Utah, nor shall any license fee be imposed on any person engaged in a business specifically exempted from municipal taxation and fees by the laws of the United States or the State of Utah.

Chapter 2: Pawn Brokers

5-2-101. Pawn Broker Defined.

Any person within the limits of this City who loans money on deposit of personal property or deals in the purchase 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 in his possession is hereby declared to be a pawn broker.

5-2-102. Pawn Broker License.

It is unlawful for a person to engage in the business of a pawn broker without a current pawn broker license from the City.

5-2-103. Records to be Kept.

Every pawn broker shall comply with all applicable State law, and shall keep records containing a description of all articles received by them, the amounts paid therefor or advanced thereon, a general description of the person from whom received, together with his name and address and the date of the transaction. Such records shall at all reasonable times be accessible to any peace officer who demands an inspection thereof, and any further information regarding such transaction that he may require shall be given by pawn brokers and second-hand dealers to the best of the ability. At the close of each day's business pawn brokers shall mail a copy of such records to the Police Chief. It is unlawful to fail to keep this required information, or to provide false information.

5-2-104. Dealing with Minors Prohibited.

It is unlawful for any pawn broker business to permit persons under eighteen years of age to pawn, pledge or deposit items of any kind.

5-2-105. Unlawful to Pawn Items not Owned or to Give False Information.

(a) It is unlawful for anyone to pawn items with a pawn broker when that person does not own those items.

(b) It is unlawful for anyone to give false information concerning property to a pawn broker.

Chapter 3: Public Dances

5-3-101. Definitions.

"Public Dance" means any dance to which the public generally may gain admission with or without the payment of a fee, but shall not include any dance conducted on or in any public park, street, or public grounds by permission of the City Council and under the supervision of the Bountiful City Recreation Department, a public or private school and churches.

"Public Dance Hall" means any rooms, place or space in which a public dance is held or in which classes in dancing are held and instruction in dancing is given for hire.

"Non-Public Dances" means dances conducted and sponsored by public or private schools and churches for the students or members thereof even though an admission fee is charged, and dances conducted in private homes. Such dances shall not be deemed to be public dances and shall be exempt from the licensing provisions of this Chapter.

5-3-102. Dance License.

(a) It is unlawful to hold or conduct any public dance without a current dance license from the City.

(b) The Police Department and Fire Department shall each examine each application to determine whether or not the dance halls sought to be licensed conform with the regulations, ordinances and laws applicable thereto. A written recommendation from each department shall be made as to whether a license shall be granted or refused.

5-3-103. Age Requirements.

(a) Except as provided in subparagraph (b) of this Section, it is unlawful to permit any person who has not reached the age of 18 years to attend or remain at any public dance unless such person is accompanied by his parent or legal guardian.

(b) It is lawful to permit persons who have attained the age of 14 years to attend a public dance without being accompanied by their parent or legal guardian only where such public dance is held under the following conditions:

(1) Said dance is under the supervision of a uniformed Category I Police Officer, who must be in his or her peace officer uniform and not in a private security or other uniform, which supervision shall be furnished at the expense of the management of the dance.

(2) No cigarettes, beer or liquor is sold, consumed or used upon the dance hall premises.

5-3-104. Permitted Hours.

It is unlawful for any person to conduct or maintain any public dance or public dance hall or having charge or control thereof to conduct carry on or permit any dance or dancing therein between the hours of 12:00 midnight of any day and 6:00 a.m. of the following day.

Chapter 4: Amusement Devices

5-4-101. Purpose.

The City Council finds that in order to preserve the peace, health, safety and welfare of the inhabitants, and particularly of the youth, of the City of Bountiful, the public patronage and use of amusement devices should be licensed and be subject to certain regulations as set forth in this Chapter.

5-4-102. Definitions.

"Amusement device" means any amusement machine, computer or other device made available to the public for the purpose of amusement or skill, and for the play of which a fee is charged. The term does not include coin operated music devices, ride machines designed primarily for the amusement of children, or vending machines not involving chance or skill.

"Accessory use" means a use incidental and subordinate to the principal use of the building or business, and operating fewer than eleven amusement devices.

"Arcade" means a business operating amusement devices as its primary business and/or having eleven or more machines.

"Person" means individual natural person, partnership, corporation, joint venture, society, association, club, trustee, or any other agency.

5-4-103. License.

(a) It is unlawful for any person to display or make available for public patronage or operation any amusement device without a current amusement device license from the City.

(b) No license shall be issued to individuals, or to business entities with principal individuals, with criminal convictions involving sexual or child abuse or other offenses involving moral turpitude.

5-4-104. Referral to Police Chief and Fire Chief.

The application for an amusement device license, together with such information as is required by the City to be attached thereto, shall be referred to the Chief of Police and to the Fire Chief for inspection, investigation and report. They shall, within fifteen days after receiving the application, make a report to the Licensing Supervisor.

5-4-105. Gambling Devices Prohibited.

Nothing in this ordinance shall in any way be construed to authorize, license or permit any gambling device whatsoever, or any device in any way contrary to law.

5-4-106. Amusement Device Regulations.

The following regulations shall apply to any business involving amusement devices:

(a) For businesses with amusement devices as an accessory use, no more than 25% of the floor area (not including restrooms and storage) may be used for amusement devices.

(b) For amusement device arcades, location, floor plans and other details shall be reviewed on an individual basis by the Planning Director, Fire Chief, and Police Chief.

(c) For all businesses with amusement devices, the following regulations shall apply:

(1) Space and Location Requirements.

(A) Adequate space shall be provided for each amusement device so as to allow its use without overcrowding.

(B) All entrances and interior areas shall be adequately lighted for adequate visibility and supervision.

(2) Supervision Required.

There shall be at least one supervisory employee on the premises during hours of operation of the amusement devices. The location of the amusement devices shall be such that there is a management attendant within the same room or such that the management attendant outside of the same room can easily see and supervise the interior of the room.

(3) Age Limits and Hours of Operation.

(A) It is unlawful for any licensee or any agent or employee of such licensee to permit, suffer or allow any person under the age of eighteen years to use or operate any amusement device located in or upon the licensed premises during such time as public elementary and secondary schools are in session.

(B) Persons under the age of eighteen may be allowed to operate amusement devices during their school hours if accompanied by an adult twenty-one years or older or by a parent.

(4) No Smoking or Alcohol.

No person shall be allowed to remain on the license premises for amusement devices while in the possession of, consuming, using or under the influence of, any alcoholic beverage or illegal drugs. No licensee, manager or supervisory employee shall permit any such person to enter or remain on the premises. Smoking and the sale of tobacco products on the premises is prohibited, except for general merchandise department and grocery stores.

(5) Signage.

Signs informing the public of the limitations on operation by school age children and the limitations on alcoholic beverages and smoking shall be posted in each area licensed for the operation of amusement devices. The text of such signs shall be in letters at least two inches high and on a contrasting background so as to be clearly readable.

(6) Other Requirements.

The Licensing Supervisor may make such specific require-ments as may be reasonably necessary to protect the interests, safety and welfare of the children and others who will be the clientele of the licensee, and to ensure sufficient access, parking, lighting, etc., for the specific site. This shall be a continuing right even after the license is issued.

5-4-107. Exemption.

These regulations do not apply to businesses not allowing minors upon the premises.

Chapter 5: Door to Door Soliciting Prohibited Where Notice Provided.

5-5-101. (a) "Soliciting" means the practice of engaging in, or attempting to engage in, conversation with any person at a residence for the purpose of making or seeking to make or facilitate a sale of goods or services by means of door to door solicitation.

(b) "Solicit a residence" means to knock on the door or ring a door bell at a residence, or speak with a person at the premises, for the purpose of selling, seeking to sell, or obtaining orders or prospective customers for goods or services.

(c) Any occupant of a residence may give notice of a desire to refuse solicitations by displaying a sign stating "No Soliciting" or similar wording, which shall be posted on or near the main entrance door. The display of such a sign constitutes notice to any solicitor that the inhabitants of the residence do not desire to receive and/or do not invite solicitors. It is the duty of the Solicitor to check each residence for the presence of any such sign or notice and to refrain from soliciting where present.

(d) It is a class C misdemeanor for any person to solicit a residence or a person at a residence where a "no soliciting" or similar notice has been given against soliciting as provided in this section.

Chapter 6: Sound Amplification and Public Address Equipment

5-6-101. Sound Amplifier Defined.

For the purpose of this Chapter a "Sound Amplifier" is defined as any instrument or device which amplifies or increases the volume of sound. This includes, but is not limited to, public address systems, loud speakers, music players such as boom boxes, electronic instruments, and any other device which produces loud words, music or other sound.

5-6-102. Sound Amplifier License.

It is unlawful for any person, firm, association or corporation to use or operate, or permit to be used or operated out of doors, or indoors when used or operated to reach persons out of doors, any sound amplifier as defined in this chapter in any part of the City without a current amplified sound license from the City.

5-6-103. Application

The application shall set forth the name and address of the applicant, the location or locations or route or routes at which or over which applicant proposes to operate such sound amplifier or sound amplifiers, the purpose for which such sound amplifier or sound amplifiers will be used, the proposed hours of operation, and the number of days of proposed operation.

5-6-104. Denial of License and Summary Revocation.

A sound amplification license may be summarily revoked by any Bountiful police officer upon probable cause to believe that the noise ordinance is being violated, or if under the totality of circumstances the sound is unreasonably disturbing neighbors, the public, or others. The revocation may be appealed to the Bountiful Police Chief, and a denial or revocation of a license may be appealed to the Bountiful City Administrative Law Judge.

Chapter 7: Businesses Selling Alcohol

5-7-109. Licenses.
5-7-110. Unlawful Acts.

5-7-101. Definitions.

Unless the context clearly requires otherwise, as used in this Chapter, the terms shall have the definitions given in the Alcoholic Beverage Control Act of the Utah State Code.

"Alcoholic beverage", "beer" and "liquor" shall have the definitions given in the Alcoholic Beverage Control Act of the Utah State Code.

5-7-102. Beer License.

(a) It is unlawful for a person to sell beer or an alcoholic beverage at retail, and/or permit the consumption of beer or an alcoholic beverage on any business premises without a current beer license from the City, or without a current license required by State law.

(b) A separate license is required for each separate place of business.

5-7-103. Qualifications for License.

(a) Applicants for licenses and the premises proposed to be licensed under this Chapter must meet the following qualifications:

(1) Each licensee must be over 21 years of age, and a citizen of the United States, or a lawful resident alien, or is otherwise lawfully residing within the United States.

(2) Each licensee must possess the qualifications required under the Alcoholic Beverage Control Act and other pertinent statues;

(3) Each licensee, or in the case of a partnership, each partner, or in the case of a corporation each director or officer, shall not have been convicted of or forfeited bail on a charge of having committed a misdemeanor involving moral turpitude or a felony or any violation of any law or ordinance relating to intoxicating liquors or drunken driving or keeping a gambling or disorderly house;

(4) Each licensee shall not be delinquent in his financial obligations to the city;

(5) The licensed premises shall comply with the regulations issued by the Board of Health;

(6) No license shall be granted to allow on-premise consumption of alcoholic beverages:

(A) within 600 feet of any public or private school, church, public library, public playground, or park, as measured by the method established by State law, or

(B) for any location with a vehicle entrance or exit within 200 feet of any public or private school, church playground, or park.

(C) With respect to the establishment of an on-premise beer retailer license that does not operate as a tavern (as defined by State law) the City Council may authorize a variance to the proximity requirements of this subsection if:

(i) the State also grants a variance;

(ii) a public hearing has been held by the City Council after notice published twice in a locally distributed newspaper five to twenty-one days prior to the hearing; and

(iii) the City Council determines that establishing a license would not be detrimental to the public health, peace, safety, and welfare of the community, after considering relevant facts, including the following: the location of the beer retailer relative to the location of the school, church, library or park, whether and what kind of street is between them, the pedestrian flow in the area, the location of sidewalks, other geographical considerations, the respective hours of operation, the nature of the neighborhood, and other factors that may exist.

(b) The governing body reserves, for implementation at a future time, the right to require of establishments licensed under this Chapter, a bond to guarantee compliance with all laws and ordinances and which may be forfeited to the city upon such conditions as the governing body may, at a future time, adopt and specify by ordinance.

(c) The governing body reserves, for implementation at a future time, the right to restrict the number of establishments licensed under this Chapter and to adopt a system providing for the allocation of such licenses in the future.

(d) The license required by this Chapter shall be in addition to any other business or regulatory license or licenses required by the city or other regulatory authority.

5-7-104. Applications for License.

(a) All applications for licenses required by this Chapter shall be filed with the License Supervisor and must state the applicant's name in full and contain all necessary information required to show that he has complied with the requirements and possesses the qualifications specified in the Alcohol Beverage Control Act and this Chapter. The License Supervisor or the Chief of Police may require the applicant to furnish other information to insure compliance with this Chapter. If the applicant is a partnership, association, or corporation, the same information must be obtained with respect to each partner, association member, corporate director or officer. All applications by individuals must be subscribed by such persons and state under oath that the facts set forth therein are true. Each applicant shall provide with his initial application a site plan and layout review, indicating all security measures and plans for ingress and egress to a public street. Each applicant shall, at the time of filing his license application, present himself to the chief of police or his designee, to be fingerprinted and photographed. Such fingerprints and photographs shall be clearly marked and designated as having been taken in connection with an application for a beer license.

5-7-105. Referral to City Officials.

(a) The License Supervisor shall refer all applications for a license under this Chapter to the Chief of Police and the Fire Chief.
(b) The Chief of Police shall, within 10 days after receiving such application, report in writing to the governing body the general reputation and character of the persons who habitually frequent such place, the nature and kind of business conducted at such place by the applicant or by any other person or by the applicant at any other place, whether said place is or has been conducted in a lawful, quiet and orderly manner, the nature and kind of entertainment, if any at such place, whether gambling is or has been permitted on the premises or by the applicant at any other place, the proximity of such premises to any school or church, and his recommendation as to whether or not the application should be granted.

5-7-106. Issuance of License.

(a) Upon receipt of the reports from the Chief of Police and other officials, the governing body may consider the application for license.

(b) The governing body has the sole discretion to grant or to refuse to grant a license under this chapter.

(c) If the applicant has complied with all applicable laws, ordinances and regulations, the governing body may direct the City Recorder to issue a license to the applicant for the licensed premises.

(d) The issuance of a license pursuant to this Chapter shall grant only a revocable privilege as provided hereunder and under the laws of the State of Utah and shall not confer any vested rights of any kind or nature upon a licensee.

(e) If the license application is denied by the governing body, no new application shall be made for the premises until after the expiration of one year following the denial of the initial application.

5-7-107. License Expiration and Renewal.

(a) All licenses issued under this Chapter shall expire on the 31st day of December of each year unless sooner canceled or revoked, except seasonal licenses which may be issued for a period of less than one year as may be determined by the governing body. No license shall be issued for a period longer than one year.

(b) Licenses may be renewed by making application therefor and paying the appropriate fee. All applications to renew licenses shall be filed by the licensee with the city recorder at least 30 days, but no earlier than 90 days, prior to the expiration date of the license. The renewal application shall state whether or not the business is presently operating and if not, the date when it ceased daily operation, together with such other information as the City Recorder may reasonably require to verify or determine the status of the business. Any person who fails to file such application within the time limit shall, upon expiration of the license, cease the operations licensed under this Chapter on the premises and shall not resume such operations until a new license is issued upon order of the governing body. A licensee may apply for renewal of his license annually until suspended or revoked for cause or until said license is no longer currently and actively used to operate a business authorized by the license; provided, however, the license may be renewed after termination of the authorized business activity during a licensing period for one additional year, if the licensee makes application within 45 days after the expiration of said license and if the licensee certifies under oath that he is not holding the license for speculative reasons and he is

actively seeking a purchaser for his business premises and assets as provided above, or is actively seeking a new business location for which he will seek a transfer of said license as provided herein. No license renewal may be granted beyond one year of inactive status as provided above.

5-7-108. License Conditions.

(a) Licensed premises shall be illuminated at a minimum of 2 candlepower light measured at a level 5 feet above the floor at all times that it is occupied or open for business and no booth, blind or stall shall be maintained unless all tables, chairs and occupants, if any, therein are kept open to full view from the main floor of such licensed premises.

(b) Licensed premises selling beer on draft shall be so situated that the beer-dispensing device is not visible from the area normally occupied by customers or patrons.

(c) All licensed premises shall be subject to inspection by any police officer.

(d) All employees handling and selling liquor must be at least twenty-one years of age.

5-7-109. Licenses.

(a) A Class "A" retail beer license entitles the licensee to sell beer on the licensed premises only in original containers for consumption off the premises in accordance with the Alcoholic Beverage Control Act and Ordinances of the City.

(b) A class "B" retail beer license entitles the licensee to sell beer on the licensed premises only in original containers for consumption on or off the premises in accordance with the Alcoholic Beverage Control Act and ordinances of the city.

(c) A class "C" retail beer license entitles the licensee to sell beer on the licensed premises on draft and in original containers for consumption on or off the premises in accordance with the Alcoholic Beverage Control Act and ordinances of the City.

(d) A class "D" retail beer license entitles the licensee to sell beer only on the licensed premises in open containers not exceeding two liters and on draft for consumption on the premises in accordance with the Alcoholic Beverage Control Act and ordinances of the city.

(e) A class “E” retail beer license entitles the licensee to sell beer at a single event permit, subject to the conditions set forth in the approval of the permit. Any person or entity actually granted a single event permit by the State may be granted a class “E” beer license to run concurrently with the State permit. The license fee shall be $50.00.

(f) A Liquor License, in conjunction with a valid license issued by the State of Utah according to State law, entitles the licensee to sell liquor as permitted in the State license. Issuance of this license by the City for liquor package agencies, restaurants, special uses, public service, and single events is intended to constitute the written consent of the local authority that is required by State law. Club liquor licenses will not be issued by the City, and the City will not give local consent for State club liquor licenses.

5-7-110. Unlawful Acts.

(a) It is unlawful for any licensee, by himself or through his agent or employee, to violate or to fail to comply with any of the provisions of this Chapter or of the Alcoholic Beverage Control Act.

(b) It is unlawful for any person, by himself or through his agent or employee, to expose, keep for sale, or directly or indirectly or upon any pretense or upon any device, to sell or offer to sell any alcoholic beverages, except as provided in this Chapter and the Alcoholic Beverage Control Act.
(c) It is unlawful for any licensee to purchase or acquire or to have or possess for the purpose of sale or distribution any beer except that which he shall have lawfully purchased from a brewer or wholesaler licensed under the provisions of the Alcoholic Beverage Control Act.

(d) It is unlawful for any person in charge of any place of business knowingly to permit or allow customers, guests or any other person to possess liquor upon which the seal has been broken at the place of business unless the premises have been licensed therefor under the Alcoholic Beverage Control Act.

(e) It is unlawful for any person to store any liquor in or on premises licensed under this Chapter unless appropriately licensed by the State of Utah to do so.

(f) It is unlawful for any licensee or any operator or employee of a licensee to hold, store or possess liquor on the premises licensed under this Chapter unless appropriately licensed by the State of Utah.

(g) It is unlawful for any person in charge of any place of business knowingly to permit or allow customers, guests, or any other person to consume alcoholic beverages at the place of business unless the premises have been licensed therefor under this Chapter or the Alcoholic Beverage Control Act.

(h) It is unlawful for any person to consume alcoholic beverages in any place of business whose premises are not licensed under this Chapter or the Alcoholic Beverage Control Act.

(i) It is unlawful for any person to sell, possess or consume alcoholic beverages on premises licensed hereunder between the hours of 1:00 a.m. and 6:00 a.m..

(j) It is unlawful for any licensee by himself or his agent or employee to permit any customer, guest, or any other person to possess or consume any alcoholic beverages on the licensed premises between the hours of 1:00 a.m. and 6:00 a.m..

(k) It is unlawful for any person to sell or supply any alcoholic beverages or permit alcoholic beverages to be sold or supplied to any person under or apparently under the influence of liquor.

(l) It is unlawful for any person to sell any alcoholic beverages at any public dance.

(m) It is unlawful for any person to advertise the sale of alcoholic beverages except under such regulation as is made by the Utah Liquor Control Commission, except that a simple designation of the fact that beer is sold may be placed in or upon the window or front of the licensed premises.

(n) It is unlawful for any employee at licensed premises, while on duty, to consume an alcoholic beverage or be under the influence of alcohol.

Chapter 8: Massage Therapy.

5-8-101. Definitions.

The terms "massage," "massage technician" and "massage apprentice" shall have the meanings set forth in the Massage Practice Act of the Utah Code.

5-8-102. Massage Therapy License.

It is unlawful for any person to practice or engage in, or attempt to practice or engage in, massage for compensation without first (a) being licensed as a massage technician or as a massage apprentice by the State of Utah and (b) obtaining a current massage therapy license from the City. It is unlawful for any person licensed by the City to exceed the scope of the license granted by the State.

5-8-103. License Application.

Every person applying for a massage therapy license shall state in the application that the applicant is a massage technician or massage apprentice licensed by the State of Utah, giving the license number thereof, stating the address where the applicant proposes to conduct the business of massage, and such other information as the Licensing Information may require.

5-8-104. Investigation of Applicant and Premises.

The application for such license, together with such other information as is required by the city to be attached thereto, shall be referred to the Chief of Police for investigation and recommendation.

Chapter 9: Professional Dancers.

5-9-101. License Required.

It is unlawful:

(a) For any person to perform as a professional dancer on the premises of an establishment as defined in this chapter, either gratuitously or for compensation; without first obtaining a license therefor from the City;

(b) For any person, agency, firm or corporation to furnish, book or otherwise engage or permit any person to dance as a professional dancer, either gratuitously or for compensation, in or for any establishment, which dancer, at the time of such booking, employment or performance, was not licensed in accordance with subsection (1) of this section;

(c) For any person, firm, corporation, business or agent, or employee thereof, to furnish, book or otherwise engage or permit any person to dance as a professional dancer, either gratuitously or for compensation, in any establishment unless such establishment is licensed by the City to allow professional dancing in accordance with the provisions of this chapter.

5-9-102. License - Application and Issuance Conditions.

The applicant shall appear in person before the City Recorder and shall complete the application form in writing. The application shall include the name and address of the applicant, any stage name or names used, the name of the agent or agency if the performer uses an agent, the criminal record, if any, and such other information as may be reasonably required by the license supervisor pertaining to verifying personal identification and criminal history of the applicant, including its officers and employees.

5-9-103. Referral to Police Chief.

Upon receipt of the fee and application, the City Recorder shall transmit the application to the police department, which shall make inquiry concerning the applicant's character and background and report whether or not in its opinion a license should be granted. If the police recommend denial of the application, the license supervisor shall not issue the license. If the applicant desires a hearing, the applicant shall apply to the mayor for a public hearing within ten days after denial of a license.

5-9-104. Performer Location Restrictions.

It is unlawful for a professional dancer to dance with or among the patrons of an establishment, or upon the tables or chairs, or in any part of an establishment other than on a stage, platform or dance floor which is separated on all sides from the aisles, tables, chairs, booths and the patrons of said establishment by at least three feet.

5-9-105. Dancers - Restricted Activities.

It is unlawful for any dancer, while performing in any establishment pursuant to the provisions of this chapter, to touch in any manner any other person, to throw any object or clothing, to accept any money, drink or any other object from any person, or to allow another person to touch such dancer or to place any money or object on such dancer or within the costume or person of such dancer.

5-9-106. Dancers - Age Restrictions.

It is unlawful for any person under the age of twenty-one to perform, dance or entertain either gratuitously or for compensation in any premise licensed under this chapter.

5-9-107. Dancers - Costume Restrictions.

(a) Professional dancers shall at all times be costumed during performances in a manner not to violate any city ordinance or State law concerning obscene conduct, or conduct themselves in such a manner which violates the provisions of any city ordinance or State law.

(b) Each agency, person, firm or corporation employing, booking or using the services of a dancer required to be licensed under the provisions of this chapter shall require that such dancers comply with the provisions of this chapter, and any person, firm, corporation, business or establishment that permits a violation of this chapter, either personally or through its agents, employees, officers or assigns, shall be guilty of a misdemeanor.

5-9-108. Patrons - Prohibited Activities.

It is unlawful for any person, or any patron of any establishment, to touch in any manner any professional dancer, to place any money or object on or within the costume or person of any professional dancer, or to give or offer to give to any such dancer any drink, money or object while the dancer is performing any dance.

Chapter 10: Fireworks

5-10-101. Definition.

"Class C common state approved explosive" is defined in Section 11-3-2(5) of the Utah State Code.

5-10-102. Fireworks License.

It is a class B misdemeanor for a person to:

(a) sell, or to offer to sell, class C common state approved explosives, without a current fireworks license from the City;

(b) discharge display fireworks, or exhibit a pyrotechnic display inside a public building, without current fireworks license from the City.

5-10-103. Referral to Fire Chief and Police Chief.

Any application for a fireworks license for the purpose of discharging display fireworks or an exhibit of a pyrotechnic display inside a public building shall be referred to the Fire Chief and Police Chief for their recommendation as to public safety.

5-10-104. Fireworks Display Permit.

The City Manager or his designee may, upon application writing and the posting of a bond acceptable to the City, grant a permit for the public display of fireworks. The display must be performed by a competent operator, who shall be approved by the Police Chief and the Chief of the Fire Department. Such display shall be of such a nature and so located and discharged as, in the opinion of the Police Chief and the Chief of the Fire Department, shall not be hazardous to person or property. After such permit shall have been granted, the sale, possession, use and distribution of fireworks for such display shall be lawful for that purpose only. Any permit granted hereunder is non-transferable.

5-10-105. Application for Permit.

All applications for permits shall set forth the date, hour and location proposed for the display, the place of storing fireworks prior to the display, the names or names of individuals or entities making the display, and the name of the person or persons in charge of the actual igniting of the fireworks, and such other information as the Licensing Supervisor may reasonably require. The location of the storage place shall be subject to the approval of the Chief of the Fire Department.

5-10-106. Bond or Liability Insurance.

Any application for a permit shall be accompanied by a certificate of insurance of a policy insuring the licensee and naming Bountiful City as an additional insured, providing for the payment of all damages which may be caused to any person or property by reason of the display. Such insurance shall be in a sum not less than $2,000,000/$2,000,000 for bodily injury and/or property damage. No City officer shall issue any permit until the certificate of insurance has been furnished by the applicant and approved by the City Manager and the City Attorney.

5-10-107. Fireworks Display Vendor's License.

If the holder of a fireworks display license states in writing to the City that it does not wish vendors to be in attendance at its function, the City will not issue vendors licenses for that event. It shall be unlawful to sell merchandise of any kind and by any means at a fireworks display without first obtaining a current and valid vendors license, or to do so at a fireworks display where the holder of the license has stated in writing to the City that it does not wish vendors to be in attendance at its function.

5-10-108. Fireworks Restrictions.

(1) Within the limits of the City of Bountiful east of Bountiful Boulevard, and, north of 400 North, east of 900 East:

(a) The discharge of class C common fireworks is prohibited at all times;

(2) Due to hazardous environmental conditions, the discharge of fireworks is prohibited at all times in the following areas of Bountiful City until January 1, 2024:

(i) East of 400 East from Pages Lane to 500 South;
(ii) East of Orchard Drive from 500 South to the North Salt Lake border.

(iii) fireworks are prohibited in any other areas designated by South Davis Metro Fire Agency officials.

(3) Campfires and other fires are allowed only in an approved fire pit designed and installed by the Forest Service or the City. No homemade or makeshift fire pits are allowed. The restrictions of this Section do not apply to residential structures or improved fire pits adjacent to a residential structure.

(4) This Section does not apply to Bountiful City's annual public fireworks display because of adequate fire prevention preparations.

(5) This Section shall not expire until rescinded or amended by the City Council.

(6) In other parts of the City where not prohibited by this Section, the possession, display or discharge of Class C common state approved fireworks is permitted only as provided by State law. Any other possession, display or discharge is prohibited.

(7) It is unlawful to negligently discharge class C common state approved explosives, in such a manner as to cause, or to recklessly risk causing, a fire or injury to people or property.

(8) This ordinance shall not limit the authority of the Fire Chief or Fire Marshal to at any time issue emergency decrees or order fireworks and/or other fire restrictions depending upon conditions or needs.

(9) Fireworks possessed, sold or offered for sale in violation of this Ordinance may be seized and destroyed and the license of the person selling or offering fireworks for sale may be revoked.

(10) All terms relating to fireworks used in this Ordinance shall have the same meaning as defined in Utah Code § 53-7-202 of the Utah Fire Prevention Act.

(11) A violation of this Section is a class "B" misdemeanor.

Chapter 11: Horse Drawn Carriages

5-11-101. Definitions.

The words and phrases when used in this Chapter shall have the meaning defined and set forth herein. "Carriage" or "horse-drawn carriage" means any device in, upon or by which any person is or may be transported or drawn upon a public way and which is designed to be drawn by horses.

"Carriage Business" means any person offering to transport another person for any valuable consideration and by means of a horse-drawn carriage.

"Carriage Stand" means that portion of a curb line designated for loading or unloading of passengers for horse-drawn carriages.

"Driver" means any person operating or in actual physical control of a horse-drawn carriage, or any person sitting in the driver's seat of such carriage with the intention of causing it to be moved by a horse.

"Holder" means any person to whom a horse-drawn carriage permit has been issued and which permit is unexpired.

"Horse" means any animal purely of the genus equus caballus, specifically excluding crosses with other genera.

"Person" means any individual, partnership, corporation, association or other legal entity.

"Stable" means any place or facility where one or more horses are housed or maintained.

5-11-102. License and Permit Required.

No person shall operate or permit a horse-drawn carriage owned or controlled by him or her to be operated as a carriage fore hire upon the streets of the City without first having obtained:

(a) An annual City business license, and

(b) An annual horse-drawn carriage license. This license shall not be construed as either a franchise or irrevocable.

5-11-103. Driver Licensing.

It is unlawful for any person to operate or for a holder to permit any person to operate a carriage for hire or a training cart upon the streets of the city without such operator having first obtained and having in force a current chauffeur's license valid in the State of Utah.

Every driver operating a carriage under this Chapter shall keep his or her chauffeur's license on his or her person while such driver is operating the carriage, shall exhibit the license upon demand of any Police Officer, Animal Control Officer, License Inspector or any authorized agent of the licensing office of the City.

5-11-104. Carriage Equipment and Maintenance.

(a) The carriages used shall be of types customarily known in the carriage industry as "vis-a-vis", "landau", "brougham", "victoria" and/or "rock-a-way" and shall meet all of the equipment registration and other requirements of this Chapter before being used to transport customers.

(b) Each carriage shall be equipped with rear view mirrors, 2 electrified white lights visible for 1,000 ft. to the front of the carriage and 2 electrified lights visible for 1,000 ft. to the rear of the carriage. All lights shall be operational for one-half hour after sunset to one-half hour before sunrise and during times of lessened visibility. Electrified directional signals are required at all times.

(c) Each carriage shall be equipped with hydraulic or factory equipped mechanical brakes appropriate for the design of the particular carriage.

(d) Each carriage shall be equipped with a slow moving vehicle emblem (red triangle) attached to the rear of the carriage.

(e) Each carriage shall permanently and prominently display the name and telephone number of the carriage business operating it on the rear portion of such carriage.

(f) Each carriage shall be equipped with a device to catch horse manure falling to the pavement.

(g) Each carriage shall be maintained in a clean and sanitary condition.

5-11-105. Traffic Laws.

(a) A driver operating a horse-drawn carriage shall be subject to all laws of the City pertaining to the driver of any vehicle.

(b) Speed. The driver shall not permit the speed at which any horse-drawn carriage is driven to exceed a slow trot.

(c) Control. No driver shall leave the carriage unattended in any public place.

(d) Number of Passengers. No driver shall permit more than six (6) adult passengers to ride in the carriage at one time, plus no more than two (2) children under 3 years of age if seated on the laps of adult passengers unless the carriage is designed to carry fewer in which event the carriage shall not carry more passengers than it was designed to carry.

(e) No driver shall permit a passenger to ride on any part of the carriage while in motion unless the passenger is seated inside the carriage.

(f) No driver shall create a traffic hazard or obstruct other traffic.

5-11-106. Hours.

Carriages shall only be operated on the streets of the City during the hours from 6:00 p.m. to 12:00 midnight on evenings when public schools will be in session the next day, and to 1:00 a.m. on evenings when public schools will not be in session the next day, provided however that the Chief of Police may

grant permission to the holder to operate the carriage business for special occasions during other hours of the day, but only upon application made at least 48 hours beforehand.

5-11-107. Routes.

Carriages shall only be operated from and including 100 West to 300 East and from 400 South to 300 North in the City.

5-11-108. Carriage Stand.

The carriage stand shall be on either Center Street or 100 South between Main Street and 100 East Street in Bountiful, Utah.

5-11-109. Drinking Alcoholic Beverage and Open Containers in Horse-Drawn Carriage is Prohibited.

(a) A person may not drink any alcoholic beverage while operating a horse-drawn carriage or while a passenger in a horse-drawn carriage whether the carriage is moving, stopped or parked on a street.

(b) A person may not keep, carry, possess, transport or allow another to keep, carry, possess or transport in or upon a horse-drawn carriage while the horse-drawn carriage is in use, whether moving, stopped or parked on the street, an open container which contains any alcoholic beverage if the container has been opened, its seal broken, or the contents of the container partially consumed.

(c) In this Section the term "alcoholic beverage" has the meaning given in Section 32 A-1-5 of the Utah Code Annotated, 1953, as amended.

5-11-110. Care of Horses.

No person shall cause a horse to draw or to be harnessed to a carriage if:

(a) Acute Ailment. The horse has an open sore or wound or is lame or appears to have any other injury, sickness or ailment unless the person attending to the horse has in his possession a written statement signed by a veterinarian and stating that the horse is fit for pulling a carriage notwithstanding the injury, sickness or ailment.

(b) Hoofs. The hoofs of the horse are not properly shod and trimmed, utilizing rubber coated heel pads or open steel barium type shoes to aid in the prevention of slipping. Horses shall be shod and trimmed by an experienced, competent farrier at least every 4 to 6 weeks or more frequently if necessary.

(c) Coat. The horse is not well-groomed and/or has fungus, dandruff, or a poor or dirty coat.

No horse owned by or within the control of a carriage business shall be treated cruelly, harassed or neglected. A carriage business and its owner and managers are all individually responsible to take any action reasonably necessary to assure the humane care and treatment of the horses under their control.

Chapter 12: Temporary Licenses

5-12-101. License and Permit Required.

5-12-101. License Required.

(a) It is unlawful to conduct a temporary business without first having first obtained a Temporary Business License.

(b) A temporary business license may be issued to a temporary business meeting all of the following requirements:

(1) The conduct of the requested use will not have any detrimental effects on adjacent properties and will be in general harmony with surrounding uses.

(2) The requested use will not create excessive traffic hazards on adjacent streets. Sufficient off-street parking shall be provided which shall be designed to meet all City parking regulations. A site plan showing where the sale of goods will take place, points of ingress and egress to the site, and parking available for the temporary business shall be provided.

(3) The applicant has obtained, or shall obtain, all necessary City permits associated with the placement and operation of the use, i.e., Health Department approvals for sales of food items, electrical permit for electrical hookups, fire department clearance for fireworks stands, etc.

(4) The applicant shall provide, at its own expense, for the restoration of the site of said use to its original condition, including such clean up, washing and replacement of facilities as may be necessary.

(c) Prior to the granting of any license, the applicant must pay the license fee.

(d) Any person or business which engages in business prior to obtaining a business license from the City shall pay an administrative fee of $50.00 prior to the issuance of a license, which shall be in addition to the regular fee for the license.

5-12-102. License Fee.

A fee as adopted by resolution of the City Council will be required for any temporary license.

5-12-103. Site Requirements.

Any site proposed for use for a temporary business must be on property with curb and gutter with adequate traffic ingress and egress. A site plan shall be submitted showing where the sales shall be conducted on the site along with the location of at least four off-street parking spaces specifically designated for use by the temporary business. Such spaces may not be designated for or required by ordinance for any permanent, on-site business and the temporary business may not occupy such parking.

In no event shall the temporary business be located within the clear vision area as defined by Section 6-2-118 of this Code, nor shall it be located in any way as to obstruct the clear vision of traffic ingress or egress from the site.

5-12-104. Time Limit.

A temporary license shall be issued for a maximum of 120 days.

5-12-105. Number of Businesses on Site.

Only one temporary business at a time shall be allowed on any given site, unless it can be shown that adequate ingress, egress, and parking would be available for additional temporary businesses.

5-12-106. Signs.

One sign shall be allowed on the sales booth, table, stand or other sales structure for any licensed temporary business. No movable signs, banners, or off-premise signs shall be allowed.

Chapter 13: Going-Out-of-Business Sales.

5-13-101. License Required.

It is unlawful to conduct a “going out of business sale,” “quitting business” or other type of sale the connotation of which is total liquidation followed by a closure of the business, without first obtaining a license for such sale from the City.

5-13-102. Unlawful Acts.

It is unlawful:

(a) to advertise by any means that a sale is a "going-out-of-business sale," "quitting-business sale," "liquidation sale," or other similar descriptive wording, unless that business does in fact intend to permanently close its doors within 90 days of the beginning of the sale;

(b) for a going-out-of-business sale to be conducted for more than 90 days;

(c) during a going-out-of-business sale, to bring in additional merchandise for sale which was not on the premises on the day before the sale began, or which was not contracted for prior to the first day of the sale; or

(d) to bring in merchandise from other business liquidation sites to a going-out-of-business sale in the city.

5-13-103. Records.

The business owner shall keep suitable books and records showing the extent of inventory and contract

orders as of the date the sale commenced, and shall make such records available to the City Attorney, upon reasonable notice, for the purpose of enforcing this ordinance.

Chapter 14: Businesses Leasing Premises to Other Businesses

5-14-101. Unlawful to lease to unlicensed business.

It is an infraction for any individual, business or other entity to lease, rent or otherwise provide premises to another individual, business or entity for the conducting of business when the lessee or renter does not possess a current Bountiful City business license.

Chapter 15: Sexually Oriented Businesses

5-15-101. Purpose.

It is the purpose of this ordinance to regulate sexually oriented businesses and related activities to promote the health, safety, morals, and general welfare of the citizens of Bountiful City ("the City"), and to establish reasonable and uniform regulations to prevent the deleterious location and concentration of sexually oriented businesses within the City. The provisions of this ordinance have neither the purpose nor effect of imposing a limitation or restriction on the content of any communicative materials, including sexually oriented materials. Similarly, it is not the intent nor effect of this ordinance to restrict or deny access by adults to sexually oriented materials protected by the First Amendment, or to deny access by the

distributors and exhibitors of sexually oriented entertainment to their intended market, or to condone or legitimize the distribution of obscene materials.

5-15-102. Findings.

Based on the adverse secondary effects of adult uses on the community, and on findings incorporated in the cases of City of Renton v. Playtime Theatres, Inc., 475 U.S. 41 (1986); Young v. American Mini Theatres, 426 U.S. 50 (1976); and Barnes v. Glen Theatre, Inc., 501 U.S. 560 (1991); Arcara v. Cloud Books, Inc., 478 U.S. 697, (1986); California v. LaRue, 409 U.S. 109 (1972); Iacobucei v. City of Newport, Ky, 479 U.S. 92 (1986); United States v. O'Brien, 391 U.S. 367 (1968); DLS, Inc. v. City of Chattanooga, 107 F.3d 403 (6th Cir. 1997); Kev, Inc. v. Kitsap County, 793 F.2d 1053 (9th Cir. 1 986); Hang On, Inc. v. City of Arlington,, 65 F.3d 1248 (5th Cir. 1995); and South Florida Free Beaches, Inc. v. City of Miami, 734 F.2d 608 (I I th Cir. 1984), as well as studies conducted in other cities including, but not limited to, Phoenix, Arizona; Minneapolis, Minnesota; Houston, Texas; Indianapolis, Indiana; Amarillo, Texas; Garden Grove, California; Los Angeles, California; Whittier, California; Austin, Texas; Seattle, Washington; Oklahoma City, Oklahoma; Cleveland, Ohio; and Beaumont, Texas; and findings reported in the Final Report of the Attorney General's Commission on Pornography (I 986), the Report of the Attorney General's Working Group on the Regulation of Sexually Oriented Businesses (June 6, 1989, State of Minnesota), and statistics obtained from the U.S. Department of Health and Human Services, Centers for Disease Control and Prevention, the Council finds that:

(a) sexually oriented businesses lend themselves to ancillary unlawful and unhealthy activities that are presently uncontrolled by the operators of the establishments, and there is presently no mechanism to hold owners of these establishments responsible for the activities that occur on their premises.

(b) crime statistics show that all types of crimes, especially sex-related crimes, occur with more frequency in neighborhoods where sexually oriented businesses are located. See, e.g., studies of the cities of Phoenix, Arizona; Indianapolis, Indiana; and Austin, Texas.

(c) sexual acts, including masturbation, and oral and anal sex, occur at sexually oriented businesses, especially those which provide private or semi-private booths or cubicles for viewing films, videos, or live sex shows. See, e.g., California v. LaRue, 409 U.S. 109, 111 (1972). The offering and providing of such booths and/or cubicles encourages such activities, which creates unhealthy conditions. See, e.g., Final Report of the Attorney General's Commission on Pornography (1986) at 376-77.

(d) persons frequent certain adult theaters, adult arcades, and other sexually oriented businesses, for the purpose of engaging in sex within those premises. See, e.g., Arcara v. Cloud Books, Inc., 478 U.S. 697, 698 (1986); see also Final Report of the Attorney General's Commission on Pornography (1986) at 376-77.

(e) at least fifty communicable diseases may be spread by activities occurring in sexually oriented businesses including, but not limited to, syphilis, gonorrhea, human immunodeficiency virus infection (HIV-AIDS), genital herpes, hepatitis B, Non A, Non B amebiasis, salmonella infections, and shigella infections. See, e.g., Study of Fort Meyers, Florida.

(f) for the period 1985 through 1995, the total number of reported cases of AIDS in the United States caused by the immunodeficiency virus (HIV) was 523,056. See, e.g., Statistics of the U.S. Department of Health and Human Services, Centers for Disease Control and Prevention.

(g) the total number of cases of early (less than one year) syphilis in the United States reported during the ten year period 1985-1995 was 367,796. See, e.g., Statistics of the U.S. Department of Health and Human Services, Centers for Disease Control and Prevention.

(h) the number of cases of gonorrhea in the United States reported annually remains at a high level, with a total of 1,250,581 cases reported during the period 1993-1995. See, e.g. Statistics of the U.S. Department of Health and Human Services, Centers for Disease Control and Prevention.

(i) the surgeon general of the United States in his report of October 22, 1986, advised the American public that AIDS and HIV infection may be transmitted through sexual contact, intravenous drug use, exposure to infected blood and blood components, and from an infected mother to her newborn.

(j) according to the best scientific evidence available, AIDS and HIV infection, as well as syphilis and gonorrhea, are principally transmitted by sexual acts. See, e.g. Findings of the U.S. Department of Health and Human Services, Centers for Disease Control and Prevention.

(k) sanitary conditions in some sexually oriented businesses are unhealthy, in part, because the activities conducted there are unhealthy, and, in part, because of the unregulated nature of the activities and the failure of the owners and the operators of the facilities to self-regulate those activities and maintain those facilities. See, e.g., Final Report of the Attorney General's Commission on Pornography (1986) at 377.

(l) numerous studies and reports have determined that bodily fluids, including semen and urine, are found in the areas of sexually oriented businesses where persons view "adult" oriented films. See, e.g., Final Report of the Attorney General's Commission on Pornography (1986) at 377.

(m) nude dancing in adult establishments encourages prostitution, increases sexual assaults, and attracts other criminal activity (see, e.g., Barnes v. Glen Theatre, 501 U.S. 560, 583 (1991)), and increases the likelihood of drug-dealing and drug use. See, e.g., Kev, Inc. v. Kitsap County, 793 F.2d 1053, 1056 (9th Cir. 1 986).

(n) these findings raise substantial governmental concerns.

(o) sexually oriented businesses have operational characteristics which should be reasonably regulated in order to protect those substantial governmental concerns.

(p) a reasonable licensing procedure is an appropriate mechanism to place the burden of that reasonable regulation on the owners and the operators of the sexually oriented businesses. Further, such a licensing procedure will place a heretofore non-existent incentive on the operators to see that the sexually oriented business is run in a manner consistent with the health, safety, and welfare of its patrons and employees, as well as the citizens of the City. It is appropriate to require reasonable assurances that the licensee is the actual operator of the sexually oriented business, fully in possession and control of the premises and activities occurring therein.

(q) the disclosure of certain information by those persons ultimately responsible for the day-to-day operation and maintenance of the sexually oriented business, where such information is substantially related to the significant governmental interest in the operation of such uses, will aid in preventing the spread of sexually transmitted diseases and criminal activity.

(r) it is desirable in the prevention of the spread of communicable diseases to obtain a limited amount of

information regarding certain employees who may engage in the conduct this ordinance is designed to prevent or who are likely to be witnesses to such activity.

(s) the fact that an applicant for a sexually oriented business or employee license has been convicted of a sex-related crime leads to the rational assumption that the applicant may engage in that conduct in contravention to this ordinance, and the barring of such individuals from operation or employment in sexually oriented businesses for a period of ten years for a previous felony conviction serves as a deterrent to and prevents conduct which leads to the transmission of sexually transmitted diseases.

(t) this ordinance is necessary and proper to provide for safety, to preserve health, and to promote the prosperity, improve the morals, peace and good order, comfort and convenience of the city and its inhabitants, and is authorized on that basis by Section 10-8-84 of the Utah State Code.

5-15-103. Definitions.

For purposes of this chapter the following words shall have the meanings given. However, acts prohibited elsewhere in this chapter are not permitted merely by being included within these definitions.

(a) “Adult Arcade” means any place to which the public is permitted or invited wherein coin-operated or token-operated or electronically, electrically, or mechanically controlled still or motion picture machines, projectors, or other image-producing devices are maintained to show images to five or fewer persons per machine at any one time, and where the images so displayed are distinguished or characterized by the depicting or describing of "specified sexual activities" or "specified anatomical areas. "

(b) “Adult Bookstore” or “Adult Video Store” means a commercial establishment that, as one of its principal business purposes, offers for sale or rental for any form of consideration any of the following:

> (1) books, magazines, periodicals or other printed matter, or photographs, films, motion picture, video cassettes or video reproductions, slides, or other visual representations that depict or describe "specified sexual activities" or "specified anatomical areas"; or
>
> (2) instruments, devices, or paraphernalia that are designed for use in connection with "specified sexual activities."

A commercial establishment may have other principal business purposes that do not involve the offering for sale or rental of material depicting or describing "specified sexual activities" or "specified anatomical areas" and still be categorized as “adult bookstore” or “adult video store.” Such other business purposes will not serve to exempt such commercial establishments from being categorized as an “adult bookstore” or “adult video store”so long as one of its principal business purposes is the offering for sale or rental for consideration the specified materials that depict or describe "specified sexual activities" or "specified anatomical areas." A principal business purpose need not be a primary use of an establishment so long as it is a significant use based upon the visible inventory or commercial activity of the establishment.

(c) “Adult cabaret” means a nightclub, bar, restaurant, or similar commercial establishment that regularly features:

> (1) persons who appear in a state of semi-nudity; or
>
> (2) films, motion pictures, video cassettes, slides, or other photographic reproductions that are

characterized by the depiction or description of "specified sexual activities" or "specified anatomical areas"; or

(3) persons who engage in erotic dancing or performances that are intended for the sexual interests or titillation of an audience or customers.

(d) “Adult motel” means a hotel, motel or similar commercial establishment that:

(1) offers accommodation to the public for any form of consideration and provides patrons with closed-circuit television transmissions, films, motion pictures, video cassettes, slides, or other photographic reproductions that are characterized by the depiction or description of "specified sexual activities" or "specified anatomical areas"; and has a sign visible from the public right of way that advertises the availability of this adult type of photographic reproductions; or

(2) offers a sleeping room for rent for a period of time that is less than twenty-four hours; or

(3) allows a tenant or occupant of a sleeping room to subrent the room for a period of time that is less than twenty-four hours.

(e) “Adult motion picture theater” means a commercial establishment where, for any form of consideration, films, motion pictures, video cassettes, slides, or similar photographic reproductions are regularly shown that are characterized by the depiction or description of "specified sexual activities" or "specified anatomical areas."

(f) “Adult Theater” means a theater, concert hall, auditorium, or similar commercial establishment that regularly features persons who appear, in person, in a state of semi-nudity.

(g) “Director” means the Bountiful City Director of Planning and Redevelopment.

(h) “Employee” means a person who performs any service on the premises of a sexually oriented business on a full time, part time, contract basis, or independent basis, whether or not the person is denominated an employee, independent contractor, agent, or otherwise, and whether or not the said person is paid a salary, wage, or other compensation by the operator of said business. "Employee" does not include a person exclusively on the premises for repair or maintenance of the premises or equipment on the premises, or for the delivery of goods to the premises, nor does "employee" include a person exclusively on the premises as a patron or customer.

(i) “Escort” means a person who, for consideration, agrees or offers to act as a companion, guide, or date for another person, or who agrees or offers to privately model lingerie or to privately perform a striptease for another person.

(j) “Escort agency” means a person or business association who furnishes, offers to furnish, or advertises to furnish escorts as one of its primary business purposes for a fee, tip, or other consideration.

(k) “Establishment” means and includes any of the following:

(1) the opening or commencement of any sexually oriented business as a new business;

(2) the conversion of an existing business, whether or not a sexually oriented business, to any

sexually oriented business;

(3) the additions of any sexually oriented business to any other existing sexually oriented business; or

(4) the relocation of any sexually oriented business; or

(5) a sexually oriented business or premises on which the sexually oriented business is located.

(l) “Licensed day-care center” means a facility licensed by the State of Utah whether situated within the City or not, that provides care, training, education, custody, treatment or supervision for more than twelve children under fourteen years of age, where such children are not related by blood, marriage or adoption to the owner or operator of the facility, for less than twenty-four hours a day, regardless of whether or not the facility is operated for a profit or charges for the services it offers.

(m) “Licensee” means a person in whose name a license has been issued, as well as the individual listed as an applicant on the application for a license.

(n) “Nude model studio” means any place where a person who appears in a state of nudity or semi-nudity or displays "specified anatomical areas" is provided to be observed, sketched, drawn, painted, sculptured, photographed, or similarly depicted by other persons for consideration.

(o) “Nudity” or “a state of nudity”means the appearance of a human bare buttock, anus, anal cleft or cleavage, pubic area, male genitals, female genitals, or vulva, with less than a fully opaque covering; or a female breast with less than a fully opaque covering of any part of the nipple; or human male genitals in a discernibly turgid state even if completely and opaquely covered.

(p) “Person” means an individual, proprietorship, partnership, corporation, association, or other legal entity.

(q) “Premises” means the real property upon which the sexually oriented business is located, and all appurtenances thereto and buildings thereon, including, but not limited to, the sexually oriented business, the grounds, private walkways, and parking lots and/or parking garages adjacent thereto, under the ownership, control, or supervision of the licensee, as described in the application for a business license.

(r) “Semi-nude” or “semi-nudity” means:

(1) for a female, a state of dress in which opaque clothing covers no more, or little more, than the nipple and areola of the female breast, the genitals, pubic region and anus; or

(2) for a male, a state of dress in which opaque clothing covers no more, or little more, than the genitals, pubic region and anus.

(s) “Sexual encounter center” means a business or commercial enterprise that, as one of its principal business purposes, offers for any form of consideration:

(1) physical contact in the form of wrestling or tumbling between persons of the opposite sex; or

(2) activities between male and female persons and/or persons of the same sex when one or more

of the persons is in a state of nudity or semi-nudity.

(t) “Sexually oriented business” means an adult arcade, adult bookstore or adult video store, adult cabaret, adult motel, adult motion picture theater, adult theater, escort agency, nude model studio, or sexual encounter center.

(u) “Specified anatomical areas”means:

(1) the human male genitals in a discernibly turgid state, even if fully and opaquely covered;

(2) less than completely and opaquely covered human genitals, pubic region, buttocks, or a female breast below a point immediately above the top of the areola.

(v) “Specified criminal activity” means any of the following offenses:

(1) prostitution or promotion of prostitution; dissemination of obscenity; sale, distribution, or display of harmful material to a minor; sexual performance by a child; possession or distribution of child pornography; public lewdness; indecent exposure; indecency with a child; sexual assault; molestation of a child; or any similar sex-related offenses to those described above under the criminal or penal code of this state, other states, or other countries.

(2) for which:

(A) less than five years have elapsed since the date of conviction or the date of release from confinement imposed for the conviction, whichever is the later date, if the conviction is of a misdemeanor offense;

(B) less than ten years have elapsed since the date of conviction or the date of release from confinement imposed for the conviction, whichever is the later date, if the conviction is of a felony offense;

(C) less than ten years have elapsed since the date of the last conviction or the date of release from confinement imposed for the last conviction, whichever is the later date, if the convictions are of two or more misdemeanor offenses or combination of misdemeanor offenses occurring within any twenty-four month period;

(3) The fact that a conviction is being appealed shall have no effect on the disqualification of the applicant or a person residing with the applicant.

(w) “Specified sexual activities”means and includes any of the following:

(1) the fondling or other erotic touching of human genitals, pubic region, buttocks, anus, or female breasts, whether covered or uncovered;

(2) sex acts, normal or perverted, actual or simulated, including intercourse, oral copulation, or sodomy;

(3) masturbation, actual or simulated; or

(4) excretory functions as part of or in connection with any of the activities set forth in (1) through (3) above.

(x) "Transfer of ownership or control" of a sexually oriented business means and includes any of the following:

(1) the sale, lease, or sublease of the business;

(2) the transfer of securities that form a controlling interest in the business, whether by sale, exchange, or similar means; or

(3) the establishment of a trust, gift, or other similar legal device that transfers the ownership or control of the business, except for transfer by bequest or other operation of law upon the death of the person possessing the ownership or control.

5-15-104. Classification of licenses.

Sexually oriented businesses are classified as follows: (a) adult arcades; (b) adult bookstores or adult video stores; (c) adult cabarets; (d) adult motels; (e) adult motion picture theaters; (f) adult theaters; (g) escort agencies; (h) nude model studios; and (i) sexual encounter centers.

5-15-201. Sexually Oriented Business License Required.

(a) It is a unlawful for any person to operate a sexually oriented business without a valid sexually oriented business license.

(b) It is unlawful for any person who operates a sexually oriented business to employ a person to work and/or perform services on the premises of the sexually oriented business, if such employee is not in possession of a valid sexually oriented business employee license, except if the employment is of limited duration and for the sole purpose of repair and/or maintenance of machinery, equipment, or the premises.

(c) An application for a sexually oriented business license must be made on a form provided by the City.

(d) The application must be accompanied by a sketch or a diagram showing the configuration of the premises, including a statement of total floor space occupied by the business. It need not be professionally prepared but must be drawn to a designated scale or drawn with marked dimensions of the interior of the premises to an accuracy of plus or minus six inches. Prior to issuance of a license, the premises must be inspected by the health department, fire department, building department, zoning department and police department.

(e) The applicant shall provide such information (including fingerprints) as necessary to enable the City to determine whether the applicant meets the qualifications established under this ordinance. The applicant has an affirmative duty to supplement an application with new information received subsequent to the date the application was deemed completed.

(f) If a person who wishes to own or operate a sexually oriented business is an individual, he must sign the application for a business license as applicant. If a person who wishes to operate a sexually oriented business is other than a single individual, each individual who has a ten percent or greater interest in the business must sign the application for a business license as applicant.

(g) Applications for a business license, whether original or renewal, must be made by the intended operator of the enterprise. The following information shall be provided on the application form:

(1) The name, street address (and mailing address if different) of the applicant(s);

(2) A recent photograph of the applicant(s);

(3) The applicant's driver's license number, Social Security number, and/or his/her state or federally issued tax identification number;

(4) The name under which the establishment is to be operated and a general description of the services to be provided. If the applicant intends to operate the sexually oriented business under a name other than that of the applicant, the fictitious name must be stated together with documents proving legal entitlement to the name;

(5) Whether the applicant, or a person residing with the applicant, has been convicted, or is awaiting trial on pending charges, of a "specified criminal activity" and, if so, the "specified criminal activity" involved, the date, place, and jurisdiction of each;

(6) Whether the applicant, or a person residing with the applicant, has had a previous license under this ordinance or other similar sexually oriented business ordinance from another city or county denied, suspended or revoked, including the name and location of the sexually oriented business for which the business license was denied, suspended or revoked, as well as the date of the denial, suspension or revocation, and whether the applicant or a person residing with the applicant is or has been a partner in a partnership or an officer, director or principal stockholder of a corporation that is or was licensed under a sexually oriented business ordinance whose business license has previously been denied, suspended or revoked, including the name and location of the sexually oriented business for which the business license was denied, suspended or revoked as well as the date of denial, suspension or revocation;

(7) Whether the applicant or a person residing with the applicant holds any other licenses under this ordinance or other similar sexually oriented business ordinance from another city or county and, if so, the names and locations of such other licensed businesses;

(8) The classification of license for which the applicant is filing;

(9) The telephone number of the establishment;

(10) The address and legal description of the tract of land on which the establishment is to be located;

(11) If the establishment is in operation, the date on which the owner(s) acquired the establishment for which the business license is sought, and the date on which the establishment began operations as a sexually oriented business at the location for which the business license is sought;

(12) If the establishment is not in operation, the expected startup date (which shall be expressed in number of days from the date of issuance of the business license). If the expected startup date is to be more than ten days following the date of issuance of the business license, then a detailed

explanation of the construction, repair or remodeling work or other cause of the expected delay and a statement of the owner's time schedule and plan for accomplishing the same;

(h) Each application for a business license shall be accompanied by the following:

(1) Payment of the application fee;

(2) If the establishment is a Utah corporation, a certified copy of the articles of incorporation, together with all amendments thereto, or if a foreign corporation, a certified copy of the certificate of authority to transact business in this state, together with all amendments thereto;

(3) If the establishment is a limited partnership formed under the laws of Utah, a certified copy of the certificate of limited partnership, together with all amendments thereto, or if a foreign limited partnership, a certified copy of the certificate of limited partnership and the qualification documents, together with all amendments thereto;

(4) Proof of the current fee ownership of the tract of land on which the establishment is to be situated in the form of a copy of the recorded deed;

(5) If the persons identified as the fee owner(s) of the tract of land are not also the owners of the establishment, then the lease, purchase contract, purchase option contract, lease option contract or other document(s) evidencing the legally enforceable right of the owners or proposed owners of the establishment to have or obtain the use and possession of the tract or portion thereof that is to be used for the establishment for the purpose of the operation of the establishment;

(6) A current certificate and straight-line drawing prepared within thirty days prior to application by a registered land surveyor depicting the property lines and the structures containing any existing sexually oriented businesses, established religious institution/synagogue, school, public park or recreation area, or family-oriented entertainment business within one thousand feet of the property. For purposes of this Section, a use shall be considered existing or established if it is in existence at the time an application is submitted; and

(7) Any of items (2) through (6), above shall not be required for a renewal application if the applicant states that the documents previously furnished the Director with the original application or previous renewals thereof remain correct and current.

(i) Every application for a license shall contain a statement certifying that the applicant has personal knowledge of the information contained in the application, that the information contained therein and furnished therewith is true and correct; and the applicant has read the provisions of this ordinance.

(j) A separate application and business license shall be required for each sexually oriented business classification.

(k) The Director shall approve or deny issuance of the license within forty-five days of receipt of the completed application. The Director shall issue a license to an applicant unless it is determined by a preponderance of the evidence that one or more of the following findings is true:

(1) An applicant has failed to provide the information reasonably necessary for issuance of the license or has falsely answered a question or request for information on the application form;

(2) An applicant is under the age of eighteen years;

(3) An applicant or a person with whom the applicant is residing has been denied a license by the City to operate a sexually oriented business within the preceding twelve months, or whose license to operate a sexually oriented business has been revoked within the preceding twelve months;

(4) An applicant or a person with whom the applicant is residing is overdue in payment to the City in taxes, fees, fines, or penalties assessed against or imposed upon him/her in relation to any business;

(5) An applicant or a person with whom the applicant is residing has been convicted of a "specified criminal activity;"

(6) The premises to be used for the sexually oriented business have not been approved by the health department, fire department, the police department, or the building department as being in compliance with applicable laws and ordinances;

(7) The license fee required under this ordinance has not been paid;

(8) An applicant of the proposed establishment is in violation of, or is not in compliance with, one or more of the provisions of this ordinance.

(l) The license issued shall state on its face the name of the person or persons to whom it is granted, the expiration date, the address of the sexually oriented business, and the classification for which the license is issued. The license shall be posted in a conspicuous place at or near the entrance to the sexually oriented business so that it may be easily read at any time.

(m) The health department, fire department, building department, police department and zoning department shall complete their certification that the premises are in compliance or not in compliance within twenty days of receipt of the completed application by the Director. The certification shall be promptly presented to the Director.

(n) In the event that the Director determines that an applicant is not eligible for a sexually oriented business license, the applicant shall be given notice in writing of the reasons for the denial within forty five days of the receipt of the completed application by the Director, provided that the applicant may request, in writing at any time before the notice is issued, that such period be extended for an additional period of not more than ten days in order to make modifications necessary to comply with this ordinance.

(o) An applicant may appeal the decision of the Director regarding a denial to the Bountiful City Administrative Law Judge by filing a written notice of appeal with the City Recorder within fifteen days after service of notice upon the applicant of the Director's decision. The notice of appeal shall be accompanied by a memorandum or other writing setting out fully the grounds for such appeal and all arguments in support thereof. The Director may, within fifteen days of service upon him of the applicant's memorandum, submit a memorandum in response to the memorandum filed by the applicant on appeal to the Bountiful City Administrative Law Judge. After reviewing such memoranda, as well as the Director's written decision, if any, and exhibits submitted to the Director, the Bountiful City Administrative Law Judge shall either uphold or overrule the Director's decision. However, all parties shall be required to

comply with the Director's decision during the pendency of the appeal.

(p) A license may annually renewed upon the written application of the applicant and a finding by the Director that the applicant has not been convicted of any "specified criminal activity" or committed any act during the existence of the previous license which would be grounds to deny the initial license application. The decision whether to renew a license shall be made within thirty days of the completed application. The renewal of a license shall be subject to the fee as set forth in Section 5-15-203.

5-15-202. Sexually Oriented Business Employee License Required.

(a) It is unlawful for any person to obtain employment with a sexually oriented business if such person is not in possession of a valid sexually oriented business employee license issued to such person by the Director pursuant to this ordinance, except if the employment is of limited duration and for the sole purpose of repair and/or maintenance of machinery, equipment, or the premises.

(b) The applicant shall provide such information (including fingerprints) as necessary to enable the City to determine whether the applicant meets the qualifications established under this ordinance. The applicant has an affirmative duty to supplement an application with new information received subsequent to the date the application was deemed completed.

(c) Each application for an employee license shall be accompanied by payment of the application fee. Application forms shall be supplied by the Director, and shall include the following information:

(1) The applicant's given name, and any other names by which the applicant is or has been known, including "stage" names and/or aliases;

(2) Age, and date and place of birth;

(3) Height, weight, hair color, and eye color;

(4) Present residence address and telephone number;

(5) Present business address and telephone number;

(6) Date, issuing state, and number of photo driver's license, or other state issued identification card information;

(7) Social Security Number; and

(8) Proof that the individual is at least eighteen years old.

(d) Attached to the application form for a license shall be the following:

(1) A color photograph of the applicant clearly showing the applicant's face, and the applicant's fingerprints on a form provided by the police department. Any fees for the photographs and fingerprints shall be paid by the applicant.

(2) A statement detailing the license history of the applicant for the five years immediately preceding the date of the filing of the application, including whether such applicant, in this or

any other city, county, state, or country, has ever had any license, permit, or authorization to do business denied, revoked, or suspended, or had any professional or vocational license or permit denied, revoked, or suspended. In the event of any such denial, revocation, or suspension, state the name(s) under which the license was sought and/or issued, the name(s) of the issuing or denying jurisdiction, and describe in full the reason(s) for the denial, revocation, or suspension. A copy of any order of denial, revocation, or suspension shall be attached to the application.

(3) A statement whether the applicant has been convicted, or is awaiting trial on pending charges, of a "specified criminal activity" and, if so, the "specified criminal activity" involved, the date, place and jurisdiction of each.

(e) Every application for a license shall contain a statement certifying that the applicant has personal knowledge of the information contained in the application, that the information contained therein and furnished therewith is true and correct; and the applicant has read the provisions of this ordinance.

(f) The fact that a person possesses other types of state or city permits and/or licenses does not exempt him from the requirement of obtaining a sexually oriented business or employee license.
(g) The application shall then be referred to the appropriate city departments for investigation to be made on the information contained in the application. The application process shall be completed within thirty days from the date of the completed application. After the investigation, the Director shall issue an employee license unless it is determined by a preponderance of the evidence that one or more of the following findings is true:

(1) The applicant has failed to provide the information reasonably necessary for issuance of the license or has falsely answered a question or request for information on the application form;

(2) The applicant is under the age of eighteen years;

(3) The applicant has been convicted of a "specified criminal activity;”

(4) The sexually oriented business employee license is to be used for employment in a business prohibited by local or state law, statute, rule, or regulation, or prohibited by a particular provision of this ordinance; or

(5) The applicant has had a sexually oriented business employee license revoked by the City within two years of the date of the current application.

(h) The license issued shall state on its face the name of the person to whom it is granted, the expiration date, and the address of the sexually oriented business. The employee shall keep the license on his or her person at all times while engaged in employment or performing services on the sexually oriented business premises so that said license may be available for inspection upon lawful request.

(i) The license shall be subject to annual renewal upon the written application of the applicant and a finding by the Director that the applicant has not been convicted of any "specified criminal activity" or committed any act during the existence of the previous license which would be grounds to deny the initial license application. The decision whether to renew a license shall be made within thirty days of the completed application. The renewal of a license shall be subject to the fee as set forth in Section 5-15-203.

5-15-203. Fees.

The annual fee for a sexually oriented business license, whether new or renewal, is Five Hundred Dollars. The annual fee for a sexually oriented business employee license, whether new or renewal, is Fifty Dollars. These fees are to be used to pay for the cost of the administration and enforcement of this ordinance.

5-15-204. Inspection.

An applicant or licensee shall permit representatives of the Police Department, Health Department, Fire Department, Building Department, or other city or state departments or agencies to inspect the premises of a sexually oriented business for the purpose of ensuring compliance with the law at any time it is open for business. It is unlawful to refuse such an inspection.

5-15-205. Expiration of License.

(a) Each license shall expire one year from the date of issuance.

(b) An application for renewal of an existing license should be made at least thirty days before the expiration date. If an application for renewal is made less than thirty days before the expiration date, the license will expire as scheduled and remain invalid until a new license is issued.

(b) When the Director denies renewal of a license, the applicant shall not be issued a license for one year from the date of denial.

5-15-206. Unlawful Acts.

The following acts are unlawful:

(a) any violation of, or non-compliance with the requirements of, this ordinance;

(b) intoxication on the premises of a sexually oriented business;

(c) refusal to promptly allow inspection of the premises as authorized by this ordinance;

(d) permitting gambling by any person on the premises;

(e) permitting the possession, use, or sale of controlled substances on the premises;

(f) permitting the sale, use, or consumption of alcoholic beverages on the premises;

(g) permitting prostitution on the premises;

(h) permitting any act of sexual intercourse, sodomy, oral copulation, masturbation, or other any other specified sexual activity or conduct to occur in or on the premises;

5-15-207. Suspension or Revocation of License.

(a) The City Council may suspend or revoke a license upon any basis set out in section 5-1-108 of the

Bountiful City Code, or if it determines that a licensee or an employee of a licensee has:

(1) committed any unlawful act set out in this ordinance;

(2) is delinquent in payment to the City or State for any taxes or fees; or

(3) has attempted to sell his business or employee license, or has sold, assigned, or transferred ownership or control of the sexually oriented business to a non-licensee;

(b) When the City Council revokes a license, the revocation shall continue for one year, and the licensee shall not be issued a sexually oriented license for one year from the date revocation became effective.

5-15-208. No Transfer of License.

A licensee shall not transfer his/her license to another, nor shall a licensee operate a sexually oriented business under the authority of a license at any place other than the address designated in the application.

5-15-209. Hours of Operation.

Sexually oriented businesses may be open only between the hours of 10 a.m. to 10 p.m. It is unlawful to be open to the public during any other hours.

5-15-301. Additional Regulations for Adult Motels.

(a) Evidence that a sleeping room in a hotel, motel, or a similar commercial enterprise has been rented and vacated two or more times in a period of less than ten hours creates a rebuttable presumption that the enterprise is an adult motel.

(b) It is unlawful if a person in control of a sleeping room in a hotel, motel, or similar commercial enterprise that does not have a sexually oriented business license, rents or subrents a sleeping room to a person and, within ten hours from the time the room is rented, rents or subrents the same sleeping room again. The terms "rent" and "subrent" mean the act of permitting a room to be occupied for any form of consideration.

5-15-302. Additional Regulations For Escort Agencies.

It is unlawful for an escort agency to employ a person under the age of 18 years, or for a person under the age of 18 to act, agree to act, or attempt to act as an escort.

5-15-303. Additional Regulations For Nude Model Studios.

(a) Nudity is prohibited in a nude model studio. However, an exception may be granted in the reasonable discretion of the Licensing Supervisor upon a finding that the operation is in fact a bona fide art instruction business.

(b) A nude model studio shall not employ any person under the age of 18 years.

(c) It is unlawful for a person under the age of 18 years to appear in a state of nudity in or on the premises of a nude model studio.

(d) It is unlawful to appear in a state of nudity, or with knowledge, allow another to appear in a state of nudity or semi-nudity, in an area of a nude model studio premises which can be viewed from the public right of way.

(e) A nude model studio shall not place or permit a bed, sofa, or mattress in any room on the premises, except that a sofa may be placed in a reception room open to the public.

(f) It is a defense to prosecution under this ordinance that a person appearing in a state of nudity or semi-nudity did so in a modeling class operated by either a proprietary school licensed by the State of Utah, a college, junior college, or university supported entirely or partly by taxation, or by a private college or university that maintains and operates educational programs in which credits are transferable to a college, junior college, or university supported entirely or partly by taxation.

5-15-304. Additional Regulations Concerning Public Nudity.

(a) It is unlawful for a person to appear live in a state of nudity in a sexually oriented business.

(b) It is unlawful for a person to appear live in a state of semi-nudity unless the person is an employee who is at least ten feet from any patron or customer and on a stage at least two feet above the floor.
(c) It is unlawful for an employee, while in a state of semi-nudity in a sexually oriented business, to solicit any pay or gratuity from any patron or customer, or for any patron or customer to pay or give any gratuity to any such employee.

(d) It is unlawful for an employee, while in a state of semi-nudity in a sexually oriented business, to touch a patron or the clothing of a patron, or for a patron to touch any such employee.

5-15-305. Regulations Pertaining to Exhibition of Sexually Explicit Films and Videos.

A person who operates or causes to be operated a sexually oriented business, other than an adult motel, which exhibits on the premises in a viewing room of less than one hundred fifty square feet of floor space, a film, video cassette, or other video reproduction, that depicts specified sexual activities or specified anatomical areas, shall comply with the following requirements:

(a) Upon application for a sexually oriented business license, the application shall be accompanied by a diagram of the premises showing a plan thereof specifying the location of one or more manager's stations and the location of all overhead lighting fixtures and designating any portion of the premises in which patrons will not be permitted. A manager's station may not exceed thirty-two square feet of floor area. The diagram shall also designate the place at which the business license will be conspicuously posted, if granted. A professionally prepared diagram in the nature of an engineer's or architect's blueprint shall not be required; however, each diagram should be oriented to the north or to some designated street or object and should be drawn to a designated scale or with marked dimensions sufficient to show the various internal dimensions of all areas of the interior of the premises to an accuracy of plus or minus six inches. The Director may waive the foregoing diagram for renewal applications if the applicant adopts a diagram that was previously submitted and certifies that the configuration of the premises has not been altered since it was prepared.

(b) Every application for a license shall contain a statement certifying that the applicant has personal knowledge of the information contained in the application, that the information contained therein and

furnished therewith is true and correct; and the applicant has read the provisions of this ordinance.

(c) No alteration in the configuration or location of a manager's station may be made without the prior approval of the Director or his designee.

(d) It is the duty of the owners and operator of the premises to ensure that at least one employee is on duty and situated in each manager's station at all times that any patron is present inside the premises.

(e) The interior of the premises shall be configured in such a manner that there is an unobstructed view from a manager's station of the entire area of the premises to which any patron is permitted access for any purpose excluding restrooms. Restrooms may not contain video reproduction equipment. If the premises has two or more manager's stations designated, then the interior of the premises shall be configured in such a manner that there is an unobstructed view of the entire area of the premises to which any patron is permitted access for any purpose from at least one of the manager's stations. The view required in this subsection must be by direct line of sight from the manager's station.

(f) It shall be the duty of the operator, and it shall also be the duty of any agents and employees present in the premises, to ensure that the view area specified in subsection (e) of this section remains unobstructed by any doors, walls, merchandise, display racks or other materials at all times and to ensure that no patron is permitted access to any area of the premises that has been designated as an area in which patrons will not be permitted, as designated in the license application.
(g) No viewing room may be occupied by more than one person at any time.

(h) The premises shall be equipped with overhead lighting fixtures of sufficient intensity to illuminate every place to which patrons are permitted access at an illumination of not less than five foot-candle as measured at the floor level.

(i) It shall be the duty of the operator, and it shall also be the duty of any agents and employees present in the premises, to ensure that the illumination described above is maintained at all times that any patron is present in the premises.

(j) No licensee shall allow an opening of any kind to exist between viewing rooms or booths.

(k) No person shall make any attempt to make an opening of any kind between the viewing booths or rooms.

(l) The operator of the sexually oriented business shall, during each business day, inspect the walls between the viewing booths to determine if any openings or holes exist.

(m) The operator of the sexually oriented business shall cause all floor coverings in viewing booths to be nonporous, easily cleanable surfaces, with no rugs or carpeting.

(n) The operator of the sexually oriented business shall cause all wall surfaces and ceiling surfaces in viewing booths to be constructed of, or permanently covered by, nonporous, easily cleanable material. No wood, plywood, composition board or other porous material shall be used within forty-eight inches of the floor.

5-15-306. Exterior Portions of Sexually Oriented Businesses.

(a) It is unlawful for an owner or operator of a sexually oriented business to allow the merchandise or activities of the establishment to be visible from any point outside the establishment.

(b) It is unlawful for the owner or operator of a sexually oriented business to allow the exterior portion of the sexually oriented business to have flashing lights, or any words, lettering, photographs, silhouettes, drawings, or pictorial representations of any manner except to the extent permitted by the provisions of this ordinance.

(c) It is unlawful for the owner or operator of a sexually oriented business to allow exterior portions of the establishment to be painted any color other than a single achromatic color. This provision shall not apply to a sexually oriented business if the establishment is a part of a commercial multi-unit center and the exterior portions of each individual unit in the commercial multi-unit center, including the exterior portions of the business, are painted the same color as one another or are painted in such a way so as to be a component of the overall architectural style or pattern of the commercial multi-unit center.

5-15-307. Signage.

Notwithstanding any other city ordinance, code, or regulation to the contrary, it is unlawful for the operator of any sexually oriented business or any other person to erect, construct, or maintain any sign for the sexually oriented business other than the one outside sign. It shall have no more than two display surfaces. Each such display surface shall be a flat plane and shall not contain any flashing lights, shall not exceed seventy-five square feet in area, and shall not exceed ten feet in height or ten feet in length.

5-15-308. Sale, Use, or Consumption of Alcoholic Beverages Prohibited.

The sale, use, or consumption of alcoholic beverages on the premises of a sexually oriented business is prohibited.

5-15-309. Persons Under Eighteen Prohibited; Attendant Required.

(a) It is unlawful to allow a person who is younger than eighteen years of age to enter or be on the premises of a sexually oriented business at any time the sexually oriented business.

(b) An attendant must be stationed at each public entrance to the sexually oriented business at all times during such sexually oriented businesses' regular business hours.

5-15-310. Massages Prohibited.

No massage therapy license shall be issued to, or upon the same premises as, or to an employee or business partner of, a sexually oriented business.

5-15-311. Hours of Operation.

No sexually oriented business, except for an adult motel, may remain open at any time between the hours of 10:00 p.m. and 10:00 a.m.

5-15-312. Public Nuisance.

Any sexually oriented business operating without a valid business license is hereby declared to be a

public nuisance, and may be summarily abated by closing the business or may be abated by either criminal or civil action.

5-15-313. Violation a Misdemeanor.

Any violation of this chapter is a Class B misdemeanor.

CHAPTER 16: ICE CREAM VENDORS

5-16-101. License Required.

(a) "Ice cream vendor" as used in this chapter includes any person traveling by wagon, motor vehicle, or any other type of conveyance, from place to place, or from street to street carrying, conveying, or transporting ice cream, frozen confectionaries, or similar goods and wares, offering or exposing the same for sale from a wagon, motor vehicle, or other vehicle of conveyance.

(b) No person shall vend or sell ice cream or other similar frozen confectionaries from a vehicle on public streets without first having first obtained an Ice Cream Vendors License, which shall be in addition to a regular business license.

5-16-102. License Fee.

A $100 annual fee will be required for any ice cream vendor license.

5-16-103. Time Limit.

An ice cream vendor license shall be valid for the calendar year in which it is issued, or part thereof remaining. No ice cream vendor license shall be renewable year to year. A new license, meeting all of the criteria as required by this Chapter, must be obtained each year.

5-16-104. Driver Certification.

Each ice cream vendor business applying for a license under this Chapter shall submit a list of drivers who will operate ice cream vending vehicles in Bountiful City. All drivers on that list shall:

(a) at their own expense, annually obtain and submit to the City a certified copy of their criminal record report from the Bureau of Criminal Identification (BCI) in Salt Lake City, Utah;

(b) possess a valid Utah Drivers License; and

(c) be 18 year of age or older.

5-16-105 Equipment Required for Street Vending Vehicles

The following equipment shall be required on any street vending vehicle or means of conveyance used by an ice cream vendor in Bountiful City:

(a) A vehicle with no trailers.

(b) A swing arm caution sign reading "SLOW Children Crossing" that can be extended horizontally from the left side of the vehicle by a motor.

(c) A convex mirror mounted on the front of the vehicle so that the driver, in his/her normal seated position, can see the area in front of the truck obscured by the hood.

(d) A beacon light placed on the top of the truck which will be visible to oncoming traffic.

5-16-106. Vending Restrictions

The following restrictions shall apply to any ice cream vendor within the city limits of Bountiful City:

(a) It is unlawful to stop for the purposes of selling without the swing arm stop sign in its extended position.

(b) A driver shall not vend on streets where the speed limit exceeds twenty-five (25) miles per hour.

(c) A driver shall vend only when the vending vehicle is lawfully parked.

(d) A driver shall vend only from the curb side or rear of the vending vehicle, away from moving traffic and as near as possible to the curb or edge of the roadway.

(e) A driver shall not vend to any person standing in the roadway.

(f) A driver shall not back the vending vehicle to make or attempt a sale.

(g) A driver shall not permit any unauthorized person to ride on or in the vending vehicle.

5-16-107. Prohibited Conduct.

The following restrictions apply to any ice cream vending vehicle within the city limits of Bountiful City:

(a) No ice cream vending vehicle may be stopped or parked:

(1) on a sidewalk.

(2) within twenty (20) feet of an intersection.

(3) on or in a crosswalk.

(4) between a safety zone and the adjacent curb.

(5) alongside or opposite any street excavation or obstruction when stopping or parking would obstruct traffic.

(6) in front of a public or private driveway.

(7) within thirty (30) feet of any flashing signal, stop or yield sign, or traffic control signal.

(8) alongside or opposite a curb area which has been constructed to provide accessibility to the sidewalk.

(b) No person authorized to engage in business of vending under this Chapter shall do any of the following:

(1) Unduly obstruct pedestrian or motor vehicle traffic flow.

(2) Obstruct traffic signals or regulatory signs.

(3) Stop, stand, or park any vehicle, pushcart, or any other conveyance upon any street for the purpose of selling during the hours when stopping, standing, and parking have been prohibited by signs or curb markings.

(4) Leave any conveyance unattended at any time, or store, park, or leave such conveyance in a public space overnight.

(5) Sell any goods, wares, or merchandise within the right-of-way of public street in a commercial, hospital or professional zone; or within 200 feet of the boundary of a commercial, hospital, or professional zone.

(6) Operate any sound amplifier system contrary to the provisions of Chapter 6 of this Title.

(7) Conduct business on private residential property.

(8) Conduct business on private commercial property without first having obtained a temporary business license under Chapter 12 of this Title for the specific business location.

Chapter 17 Sidewalk Cafes

5-17-101. Sidewalk Café.

Subject to the regulations stated herein, outdoor dining on a public sidewalk or land as part of a restaurant business (a "Sidewalk Café") is allowed only by permit and only in the Downtown Zone on Main Street between 400 North and 500 South. It is unlawful to have outdoor dining on public property without a Sidewalk Café License.

5-17-102. Licensing.

A Sidewalk Café License may be issued by the Bountiful City Planning & Economic Development Director if all conditions are met and continuously maintained:

(a) A signed and completed Sidewalk Café License application must be submitted with an application fee of $50, which shall be applied to the calendar year license fee of $50. The applicant must be a fully lawful and licensed restaurant. An annual Sidewalk Café License must be obtained, and an annual license fee of $50 must be paid, in addition to the other required licensing of the restaurant.

(b) The application must include a scaled drawing of the proposed sidewalk café use, including dimensions, seating, capacity, etc. The plan must comply with the requirements of this ordinance and must demonstrate that the Sidewalk Café will not interfere with adequate pedestrian flow, access to building entrances, pedestrian and traffic safety, and the aesthetic quality of the surrounding area, and that the proposal meets the Sidewalk Café regulations contained herein. The Planning Director may require modifications to the plan prior to approval. The operation of the Sidewalk Café must be in compliance with the approved plan.

(c) The applicant must sign and comply with the terms of a Sidewalk Café License Agreement. The Licensee must agree to indemnify and defend the City in all respects relating to the use of public property for the Licensee's business.

(d) A Sidewalk Café License is non-transferrable.

(e) Any license issued hereunder vests no right, title or interest whatsoever by the Licensee in, or in the use of, the public right of way or public property. The Sidewalk Café program and any license issued under it is revocable at will by the City.

(f) The City reserves the right to deny a license if in the City Planning Director's opinion the proposed location is not suitable for a sidewalk café, such as a narrow sidewalk, a busy traffic street, a narrow business frontage, etc. Such a denial may be appealed to the Bountiful City Administrative Law Judge.

(g) The City reserves the right and power to terminate the license agreement for any reason, including, but not limited to, a violation of any provision of this ordinance and/or the terms of the license agreement. This termination may be appealed within fifteen days to the Bountiful City Administrative Law Judge. The licensing program can be discontinued by the City at any time, and the prorated balance of the annual licensing fee refunded.

(h) The License may be summarily suspended for up to five days by the Planning Director for violation of the License Agreement. This suspension may be appealed to the Bountiful City Manager.

(i) The License may be permanently revoked by the Planning Director for violation of the License Agreement. This revocation may be appealed within fifteen days to the Bountiful City Administrative Law Judge.

5-17-103. Insurance Requirements.

The Sidewalk Cafe licensee must have and continuously maintain in effect, and provide proof to the City, liability insurance in the amount of $1,000,000 per occurrence and $1,000,000 aggregate combined single limit, and must name the City as an additional insured in that policy.

5-17-104. Sidewalk Café Regulations.

All Sidewalk Cafes must continuously comply with the following requirements:

(a) The conducting of a sidewalk cafe business is at the sole risk of the licensee. The City assumes no liability with respect to any such business.

(b) Outdoor dining may be conducted at any time of the year. If it snows during that time, outdoor dining must be suspended and outdoor furnishings removed immediately by the licensee for snow removal.

(c) The City reserves the right and power to temporarily order the discontinuation of the operation of public outdoor dining at any time because of anticipated or actual problems or conflicts in the use of the sidewalk area. These situations include, but are not limited to, festivals, parades, marches, road races, repairs to the street or sidewalk, or any emergencies occurring in the area. To the extent possible, the Licensee shall be given prior written notice of the time period during which the operation of outdoor dining will not be permitted by the City, but failure to give notice shall not affect the right and power of the City to prohibit outdoor dining operation at any particular time.

(d) Outdoor dining may be located only on public sidewalks adjacent to or abutting the indoor restaurant which operates the outdoor dining. Outdoor dining shall extend no further than the actual street frontage of the operating restaurant, unless approved in writing by the adjacent property owner (which approval may be revoked by the adjacent owner at any time).

(e) The outdoor dining operation shall provide not less than six contiguous feet of sidewalk clear of obstructions to allow unimpeded pedestrian traffic next to the front of the building. The term "obstructions" includes, but is not be limited to, railings, tables, chairs, planters, umbrellas, and signs.

(f) The location of outdoor dining cannot obstruct the clear sight distance for vehicles or access or crossings for the disabled. The Bountiful City Engineer has the authority to determine whether the outdoor dining constitutes an obstruction. Any obstruction may be summarily moved or removed by the City.

(g) Outdoor dining operation shall meet all Building Code requirements and Zoning Code Regulations.

(h) No modifications shall be made to City property without written approval of the City Planning Director.

(i) Furnishings for outdoor dining shall consist solely of movable tables, chairs and decorative accessories. Furnishings must be suitable for the purpose, kept in a state of good repair and in a clean and safe condition at all times.

(j) Awnings shall be adequately secured and retractable. Umbrellas over tables must be adequately weighted and safe.

(k) Tables, chairs, and all other furnishings or accessories may, at the risk of the licensee, be left in place overnight during seasonal operation but shall be removed from the sidewalk and stored indoors whenever outdoor dining is not in seasonal operation. It shall be the responsibility of the licensee to secure furnishings and accessories that are left in place overnight.

(l) Outdoor heaters with power cords, busing stations, and food preparation are not permitted in the outdoor dining facility.

(m) Outdoor dining shall be at the same elevation as the public sidewalk. Paint, carpeting, artificial turf,

platforms or other surfaces of any kind are not permitted at any time in the outdoor dining facility.

(n) No sign shall be allowed at any outdoor dining facility except for the name of the establishment on an awning or umbrella fringe. One menu board sign may be displayed within the area of the outdoor dining, mounted on an easel or other easily removable fixture. The sign shall not exceed six square feet.

(o) Alcohol, beer and wine may not be served on a public sidewalk.

(p) Outdoor dining may operate during regular business hours of the restaurant operating the outdoor dining but no later than 11:00 p.m.

(q) The licensee of outdoor dining is responsible for keeping the premises clean and clear of trash at all times, including the public sidewalk and other furnishings of the outdoor dining. At no time should trash or debris of any kind be blown, swept or otherwise deposited into the street. The presetting of tables with utensils, glasses, napkins, condiments and the like is prohibited.

(r) The premises must be maintained in an orderly manner. The Licensee is responsible for the good conduct of its customers in the public right of way or property.

(s) No food preparation shall be done by the Licensee in the public right of way or land.

(t) There shall be public address system broadcast within or to the outdoor dining area. A restaurant owner wishing to have music must apply to the City for a sound amplifier license under Section 5-6-102 of the Bountiful City Code.

(u) If the restaurant owner desires to have a sidewalk café area that includes grass, such as in a parkstrip, the owner must either undertake all maintenance, mowing, etc, or remove all furniture every night to allow City maintenance. The City reserves the right to monitor such a situation and to make further requirements concerning lawn maintenance.

(v) Such other rules or restrictions as are deemed necessary by the City Planning Director under the circumstances of the location and business may be required.

(w) Regulations applicable to a sidewalk café business may be added, modified or repealed by the City at any time without notice.

Title 6
Public Works and Property

Chapter 1: Cemetery

6-1-101. All Dead Interred in Cemeteries

No body of any deceased person shall be interred within the city except in the city cemetery or in such other cemetery as may be established with the consent of the governing body.

6-1-102. Superintendent

The City Manager shall appoint a qualified person to be the cemetery superintendent, who shall be responsible for the maintenance and operation of the cemetery. All markers, planting, improvements or other work of any nature or description must be done under the direction and control of the cemetery superintendent. No person owning a right in a lot in the cemetery shall plant, grade or do any work in said cemetery except by written permission obtained from the cemetery superintendent. The cemetery

superintendent shall keep a public record of the place of burial of every person so reported to him.

6-1-103. Designation of Cemetery Areas

(a) Raised marker area. The cemetery superintendent shall designate and plot areas of the cemetery where "above grass-level" monuments and markers are permitted and areas of the cemetery where only "grass-level" monuments and markers are permitted. The two areas shall be so arranged and of sufficient size so as to be easily differentiated upon visual inspection.

(b) Child burial spaces. The cemetery superintendent may designate a separate area of the cemetery for the burial of children and may sell burial rights therein as provided in Section 6-1-109. The size of such child burial space shall be one-half the size of the adult burial space.

(c) Double-depth burial areas. The cemetery superintendent may designate a separate area of the cemetery share 2 caskets may be buried, one atop the other, in the same burial space and may sell burial rights therein as provided in Section 6-1-109.

(d) Other areas. The cemetery superintendent may designate a portion of the cemetery for the location of urns containing the ashes of cremated persons and may sell burial rights therein as provided in Section 6-1-109.

(e) The cemetery superintendent shall file in the office of the City Recorder an accurate plat thereof, which shall clearly show the sections of burial lots which have been disposed of and the names of the persons owning or holding the same, and the sections of burial lots held for disposal; and thereafter he shall file additional plats of any additions to the cemetery before offering for sale any burial lots therein.

6-1-104. Sale of Burial Rights

(a) The cemetery superintendent may sell burial rights in the city cemetery.

(b) To each purchaser of a burial right in the city cemetery, the cemetery superintendent shall issue a certificate showing a description of the burial space to which the burial right pertains. The certificate shall indicate that future perpetual care and maintenance for such burial space has been paid for. The certificate of burial right in a burial space within the "raised marker" area of the cemetery shall indicate whether a "raised marker" is permitted or whether the burial space is for "grass-level marker only."

6-1-105. Burial of Indigents

The city manager and the cemetery superintendent may authorize the burial of indigents without the payment of the fees required by this Chapter.

6-1-106. Placement of Markers and Monuments

(a) All monuments and markers must have a finished grass-level stone or cement base extending outward for a minimum of eight inches from the outer perimeter of the base of the marker or from the receptacle for a flower vase or pot.

(b) All markers and monuments placed in the cemetery shall be grass-level, except that placement of above-grass-level markers or monuments shall be permitted only upon all the following conditions:

(1) Payment of the fee as provided in Section 6-1-109.
(2) In an area designated as a "raised marker" section of the cemetery;

(3) Only one above-grass-level marker or monument will be permitted for any burial plot of four or more contiguous grave spaces under the same ownership; and

(4) Upon a burial space, for which the burial rights certificate indicates a "raised marker" is permitted.

6-1-107. Artificial Flowers

Artificial flowers, potted plants and grave decorations are not permitted from April 1 to November 1 during the mowing season with these exceptions:

(a) If they are in a raised vase or marker, or in the opinion of the staff they do not interfere with mowing the grass or upkeep of the grounds.

(b) They will be allowed beginning the Saturday before Memorial Day, but must be removed before the following Saturday.

Flat marker or headstone vases that are attached by chain or other methods and can be removed or put in the base receptacle so as to be flush with the grass level are not considered a raised vase.

6-1-108. Regulations

The Cemetery Superintendent may adopt rules and regulations necessary for the operation of the cemetery .

6-1-109. Prohibited Acts

(a) It is unlawful for the owner, agent, caretaker, or other person in charge of livestock to allow or negligently permit animals to run at large or trespass on cemetery grounds. This does not apply to seeing-eye dogs or police dogs used by law enforcement agencies.

(b) It is unlawful to injure, deface, take or carry away from any grave or lot any monument, marker, tree, shrub, flower, ground or any other property or ornament in the city cemetery, except by written permission of the cemetery superintendent. For the purposes of this section, the person who removes such property shall be deemed not to be the owner thereof, unless he has previously obtained permission for such removal.

(c) It is unlawful to drive any vehicle over any grave or upon any non-paved area of the cemetery or to drive any motor vehicle within the cemetery at a speed in excess of 15 miles per hour.

(d) It is unlawful to allow any dog, under his control or ownership, to be within the cemetery, even if under leash.

Chapter 2: Streets, Sidewalks, and Public Improvement Bonds

6-2-101. Names of Streets

All streets of the City shall be known by the names by which they are so designated on the official map of the city, filed in the office of the City Engineer on the 1st day of January, 1990 and such additions, changes and corrections of the names of streets as shall from time to time be placed on the official map by the City Engineer acting at the direction of the City Council.

6-2-102. Numbers for Houses

(a) The City Engineer shall number all houses or buildings upon the streets of the City.

(b) It is unlawful for any person to erect a house or building without numbering such house or building with the number designated by the City Engineer, or for the occupant of any house or building, or for the owner or agent of any unoccupied habitable house or building to fail for a longer period than ten days after notice from the City Engineer so to do, to number such house or building with the number designated by him. When such number has been designated by the City Engineer the owner or occupant of such house or building shall cause a painted, carved, or cast duplicate of such number at least three inches in height and of a shade in contrast to the background upon which the number is mounted to be

placed in a conspicuous position in the front of such house or building, in a permanent, stationary and durable manner unobstructed at all times by vines, screens or anything that would tend to hid or obscure the number.

6-2-103. Superintendent of Streets

The City Manager shall appoint a Superintendent of Streets who shall see that the provisions of this Chapter are faithfully carried out and who shall perform such other and further duties as may be prescribed by the City Council.

6-2-104. Liability for Repair of Sidewalk

Whenever a sidewalk, including sprinkling, irrigation, and drainage systems, is out of repair by reason of the act or omission of any person, it shall be repaired at such person's expense, under the direction of the Streets Director.

6-2-105. Defects to be Reported and Repaired

All defects in public streets coming to the knowledge of any officer or person in the employ of the city shall be communicated to the Superintendent who shall repair or cause such defect to be promptly repaired. Until such repair is completed he shall do whatever shall be necessary to protect the public from injury by reason of the defect.

6-2-106. Building Material in Street

It is unlawful to occupy or use any portion of the public streets for the erection or repair of any building upon land abutting thereon, without first making application to and receiving from the City Council permission for the occupation or use, for building purposes, of such portions of streets and for such periods of time and under such limitations and restrictions as may be required by the governing body. Any such permission may be revoked by the City Council at any time when the holder thereof fails to comply with any rule or regulation under which it is granted or when, in the opinion of the City Council, the public good requires such revocation.

6-2-107. Obstructions

(a) It is unlawful to put or place, or cause to be put or placed, anywhere upon a public street, sidewalk, or right-of-way, and it is unlawful for any such person, after reasonable notice by an official charged with enforcing the law, to suffer to be or remain within a public street, sidewalk, or right of way:

(1) Any broken ware, glass, filth, rubbish or refuse matter;

(2) Any vehicle, lumber, wood, boxes, fencing, building material, merchandise, or any other thing which obstructs any public street, sidewalk, right-of-way, or any part thereof, or the free use and enjoyment thereof, or the free passage over and upon the same, or any part thereof, without the permission of the governing body.

(b) No person receiving or delivering goods, wares or merchandise in the City shall place or keep upon, or cause to be placed or kept upon, any sidewalk in the city any goods, wares or merchandise which he may be receiving or delivering, for a longer period than two hours. It is unlawful for any merchant,

auctioneer or other individual to sell or exhibit for sale any kind of property on or near to any street so as to cause people to gather in crowds on the sidewalk or to obstruct free passage thereon, provided that the governing body may authorize, after proper application, a merchant or group of merchants to conduct a "sidewalk sale".

6-2-108. Obstructions to Traffic

(a) It is unlawful to obstruct the free travel of any pedestrian or vehicle lawfully upon a public street or sidewalk, except as provided in subsection (b).

(b) A person may obstruct the flow of vehicular traffic upon the public street, other than a state highway within the city, if permission is obtained from the Chief of Police. Application for permission shall be made in writing at least five (5) days in advance, and shall give the following:

(1) The name, address, and telephone number of the person requesting permission; if the street is to be blocked in connection with or on behalf of any organization, the name address, and telephone number of the authorized head of the organization;

(2) The purpose for which permission is requested, and the date, time, and location of the intended obstruction;

(3) The means to be used to block traffic;

(4) The written consent of each property owner, or resident if the owner does not reside on the property, of each parcel of property with frontage on the property being obstructed, or within 200 feet of the blockade or obstruction;

(5) The approximate number of persons who will participate in the activity or function for which permission is sought.

(c) The means used to block traffic shall be arranged and maintained so as to allow emergency access by vehicles or pedestrians to residences within the obstructed area. For good cause, the permission granted may be revoked without prior notice by the Police Chief or any sworn officer in the Bountiful Police Department.

(d) The provisions of this section shall not apply to obstructions necessitated by excavations and other work, for which a permit has been issued under Section 11-9-3.

6-2-109. Animal on Sidewalk

It is unlawful to lead, ride or drive any animal upon any sidewalk. However, this does not prohibit a person from walking a household pet on a leash on the sidewalk.

6-2-110. Coasting on Street

It is unlawful to coast or slide with any sled, sleigh, toboggan or vehicle upon any public street or sidewalk, except upon such streets as may be designated by proclamation or notice of the City Council.

6-2-111. Gates to Swing Inward

It is unlawful to allow or cause any gate to open outward and upon the sidewalk.

6-2-112. Billboards

It is unlawful to erect and maintain any billboard for advertising purposes on, in or along any street.

6-2-113. Sand, Gravel, Lime and Cement

(a) It is unlawful to place or pile or cause or permit to be placed or piled any sand, gravel, lime, cement, mortar, plaster, concrete or any like substance or mixture or allow the same to remain on any portion of any paved street or sidewalk or to make or mix or cause or permit to be made or mixed any mortar, plaster, concrete or any like substance or mixture on any portion of any paved street or sidewalk without first obtaining a permit therefor from the City Engineer.

(b) It is unlawful to drive a vehicle or move the same upon any street unless the vehicle is so constructed or loaded as to prevent its contents from dropping, sifting, leaking or otherwise escaping therefrom. There shall at all times be a minimum of three inches between the top of the contents and the top of the sideboards and endgate of the vehicle.

6-2-114. Irrigation Water

All owners or occupants of lots requiring water from a main ditch for irrigation shall dig suitable ditches, erect flumes or lay pipes and maintain the same to convey the water across the sidewalk to or from their respective lots. It is unlawful for any person to allow or cause any irrigation water to overflow or be directed upon the street.

6-2-115. Vegetation Damaging Public Improvements.

(a) It is the duty of any property owner or occupant in charge of property to notify the City in writing promptly upon discovering that the sidewalk and curbs in front of the premises is being raised by roots growing from trees immediately adjacent to the property.

(b) If any property owner shall fail to notify the City and allow the sidewalk or curbs to be raised by roots immediately adjacent to his property so as to become dangerous to users thereof, the City may cause the sidewalk or curb to be restored and the roots trimmed and all costs thereof shall be charged to the property owner.

(c) Without notice, the City or its agent may remove any tree, shrub, or plant, or any portion thereof, which is located within a public right-of-way and damaging public improvements, regardless of whether the offending plant is also located partially on private property.

(d) Upon written notice, the City may require that the adjacent property owner or occupant remove any tree, shrub, or plant, or any portion thereof, which is located within a public right-of-way and damaging public improvements, regardless of whether the offending plant is also located partially on private property.

6-2-116. Removal of Snow from Sidewalks

(a) Any person owning, having charge or control of or occupying any property, building, lot, part of lot, land or real estate abutting on any street shall remove snow and ice promptly and effectually from all sidewalks abutting such property, including sidewalks to the front, side and rear of all residences, businesses and other premises. All such snow shall be removed within 24 hours of its falling. Failure to do so is a class C misdemeanor.

(b) In case of failure, refusal or neglect, the Streets Director may cause the removal of the snow and charge the cost thereof to the property owner.

(c) It is unlawful to place snow removed from private property in a public street or right of way. It is unlawful to place snow removed from a sidewalk or other public place in a manner so as to cause a hazard to vehicular or pedestrian traffic.

6-2-117. Encroachments

(a) If any street is encroached upon by a fence or building or otherwise, the Superintendent shall, in writing, require the encroachments to be removed. Notice must be given to the occupant or owner of the land or person causing or owning the encroachments or be left at his place of residence, if he resides in the City; if not, it must be posted on the encroachment, specifying the breadth of the streets, the place and extent of the encroachment and requiring the removal thereof within ten days thereafter.

(b) It is unlawful to leave, or cause to be left, any encroachment upon the streets of the City after the expiration of ten days from the service or posting of a notice to remove such encroachment. If the encroachment obstructs or prevents the use of the highway for vehicles, the Superintendent shall forthwith remove the same. If any other encroachment is not removed within five days after the notice is complete, the Superintendent shall forthwith remove the same. If the encroachment is not denied but is not removed for five days after the notice is complete, the Superintendent shall cause such encroachment to be removed at the expense of the owner, occupant or person controlling the same and recover his costs and expenses in an action for that purpose. If the encroachment is denied and the owner, occupant or person controlling the matter or thing charged with being an encroachment refuses either to remove or permit the removal thereof, the City Attorney shall commence in the proper court an action to abate same as a nuisance.

(c) It is unlawful to adversely possess a public street or right-of-way, regardless of the passage of time.

6-2-118. Sight Clearances on Corner Lots

As set forth in Title 14, *The Bountiful City Land Use Ordinance*.

6-2-119 Streets

(a) Any street and/or street right-of-way shown on the Master Street Plan shall conform to the width designated in the Plan. Major and collector streets not shown on the Master Street Plan but proposed within the City shall also be constructed and/or dedicated to a width conforming to the Street Master Plan based on the maximum projected volume of the street and the AASHTO street classification system.

(b) Minor streets shall have a minimum dedicated right-of-way width of fifty-four (54)feet.

(c) If deemed necessary by the City Council, streets may be required to extend to the boundary of the proposed subdivision where it abuts adjoining land which is undeveloped. Half streets along the subdivision are not permitted.

(d) No street shall intersect another street at an angle of less than eighty (80) degrees.

(e) Unless otherwise approve by the City Engineer for good cause shown, street intersections shall be offset by a minimum of 175 feet measured to the centerline of the intersections.

6-2-120 Alleys

Public alleys are not permitted in any zone.

6-2-121 Dead-End Streets

Any cul-de-sac or other dead-end street, whether public or private, shall conform to the following conditions:

(a) Maximum Grade. The maximum downhill grade of any dead-end street shall be four percent (4%), as measured at any point.

(b) Maximum Length. The maximum length of a cul-de-sac shall be six hundred (600) feet, measured from the radius point of the turnaround to the centerline of the intersecting street.

(c) Minimum Width of Street. The minimum width of the street right-of-way of a dead end street at any point is fifty-four (54) feet.

(d) Radius of Turnaround. The radius of a turnaround required at any point along a dead-end street shall be fifty-four (54) feet.

(e) Surface Water Drainage. In the event that surface water drains into a turnaround due to the grade of the street, catch basins and drainage easements may be required. Any such easement shall be at least fourteen (14) feet in width.

6-2-122 Maximum Grade of Streets

The maximum grade of any street shall be twelve percent (12%), except that the City Council may grant approval of a grade up to fifteen percent (15%) along a straight section of street for a distance not exceeding two hundred (200) linear feet. No street shall exceed a grade of fifteen (15%).

6-2-123 Length and Width of Blocks

The recommended length of any block is five hundred (500) feet, and the maximum length of any block shall be nine-hundred (900) feet. The width of any block shall be sufficient to allow two tier lots.

6-2-124 Bonds Required

Before the City will record any subdivision plat, the subdivider shall comply with one of the following requirements:

1 Complete all public improvements within the subdivision as required in this ordinance, as shown on the approved engineering drawings and in accordance with the City's specifications, and supply to the City proof of payment of labor and materials, and deposit with the City a cash bond or letter of credit and a bond agreement in the amount of 10% of the construction cost of all such improvements; or

2 Deposit with the City a cash bond and bond agreement in the amount of 100% of the total cost of public improvements as required in this ordinance, as shown on the approved engineering drawings and in accordance with the City's specifications;

3 Deliver to the City a letter of credit from a financial institution authorized to do business in the State of Utah and reasonably acceptable to the City, in the amount of 100% of the total cost of public improvements as required in this ordinance, as shown on the approved engineering drawings and in accordance with the City's specifications.

6-2-125 Release of Bonds

I. When a cash bond or letter of credit, as described in Section 6-2-124 (b), (c), has been deposited with the City as required in Section 6-2-124, up to 90% of the cash bond or letter of credit may be partially released by the City when any individual item is completed, subject to the limitation set forth in subsection (b) of this section.

II. Before any improvements are accepted by the City, and before the cash bond is reduced pursuant to subsection (a), the subdivider must (in addition to full performance of other requirements) present to the City a list, under oath, of all laborers and materialmen who supplied labor materials in connection with the improvements to be accepted by the City, and deliver to the City a proof of said payment and a release from each laborer or materialman, in a form approved by the City.

III. The required public improvements may be installed by the subdivider prior to recording of the final plat, however, this does not relieve the subdivider of the responsibility of calling for the required inspections and for strict compliance with City requirements. The improvements will not be accepted by the City until they meet City standards and specifications, and all risks that the improvements may not be accepted by the City shall be assumed by the subdivider.

IV. The 10% cash bond described in Section 6-2-124(a), and the 10% retention of cash bonds or letters of credit described in Section 6-2-125(a), shall be held by the City to guarantee the prompt replacement and/or repair of defects discovered in the improvements within a one year period following the completion of all improvements. The cash bond or letter of credit shall not be finally and fully released until all required improvements have been accepted by the City. Unless otherwise provided, all improvements shall be completed within two years from the date of the approval of the plat by the City Council. If the subdivider fails to complete improvements within two years, the City may apply all or part of any cash bond or letter of credit to complete all or part of the improvements. The bond, whether cash or a letter of credit, shall be liable for the immediate completion of all improvements.

Chapter 3: Water Courses

6-3-101. Definitions.

"Canal" means an artificial channel designed for irrigation of water.

"Channel" means elongated open depression in the contour of land in which storm water, or water, may or does flow.

"Conduit" means a general term for any artificial or natural channel intended for the conveyance of storm water, or water, whether open or closed, or any structure through which water flows.

"Culvert" means a closed conduit for the free passage of surface drainage water under a highway, railroad, canal or other embankment.

"Ditch" means a trench for drainage or irrigation of water artificially made by digging.

"Drainage" means: (1) the process of removing surplus ground or surface waste by artificial means; (2) the manner in which the waters of an area are removed; (3) the area from which waters are drained to a drainage basin.

"Stream" means any course of running water flowing on the earth.

6-3-102. Acts Requiring Permit.

(a) It is unlawful to do any of the following acts without having received a written permit therefor from the City Engineer:

(1) To interfere with, destroy, or use in any manner whatsoever any levee, embankment, channel, dam, reservoir, rain or stream gauges, telephone line, piling, or other stream protection work constructed by or on behalf of the City;

(2) To place in or cause to be placed in any stream, drainage ditch, water course, channel, culvert or conduit, or upon any property over which the City has an easement for flood control purposes, any wires, fence, building or other structure, or any refuse, rubbish, tin cans or other matter that may impede, obstruct, retard or change the direction or flow of water in such stream, drainage ditch, water course, channel, culvert or conduit or that will catch or collect debris carried by such water, or that is placed where the natural flow of the storm and flood waters would carry the same downstream to the damage and detriment of either private or public property adjacent to said drainage ditch;

(3) To change the drainage on his property so as to divert the drainage to any public road;

(4) To fill or obstruct or maintain any fill or obstruction in any stream, drainage ditch, water course, channel, culvert or conduit carrying storm water, or water;

(5) To construct, reconstruct, alter, repair, install or maintain any drainage structure in any stream drainage ditch, water course, channel, culvert, or conduit carrying storm water or water;

(6) To do anything to any stream, drainage ditch, water course, channel, culvert or conduit carrying storm water or water that will in any manner obstruct or interfere with the flow of water through such ditches, water courses, channels, culverts or conduits.

(b) The provisions of this Section shall not apply to any drainage ditch, water course, channel, culvert or conduit carrying water that originates entirely on the property of any person and does not discharge onto any other property and will not have adverse effect on such other property.

6-3-103. Owner's and Tenant's Responsibility.

(a) Facilities not Maintained by the City. Every property owner, whether it be a person, firm, corporation, or district, or his lessee or tenant, through whose property a drainage ditch, stream, water course, channel, culvert or conduit carrying storm water or water passes, shall keep and maintain the same free from obstacles that will prevent or retard the flow of water through such ditch, stream, water course, channel, culvert or conduit, except that same may be filled or altered if a permit to do so has been first obtained pursuant to this Chapter.

(b) Facilities Maintained by the City. Every property owner, whether it be a person, firm, corporation or district, or his lessee or tenant, through whose property a drainage ditch, water course, channel, culvert or conduit carrying storm water passes, shall refrain from depositing or allowing to be deposited material foreign to that normally discharged into such ditch, stream, water course, channel, culvert or conduit, which will prevent or retard the flow of water, except that same may be filled or altered if a permit to do so has been first obtained pursuant to this Chapter.

6-3-104. Application for Permit.

Any person desiring to obtain a permit as herein provided shall file an application in writing therefor with the City Engineer which shall state:

(a) The name and address of the applicant, and if the applicant is a corporation, the names and addresses of the principal officers thereof;

(b) The place where such work is to be done;

(c) Description of the work to be done, together with the materials to be used therefor, accompanied by a diagram of the proposed work and such other information as the City Engineer may require to carry out the purposes of this Chapter;

(d) Total estimated cost of the proposed work;

(e) A statement that if the permit is granted, the applicant agrees that all works specified in the application will be commenced within thirty days after the permit is granted and will be pursued to its completion with responsible diligence.

6-3-105. Issuance of Permit.

(a) The City Engineer may issue a permit to do the proposed work in the manner specified in the application, or in such manner as the City Engineer may determine is required to carry out the purposes of this Chapter, upon payment of the fees required by this Section and upon determining that the work:

(1) Does not interfere with any flood control and water conservation district or any storm drain maintenance district or any other district or entity authorized by law for flood control, conservation or drainage purposes; and

(2) Will not injure adjoining property; and

(3) Will not interfere with the flow of natural storm waters.

(b) The applicant at the time of obtaining any such permit shall pay to the City an amount equal to four per cent of the estimated cost of the work to be done as indicated by the permit if the estimated cost is one thousand dollars or less and in addition an amount equal to three and on-half per cent of the estimated cost of the work in excess of one thousand dollars, as a permit fee to cover the ordinary inspection cost of the work to be performed, provided, however, that in no event shall the permit fee herein required to be paid be less than two dollars. In addition, if it is determined by the agency charged with inspection that any special tests such as, but no limited to, soil tests, compaction tests, material tests, or other special tests, are required, then said permittee shall pay to the City the actual costs of such tests.

(c) Upon issuing a permit pursuant to this Section, the City Engineer may impose any conditions which he may deem necessary to insure the proper maintenance and drainage of the property and surrounding areas.

(d) Subject to the right of appeal to the Bountiful City Administrative Law Judge, the City Engineer may deny, suspend or revoke any permit.

6-3-106. Performance of Work by City.

In the event the permittee does not complete the work in accordance with the terms of the permit within a reasonable time from the date of issuance of the permit, and if the completion of the work is essential to the health, welfare and safety of the public, then the City Engineer may cause the work to be completed and the permittee shall pay for the cost of the work. In the event that the permittee fails to pay the cost of said work within thirty days after receiving written notice therefore, the City Engineer shall enter the amount due for the work upon the assessment rolls of the City and shall collect said amount in the same manner as real property taxes are collected.

In the event that any person shall impede, divert or obstruct any channel, conduit, culvert, ditch, canal or stream in violation of the provisions of this Chapter, the City Engineer may take any necessary action to correct the condition, and shall bill the person who has created the condition. In the event the said bill is

not paid within thirty days after receiving written notice therefor, the City Engineer shall enter the amount due of the said work upon the assessment rolls of the City and shall collect said amount in the same manner as real property taxes are collected.

In addition to the foregoing, the City may use any other lawful means to collect the cost of the work performed by the City or on its behalf pursuant to the provisions of this Section.

6-3-107. Appeal.

Any person aggrieved by the action of the City Engineer in the denial, suspension or revocation of a permit pursuant to this Chapter shall have the right to appeal to the Bountiful City Administrative Law Judge. A statement setting forth fully the grounds of such appeal shall be filed with the City Recorder within fourteen days after notice of the denial, suspension or revocation has been delivered to such person or mailed to his last known address.

Chapter 4: Water Pollution

6-4-101. Watershed Area Defined.

The "watershed area" of the City is hereby defined to be the entire area in any canyon above the City within which water drains into any stream or tributary thereof, where such stream of water, or any part thereof, is taken by the City into its waterworks system for the culinary and domestic use of the inhabitants thereof.

6-4-102. Unlawful to Maintain Privy in Watershed.

It is unlawful to construct, use or maintain any closet, privy, outhouse, cesspool, urinal, or sewage disposal system, or any public bath house, swimming tank or swimming pool, at any place within the watershed area of the City without first having obtained from the City Council a permit for the construction, use and maintenance of same.

6-4-103. Unlawful Acts Defined.

It is unlawful to cause, do, or permit to be done, any of the offenses hereinafter described in any canyon supplying water to the City, or along any stream of water used by the inhabitants of the City for their water supply and located within the watershed area of the City as herein defined:

(a) To construct or maintain any corral, sheep pen, pig pen, chicken coop, stable, or any offensive or contaminating yard or outhouse; provided, however, that livestock may be permitted to graze beyond 300 feet from any stream or source of water supply; but not within 300 feet of any stream or source of water supply except where written permission has been first obtained from the City Council and compliance with all the sanitary requirements prescribed by said officials has been complied with.

(b) To deposit, pile, unload or leave any manure or offensive rubbish, or carcass of any dead animal any place within said watershed area.

(c) To permit any loose cattle, horses, sheep, hogs, or any other animals to run at large except where such livestock are more than 300 feet from any stream or source of water supply within said watershed area.

(d) To stake or graze horses, cattle, sheep, hogs or other animals within 300 feet of the bank of such stream, except that horses or cattle may be staked or corralled within 300 feet at such place and under such conditions as may be designated by the City Council. The person obtaining such permit must keep the premises whereon said animals are kept in such conditions as may be required by the City Council and said permit may be revoked at any time by said officers upon failure of the permittee to comply with such reasonable sanitary regulations as are prescribed by said officers.

(e) To permit any horses, cattle, sheep, hogs, or other animals to take or use water directly from the stream.

(f) To permit any horses, cattle, sheep, hogs, or other animals to remain in or near, or to pollute any such stream of water or source of water supply.

(g) To throw or deposit any garbage or other deleterious matter of any kind anywhere within said limits.

(h) To permit any dog to run at large.

(i) To throw or break bottles or glass.

(j) To wade or bathe in the stream or source of water supply.

(k) To wash dishes or other articles in the stream or source of water supply.

(l) To commit any nuisance whatsoever.

6-4-104. Chemical Privies and Disposal Effluent.

It is unlawful to construct, use or maintain any cesspool or septic tank for the disposal of human waste except when used in connection with chemical privies, anywhere within the watershed area of the City. The effluent from any such tank or privy must be hauled at the cost of the owner or occupant to a sewage disposal plant maintained by the City, or its designated agent.

6-4-105. Existing Unsanitary Systems must be made to Comply.

All existing sewage disposal systems, cesspools, or privies within the water-shed area of the City as herein defined, which shall be found to be unsanitary or which does not comply with the requirements of the City Ordinances or regulations of the City Council must be remodeled and converted into a sanitary type of system within thirty days after notice to the owner thereof of such unsanitary or inadequate condition from the City Engineer.

It is unlawful to use or maintain any unsanitary sewage disposal system, cesspool, or privy after thirty days notice shall have been given of such unsanitary or inadequate condition by the City Engineer.

6-4-106. Loose Cattle within Water-Shed.

Whenever any loose cattle, horses, sheep, hogs, or other animals are found within the watershed area of the City as herein defined and within 300 feet of the stream or source of water supply it is hereby made the duty of the City Engineer to cause any such animals to be driven to the nearest estray pound and there to be dealt with according to law.

Chapter 5: Water and Sewer Service

6-5-101. Water Department.

The City Water Department is hereby created. It shall comprise all of the property and equipment and personnel necessary to the maintenance and operation of the City's water supply and distribution.

6-5-102. Employment of Superintendent.

The City Manager shall appoint a competent person to the position of Water Superintendent, who shall have charge of all waters and water sources, water tanks, water mains, fire hydrants, and all the equipment and appurtenances pertaining to the water-works systems. He shall have the direction of the laying of the water mains, and putting in of all service pipes, and the regulation of the supply of water, and shall perform such other duties as may be required of him by law or Ordinance.

6-5-103. Permits and Reports.

It is unlawful to make any extension of any pipe or connect any fixture to the water or sewer system for any purpose whatever without first obtaining a permit.

6-5-104. Fixtures and fittings used in Water or Sewer Connections.

It is unlawful to use any kind of fitting, stopcock, drawcock, or other equipment in connection with the water or sewer system, except the kind prescribed by the Water Department.

6-5-105. Use Without Payment Prohibited.

It is unlawful to utilize the City water or sewer system without first paying therefor as herein provided, or without authority to open any stopcock, valve or other fixture attached to the system of water supply, or to in any wise injure, deface, or impair any part or appurtenance of the water or sewer system or to cast anything into any reservoir or tank belonging to said system.

6-5-106. Payment, Discontinuance of Service.

The City Treasurer shall mail a written statement to each user of the water service at such intervals as the City Council shall direct. Said statement shall separately specify the amount of the bill for the water and sewer service used and the place of payment and date due. If any person fails to pay his water charges within thirty days of the date due, the City Treasurer may so notify the Water and Sewer Department and shall have authority to direct said Department to shut off all water service to the premises involved. Before said water service to said premises shall again be provided, all delinquent water and charges must have been paid to the City Treasurer, together with a special expense charge. The City Treasurer is hereby authorized and empowered to enforce the payment of all delinquent water service charges by an action at law in the corporate name of the City.

6-5-107. Turning on Water After Services Terminated Prohibited.

It is unlawful, after the water has been turned off from his premises on account of non-payment of rates or other violation of the rules, regulations or Ordinances pertaining to the water supply, to turn on or allow the water to be turned on or used, or allow the water to be used without authority.

6-5-108. Reserved.

6-5-109. Scarcity of Water.

In time of scarcity of water, whenever it shall in the judgment of the Mayor and the City Council be necessary, the Mayor shall by proclamation limit the use of water for other than domestic purposes to such extent as may be necessary for the public good. It is unlawful for any person to violate any proclamation made by the Mayor in pursuance of this Section.

6-5-110. Superintendent to have Free Access.

Free access shall, at all ordinary hours, be allowed to the Superintendent or other authorized persons to all

places supplied with service from the water system to examine the apparatus, the amount of water used and the manner of use of either service. Any water service users violating any of the rules, regulations or Ordinances controlling the water systems shall forfeit all payment made and the right to the use of said service.

6-5-111. Water Meters.

All structures, dwelling units and establishments using water from the City system must have such number of water meters connected to their water systems as are necessary in the judgment of the Superintendent to adequately measure use and determine water charges by the respective water users. Meters will be furnished by the City at the expense of the property holder, at rates established from time to time by resolution. The Superintendent shall cause meter readings to be taken regularly and shall advise the City Treasurer thereof for the purpose of recording the necessary billings for water service.

6-5-112. Two Users on One Connection.

Where two or more families or premises are supplied from the same service pipe, the failure on the part of either of said parties to comply with these Ordinances shall warrant the City in withholding a supply of water through said service pipe until a separate service pipe is put in for each user of water under a separate application.

6-5-113. Taker Only to Use Water.

It is unlawful for any water user to permit any person from other premises, or any unauthorized persons, to use or obtain water regularly from his premises or water fixtures, either outside or inside his building.

6-5-114. Waste Prohibited.

It is unlawful for any water user to waste water, or to allow it to be wasted, by imperfect stops, taps, valves, leaky joints or pipes or to wastefully run water from hydrants, faucets, or stops or through basins, water closets, urinals, sinks, or other apparatus, or to use water in violation of the rules, regulations or Ordinances for controlling the water supply.

6-5-115. Use of City Sewer Mandatory.

It is unlawful for the owner or any other person occupying or having charge of any premises within the City limits to dispose of sewage therefrom by any means other than by use of the City-approved sewer system. It is be unlawful to construct or to continue to use any other sewage disposal system, such as a privy, vault, cesspool or septic tank.

6-5-116. Licensed Plumber Necessary.

It is unlawful to connect any drain or sewer pipe with the public sewer, unless such person is a duly licensed plumber.

6-5-117. Inspection of Installations.

The inspection of sewer connections between the main sewer and three feet outside of the property line shall be made by or under the direction of the City Engineer. He shall be notified at least four hours in

advance by the plumber that the connection is complete and ready for inspection. The entire length of the sewer connection, including a Y at the main sewer shall be fully exposed. No backfilling shall be done until the inspection is made and the work accepted. If any portion of the work is not done in accordance with the Ordinance and the instruction of the Superintendent or his Inspectors, it shall be rectified promptly. No permit shall be issued to any licensed plumber during the time that he shall fail to remedy any defective work, after he has been notified that he has been held responsible therefor under these regulations.

6-5-118. Sewer Permit.

It is unlawful for an unauthorized person to uncover, make any connections with or opening into, use, alter, or disturb any public sewer or appurtenance thereof for any reason without first obtaining a written permit from the City Engineer.

6-5-119. Sewer Service Lateral.

(a) A separate and independent sewer service lateral shall be provided for every building, except where one building stands at the rear of another or on an interior lot and no private sewer is available or can be constructed to the rear building through an adjoining alley, court, yard, or driveway; the service lateral from the front building may be extended to the rear building and the whole considered as one service lateral.

(b) All expenses associated with the ordinary installation, operation, maintenance, repair or replacement of a sewer service lateral, including any portions underlying the public right-of-way and the portion comprising the lateral's connection with the public sewer main, are the responsibility of the property owner.

(c) Extraordinary expense, such as that resulting from damage to a lateral by the City or a contractor under permit from the City, while working in the public right-of-way, will be paid or reimbursed by the City.

6-5-120. Storm Water.

It is unlawful to discharge or cause to be discharged any storm water, surface water, ground water, roof runoff, or subsurface drainage into any sanitary sewer. Such storm water and all other unpolluted drainage shall be discharged to such sewers as are specifically designated as storm sewers, or to a natural outlet consisting of water courses, ponds, ditches, lakes, or other bodies of surface or ground water provided for receiving the same.

6-5-121. Destroy Sewer System

It is unlawful for any unauthorized person to maliciously, willfully or negligently break, damage, destroy, uncover, deface or tamper with any structure, appurtenance, or equipment which is a part of a sanitary sewer facility or sewage works, or remove any manhole cover therefrom.

6-5-122. Use After Disconnected.

It is unlawful, after sewer service to any premises has been discontinued for any reason whatsoever, to reconnect or resume such service or for the owner or occupant of such premises to allow the same to be

reconnected or resumed without being authorized by the Superintendent or other owner of such sanitary sewer.

6-5-123. Reserved.

6-5-124. Outside Watering Restrictions.

(a) Watering outside the home with Bountiful City culinary water is prohibited between the hours of 10 a.m. and 6 p.m. from April 15th through October 15th of each year.

(b) The City Engineer, in his reasonable discretion, is authorized to permit water use in contravention of these provisions. A written application stating the reasons for the requested exception shall be submitted. A record shall be kept of any such exceptions granted, and a written permission issued.

(c) Anyone using water in violation of these provisions shall, upon a first violation, be warned against further illegal use, and upon a second or further violation, be assessed a water user fee of $100 per violation. Such fee shall become part of the water bill of that person or of the property whereon such use occurred. There shall be a right of appeal of any such assessment to the Bountiful City Administrative Law Judge, which appeal must be made in writing within thirty days of the assessment.

(d) Anyone using water in violation of these provisions shall be guilty of a class C misdemeanor.

Chapter 6: Non-Payment of Utility Deposits and Utility Accounts

6-6-101. Service Policies.

6-6-101. Service Policies.

The rendering of electrical and other utility services by the City is subject to the service policies that are adopted by the City Council, which policies are hereby incorporated in the City Code by this reference.

Chapter 7: Wastewater System Regulations

[Please see the City Attorney for this lengthy ordinance.]

Chapter 8: Pressure Irrigation

6-8-101. Use and Installations.
6-8-102. Control Valves.

6-8-101. Use and Installations.

It is unlawful for any person, firm or corporation to:

(a) Use of cause to be used any untreated or nonpotable water from a pressure irrigation system for other than irrigation purposes.

(b) Interconnect or cause to be interconnected the potable and non-potable portions, distribution systems or service lines of dual water supplies or extensions thereof.

(c) Install or cause to be installed in the same trench or trenches the distribution or service lines of potable and non-potable water. Install a pipe joint (union nipple or any other connection) of either type of water system, across, above or under a pipe in any existing trench of the other system.

(d) Connect or cause to be connected a service line to any distribution system or main line carrying non-potable water without authority of the district, municipality, company or person having jurisdiction of the non-potable water supply.

(e) Extend or cause to be extended into any building a non-potable water supply system or service line except for fowl or stock watering purposes.

(f) Expose or cause to be exposed any portions of a non-potable water supply system or extensions or service lines thereof without identifying the same by distinctive coloring or other suitable means sufficient to distinguish the same from potable water supply systems, extensions or service lines.

(g) Contaminate or cause to be contaminated any source of supply, distribution system, or service line furnishing or carrying non-potable water.

6-8-102. Control Valves.

All hydrants and sprinkling system control valves for the distribution of non-potable water shall be operated by a removable key, unless such valves are of the quick-coupling type, and all such keys and coupling valves shall be removed when said hydrant or sprinkling system is not in use.

Chapter 9: Excavation in Streets and Public Properties.

6-9-101. Purpose.

This Chapter is designed and enacted for the purpose of promoting the safety and health of those persons using and traveling the roads, streets, highways and rights of way of and within the City; for the purpose of protecting the highways and rights of ways themselves within the City; for the purpose of preventing unauthorized and unnecessary crossings and excavations; for the supervising of necessary crossing and excavations on said roads, streets, highways and rights of way; and providing for the proper repair of the same where necessary crossings must be made.

6-9-102. Permit Needed.

It is unlawful to dig up, break, excavate, tunnel, undermine, or in any manner break up any street, or to make or cause to be made, excavations in or under the surface of any street for any purpose or place, deposit or leave upon any street any earth or any other excavated material obstructing or tending to interfere with the free use of the street, unless such persons shall first have obtained an excavation permit therefore from the City Engineer. Any public utility regulated by the State, or holding a franchise from the City which, in the pursuit of this calling, has frequent occasion to open or make excavations in streets, may upon application, receive a general permit from the City Engineer to cover all excavations such utilities make within the streets of the City. Permit fees shall accompany the application, except for fees under general permits, which shall be paid monthly as herein provided. All permits shall be subject to revocation and the City Engineer may refuse to issue a permit for failure of the permittee, or applicant, to abide by the terms and conditions of this Chapter. Excavation permits will not be request prior to excavation in case of emergency, endangering life or property, providing the City Engineer is notified as soon as practicable and a permit is applied for upon the next regular working day following the emergency.

6-9-103. Permit Fee.

The fee for any permit provided for herein shall be set by resolution of the City Council.

6-9-104. Emergency Excavations.

Nothing in the Chapter shall be construed to prevent the making of such excavations as may be necessary for the preservation of life or property or for the location of trouble in conduit or pipe or for making repairs, provided that the person making such excavation shall apply to the City Engineer for such a

permit on the first working day after such work is commenced.

6-9-105. Applications for Permit.

Each application for a permit shall show the following:

(a) The name and address of the person desiring a permit. If the applicant is a co-partnership, the names and addresses of all the partners; and if a corporation, the names and addresses of the manager or person authorized to act for and in behalf of the corporation and to obligate it to the responsibilities set forth in this Chapter.

(b) The name and address of the person who will do the actual digging, tunneling, trenching and backfilling or construction work.

(c) Mechanical means or method by which the street, highway or roadway is to be trenched and backfilled.

(d) The exact location, with a complete description, of the place where the cut is to be made in or along or across the roadway or highway, with a brief sketch showing the designated work.

(e) A signed agreement whereby the petitioner contracts with the City, and whereby his contractor, if he has one, also contracts, that:

(1) Notify the City Engineer's Office four (4) hours in advance when the work is to begin, who in turn will notify the City Road Inspector, so that an inspection may be made of the excavation site.

(2) All backfill materials shall be fine material, free from lumps and stone, selected from the soil and shall be thoroughly compacted around and under the substructure to the upper level of the substructure. Backfill material shall be placed to the subgrade of the pavement in lifts consistent with the type of soil involved and the method of consolidation being used. Broken pavement, large stone, roots and other debris shall not be used in the backfill. Each lift shall be flooded, jetted, rolled or tamped, or a combination of these methods shall be used, depending upon the type of soil involved, to compact the backfill material. Such backfill shall be done in a manner that will permit the restoration of the surface to condition equivalent to that in which it was prior to excavation. The City Engineer may require soil tests to be furnished by a recognized soil testing laboratory or registered professional engineer specializing in soil mechanics when, in his opinion, backfill for any excavation is not being adequately compacted. In order for the resurfacing to be permitted, such test must show that the backfill material meets the minimum requirements as prescribed by the City Engineer. All expense of such test shall be born by the permittee.

(3) Before beginning the excavation, proper safeguards by barricade and warning lights, where necessary shall be placed by the applicant and/or his contractor, and these shall be maintained by the applicant and/or his contractor at all times while there is any possible danger or inconvenience to persons traveling the highway so as to prevent accidents during construction.

(4) Guarantee that the City and its employees and the City Council shall be free and harmless from any and all damages that may occur during the operations under the permit, and agree that the applicant and/or his contractors will assume full responsibility therefore before a permit is granted. The applicant and his contractor, if any, will present a bond to the City Engineer's Office guaranteeing that the work will be done in accordance with this Ordinance. The City Engineer, in his discretion, shall determine the amount and type of the bond that the particular applicant and his contractor shall furnish to guarantee the protection of the City and its agents; the safety of the traveling public, and the satisfactory completion of the work under this permit. No permit shall be issued, and no work shall begin until such bond is properly made out and presented to the City Engineer and accepted by him.

(5) The applicant and his contractor shall agree that all digging and excavation will be made in strict accordance with the specifications of the City Engineer's Office, and that all excavations will be immediately backfilled and properly tamped to prevent settling. Should the City Engineer determine at any time that the work is not progressing as rapidly as it should progress for the protection of the City and the people of the City; then, after notice to the applicant or his contractor or agent, the City Engineer shall be authorized to employ another contractor to finish the job in a good, workmanlike manner, and any and all costs and expenses of this work shall be immediately paid by the applicant and his contractor to the City, or it may be taken from the bond, at the City's option. Should the City Engineer at any time feel that the backfilling and hard-surfacing work is not being properly done, then after notice to the applicant and his contractor, he may contract with another contractor to properly do this work, and the applicant and his contractor will immediately pay to the City the amount which it has necessarily incurred as an expense.

(6) All asphalt paving up to 500 square feet will be done by the City Street Department under the direction of the City Engineer. A charge at the per square foot price set annually to the price of asphalt will be made for the replacement of the asphalt paving in excavated areas.

> (i) In areas larger than 500 square feet the permittee may apply to the Engineer's Office for permission to do their own asphalt paving, and they may be granted permission to do so, under direction of the City Engineer.
>
> (ii) In all excavated areas a 12 inch minimum compacted thickness of crushed gravel or base will be provided by the contractor for a 3 inch thick asphalt surfacing. Before asphalt surfacing is placed in the excavated area the edges of existing asphalt area will be cut clean and any loose edges or pieces removed.

(7) All work provided under this Chapter and under the permit must be completed within the time specified in the permit by the City Engineer, and in all events within thirty (30) days from the issuance of the permit, unless an extension in writing is placed on the permit by the City Engineer's Office. In no case will work other than that described in and shown on the application for permit and on the permit be attempted or done by the applicant or his contractor.

(8) The applicant, his contractor or agent will maintain and be responsible for the place of excavation for a period of one (1) year from the date of completion and will assume full responsibility for any injury caused to the City or to third persons as a result of a rise or settling in a portion of the roadway which they have worked on. Should the applicant, within said one year, receive notice from the City Road Department, the City Council, or from the City Engineer's office that the road portion that they have reconstructed has settled or raised, they will immediately place necessary barricades to protect the traveling public, and will within seven (7) days' time repair the road at the point of construction, placing it back in a condition equal to its original condition, weather permitting or availability of asphalt. Should the applicant or the contractor or agency fail to do this within seven (7) days, the City Engineer shall have the authority, without further notice, to employ a third-party contractor to repair the work or the City may do so with its own work crews, and the applicant and his contractor will immediately pay to the City the amount necessarily expended by it in the reconstruction of this portion of the road. The bond of the applicant will be retained during this one (1) year period to guarantee the proper backfilling and proper maintenance and/or reconstruction of the road.

6-9-106. Rules and Regulations.

(a) Bountiful City asserts the right to regulate and control the placement of utilities in public streets, in public properties, and in public utility easements throughout the city limits.

(b) The City Engineer is authorized and directed to regulate and control the placement of utilities in public streets, in public properties, and in public utility easements throughout the city limits, by the development of reasonable rules and practices. The City Engineer is specifically authorized to reasonably direct the location of particular utilities within these streets, properties and easements.

(c) It is unlawful to place utilities in public streets, in public properties and in public utility easements in locations other than those specifically authorized by the City Engineer.

(d) The minimum buried depth of phone lines, cable television lines, and all other utility lines placed within the public rights of way, including public utility easements, is twenty-four inches.

6-9-107. Denial of Applications.

The City Engineer is hereby given the authority to deny the application of any person or contractor for the permission to excavate along or across or to tunnel under the roads, rights of way or highways in the City in all instances where it would not be in the best interest of the City and the streets, roads, rights of way and highways thereof if such excavation is made, and in all instances where the applicant or the contractor has at any prior time failed and refused to comply with this Chapter or with the rules and regulations placed into effect by the City Engineer. In this case, the City Engineer shall write his reasons for refusal on the application. The applicant may appeal to the Bountiful City Administrative Law Judge.

6-9-108. Civil Liability.

The applicant, his contractor, or agent, by signing the application, agree to assume any and all civil liability which may arise as a result of their barricades, their work in construction, digging or tunneling, and their work in backfilling, and in maintaining the work-on portion of the street, road, highway or right of way for the period of one year after the date of completion. No permit shall be issued to a person or

contractor who is not financially responsible in the opinion of the City Engineer, or who is unable to furnish the proper and necessary bond to cover the cost of construction, replacement and maintenance, and also the cost of any liability which might occur as a result of these works. If the applicant or his contractor are not individually financially responsible, then necessary corporate bonds must be furnished to protect the City and the citizens thereof from any damage that may occur to them.

6-9-109. Enforcement.

The City Recorder, the City Police Department, the City Street Department and the City Attorney's office are each authorized collectively or individually to take any and all action such as is necessary to insure and to enforce compliance with the terms of this Chapter.

6-9-110. Penalty for Failure to Obtain Permit.

If any person, either by himself, his agents, his employees or his contractor shall barricade a City road or roadway or highway, or shall begin to construct or do any digging, ditching, excavation, trenching or tunneling in, along or across a City street, roadway or highway without having in his possession a valid permit from the City Engineer's office, as in this Chapter provided, he shall be guilty of a Class B misdemeanor. Each day that an excavation, or ditch, trench digging or tunnel along, in or across a City road or highway shall continue without the necessary permit having been issued, either by the City Engineer or by the City Council, shall be considered as a separate offense and may be punished as such.

6-9-111. Penalty for Improper Restoration and Maintenance.

Should any person fail, neglect or refuse to properly backfill and maintain a City roadway or highway which he has caused to be disturbed for a period longer than that provided for in his permit, it shall be a misdemeanor, and each day that this condition continues shall be a separate misdemeanor and the punishment thereof for each of the individual misdemeanors shall be of a fine of not more than $299.00 and/or up to thirty (30) days in the City or County jail.

6-9-201. Definitions.

(a) "**Applicant**" means any Person who makes application for a permit.

(b) "**Business**" means any place in the City in which there is conducted or carried on principally or exclusively any pursuit or occupation for the purpose of gaining a livelihood.

(c) "**City**" means the city of Bountiful, Utah.

(d) "**City Engineer**" means the City Engineer, or his /her authorized representative.

(e) "**Emergency**" means any unforseen circumstances or occurrence, the existence of which constitutes an immediate danger to persons or property, or which causes interruption of utility or public services.

(f) "**Engineering Regulations**," "**Regulations,**" "**Specifications**," and/or "**Design Standards**" mean the latest version of the Engineering Regulations, specifications, design standards or criteria published or adopted by the City Engineer.

(g) "**Failure**" means a Work Site Restoration which fails to meet City Engineer Specifications, or which results in a deteriorated or substandard condition within the duration of the warranty period. Failure may be settlement of surfaces, deterioration of materials, or other surface irregularities. Measurement of Failure shall be further defined in the Engineering Regulations.

(h) "**Infrastructure Provider**" means a Person doing any type of construction work in the Public Way.

(i) **"Operator"** means any Person who provides a service through use of a Public Way..

(j) "**Permittee**" means any Person which has been issued a permit and thereby has agreed to fulfill the requirements of this Chapter.

(k) "**Person**" means and includes any natural Person, partnership, firm, association, Provider, corporation, company, organization, or entity of any kind.

(l) "**Property Owner**" means Person or Persons who have legal title to property and/or equitable interest in the property, or the ranking official or agent of a company having legal title to property and/or equitable interest in the property.

(m) "**Provider**" means an Operator, Infrastructure Provider, Reseller, System Lessee, or public or private utility Company.

(n) "**Public Utility Company**" means any company subject to the jurisdiction of the Utah State Public Service Commission, or any mutual corporation providing gas, electricity, water, telephone, or other utility product or services for use by the general public.

(o) "**Public Way**" means and includes all City public rights-of-way and easements, public footpaths, walkways and sidewalks, public streets, public roads, public highways, public alleys, and public drainage ways. It does not, however, include utility easements not within Public Ways of the City.

(p) "**Private Drain Line"** means a pipe installed solely for the transmission of water collected or generated on private property such as drainage, spring, or storm water, or condensate into the public drainage system.

(q) "**Reseller**" refers to any Person that provides service over a System for which a separate charge is made, where that Person does not own or lease the underlying System used for the transmission and does not install any System in the rights-of-way.

(r) "**Resident**" means the Person or Persons currently making their home at a particular dwelling.

(s) "**Storm Drain**" means a dedicated pipe, conduit, water way, or ditch installed in a right-of-way or easement for the transmission of storm and drainage water. This term does not include Private Drain Lines.

(t) **"System Lessee"** refers to any Person that leases a System or a specific portion of a System to provide services.

(u) "**System**" means all pipes, lines, drains, conduits, manholes, poles, antennas, transceivers,

amplifiers and all other devices, equipment, wire and Appurtenances owned, leased, or used by a public or private utility, including telecommunications providers.

(v) "**Work Site Restoration**" means and includes the restoring of the original ground or paved hard surface area to comply with Engineering Regulations, and includes but is not limited to repair, cleanup, backfilling, compaction, stabilization, paving and other work necessary to place the site in acceptable condition following the conclusion of the work or the expiration or revocation of the permit.

6-9-202. Permit Required; Basis for Issuance

Any Person desiring to perform work of any kind in a Public Way within the City, shall make application for a permit. The decision by the City to issue a permit shall include, among other factors determined by the City, consideration of the following:

(a) The capacity of the Public Way to accommodate the facilities or structures proposed to be installed in the Public Way;

(b) The capacity of the Public Way to accommodate multiple wire in addition to cables, conduits, pipes, drains, or other facilities or structures of other users of the Public Way, such as electrical power, telephone, gas, sewer, water, irrigation systems, drainage facilities, and telecommunications systems;

(c) The damage or disruption, if any, of public or private facilities, improvements, or landscaping previously existing in the Public Way;

(d) The public interest in minimizing the cost and disruption of construction from numerous excavations of the Public Way.

6-9-203. Permit Application Requirements.

(a) Application for a permit shall be filed with the City Engineer on a form or forms to be furnished by the City. Contractors are required to obtain the necessary permits prior to the commencement of work. It is unlawful for work to commence prior to the obtaining of required permits.
(b) Only the following shall be eligible to apply for or receive permits to do work within the Public Way:

(1) Contractors appropriately bonded, insured, and licensed by the State;

(2) Providers appropriately bonded, insured, and licensed by the State;

(3) Persons offering a service which requires occupation of the Public Way, such as scaffold or staging, staging of a crane, installation or maintenance of electric signs, glass, awnings, and painting or cleaning of buildings or sign boards or other structures.

(c) The City Engineer may deny the issuance of permits to contractors, utility companies, or other permit Applicants who have shown by past performance that in the opinion of the City Engineer they will not consistently conform to the Engineering Regulations, Specifications, Design Standards, or the requirements of this Chapter.

(d) When necessary, in the judgment of the City Engineer, to fully determine the relationship of the

work proposed to existing or proposed facilities within the Public Ways, or to determine whether the work proposed complies with the Engineering Regulations, construction Specifications and Design Standards, the City Engineer may require the filing of engineering plans, Specifications and sketches showing the proposed work in sufficient detail to permit determination of such relationship or compliance, or both, and the application shall be deemed suspended until such plans and sketches are filed and approved.

(e) It is unlawful for any Person to commence work upon any Public Way until the City Engineer has approved the application and until a permit has been issued for such work, except as specifically approved to the contrary in this Chapter.

(f) The disapproval or denial of an application by the City Engineer may be appealed by the Applicant to the City Manager by filing of a written notice of appeal within ten days of the action of the City Engineer. The City Manager shall hear such appeal, if written request therefor be timely filed as soon as practicable, and render his/her decision within two weeks following notice of such appeal.

(g) In approving or disapproving work within any Public Way, or permits therefor, in the inspection of such work; in reviewing plans, sketches or Specifications; and generally in the exercise of the authority conferred upon him/her by this Chapter, the City Engineer shall act in such manner as to preserve and protect the Public Way and the use thereof, but shall have no authority to govern the actions or inaction of Permittees and Applicants or other Persons which have no relationship to the use, preservation or protection of the Public Way.

(h) A permit is not required from the City Engineer for hand digging excavations for installation or repair of sprinkler systems and landscaping within the non-paved areas of the Public Way. However, conformance to all City Specifications is required.

6-9-204. Emergency Work.

(a) Any Person maintaining pipes, lines, or facilities in the Public Way may proceed with work upon existing facilities without a permit when Emergency circumstances demand the work to be done immediately; provided a permit could not reasonably and practicably have been obtained beforehand.

(b) In the event that Emergency work is commenced on or within any Public Way of the City during regular business hours, the City Engineer shall be notified within one-half hour from the time the work is commenced. The Person commencing and conducting such work shall take all necessary safety precautions for the protection of the public and the direction and control of traffic, and shall insure that work is accomplished according to City Engineering Regulations, the Manual on Uniform Traffic Control Devices and other applicable laws, regulations, or generally recognized practices in the industry.

(c) Any Person commencing Emergency work in the Public Way during other than business hours without a permit shall immediately thereafter apply for a permit or give notice during the first hour of the first regular business day on which City offices are open for business after such work is commenced. A permit for such Emergency work may be issued which shall be retroactive to the date when the work was begun, at the discretion of the City Engineer.

6-9-205. Permit Fees.

(a) The City shall charge and the Permittee shall pay upon issuance of the permit, fees for costs

associated with the work performed under the permit. Such costs could include costs for reviewing the project and issuing the permit, inspections of the project, deterioration of the Public Way or diminution of the useful life of the Public Way, and other costs to the City associated with the work to be done under the permit. All costs shall be assessed in a non-discriminatory manner.

(b) The City Engineer may reduce or waive permit fees or penalties or portion thereof provided for in this Chapter, when he/she determines that such permit fee or penalty:

(1) pertains to construction or rehabilitation of housing for Persons whose income is below the median income level for the City; or

(2) pertains to work by a contractor on City owned systems at the request of the City.

(c) Additional charges to cover the reasonable cost and expenses of any required engineering review, inspection, and Work Site Restoration associated with each undertaking may be charged by the City to each Permittee, in addition to the permit fee.

6-9-206. Permit - Contents - Duration and Extensions.

(a) Each permit application shall state the starting date and estimated completion date. Work shall be completed within five days from the starting date or as determined by the City Engineer. Such determination shall be based upon factors reasonable related to the work to be performed under the permit. Such factors may include, in addition to other factors related to the work to be performed, the following:

(1) The scope of work to be performed under the permit;

(2) Maintaining the safe and effective flow of pedestrian and vehicular traffic on the Public Way affected by the work;

(3) Protecting the existing improvements to the Public Way impacted by the work;

(4) The season of the year during which the work is to be performed as well as the current weather and its impact on public safety and the use of the Public Way by the public;

(5) Use of the Public Way for extraordinary events anticipated by the City.

The City Engineer shall be notified by the Permittee of commencement of the work within twenty-four hours prior to commencing work. The permit shall be valid for the time period specified in the permit.

(b) If the work is not completed during such period, prior to the expiration of the permit, the Permittee may apply to the City Engineer for an additional permit or an extension, which may be granted by the City Engineer for good cause shown.

(c) The length of the extension requested by the Permittee shall be subject to the approval of the City Engineer. No extension shall be made that allows work to be completed in the winter period.

6-9-207. Permit - No Transfer or Assignment.

Permits shall not be transferable or assignable, and work shall not be performed under a permit in any place other than that specified in the permit. Nothing herein contained shall prevent a Permittee from subcontracting the work to be performed under a permit; provided, however, that the holder of the permit shall be and remain responsible for the performance of the work under the permit, and for all bonding, insurance and other requirements of this Chapter and under said permit. Subcontractors shall also be appropriately licensed, insured and bonded.

6-9-208. Compliance with Specifications, Standards, Traffic-Control Regulations; Site Permittee Identification.

(a) The work performed in the Public Way shall conform to the requirements of the Engineering Regulations, Design Standards, construction Specifications and traffic control regulations of the City, copies of which shall be available from the City Engineer.

(b) All job sites shall be operated in conformity with the latest edition of the Manual on Uniform Traffic Control Devices. Failure to do so is unlawful.

(c) All excavations shall be conducted in a manner resulting in a minimum amount of interference or interruption of street or pedestrian traffic. Inconvenience to Residents and Businesses fronting on the Public Way shall be minimized. Suitable, adequate and sufficient barricades and/or other structures will be used where necessary to prevent accidents involving property or Persons. Barricades must be in place until all of the Permittee's equipment is removed from the site and the excavation has been backfilled and proper temporary gravel surface is in place, except where backfilling and resurfacing is to be done by the City; in which case the barricades, together with any necessary lights, flares or torches, must remain in place until the backfill work is actually commenced by the City. From sunset to sunrise, all barricades and excavations must be clearly outlined by adequate signal lights, torches, etc. The Police Department and Fire Department shall be notified in writing by the Permitee at least 24 hours in advance of any planned excavation requiring street closure or traffic detour.

(d) The contractor shall give full access at all times to the City Engineer or his designee for the purpose of inspection.

6-9-209. Other Highway Permits.

(a) Holders of permits for work on highways owned or under the jurisdiction of other government entities, but located within the City limits, shall be required to obtain permits from the City. Any City permit shall not be construed to permit or allow work on a County road or a State highway within the City without an applicable County or State permit.

(b) The City Engineer, in his or her discretion, shall have the right and authority to regulate work under permits issued by other governmental entities with respect to hours and days of work, and measures required to be taken by the Permittee of said governmental entity for the protection of traffic and safety of Persons and property. Notwithstanding the foregoing, nothing in this Chapter shall be construed to impose any duty, implied or express, on the City or its employees, officers, agents or assigns, relative to the protection of traffic and safety of Persons or property, arising out of the issuance of any permit issued by government entities other than the City, or arising out of any work performed on any Public Way owned or within the jurisdiction of the City.

6-9-210. Relocation of Structures in Public Ways.

(a) The City Engineer may direct any Person owning or maintaining facilities or structures in the Public Way to alter, modify or relocate such facilities or structures as the City Engineer may require as set forth herein. Sewers, water and other pipes, drains, tunnels, conduits, gas lines, vaults, trash receptacles and overhead and underground electric, telephone, telecommunication and communication facilities shall specifically be subject to such directives. The Person owning or maintaining the facilities or structures shall, at their own cost and expense and upon reasonable written notice by the City, promptly protect, or promptly alter or relocate such facilities or structures, or part thereof, as directed by the City. In the event that such Person refuses or neglects to conform to the directive of the City, the City shall have the right to break through, remove, alter or relocate such part of the facilities or structures without liability to such Person. Such Person shall pay to the City all costs incurred by the City in connection with such work performed by the City, including also design, engineering, construction, materials, insurance, court costs and attorneys fees.

(b) Any directive by the City Engineer shall be based upon of the following:

(1) The facility or structure was installed, erected or is being maintained contrary to law, or determined by the City Engineer to be structurally unsound or defective;

(2) The facility or structure constitutes a hazard or risk to public safety

;

(3) The permit under which the facility or structure was installed has expired or has been revoked;

(4) The Public Way is about to be repaired or improved and such facilities or structures may pose a hindrance to construction; or

(5) The grades or lines of the Public Way are to be altered or changed.

(c) Any directive of the City Engineer under this Section shall be under and consistent with the City's police power. Unless an emergency condition exists, the City Engineer shall make a good faith effort to consult with the Person regarding any condition that may result in a removal or relocation of facilities in the Public Way to consider possible avoidance or minimization of removal or relocation requirements and provide the directive far enough in advance of the required removal or relocation to allow the Person a reasonable opportunity to plan and minimize cost associated with the required removal or relocation.

(d) This obligation does not apply to facilities or structures originally located on private property pursuant to a private easement, which property was later incorporated into the Public Way, if that prior private easement grants a superior vested right.

(e) Any Person owning or maintaining facilities or structures in the Public Way who fails to alter, modify or relocate such facilities or structures upon notice to do so by the City Engineer shall be guilty of a class B misdemeanor. All costs of alteration, modification or relocation shall be borne by the Person owning or maintaining the facilities or structures involved.

(f) The City may, at any time, in case of fire, disaster or other emergency, as determined by the City

in its reasonable discretion, cut or move any parts of any System and appurtenances on, over or under the Public Way, in which event the City shall not be liable therefor to a Person. The City shall notify a Person in writing prior to, if practicable, but in any event as soon as possible and in no case later than the next business day following any action taken under this subsection.

6-9-211. Impact of Excavation on Existing Improvements.

(a) If any sidewalk or curb ramp is blocked by excavation work, a temporary sidewalk or curb ramp shall be constructed or provided. Said temporary improvement shall be safe for travel and convenient for users, and consistent with City standards for such.

(b) Where excavations are made in paved areas, the surface shall be replaced with a temporary gravel surface until such time as the permanent repairs are completed.

(c) (1) At any time a Permittee disturbs the yard, residence or the real or Personal property of a private Property Owner or the City, such Permittee shall insure that such property is returned, replaced and/or restored to a condition that is comparable to the condition that existed prior to the commencement of the work.

(2) The costs associated with the disturbance and the return, replacement and/or restoration shall be borne by the Permittee. Further, a Permittee shall reimburse a Property Owner or the City, for any actual damage caused by the Permittee, its subcontractor, or its independent contractor, in connection with the disturbance of such property. However, nothing in this Subsection shall require the Permittee to pay a subscriber or private Property Owner when that subscriber or private Property Owner requests that the Permittee remove, replace or relocate improvements associated with the service provided by the Permittee to the Property Owner and when the Permittee exercises due care in the performance of that service, or when the subscriber or private Property Owner provided false information to the Permittee on which the Permittee relied to its detriment.

(d) Examples of types of acts specifically included in this Section are the following:

(1) Removal of sod, lawn, shrubbery, flowers, trees, driveways, or fence, to install, trench, repair, replace, remove or locate, equipment, cable, water lines, sewer lines, storm drains, gas lines, telephone lines or other Appurtenances of the Permittee;

(2) Installation or removal of equipment or other Appurtenances of the Permittee's System within a private Property Owner's property or residence which requires drilling, excavating, plastering, or the like on the part of the Permittee;

(3) Temporarily relocating or moving a piece of personal property or a fixture of a private Property Owner (such as a motor vehicle, fence, air conditioning, heating unit, or the like) in order to perform some sort of construction, maintenance or repair by the Permittee; or

(4) Permanently removing a Permittee's equipment or other Appurtenances due to the revocation, termination or non-renewal of the franchise (if applicable).

(e) Existing drainage channels, such as gutters or ditches, shall be kept free of dirt or other debris so that natural flow will not be interrupted. When it is necessary to block or otherwise interrupt flow of the

drainage channel, a method of rerouting the flow must be submitted for approval by the City Engineer prior to the blockage of the channel.

(f) The requirements imposed upon the Permittee extend to any subcontractor or independent contractor that the Permittee might employee to perform the tasks pursuant to the permit.

(g) The requirements of this Section shall not apply to the removal by a Permittee, of a permanent structure placed by a Property Owner in a Public Way, unless such Property Owner has received prior written permission from the City granting the Property Owner the right to install a permanent structure on a Public Way, and such written permission has been recorded in the office of the County Recorder.

6-9-212. Restoration of Public Property.

The City shall, at Permitee's expense, restore the surface of any Public Way to City standards.

6-9-213. Insurance Requirements.

(a) Before a permit is issued, the Applicant shall furnish to the City evidence that such Applicant has a comprehensive general liability and property damage policy that includes contractual liability coverage endorsed with the following limits and provisions or with such alternative limits and provisions as may be approved by the City:

(1) A minimum of Two Million Dollars ($2,000,000) combined single limit per occurrence for bodily injury, personal injury, and property damage and not less than Two Million Dollars ($2,000,000) in the aggregate. The general aggregate limit shall apply separately to the permit, or the general aggregate limit shall be two times the required occurrence limit. The coverage shall be in the nature of Broad Form Commercial General Liability coverage. The City Attorney may increase or decrease minimum insurance limits, depending on the potential liability of any project.

(2) All policies shall include the City, its employees, officers, officials, agents, volunteers and assigns, as insureds. Any reference to the "City" shall include the City, its employees, officers, officials, agents, volunteers and assigns.

(3) The coverage shall be primary insurance as respects the City, its employees, officers, officials, agents, volunteers, and assigns. Any insurance or self-insurance maintained by the City, its employees, officers, officials, agents, volunteers, and assigns shall be in excess of the Permittee's insurance and shall not contribute to or with it.

(4) Any Failure to comply with reporting provisions of the policy shall not affect coverage provided to the City, its employees, officers, officials, agents, volunteers, and assigns.

(5) Coverage shall state that the Permittee's insurance shall apply separately to each insured against whom claim is made or suit is brought, except with respect to the limits of the insurer's liability.

(6) Underwriters shall have no right of recovery or subrogation against the City, it being the intent of the parties that the insurance policy so affected shall protect both parties and be primary coverage for any and all losses covered by the described insurance.

(7) The insurance companies issuing the policy or policies shall have no recourse against the City for payment of any premiums due or for any assessments under any form of any policy.

(8) Each insurance policy shall be endorsed to state that the coverage shall not be suspended, voided, canceled, or reduced in coverage or in limits, except after thirty (30) days' prior written notice by certified mail, return receipt requested sent to the City.

(9) Each policy shall be endorsed to indemnify, save harmless and defend the City and its officers and employees against any claim or loss, damage or expense sustained on account of damages to Persons or property occurring by reason of permit work done by the Permittee, his/her subcontractor or agent, whether or not the work has been completed and whether or not the right-of-way has been opened to public travel.

(10) Each policy shall be endorsed to indemnify, hold harmless and defend the City, and its officers and employees against any claim or loss, damage or expense sustained by any Person occurring by reason of doing any work pursuant to the permit including, but not limited to falling objects or failure to maintain proper barricades and/or lights as required from the time work begins until the work is completed and right-of-way is opened for public use.

(b) Insurance is to be placed with insurers with an AM Best rating of no less than an A carrier, with a rating of "7" or higher.

(c) The Permittee shall furnish the City with certificates of insurance and original endorsements affecting coverage required by the permit. The certificates and endorsements for each insurance policy are to be signed by a Person authorized by that insurer to bind coverage on its behalf. The City expressly reserves the right to require complete, certified copies of all required insurance policies at any time. Consequently, the Permittee shall be prepared to provide such copies prior to the issuance of the permit.

(d) If any of the required policies are, or at any time become, unsatisfactory to the City as to form or substance, or if a company issuing any such policy is, or at any time becomes, unsatisfactory to the City, the Permittee shall promptly obtain a new policy, submit the same to the City for approval, and thereafter submit verification of coverage as required by the City. Upon failure to furnish, deliver and maintain such insurance as provided herein, the City may declare the permit to be in default and pursue any and all remedies the City may have at law or in equity, including those actions outlined in this Chapter.

(e) The Permittee shall include all subcontractors as insureds under its policies or shall furnish separate certificates and endorsements for each subcontractor. All coverages for subcontractors shall be subject to all of the requirements stated herein.

(f) Any deductibles or self-insured retentions shall be declared to and approved by the City. At the option of the City, either the insurer shall reduce or eliminate such deductibles or self-insured retentions as respects the City, its employees, officers, officials, agents, volunteers or assigns, or the Permittee shall procure a bond, in a form acceptable to the City, guaranteeing payment of losses and related investigations, claim administration, and defense expenses.

(g) A Provider may be relieved of the obligation of submitting certificates of insurance under the

following circumstances:

(1) if such company shall submit satisfactory evidence in advance that:

(A) It is insured in the amounts set forth in this Chapter, or has complied with State requirements to become self insured. Public utilities may submit annually evidence of insurance coverage in lieu of individual submissions for each permit; and

(B) Said coverage provides to the City the same scope of coverage that would otherwise be provided by a separate policy as required by this Chapter; or

(2) The work to be performed under the permit issued to the Applicant is to be performed by the City, in which case insurance or other risk transfer issues shall be negotiated between the City and the Applicant by separate agreement.

6-9-214. Bond - When Required, Conditions, Warranty.

(a) Except as noted in this Chapter, each Applicant, before being issued a permit, shall provide the City with an acceptable security (this may include a corporate surety bond, cash bond or letter of credit, as determined by the City) in an amount determined by the City Engineer to guarantee faithful performance of the work authorized by a permit granted pursuant to this Chapter. The amount of the security required may be increased or decreased at the discretion of the City Engineer whenever it appears that the amount and cost of the work to be performed, and not satisfactorily completed, may vary from the amount of security otherwise required under this Chapter. The form of the security and the entity issuing the security shall be subject to the approval of the City Attorney.

(b) Public utilities franchised by the City shall not be required to file any security if such requirement is expressly waived in the franchise documents.

(c) The security required by this Section shall be conditioned as follows:

(1) That the Permittee shall fully comply with the requirements of the City ordinances and Regulations, Specifications and standards promulgated by the City relative to work in the Public Way, and respond to the City in damages for failure to conform therewith;

(2) That after work is commenced, the Permittee shall proceed with diligence and shall promptly complete such work and restore the Public Way to construction Specifications, so as not to obstruct the public place or travel thereon more than is reasonably necessary;
(3) That the Permittee shall guarantee the materials and workmanship for a period of two years from completion of such work, with reasonable wear and tear excepted; and

(4) That unless authorized by the City Engineer on the permit, all paving, resurfacing or replacement of street facilities on major or collector streets shall be done in conformance with the regulations contained herein within three calendar days, and within seven calendar days from the time the excavation commences on all other streets, except as provided for during excavation in winter or during weather conditions which do not allow paving according to Engineering Regulations. In winter, a temporary patch must be provided. In all excavations, restoration or pavement surfaces shall be made immediately after backfilling is completed or concrete is cured. If work is expected to exceed the above duration, the Permittee shall submit a detailed

construction schedule for approval. The schedule will address means and methods to minimize traffic disruption and complete the construction as soon as reasonably possible.

6-9-215. Hold Harmless Agreement; Limitations on City Liability.

(a) The Permittee agrees to save the City, its officers, employees and agents harmless from any and all costs, damages and liabilities which may accrue or be claimed to accrue by reason of any work performed under the permit. The issuance and acceptance of any permit under this Chapter shall constitute such an agreement by the Permittee to this Section.

(b) This Chapter shall neither be construed as imposing upon the City, its officers, employees and agents, any liability or responsibility for damages to any Person injured by or by reason of the performance of any work within the Public Way, or under a permit issued pursuant to this Chapter; nor shall the City, its officers, officials, employees, agents, volunteers or assigns thereof be deemed to have assumed any such liability or responsibility by reason of inspection authorized hereunder, the issuance of any permit, or the approval of any work.

6-9-216. Work without Permit - Penalty.

A stop order may be issued by the City Engineer directed to any Person or Persons doing or causing any work to be done in the public way without a permit. Any Person found to be doing work, or causing work to be done, in the Public Way without having obtained a permit, as provided in this Chapter, shall be required to pay a permit fee equal to two times the normal permit fee. For replacement work, where a fee is not normally charged, the normal permit fee for new construction shall apply.

6-9-217. Failure to Comply; Default in Performance.

(a) Any permit may be revoked or suspended and a stop order issued by the City Engineer, after notice to the Permittee for:

(1) Violation of any condition of the permit, the security, or of any provision of this Chapter;

(2) Violation of any provision of any other ordinance of the City or law relating to the work; or

(3) Existence of any condition or the doing of any act which does constitute, may constitute, or cause a condition endangering life or property.

(b) A suspension or revocation by the City Engineer, and a stop order, shall take effect immediately upon entry thereof by the City Engineer and notice to the Person performing the work in the Public Way. Notice to the Person performing the work shall be accomplished when the City Engineer has posted a stop work order at the location of the work and written notice has been mailed, return receipt requested, to the address indicated by the Permittee on the permit.

(c) Whenever the City Engineer finds that a default has occurred in the performance of any term or condition of the permit, written notice thereof may be given to the principal and to the surety on the bond, if there is a surety bond. Such notice shall state the work to be done, the estimated cost thereof, and the period of time deemed by the City Engineer to be reasonably necessary for the completion of the work.

(d) In the event that the surety (or principal), within a reasonable time following the giving of such notice (taking into consideration the exigencies of the situation, the nature of the work, the requirements of public safety and for the protection of Persons and property), fails either to commence and cause the required work to be performed with due diligence, or to indemnify the City for the cost of doing the work, as set forth in the notice, the City may perform the work, at the discretion of the City Engineer, with City forces or contract forces or both, and suit may be commenced by the City Attorney against the contractor and bonding company and such other Persons as may be liable, to recover the entire amount due to the City, including attorney fees, on account thereof. In the event that cash has been deposited, the cost of performing the work may be charged against the amount deposited, and suit brought for the balance due, if any.

6-9-218. Failure to Conform to Design Standards - Penalty.

For failure to conform to the Design Standards and Regulations, the City Engineer may:

(a) Suspend or revoke the permit;

(b) Issue a stop order;

(c) Order removal and replacement of faulty work;

(d) Require an extended warranty period; and/or

(e) Negotiate a cash settlement to be applied toward future maintenance costs.

6-9-219. Appeal of Suspension, Revocation, or Stop Order.

Any denial, suspension, revocation or stop order by the City Engineer may be appealed by the Permittee to the Bountiful City Administrative Law Judge by filing a written notice of appeal within ten days of the action of the City Engineer.

6-9-220. Tampering with Traffic Barricades.

It shall be unlawful for any Person to maliciously or wantonly or without authorization and legal cause, extinguish, remove or diminish any light illuminating any barricade or excavation, or to tear down, remove or in any manner alter any rail, fence, marker or barricade protecting any excavation or other construction site.

6-9-221. Conflict with Governing Provisions.

Should there be a conflict between the provisions of this Chapter and the provisions of any other ordinance, agreement, franchise, or other document governing the excavation of a Public Way, the more restrictive provisions of the aforesaid documents shall apply.

6-9-222. Violation - Penalty.

Unless otherwise specified in this Chapter, a violation of any provision of this Chapter, or failure to comply with an order of suspension, revocation or stop work, shall be a class B misdemeanor. Each day the violation exists shall be a separate offense. No criminal conviction shall excuse the Person from

otherwise complying with the provisions of this Chapter.

Chapter 10: Existing Utilities

6-10-101. Interference. Permit and Procedure.

It is unlawful for any person to interfere with any existing utility without a written permit of the City Engineer and the owner of the utility. If it becomes necessary to relocate an exiting utility, this may be done to accommodate a person if the cost of such work be borne by said person. The cost of moving privately owned utilities shall be similarly borne by the said person unless he makes other arrangements with the person owning the utility.

6-10-102. Protection of Work.

Any person granted a permit hereunder shall support and protect by timbers or otherwise all pipes, conduits, poles, wires or other apparatus which may be in any way affected by the excavation work, and do everything necessary to support, sustain and protect them under, over, along or across said work.

6-10-103. Damage and Liability.

In case any of said pipes, conduits, poles, wires or apparatus should be damaged, and for this purpose pipe coating or other encasement or devises are to be considered as part of a substructure, said person shall promptly notify the owner thereof. All damaged facilities shall be repaired by the agency or person owning them and the expense of such repairs shall be charged to the person granted a permit. It is the intent of this Chapter that the person granted a permit shall assume all liability for damage to substructure, and any resulting damage or injury to anyone because of such substructure damage and such assumption of liability is a contractual obligation of the permittee. The only exception will be such instances where damage is exclusively due to the negligence of the owning utility. The City shall not be made a party to an action because of this Chapter. The person granted a permit hereunder shall inform himself as to the existence and location of all underground utilities and protect the same against damage.

Chapter 11: Reserved.

Chapter 12: Parks and Recreation.

6-12-101. Appointment of Director.

The City Manager may appoint or designate a qualified person to be Director of all parks and city-owned recreation facilities. The Director shall be responsible for the planting, trimming, pruning and caring for all trees, shrubs or plants in and upon any street, park, boulevard, or public place of the city. He may designate the kind of trees, shrubs, or plants to be planted upon any street, park, boulevard, or public place of said city, provided, however, that the owners of property fronting on any street, alley or public place may petition the governing body that such trees, shrubs or plants shall be a certain kind of variety and such petition shall be merely advisory to the action of said governing body.

6-12-102. Permit from Director.

It is unlawful to cut, trim, prune, plant, remove, injure or interfere with any tree, shrub or plant upon any street, park, boulevard, or public place of the city without a permit therefor from the Director. The Director is hereby authorized to grant such permission at his discretion but no such permit shall be valid for a longer period than thirty days after its date of issuance.

6-12-103. Interference with Director Prohibited.

It is unlawful to interfere with the Director or persons acting under his authority while engaged in planting, mulching, pruning, trimming, spraying, treating or removing any tree, shrub or plant in any park, street, boulevard, or public place of the city, or in the removing of any stone, cement or other substance from about the trunk of any tree, shrub or plant in any such street, park, boulevard, or public place.

6-12-104. Actions Damaging Roots Prohibited.

It is unlawful to cause, authorize or procure any brine water, oil, liquid dye or other substance deleterious to tree life, to lie, leak, pour, flow or drip upon or into the soil about the base of any tree, shrub or plant in any street, park, boulevard, or public place of the city or into any sidewalk, road, or pavement within said city at a point from which such substance may be lying upon or by flowing, dripping or seeping into such soil injure such tree, shrub or plant. No person without the approval of the Director shall place or maintain any stone, cement or other substance so that it shall impede the free access of water or air to the roots of any tree, shrub or plant in any street, park, boulevard, or public place of the city.

6-12-105. Permission Required for Attachments to Trees.

It is unlawful, without the permission of the Director, to attach or keep attached to any tree, shrub or plant in any street, park, boulevard, or other public place in the city or to the guard or stake intended for the protection thereof, any wire, rope, sign or any other device whatsoever.

6-12-106. Protecting Trees During Building Construction.

During the erection, repair, alteration or removal of any building, house or structure in the city, no person

in charge of such work shall leave any tree, shrub or plant in any street, park, boulevard, or public place of the city in the vicinity of such building or structure without such good and sufficient guards or protectors as shall prevent injury to said tree, shrub or plant arising out of or by reason of said erection, alteration or removal.

6-12-107. Building Construction or Removal Necessitating Trimming and pruning Application for Permit.

When the erection, repair, alternation or removal of any building, house or structure necessitates the trimming, pruning or removal of any tree, shrub or plant on any street, park, or other public place of the city, except any trimming, pruning or removal required by the construction of a residential driveway, it shall be within the discretion of the Director to refuse permission to do such work. Applications for a permit to trim, prune, or remove any tree or plant on any of the above mentioned places for the above mentioned reasons shall be filed with the Director at least three days prior to the time of doing such work. The Director may stipulate the conditions upon which any trimming, pruning or removal may be done and may require the applicant to enter into an agreement whereby said applicant shall agree to pay all costs incurred for any inspection, labor, equipment or service deemed necessary by the Director.

6-12-108. Protection of Trees During Movement of Buildings.

It is unlawful to move any building, house or portion thereof, along a public street or place, without first notifying the Director at least three days in advance of such moving. Said notice shall designate the route to be followed and all other details pertinent to such work. The Director shall have the authority to change such route and designate one which in his opinion will cause less damage to trees, shrubs or plants owned by the city along and adjacent to the said route. If necessary to protect such trees, shrubs or plants, the Director may require that said house, building or portions thereof be cut into segments small enough to fit the available width between such trees, shrubs or plants along the designated route. As a condition to approving any route for the moving of any building, house or portion thereof, the Director may require the person doing such work to enter into an agreement to pay all costs incurred for any labor, equipment or material used to protect or preserve such trees, shrubs or plants either before or after such moving.

6-12-109. Acts Prohibited within Public Parks.

Unless prior written permission is given by the City, it is unlawful for any person within a public park, public trailhead or other public property to:

(a) Sleep, Camp or erect any tent or shelter.

(b) Build or ignite any fire, except in a fireplace or such other designated place.

(c) Leave or deposit rubbish or refuse anywhere except in containers for that purpose.

(d) Pick, cut, damage or destroy any tree, flower, vine, shrub or plant life of any kind.

(e) Set up, operate or use a water slide or other similar device.

(f) Pollute any creek or stream of water.

(g) Have in possession or consume beer or alcoholic beverages.

(h) Conduct any business, fundraisers, or yard sales or distribute any commercial handbill or circular.

(i) Drive a motor vehicle in any place other than a street or public parking lot.

(j) Place hot or warm coals in a garbage can.

(k) Alter or tamper with park equipment, or move tables or garbage cans.

(l) Golf, drive a motorized vehicle of any description, or engage in any other activity which unreasonably disturbs others in their use of the park.

(m) Allow intentionally or negligently any dog off leash or horse upon park grounds. This does not apply to seeing-eye dogs and police dogs used by law enforcement agencies. This subsection does not apply to trailheads.

(n) Ride on, or otherwise use in any way, skateboards, roller skates, roller blades or similar wheeled or propelled devices. This prohibition applies to the entire area of every public park, including any and all sidewalks that surround them.

(o) put on a performance of a play, music or other type of public presentation.

(p) use any system of artificial lighting.

(q) operate any public address system or play any amplified music or instruments.

(r) Drive stakes, anchors or signs into the ground.

(s) Use park equipment and facilities in a manner other than that for which the equipment or facility is designed, or which will or may damage the equipment or facility.

(t) Violate any park use regulations or rules established by the City.

6-12-110. Tennis Courts.

(a) It is unlawful for any person, while on, or playing tennis upon any public tennis court in the city to wear shoes other than with soles and heels of soft rubber or other similar material.

(b) It is unlawful to engage in any activity on the tennis courts other than to play tennis. Other games, including soccer, and other uses, including using tricycles, bicycles, rollerblades, skateboards, etc., are prohibited.

6-12-111. Offensive Conduct Unlawful.

It is unlawful in any public park, public trailhead or other property to indulge in boisterous or offensive conduct or use any vulgar or profane language or not obey or comply with the posted regulations regarding the use of said park or property.

6-12-112. Unlawful to Injure or Destroy Property.

It is unlawful to injure or destroy any equipment or grounds of any public park or property.

6-12-113. Park Hours.

All City parks and public trailheads including parking lots and roadways within those parks, are closed to the public between the hours of 11:00 p.m. and 5:00 a.m. the following morning, unless otherwise permitted in writing by the Director. It is unlawful to be within a park or trailhead during such hours.

6-12-114. Parks Reservations.

(1) The City may reserve City-owned parks and boweries for the occasional exclusive use of specific citizens or groups, subject to availability and compliance with applicable rules and fees established by the City.

(2) It is an unlawful trespass and a class C misdemeanor for any person, who has been informed by a City employee or the party holding the reservation that the park is reserved for the exclusive use of those with a reservation and their invitees, to enter or remain upon parks, boweries and other park areas which have been reserved by the City for use by others. This subsection does not apply to City employees acting within the scope of their employment.

Chapter 13: Municipal Improvement District Act

6-13-101. Adoption.

The Utah Municipal Improvement District Act, which is set forth at Section 10-16-1 et seq, Utah Code, is hereby adopted.

Chapter 14: Impact Fees

6-14-101. Citywide Impact Fee Area.

The entire City of Bountiful is hereby established as a service area within which impact fees shall be calculated and imposed.

6-14-102. Impact Fee Schedule.

Based upon the Capital Facilities Plan and the Impact Fee Analysis approved and adopted by the City Council, which is incorporated herein by this reference, the following impact fees are imposed for each type of system improvement stated:

(a) Storm Water Fee:

(1) Single family residential - $ 2,100.00 per acre;
(2) Multi-family residential - $ 2,350.00 per acre; and
(3) Commercial / retail - $ 3,500.00 per acre.

(b) Water Development Fee:

The total water connection impact fee shall be the sum of a water supply impact fee and a water storage impact fee.

(1) The water supply impact fee shall be based on a 1" equivalent residential connection fee of $1,300.00, and modified for other sized meters by the multipliers set forth in paragraph (3).

(2) The storage impact fee shall be based on a 1" equivalent residential connection fee of $538.00, and modified for other sized meters by the multipliers set forth in paragraph (3), except as shown on the attached map for areas with existing agreements for prepayment of storage fees. In those area of exception, the multipliers for areas with pressure irrigation shall be used.

(3) Equivalent Residential Connection Multipliers:

Water Meter Size	Areas with Pressure Irrigation	Areas without Pressure Irrigation
5/8 x 3/4"	.4	.8
3/4"	.6	1.2
1"	1	2
1 1/2"	2	3
2"	4	5
3"	9.6	11
4"	16.8	18
6"	36.8	38

(c) Park Development Fee: None imposed at this time.

(d) Public Safety Impact Fee: None imposed at this time.

(e) Street Impact Fee: None imposed at this time.

6-14-103. Adjustment of Impact Fees.

With the approval of the City Engineer, the standard impact fees adopted in this ordinance may be adjusted -

(a) to respond to unusual circumstances in specific areas, and to ensure that the impact fees are fairly imposed; or

(b) by re-calculating the amount of the impact fee to be imposed on a particular development based upon studies and data submitted by the developer, if found appropriate by the City Engineer.

6-14-104. Administrative Appeals Procedure.

Any party with standing to challenge an impact fee under State law has the right to appeal the imposition of any impact fee to the Bountiful City Administrative Law Judge by filing a written notice with the City Recorder within 30 days of paying the fee to be challenged.

6-15-101. Purposes and objectives.

The purpose of this chapter is to protect the health, safety and welfare of the City and its inhabitants by improving the City's storm sewer system, managing and controlling storm water runoff, protecting property, preventing polluted water from entering the City's storm water system and other receiving waters as required by federal and state law. The objectives of this chapter are to:

(a) Provide and maintain an adequate Municipal Separate Storm Sewer System (MS4) for handling storm water runoff.

(b) Provide fair, equitable and non-discriminatory rates for using the storm drainage system which user fees will generate sufficient revenues for operating, improving and maintaining the storm drainage utility adequately. Rates shall be applied consistently for the same class of customers.

(c) Establish a policy that fees should be set after considering such factors as:

(1) Intensity of development of land parcels;

(2) Types of development on land parcels;

(3) Cost of maintaining, operating, repairing and improving the system;

(4) Quantity and quality of the run-off generated;

(5) Public health, safety and welfare; and,

(6) Any other factors that should be considered.

(d) Regulate the contribution of pollutants to the MS4 by storm water discharges by any user

(e) Prohibit illicit connections and discharges to the MS4

(f) Guide, regulate and control the design, construction, use, and maintenance of any development or other activity that results in the movement of soil on land within the city

(g) Minimize increases in non-point source pollution caused by storm water runoff from development which would otherwise degrade local water quality

(h) Reduce storm water runoff rates and volumes, soil erosion and non-point source pollution, wherever possible, through storm water management controls and to ensure that these management controls are

properly maintained and pose no threat to public safety

(i) Establish legal authority to carry out all inspection, surveillance and monitoring procedures necessary to ensure compliance with this chapter.

6-15-102. Definitions.

Where terms are not defined by this section, such terms shall have ordinarily accepted meanings such as the context implies.

For the purpose of this ordinance, the following terms, phrases and words shall mean:

"Authorized Enforcement Agency" – Employees or designees of the director of the municipal agency designated to enforce this chapter.

"Best Management Practices (BMPs)" – Includes schedules of activities, prohibitions of practices, maintenance procedures, design standards, and other management practices to prevent or reduce the discharge of pollutants directly or indirectly into the waters of the State. BMPs also include treatment requirements, operating procedures, educational activities, and practices to control plant site runoff spillage or leaks, sludge or waste disposal, or drainage from raw material storage.

"City" – Bountiful City, a municipal corporation of the State of Utah.

"City Engineer" – means the City Engineer or his/her authorized representatives.

"Clean Water Act" – The federal Water Pollution Control Act (33 U.S.C. § 1251 et seq.), and any subsequent amendments thereto.

"Construction Activity" – Activities subject to NPDES Construction Permits. These include construction projects resulting in land disturbance of one acre or more. Such activities include but are not limited to clearing and grubbing, grading, excavating, and demolition

"Conveyance System" – Any channel or pipe for collecting and directing the storm water.

"County" – Davis County

"Council" – Bountiful City Council

"Culvert" – A covered channel or large diameter pipe that directs water flow below the ground surface.

"Customer" or "Person" – Any individual; public or private corporation and its officers; partnership; association; firm; trustee; executor of an estate; the State or its departments, institutions, bureaus, agencies; county; city; political subdivision; or any other governmental or legal entity recognized by law.

"Degradation" – (Biological or chemical) The breakdown of chemical compounds into simpler substances, usually less harmful than the original compound, as with the degradation of a persistent pesticide. (Geological) Wearing down by erosion. (Water) The lowering of the water quality of a watercourse by an increase in the amount of pollutant(s).

"Design Storm" – A theoretical selected storm event that is used as a basis for design, defined in terms of the probability of occurrence over time.

"Discharge" – to dispose, deposit, spill, pour, inject, seep, dump, leak or place by any means, or that which is disposed, deposited, spilled, poured, injected, seeped, dumped, leaked, or placed by any means any solid or liquid matter into the MS4..

"Drainage"– Refers to the collection, conveyance, containment, and/or discharge of surface and storm water runoff.

"Equivalent Residential Unit (ERU)" – An ERU is equal to 3,828 square feet of impervious surface area. This is based on a single-family residential parcel in Bountiful City, which has an average of 3,828 square feet of impervious surface according to a study completed in April 2000.

"Erosion" – The wearing away of land surface by wind or water. Erosion occurs naturally from weather or runoff but can be intensified by land-clearing practices related to farming, residential or industrial development, road building, or timber-cutting.

"Fill" – A deposit of earth material placed by construction activity.

"General Permit" – A permit issued under the UPDES program to cover a class or category of storm water discharges.

"Grading" – The cutting and/or filling of the land surface to a desired slope or elevation.

"Hazardous Waste" – By-products of society that can pose a substantial or potential hazard to human health or the environment when improperly managed. Possesses at least one of four characteristics (flammable, corrosivity, reactivity, or toxicity), or appears on special EPA lists.

"Illicit Connection" – Any physical connection to a publicly maintained storm drain system which has not been permitted by the public entity responsible for the operation and maintenance of the system.

"Infiltration" – The downward movement of water from the surface to the subsoil. The infiltration capacity is expressed in terms of inches/hour.

"Inlet" – An entrance into a ditch, storm sewer, or other waterway.

"Mitigation" – Storm water control facilities located on a parcel, which either hold runoff for a short period of time before releasing it to the storm drainage system, or hold water until it evaporates or infiltrates into the ground.

"Municipal Separate Storm Sewer System (MS4)" – A municipally owned and operated storm water collection system that may consist of any or all of the following: curb & gutter, drainage swales, piping, ditches, canals, detention basins, inlet boxes, or any other system used to convey storm water that discharges into canals, ditches, streams, rivers, or lakes not owned and operated by that municipality.

"Mulch" – A natural or artificial layer of plant residue or other materials covering the land surface which conserves moisture, holds soil in place, aids in establishing plant cover, and minimizes temperature

fluctuations.

"Non-point Source" – A group of diffuse sources of storm water runoff (not a single location such as a pipe) such as agricultural or urban land from which pollutants are or may be discharged.

"Off-site" – Any area lying upstream of the site that drains onto the site and any area lying downstream of the site to which the site drains.

"On-site" – The entire property that includes the proposed development.

"Parcel" – The smallest, separately segregated unit of land having an owner. A parcel has boundaries and surface area, and is documented with a property number by the County.

"Plat" – A map or representation of a subdivision showing the division of a tract or parcel of land into lots, blocks, streets, or other divisions and dedications.

"Point Source" – Any discernible, confined, and discrete conveyance, including but not limited to any pipe, ditch, channel, tunnel, conduit, well, discrete fissure, container, rolling stock, concentrated animal feeding operation, or vessel or other floating craft, from which pollutants are or may be discharged.

"Pollutant" – Generally, any substance introduced into the environment that adversely affects the usefulness of a resource. Pollutants may include, but are not limited to: paints, varnishes, and solvents; oil and other automotive fluids; non-hazardous liquid and solid wastes and yard wastes; refuse, rubbish, garbage, litter, or other discarded or abandoned objects, and accumulations, so that same may cause or contribute to pollution; sediment, floatables; pesticides, herbicides, and fertilizers; hazardous substances and wastes; sewage, fecal coliform and pathogens; dissolved and particulate metals; animal wastes; wastes and residues that result from constructing a building or structure; and noxious or offensive matter of any kind.

"Receiving Waters" – Bodies of water or surface water systems receiving water from upstream constructed (or natural) systems.

"Retention" – The holding of runoff in a basin without release except by means of evaporation, infiltration, or emergency bypass.

"Riparian" – A relatively narrow strip of land that borders a stream or river.

"Runon" – Storm water surface flow or other surface flow which enters property other than that where it originated.

"Runoff" – That part of precipitation, snow melt, or irrigation water that runs off the land into streams or other surface water.

"Single-Family Residential Parcel" – Any parcel of land containing a single-family dwelling unit.

"Source Control" – A practice or structural measure to prevent pollutants from entering storm water runoff or other environmental media.

"Storm Drainage Facilities" – Any facility, improvement, development, or property made for controlling storm water quantity and quality.

"Storm Drainage System" – All man-made storm drainage facilities and conveyances, and natural storm water drainage channels owned or maintained by the City that store, control, treat, and/or convey storm water.

"Storm Drainage Utility" or "Utility" – The utility created by this ordinance, which operates, maintains, regulates, and improves storm drainage facilities and programs within Bountiful City.

"Storm Water" – Runoff produced by precipitation events and snowmelt.

"Storm Water Pollution Prevention Plan (SWPPP)" – The set of drawings and other documents that comprise all the information and specifications for the programs, drainage systems, structures, BMPs, concepts and techniques intended to maintain or restore quality and quantity of storm water runoff to pre-development levels during and after construction.

"Swale" – An elongated depression in the land surface that is at least seasonally wet, is usually heavily vegetated, and is normally without flowing water. Swales direct storm water flows into primarily drainage channels and allow some of the storm water to infiltrate into the ground surface.

"Treatment Control BMP" – A BMP that is intended to remove pollutants from storm water.

"Undeveloped Parcel" – Any parcel that has not been altered by grading, filling, or construction.

"UPDES(Utah Pollutant Discharge Elimination System)" – means the State-wide program for issuing, modifying, revoking and reissuing, terminating, monitoring and enforcing permits, and imposing and enforcing pretreatment requirements under the Utah Water Quality Act (Title 19, Chapter 5, Utah Code Annotated). UPDES is described in the Rules of the Utah Administrative Code R317-8.

"Waters of the State" – All streams, lakes, ponds, marshes, water-courses, waterways, wells, springs, irrigation systems, drainage systems, and all other bodies or accumulations of water, surface and underground, natural or artificial, public or private, which are contained within, flow through, or border upon the state of Utah or any portion thereof, except that bodies of water confined to and retained within the limits of private property, and which do not develop into or constitute a nuisance, or a public health hazard, or a menace to fish and wildlife.

"Wetland" – An area that is regularly saturated by surface or ground water and subsequently characterized by a prevalence of vegetation that is adapted for life in saturated soil conditions. Examples include: swamps, bogs, marshes, and estuaries.

6-15-103. Storm Drainage Utility Created.

(a) There is hereby created and established a Bountiful City Storm Drainage Utility. All storm drainage facilities owned by the City constitute the physical assets of the Bountiful Storm Drain Utility.

(b) Responsibility of Administration.
The City Engineer shall administer, implement, and enforce the provisions of this chapter. Any powers granted or duties imposed upon the City may be delegated by the City Engineer to persons or entities

acting in the beneficial interest of or in the employ of the City.

(c) Ultimate Responsibility.
The standards set forth herein and promulgated pursuant to this ordinance are minimum standards; therefore this ordinance does not intend nor imply that compliance by any person will ensure compliance with federal regulations, or that there will be no contamination, pollution, nor unauthorized discharge of pollutants.

6-15-104. City Storm Drainage Utility facilities and assets.

The Utility shall operate, maintain, and improve all existing City storm drainage facilities used for the conveyance of storm waters, through, under or over lands or watercourses, beginning at a point where the storm waters first enter the storm drainage system of the city and ending in each instance at a point where the storm waters exit from the system. However, the utility does not include government-owned streets or those facilities operated and maintained by or for the County or the State of Utah.

5.6-15-106. System of rates and charges.

(a) Service fees imposed. The City will by resolution of the City Council impose storm drainage fee rates and charges on each parcel of real property within the City except governmentally-owned streets. The charges shall fund the administration, planning design, construction, water quality programming, operation, maintenance and repair of existing and future storm water facilities.

(b) Method of determining contribution of storm water.

(1) Contributions of storm water from non-residential parcels and residential parcels larger than four-unit buildings have been ascertained through aerial photography and by evaluating land surface and measuring the amount of impervious surface.

(2) Contributions of storm water from residential parcels up to and including four-unit buildings have been ascertained by sampling the amount of residential impervious areas.

(c) Storm drainage service fees shall be assessed on each parcel of real property within the City (including City-owned properties), except government-owned streets and City storm water facilities. Service fees shall be established by resolution of the City Council and may be differentiated according to the following classifications:

Residential parcels: Single-family residential parcels shall constitute one ERU per month.

Undeveloped parcels: Undeveloped parcels shall have no charges assessed.

Other parcels: Charges for all other parcels shall be computed by multiplying the total ERUs for a parcel by the monthly rate. Total ERUs are calculated by dividing total square feet of impervious surface by 3,828 (one ERU), rounded to the nearest half or whole number.

Credit for on-parcel mitigation: Non-residential parcels with mitigating storm water facilities, e.g. approved on-site detention/retention of storm water, approved discharge of storm water through a sewer connection or other approved and complete on-site detention methods that meet the City's design and

maintenance standards may be eligible for a service fee credit. The parcel's owner or agent must make application for this credit to the City Engineer. The amount of credit is based on the following formula:

$$P = 50 + 50 (Qr/Qp)$$

Formula symbols have the following meaning:

P = Percentage of storm drainage fees to be applied to the parcel
50 = Percentage representing Utility's fixed operation and maintenance costs
50 = Percentage representing costs for Utility's capital improvement program
Qr = Restricted storm water discharge from a parcel
Qp = Peak storm water discharge from the same parcel that would result if the mitigating facilities were not in place.

The City Engineer may, if requested, provide a complete on-site mitigation evaluation at the expense of the parcel's owner or authorized agent.

Credit for regional storm water mitigation: Non-residential parcels with mitigating storm water facilities, that serve the City's regional storm water needs as prescribed by the storm water master plan and utilizing methods that meet the City's design and maintenance standards, may be eligible for a service fee credit. The credit may be granted if property owners have not already been compensated for or agreed to construct the facilities as part the development process. The parcel's owner or agent must make application for this credit to the City Engineer.

If a request for mitigation credit is granted, the credit shall be applied to all charges from the time of the appealed billing, and will be reflected on the next billing thirty days after appeal is granted.

Credit for maintenance of long-term storm water controls: Non-residential properties with long-term storm water controls or measures that meet the city's standards for reducing storm water runoff pollution may be eligible for a service fee credit of up to 20%. The credit may be granted if the storm water controls are kept in effective operating condition as shown by an annual inspection report that must be provided to the city. The parcel's owner or agent must make application for this credit to the City Engineer annually.

Low income relief: A single family residential parcel owner who qualifies for the City's low income relief, as determined by resolution of the City Council and set forth in the fee schedule, may also be eligible for a reduction in the service charge for their parcel.

6-15-106. Billing and collection.

(a) Utility Enterprise Fund – This ordinance creates the Storm Drainage Utility Fund. All revenues received from storm drainage user fees shall be placed in the enterprise fund as a designated fund, to be left separate and apart from all other City funds. The collection, accounting, and expenditure of all storm water utility funds shall be in accordance with the Utah Uniform Fiscal Procedures Act.

(b) Billing – The City shall bill property owners for storm drainage utility services. Billing amounts shall be included as a separate line item on utility bills. A billing will also be sent to owners of parcels within the city who are not City utility customers.

(c) Collection – Partial payments on a combined utility bill shall be applied consistent with the billing

procedures established by the City. Fees and charges shall be considered delinquent if not paid as determined by the procedures established by the City and will be a debt to the City, which shall be subject to recovery in a civil action. Pursuant to 10-8-38 Utah Code Ann., the City may cause the water service to the property to be shut off for failure to pay for the storm drainage service furnished, as set forth on the billing.

6-15-107. Appeal of charges.

(a) Any non-residential customer who disagrees with the storm drainage user fee for his or her parcel may apply to the City Engineer for a user fee adjustment. The adjustment request must state the grounds for adjustment and must be filed in writing with the City Engineer no later than thirty days after receipt of billing. The City Engineer shall review the request and basis for user charges to determine whether an error was made in the calculation or application of the fee.

(b) An appeal of a City Engineer's decision may be brought before the City Manager within thirty days after the date of the City Engineer's decision. The decision of the City Manager is final and conclusive. If an appeal of charges is successful, credit will be applied to all charges from the time of the appealed billing, and will be reflected on a future billing after the appeal is granted.

6-15-108. Prohibitions.

It is unlawful for any person to:

(a) Track mud or sediment onto public streets by construction or delivery vehicles. Provisions shall be made at all construction sites to clean the vehicles before vehicles leave the site.

(b) Washout concrete trucks at sites other than pre-approved designated areas. Dumping of excess concrete shall not be allowed.

(c) Stockpile construction or yard improvement materials or debris in the street or in the gutter. This includes but is not limited to ramps being constructed for temporary access across the existing curb and gutter; stockpiling of topsoil or other fill material; stockpiling of sand, gravel, landscape rock, bark, mulch or any other material that may be considered a source of pollution in the storm water system.

6-15-109. Illicit discharges.

(a) No person shall discharge or cause or allow to be discharged into the municipal storm drain system or watercourses any materials, including but not limited to pollutants or waters containing any pollutants that cause or contribute to a violation of applicable water quality standards, other than storm water.

(b) The commencement, conduct or continuance of any discharge to the storm drain system is prohibited except as described as follows:

(1) water line flushing or other potable water sources,

(2) landscape irrigation or lawn watering,

(3) diverted stream flows,

(4) rising ground water,

(5) ground water infiltration to storm drains,

(6) uncontaminated pumped ground water,

(7) foundation or footing drains,

(8) crawl space pumps,

(9) air conditioning condensation,

(10) springs,

(11) individual residential washing of vehicles,

(12) natural riparian habitat or wet-land flows,

(13) swimming pools (if dechlorinated to less than one PPM chlorine),

(14) residual street wash water

(15) emergency fire fighting activities,

(16) discharges specified in writing by the authorized enforcement agency as being necessary to protect public health and safety.

(17) Dye testing is an allowable discharge, but requires a verbal notification to the authorized enforcement agency prior to the time of the test.

(c) The prohibition shall not apply to any non-storm water discharge permitted under a UPDES permit, waiver, or waste discharge order issued to the discharger and administered under the authority of the State of Utah, provided that the discharger is in full compliance with all requirements of the permit, waiver, or order and other applicable laws and regulations, and provided that written approval has been granted for any discharge to the storm drain system.

(d) This prohibition expressly includes, without limitation, illicit connections made in the past, regardless of whether the connection was permissible under law or practices applicable or prevailing at the time of connection.

(e) This prohibition expressly includes, without limitation, connections of sanitary sewer lines to the MS4.

6-15-110. Development Storm Water Discharge Permit Required .

(a) Owners and operators of any development or re-development sites within the jurisdictional limits of the City which disturb one acre or more of surface area, or are part of a common plan of development that disturbs one acre or more and have not passed a final storm water inspection for notice of termination are required to obtain a Storm Water Discharge Permit from the City.

(b) No person shall be granted a storm water discharge permit without the approval of a Storm Water Pollution Prevention Plan by the City Engineer.

(c(c) A storm water discharge permit will only be approved where storm drains have adequate capacity for the accommodation of such water.

(d) No storm water discharge permit is required for the following activities:

(1) Any emergency activity that is immediately necessary for the protection of life, property, or natural resources.

(2) Existing nursery and agricultural operations conducted as a permitted main or accessory use.

(3) Activities at construction sites which qualify for a Rainfall Erosivity Waiver according to the current UPDES Storm Water General Permit for Construction Activites.Additions or modifications to existing single-family structures unless otherwise specifically required in this chapter.

6-15-111. Permit Application Requirements

(a) Application for a construction storm water discharge permit shall be filed with the City Engineer. Applicants are required to obtain a permit prior to commencement of work. Each permit application shall bear the name and address and contact information of the owner of the site, developer of the site, contractor(s) working at the site, and of any consulting firm retained by the applicant. The application shall be accompanied by a filing fee and a site specific storm water pollution prevention plan.

(b) The applicant is required to file a letter of credit or cash deposit in an amount deemed sufficient by the Engineering Department to cover all costs of implementation and maintenance of the approved Storm Water Pollution Prevention Plan including costs for improvements, landscaping, and maintenance of improvements for such period as specified by the city, and also to cover engineering and inspections costs and the cost to repair improvements installed on the site and damaged by uncontrolled erosion and sediment from the construction site.

6-15-112. Permit Fees.

(a) The City shall charge and the Permittee shall pay upon issuance of the permit, fees for costs associated with the work performed under the permit. Such costs could include costs for reviewing the project and issuing the permit, inspections of the project, deterioration of existing Public Improvements or diminution of the useful life of existing Public Improvements, and other costs to the City associated with the work to be done under the permit. All costs shall be assessed in a non-discriminatory manner.

(b) The City Engineer may reduce or waive permit fees or penalties or portion thereof provided for in this Chapter, when he/she determines that such permit fee or penalty:

(1) pertains to construction or rehabilitation of housing for Persons whose income is below the median income level for the City; or
(2) pertains to work by a contractor on City owned systems at the request of the City.

(c) Additional charges to cover the reasonable cost and expenses of any required engineering review, inspection, and work site restoration associated with each undertaking may be charged by the City to each Permittee, in addition to the initial permit fee.

(d) The fee structure for review of any storm water discharge permit application shall be established by the City Engineer. All of the monetary contributions shall be credited to a local budgetary category to support local plan review, inspection and program administration, and shall be made prior to the issuance of any permit for the development.

6-15-113. Permit - Contents - Duration and Extensions.

(a) Each permit application shall state the estimated starting and completion dates of construction. Work shall be completed within a reasonable period of time from the starting date or as determined by the City Engineer. Such determination shall be based upon factors reasonable related to the work to be performed under the permit. Such factors may include, in addition to other factors related to the work to be performed, the following:

(1) The scope of work to be performed under the permit;

(2) Protecting existing public improvements impacted by the work;

(3) The seasons of the year during which the work is to be performed as well as the current weather and its impact on public safety and the environment.

The City Engineer shall be notified by the Permittee of commencement of the work a minimum of twenty-four hours prior to commencing work. The permit shall be valid for the time period specified in the permit or as amended.

(b) If the work is not completed during such period, prior to the expiration of the permit, the Permittee may apply to the City Engineer for an additional permit or an extension, which may be granted by the City Engineer for good cause shown. The length of the extension requested by the Permittee shall be subject to the approval of the City Engineer.

(c) The Storm Water Pollution Prevention Plan shall be amended as required for an extension.

6-15-114. Permit - No Transfer or Assignment.

Permits shall not be transferable or assignable, and work shall not be performed under a permit in any place other than that specified in the permit. Nothing herein contained shall prevent a Permittee from subcontracting the work to be performed under a permit; provided, however, that the holder of the permit shall be and remain responsible for the performance of the work under the permit, and for all bonding, insurance and other requirements of this Chapter and under said permit. Subcontractors shall also be appropriately licensed, insured and bonded.

6-15-115. Storm Water Pollution Prevention Plan

(a) A Storm Water Pollution Prevention plan shall be required with all permit applications providing for

erosion and sediment control and storm water management during the land disturbing activity and after the activity has been completed. The Storm Water Pollution Prevention Plan must meet the requirements of the current UPDES Storm Water General Permit for Construction Activities. The Storm Water Pollution Prevention Plan shall be prepared in accordance with the checklist provided by the Engineering Department and must be certified by a professional engineer.

(b) For development or redevelopment occurring on a previously developed site, an applicant shall be required to include within the Storm Water Pollution Prevention Plan measures for controlling existing storm water runoff discharges from the site in accordance with the standards of this Ordinance.
(b) Failure of the

6-15-116. Long-Term Storm Water Management Requirements

Controlling Peak Runoff from Sites. All site designs shall establish storm water management practices to control the peak flow rates of storm water discharge associated with specified design storms having a 10-year return frequency or a 25-year return frequency if located in the Residential Foothill subzone. These practices shall mirror pre-development peak runoff from the site.
Owners and operators of development and re-development sites within the jurisdictional limits of the City which disturb one acre or more of surface area, or are part of a common plan of development that disturbs one acre or more and have not passed a final storm water inspection for notice of termination are required to meet the following requirements:

(a) Controlling Runoff Volume from New Development Sites. New development projects must manage on-site and prevent the off-site discharge of the precipitation from all rainfall events less than or equal to the 80th percentile rainfall event by the use of practices that infiltrate, evapotranspire, and/or harvest rainwater.

(b) Controlling Runoff Volume from Redevelopment Sites. Redevelopment projects must be developed such that either:

(1) There is no more than 10% increase to impervious surface area at project completion; or

(2) At project completion the net increase in volume associated with precipitation from all rainfall events less than or equal to the 80th percentile rainfall event is managed on site by the use of practices that infiltrate, evapotranspire, and/or harvest rainwater.

(c) Additional Storm Water Design Requirements. Storm water discharges from land uses or activities with higher potential pollutant loadings, as determined by the City Engineer, may require the use of specific structural best management practices and pollution prevention practices based on policy established by the City Engineer. Prior to design, applicants are required to consult with the Engineering Department to determine if they are subject to additional storm water design requirements.

6-15-117 Storm Water Management Design Criteria

(a) Peak Runoff Calculations. Hydrologic design calculations for the pre-development and post-development conditions must show that the proposed storm water management measures are capable of controlling runoff from the site in compliance with this ordinance based on specified design storms. A description and source of all parameters used in the calculations shall be included. The calculations should be based on one of the following:

(1) Rational Method

(2) National Resources Conservation Service (NRCS) Method

(3) Unit Hydrograph derived from locally-observed data
(4) Any methodology as approved by the city engineer

(b) Retention Volume Calculations. Calculations used to determine Retention Volumes including the 80th Percentile Storm Depth, Project Volume Retention Goal, Water Quality Volume, and Volumetric Runoff Coefficient shall be based on methods described in the current edition of the Utah Division of Water Quality publication: *A Guide to Low Impact Development within Utah*,

(c) Practices used for the on-site management of precipitation and specific design performance criteria shall be according to a list of approved practices provided by the Engineering Department.

(d) Design Feasibility. All site designs shall be within feasibility constraints as determined by the City Engineer. A list of feasibility constraints will be provided by the Engineering Department.

If the standard to control runoff volume on a site is not feasible due to constraints, then said standard must be met to the maximum extent feasible and an alternative treatment design shall be provided for all runoff under said standard that is not controlled on site.

(e) Soils Information: If a storm water management control measure fundamentally depends on the hydrologic properties of soils (e.g., infiltration basins), then a soils report shall be submitted. The soils report shall be based on on-site boring logs or soil pit profiles and soil survey reports.

(d) Maintenance Agreements. All storm water treatment facilities shall have an enforceable operation and maintenance agreement to ensure the system functions as designed. The agreement shall include:

(1) Provisions allowing for access, inspections, and corrective action
(2) Provisions for the Engineering Department to notify the responsible party if storm water facilities are found to contain any defects or are not being adequately maintained;.

(4) Provide that if the property is not maintained or repaired within the prescribed schedule, the City Engineer may perform the maintenance and repair at its expense, and assess the owner(s) of the facility for the cost of necessary work and any penalties; and

(5) Any other provisions necessary to accomplish the goals of this Chapter as determined by the City Engineer.

6-15-118 Storm Water Discharge Permit Waiver.

(a) Every applicant shall provide for storm water management as required by this chapter unless a written request is filed to waive this requirement. Requests to waive the storm water management requirements shall be submitted to the City Engineer for approval.

(b) The minimum requirements for storm water management may be waived in whole or in part upon written request of the applicant, provided that at least one of the following conditions applies:

(1) It can be demonstrated that the proposed development is not likely to impair attainment of the objectives of this ordinance.

(2) Provisions are made to manage storm water by an off-site facility. The off-site facility is required to be in place, to be designed and adequately sized to provide a level of storm water control that is equal to or greater than that which would be afforded by on-site practices and there is a legally obligated entity responsible for long-term operation and maintenance of the facility.

The amount of credit available for using such non-structural practices shall be determined by the (c) In instances where one of the conditions above applies, the City Engineer may grant a waiver from strict compliance with these storm water management provisions, as long as acceptable mitigation measures are provided. However, to be eligible for a waiver, the applicant must demonstrate to the satisfaction of the City Engineer that the waiver will not result in the following impacts to downstream waterways:

(1) Deterioration of existing culverts, bridges, dams, and other structures;

(2) Degradation of biological functions or habitat;

(3) Accelerated streambank or streambed erosion or siltation;

(4) Increased threat of flood damage to public health, life, property

(d) Furthermore, where compliance with minimum requirements for storm water management is waived, the applicant will satisfy the minimum requirements by meeting one of the mitigation measures selected by the city. Mitigation measures may include, but are not limited to, the following:

(1) The purchase and donation of privately owned lands, or the grant of an easement to be dedicated for preservation and/or reforestation. These lands should be located adjacent to the stream corridor in order to provide permanent buffer areas to protect water quality and aquatic habitat,

(2) The creation of a storm water management facility or other drainage improvements on previously developed properties, public or private, that currently lack storm water management facilities designed and constructed in accordance with the purposes and standards of this ordinance,

(3) Monetary contributions (Fee-in-Lieu) to fund storm water management activities such as research and studies (e.g., regional wetland delineation studies, stream monitoring studies for water quality and macroinvertebrates, stream flow monitoring, threatened and endangered species studies, hydrologic studies, and monitoring of storm water management practices.)

(e) Fee in Lieu of Storm Water Management Practices. Where the Engineering Department waives all or part of the minimum storm water management requirements, or where the waiver is based on the provision of adequate storm water facilities provided downstream of the proposed development, the applicant shall be required to pay a fee in an amount as determined by the Engineering Department. When an applicant obtains a waiver of the required storm water management, the monetary contribution required shall be in accordance with a fee schedule (unless the developer and the storm water authority agree on a greater alternate contribution) established by the Engineering Department, and based on the cubic feet of storage required for storm water management of the development in question. All of the monetary contributions shall be credited to an appropriate capital improvements program project, and

shall be made by the developer prior to the issuance of any building permit for the development.

(f) Dedication of Land. In lieu of a monetary contribution, partially or totally, an applicant may obtain a waiver of the required storm water management by entering into an agreement with the City Engineer for the granting of an easement or the dedication of land by the applicant, to be used for the construction of an off-site storm water management facility. The agreement shall be entered into by the applicant and the City Engineer prior to the recording of plats or, if no record plat is required, prior to the issuance of the building permit.

6-15-119. Review and Approval

(a) The Engineering Department will review each application to determine its conformance with the provisions of this regulation. Within 30 days after receiving an application, the Engineering Department shall, in writing:

(1) Approve the permit application;

(2) Approve the permit application subject to such reasonable conditions as may be necessary to secure substantially the objectives of this regulation, and issue the permit subject to these conditions; or

(3) Disapprove the permit application, indicating the reason(s) and procedure for submitting a revised application and/or submission.

(b) Failure of the Engineering Department to act on an original or revised application within the specified time period shall authorize the applicant to proceed in with the plans as filed unless such time is extended by agreement between the applicant and the Engineering Department.

6-15-120. Inspection

(a) Field inspections shall be conducted by the Engineering Department or other designated agent as outlined in the inspection checklist provided by the Engineering Department.

(b) Where it is necessary to make an inspection to enforce the provisions of this ordinance, or where the City Engineer has reasonable cause to believe that there exists upon a premises a condition which is contrary to or in violation of this ordinance the City Engineer or designee is authorized to enter the premises at reasonable times to inspect or to perform the duties imposed by this ordinance, provided that if such premises be occupied that credentials be presented to the occupant and entry requested. If such premises be unoccupied, the City Engineer shall first make a reasonable effort to locate the owner or other person having charge or control of the premises and request entry. If entry is refused, the City Engineer shall have recourse to the remedies provided by law to secure entry.

6-15-121. As Built Plans

All applicants are required to submit actual "as built" plans for any storm water management practices located on-site after final construction is completed. The plan must show the final design specifications and maintenance requirements for all storm water management facilities and must be certified by a professional engineer. A final inspection by the Engineering Department is required before the release of

any performance securities can occur.

6-15-122. Enforcement

(a) Stop-Work Order; Revocation of Permit. In the event that any person holding a building permit or site development permit pursuant to this ordinance violates the terms of the permit or implants site development in such a manner as to materially adversely affect the health, welfare, or safety of persons residing or working in the neighborhood or development site so as to be materially detrimental to the public welfare, environment, or injurious to property or improvements in the neighborhood, the Engineering Department may suspend or revoke the site development permit and/or building permit.

(b) Violation and Penalties. Whenever the Engineering Department finds that a person has violated a prohibition or failed to meet a requirement of this Ordinance, the authorized enforcement agency may order compliance by written notice to the responsible person or property owner. Such notice may require, without limitation:

(1) The performance of monitoring, analyses, and reporting;

(2) The elimination of illicit connections or discharges;

(3) That violating discharges, practices, or operations shall cease and desist;

(4) The abatement or remediation of storm water pollution or contamination hazards and the restoration of any affected property;

(5) Payment of a fine to cover administrative and remediation costs; and

(6) The implementation of source control or treatment BMPs.

(c) Any person violating any of the provisions of this ordinance shall be deemed guilty of a Class C misdemeanor and each day during which any violation of any of the provisions of this ordinance is committed, continued, or permitted, shall constitute a separate offense.

(d) Any work done or condition created or allowed, in violation of this ordinance is hereby declared to be a public nuisance, which may be abated by a civil legal action by the City Attorney.

6-15-123. Appeals

Any enforcement action taken by the City Engineer according to this Chapter may be appealed to the City Manager by filing a written notice of appeal within ten days of the action of the City Engineer. The City Manager shall hear such appeal, and render his/her decision within 14 days following notice of such appeal.

Chapter 16: Flood Damage Prevention Ordinance

6-16-101. Statutory Authorization, Findings of Fact, Purpose and Methords.

(a) Statutory Authorization. The Legislature of the State of Utah has in Section 10-8-38 of the Utah Code delegated the responsibility of local governmental units to adopt regulations designed to minimize flood losses. Therefore, the Bountiful City Council does hereby ordain as follows:

(b) Findings of Fact.

(1) The flood hazard areas of Bountiful, Utah, are subject to periodic inundation which may potentially result in loss of life and property, health and safety hazards, disruption of commerce and governmental services, and extraordinary public expenditures for flood protection and relief, all of which adversely affect the public health, safety and general welfare.

(2) These flood loses are created by the cumulative effect of obstructions in floodplains which cause an increase in flood heights and velocities, and by the occupancy of flood hazards areas by uses vulnerable to floods and hazardous to other lands because they are inadequately elevated, floodproofed or otherwise protected from flood damage.

(c) Statement of Purpose.

It is the purpose of this ordinance to promote the public health, safety and general welfare and to minimize public and private losses due to flood conditions in specific areas by provisions designed to:

(1) Protect human life and health;

(2) Minimize expenditure of public money for costly flood control projects;

(3) Minimize the need for rescue and relief efforts associated with flooding and generally undertaken at the expense of the general public;

(4) Minimize prolonged business interruptions;

(5) Minimize damage to public facilities and utilities such as water and gas mains, electric, telephone and sewer lines, streets and bridges located in flood plains;

(6) Help maintain a stable tax base by providing for the sound use and development of flood-prone areas in such a manner as to minimize future flood blight areas; and

(7) Insure that potential buyers are notified that property is in a flood area.

(d) Methods of Reducing Flood Losses

(1) In order to accomplish its purposes, this ordinance uses the following methods:

(2) Restrict or prohibit uses that are dangerous to health, safety or property in times of flood, or cause excessive increases in flood heights or velocities;

(3) Require that uses vulnerable to floods, including facilities which serve such uses, be protected against flood damage at the time of initial construction;

(4) Control the alteration of natural floodplains, stream channels, and natural protective barriers, which are involved in the accommodation of flood waters;

(5) Control filling, grading, dredging and other development which may increase flood damage;

(6) Prevent or regulate the construction of flood barriers which will unnaturally divert flood waters or which may increase flood hazards to other lands.

6-16-102. Definitions.

Unless specifically defined below, words or phrases used in this ordinance shall be interpreted to give them the meaning they have in common usage and to give this ordinance its most reasonable application.

ALLUVIAL FAN FLOODING - means flooding occurring on the surface of an alluvial fan or similar landform which originates at the apex and is characterized by high-velocity flows; active processes of erosion, sediment transport, and deposition; and unpredictable flow paths.

APEX - means a point on an alluvial fan or similar landform below which the flow path of the major stream that formed the fan becomes unpredictable and alluvial fan flooding can occur.

AREA OF SHALLOW FLOODING - means a designated AO, AH, or VO zone on a community's Flood Insurance Rate Map (FIRM) with a one percent chance or greater annual chance of flooding to an average depth of one to three feet where a clearly defined channel does not exist, where the path of flooding is unpredictable and where velocity flow may be evident. Such flooding is characterized by ponding or sheet flow.

AREA OF SPECIAL FLOOD HAZARD - is the land in the floodplain within a community subject to a one percent or greater chance of flooding in any given year. The area may be designated as Zone A on the Flood Hazard Boundary Map (FHBM). After detailed ratemaking has been completed in preparation for publication of the FIRM, Zone A usually is refined into Zones A, AE, AH, AO, A1-99, VO, V1-30, VE or V.

BASE FLOOD -means the flood having a one percent chance of being equaled or exceeded in any given year.

BASE FLOOD ELEVATION (BFE) - The elevation shown on the Flood Insurance Rate Map for zones AE, AH, A1-A30, AR, AR/A, AR/AE, AR/A1-A30, AR/AH, AR/AO, V1-V30, and VE that indicates the water surface elevation resulting from a flood that has a one percent chance of equaling or exceeding that level in any given year.

BASEMENT - means any area of the building having its floor sub-grade (below ground level) on all sides.

CRITICAL FEATURE - means an integral and readily identifiable part of a flood protection system, without which the flood protection provided by the entire system would be compromised.

DEVELOPMENT -means any man-made change in improved and unimproved real estate, including but not limited to buildings or other structures, mining, dredging, filling, grading, paving, excavation or drilling operations or storage of equipment or materials.

LEVATED BUILDING -means a non-basement building (i) built, in the case of a building in Zones A1-30, AE, A, A99, AO, AH, B, C, X, and D, to have the top of the elevated floor, or in the case of a building in Zones V1-30, VE, or V, to have the bottom of the lowest horizontal structure member of the elevated floor elevated above the ground level by means of pilings, columns (posts and piers), or shear walls parallel to the floor of the water and (ii) adequately anchored so as not to impair the structural integrity of the building during a flood of up to the magnitude of the base flood. In the case of Zones A1-30, AE, A, A99, AO, AH, B, C, X, and D, "elevated building" also includes a building elevated by means of fill or solid foundation perimeter walls with openings sufficient to facilitate the unimpeded movement of flood waters. In the case of Zones V1-30, VE, or V, "elevated building" also includes a building otherwise meeting the definition of "elevated building," even though the lower area is enclosed by means of breakaway walls if the breakaway walls met the standards of Section 60.3(e)(5) of the National Flood Insurance Program regulations.

EXISTING CONSTRUCTION - means for the purposes of determining rates, structures for which the "start of construction" commenced before the effective date of the FIRM or before January 1, 1975, for FIRMs effective before that date. "Existing construction" may also be referred to as "existing structures."

EXISTING MANUFACTURED HOME PARK OR SUBDIVISION - means a manufactured home park or subdivision for which the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including, at a minimum, the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads) is completed before the effective date of the floodplain management regulations adopted by a community.

EXPANSION TO AN EXISTING MANUFACTURED HOME PARK OR SUBDIVISION-
means the preparation of additional sites by the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads).

FLOOD OR FLOODING -means a general and temporary condition of partial or complete inundation of normally dry land areas from:

1. the overflow of inland or tidal waters.
2. the unusual and rapid accumulation or runoff of surface waters from any source.

FLOOD INSURANCE RATE MAP (FIRM) - means an official map of a community, on which the Federal Emergency Management Agency has delineated both the areas of special flood hazards and the risk premium zones applicable to the community.

FLOOD INSURANCE STUDY - is the official report provided by the Federal Emergency Management Agency. The report contains flood profiles, water surface elevation of the base flood, as well as the Flood Boundary-Floodway Map.

FLOODPLAIN OR FLOOD-PRONE AREA - means any land area susceptible to being inundated by water from any source (see definition of flooding).

FLOODPLAIN MANAGEMENT - means the operation of an overall program of corrective and preventive measures for reducing flood damage, including but not limited to emergency preparedness plans, flood control works and floodplain management regulations.

FLOODPLAIN MANAGEMENT REGULATIONS - means zoning ordinances, subdivision regulations, building codes, health regulations, special purpose ordinances (such as a floodplain ordinance, grading ordinance and erosion control ordinance) and other applications of police power. The term describes such state or local regulations, in any combination thereof, which provide standards for the purpose of flood damage prevention and reduction.

FLOOD PROTECTION SYSTEM -means those physical structural works for which funds have been authorized, appropriated, and expended and which have been constructed specifically to modify flooding in order to reduce the extent of the areas within a community subject to a "special flood hazard" and the extent of the depths of associated flooding. Such a system typically includes hurricane tidal barriers, dams, reservoirs, levees or dikes. These specialized flood modifying works are those constructed in conformance with sound engineering standards.

FLOOD PROOFING - means any combination of structural and non-structural additions, changes, or adjustments to structures which reduce or eliminate flood damage to real estate or improved real property, water and sanitary facilities, structures and their contents.

FLOODWAY (REGULATORY FLOODWAY) - means the channel of a river or other watercourse and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than a designated height.

HIGHEST ADJACENT GRADE - means the highest natural elevation of the ground surface prior to construction next to the proposed walls of a structure.

HISTORIC STRUCTURE - means any structure that is:

1. Listed individually in the National Register of Historic Places (a listing maintained by the Department of Interior) or preliminarily determined by the Secretary of the Interior as meeting the requirements for individual listing on the National Register;

2. Certified or preliminarily determined by the Secretary of the Interior as contributing to the historical significance of a registered historic district or a district preliminarily determined by the Secretary to qualify as a registered historic district;

3. Individually listed on a state inventory of historic places in states with historic preservation programs which have been approved by the Secretary of Interior; or

4. Individually listed on a local inventory or historic places in communities with historic preservation programs that have been certified either:

a) by an approved state program as determined by the Secretary of the Interior; or

b) directly by the Secretary of the Interior in states without approved programs.

LEVEE -means a man-made structure, usually an earthen embankment, designed and constructed in accordance with sound engineering practices to contain, control, or divert the flow of water so as to provide protection from temporary flooding.

LEVEE SYSTEM -means a flood protection system which consists of a levee, or levees, and associated structures, such as closure and drainage devices, which are constructed and operated in accordance with sound engineering practices.

LOWEST FLOOR - means the lowest floor of the lowest enclosed area (including basement). An unfinished or flood resistant enclosure, usable solely for parking or vehicles, building access or storage in an area other than a basement area is not considered a building's lowest floor; provided that such enclosure is not built so as to render the structure in violation of the applicable non-elevation design requirement of Section 60.3 of the National Flood insurance Program regulations.

MANUFACTURED HOME - means a structure transportable in one or more sections, which is built on a permanent chassis and is designed for use with or without a permanent foundation when connected to the required utilities. The term "manufactured home" does not include a "recreational vehicle".

MANUFACTURED HOME PARK OR SUBDIVISION - means a parcel (or contiguous parcels) of land divided into two or more manufactured home lots for rent or sale.

MEAN SEA LEVEL -means, for purposes of the National Flood Insurance Program, the National Geodetic Vertical Datum (NGVD) of 1929 or other datum, to which base flood elevations shown on a community's Flood Insurance Rate Map are referenced.

NEW CONSTRUCTION - means, for the purpose of determining insurance rates, structures for which the "start of construction" commenced on or after the effective date of an initial FIRM or after December 31, 1974, whichever is later, and includes any subsequent improvements to such structures. For floodplain management purposes, "new construction" means structures for which the "start of construction" commenced on or after the effective date of a floodplain management regulation adopted by a community and includes any subsequent improvements to such structures.

NEW MANUFACTURED HOME PARK OR SUBDIVISION - means a manufactured home park or subdivision for which the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including at a minimum, the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads) is completed on or after the effective date of floodplain management regulations adopted by a community.

RECREATIONAL VEHICLE - means a vehicle which is:

1. built on a single chassis;
2. 400 square feet or less when measured at the largest horizontal projections;
3. designed to be self-propelled or permanently towable by a light duty truck; and
4. designed primarily not for use as a permanent dwelling but as temporary living quarters for recreational, camping, travel, or seasonal use.

SPECIAL FOOD HAZARD AREA (SFHA) -An area having special flood, mudflow, or flood-related erosion hazards, and shown on a Flood Hazard Boundary Map or a Flood Insurance Rate Map as Zone A, AO, A1-A30, AE, A99, AH, AR, AR/A, AR/AE, AR/AH, AR/AO, AR/A1-A30, V!-V30, VE or V. For the purpose of determining Community Rating System premium discounts, all AR and A99 zones are treated as non-SFHAs.

START OF CONSTRUCTION - (for other than new construction or substantial improvements under the Coastal Barrier Resources Act (Pub. L. 97-348)), includes substantial improvement and means the date the building permit was issued, provided the actual start of construction, repair, reconstruction, rehabilitation, addition, placement, or other improvement was within 180 days of the permit date. The actual start means either the first placement of permanent construction of a structure on a site, such as the pouring of slab or footings, the installation of piles, the construction of columns, or any work beyond the stage of excavation; or the placement of a manufactured home on a foundation. Permanent construction does not include land preparation, such as clearing, grading and filling; nor does it include the installation of streets and/or walkways; nor does it include excavation for basement, footings, piers or foundations or the erection of temporary forms; nor does it include the installation on the property of accessory buildings, such as garages or sheds not occupied as dwelling units or not part of the main structure. For a substantial improvement, the actual start of construction means the first alteration of any wall, ceiling, floor, or other structural part of a building, whether or not that alteration affects the external dimensions of the building.

STRUCTURE - means a walled and roofed building, including a gas or liquid storage tank, that is principally above ground, as well as a manufactured home.

SUBSTANTIAL DAMAGE - means damage of any origin sustained by a structure whereby the cost of restoring the structure to its before damaged condition would equal or exceed 50 percent of the market value of the structure before the damage occurred.

SUBSTANTIAL IMPROVEMENT -means any reconstruction, rehabilitation, addition, or other improvement of a structure, the cost of which equals or exceeds 50 percent of the market value of the structure before "start of construction" of the improvement. This includes structures which have incurred "substantial damage", regardless of the actual repair work performed. The term does not, however, include either:

(1) Any project for improvement of a structure to correct existing violations of state or local health, sanitary, or safety code specifications which have been identified by the local code enforcement official and which are the minimum necessary conditions or

(2) Any alteration of a "historic structure", provided that the alteration will not preclude the structure's continued designation as a "historic structure."

VARIANCE - is a grant of relief to a person from the requirement of this ordinance when specific enforcement would result in unnecessary hardship. A variance, therefore, permits construction or development in a manner otherwise prohibited by this ordinance. (For full requirements see Section 60.6 of the National Flood Insurance Program regulations.)

VIOLATION - means the failure of a structure or other development to be fully compliant with the community's floodplain management regulations. A structure or other development without the elevation certificate, other certifications, or other evidence of compliance required is presumed to be in violation until such time as that documentation is provided.

WATER SURFACE ELEVATION - means the height, in relation to the National Geodetic Vertical Datum (NGVD) of 1929 (or other datum, where specified), of floods of various magnitudes and frequencies in the floodplains of coastal or riverine areas.

6-16-103. General Provisions.

(a) Lands to which this Ordinance applies.

The ordinance shall apply to all areas of special flood hazard within the jurisdiction of Bountiful City.

(b) Basis for establishing the areas of special flood hazard.

The areas of special flood hazard identified by the Federal Emergency Management Agency in the current effective scientific and engineering report entitled, "The Flood Insurance Study for Davis County, Utah" with accompanying Flood Insurance Rate Maps and Flood Boundary-Floodway Maps (FIRM and FBFM) and any revisions thereto are hereby adopted by reference and declared to be a part of this ordinance.

(c) Establishment of development permit. A Development Permit is required to ensure conformance with the provisions of this ordinance.

(d) Compliance. No structure or land shall hereafter be located, altered, or have its use changed without full compliance with the terms of this ordinance and other applicable regulations.

(e) Abrogation and greater restrictions.

This ordinance is not intended to repeal, abrogate, or impair any existing easements, covenants, or deed restrictions. However, where this ordinance and another ordinance, easement, covenant, or deed restriction conflict or overlap, whichever imposes the more stringent restrictions shall prevail.

(f) Interpretation.

In the interpretation and application of this ordinance, all provisions shall be:

1 considered as minimum requirements;
2 liberally construed in favor of the governing body; and
3 deemed neither to limit nor repeal any other powers granted under State statutes or City ordinances.

(g) Warning and disclaimer of liability.

The degree of flood protection required by this ordinance is considered reasonable for regulatory purposes and is based on scientific and engineering considerations. On rare occasions greater floods can and will occur and flood heights may be increased by man-made or natural causes. This ordinance does not imply that land outside the areas of special flood hazards or uses permitted within such areas will be free from flooding or flood damages. This ordinance shall not create liability on the part of the community or any official or employee thereof for any flood damages that result from reliance on this ordinance or any administrative decision lawfully made thereunder.

6-16-104. ADMINISTRATION

a) DESIGNATION OF THE FLOODPLAIN ADMINISTRATOR

The City Engineer or his authorized representative is hereby appointed the Floodplain

Administrator to administer and implement the provisions of this ordinance and other appropriate sections of 44 CFR (National Flood Insurance Program Regulations) pertaining to floodplain management.

(b) DUTIES & RESPONSIBILITIES OF THE FLOODPLAIN ADMINISTRATOR

Duties and responsibilities of the Floodplain Administrator shall include, but not be limited to, the following:

1 Maintain and hold open for public inspection all records pertaining to the provisions of this ordinance.

2 Review permit application to determine whether proposed building site, including the placement of manufactured homes, will be reasonably safe from flooding.

3 Review, approve or deny all applications for development permits required by adoption of this ordinance.

4 Review permits for proposed development to assure that all necessary permits have been obtained from those Federal, State or local governmental agencies (including Section 404 of the Federal Water Pollution Control Act Amendments of 1972, 33 U.S.C. 1334) from which prior approval is required.
5 Where interpretation is needed as to the exact location of the boundaries of the areas of special flood hazards (for example, where there appears to be a conflict between a mapped boundary and actual field conditions) the Floodplain Administrator shall make the necessary interpretation.
6 Notify, in riverine situations, adjacent communities prior to any alteration or relocation of a watercourse, and submit evidence of such notification to the Federal Emergency Management Agency.

7 Assure that the flood carrying capacity within the altered or relocated portion of any watercourse is maintained.
8 When base flood elevation data has not been provided in accordance with Article 3, Section B, the Floodplain Administrator shall obtain, review and reasonably utilize any base flood elevation data and floodway data available from a Federal, State or other source, in order to administer the provisions of Article 5.
9 When a regulatory floodway has not been designated, the Floodplain Administrator must require that no new construction, substantial improvements, or other development (including fill) shall be permitted within Zones A1-30 and AE on the community's FIRM, unless it is demonstrated that the cumulative effect of the proposed development, when combined with all other existing and anticipated development, will not increase the water surface elevation of the base flood more than one foot at any point within the community.
10 Under the provisions of 44 CFR Chapter 1, Section 65.12, of the National Flood Insurance Program regulations, a community may approve certain development in Zones A1-30, AE, AH, on the community's FIRM which increases the water surface elevation of the base flood by more than one foot, provided that the community **first** applies for a conditional FIRM revision through FEMA (Conditional Letter of Map Revision).

(c) PERMIT PROCEDURES

Application for a Development Permit shall be presented to the Floodplain Administrator on forms furnished by him/her and may include, but not be limited to, plans in duplicate drawn to scale showing the location, dimensions, and elevation of proposed landscape alterations, existing and proposed structures, including the placement of manufactured homes, and the location of the foregoing in relation to areas of special flood hazard. Additionally, the following information is required:
1 Elevation (in relation to mean sea level), of the lowest floor (including basement) of all new and substantially improved structures;
2 Elevation in relation to mean sea level to which any nonresidential structure shall be floodproofed;
3 A certificate from a registered professional engineer or architect that the nonresidential floodproofed structure shall meet the floodproofing criteria of Article 5, Section B(2);
4 Description of the extent to which any watercourse or natural drainage will be altered or relocated as a result of proposed development.
5 Maintain a record of all such information in accordance with Article 4, Section (B)(1).

Approval or denial of a Development Permit by the Floodplain Administrator shall be based on all of the provisions of this ordinance and the following relevant factors:
1 The danger to life and property due to flooding or erosion damage;
2 The susceptibility of the proposed facility and its contents to flood damage and the effect of such damage on the individual owner;
3 The danger that materials may be swept onto other lands to the injury of others;
4 The compatibility of the proposed use with existing and anticipated development;
5 The safety of access to the property in times of flood for ordinary and emergency vehicles;

6 The costs of providing governmental services during and after flood conditions including maintenance and repair of streets and bridges, and public utilities and facilities such as sewer, gas, electrical and water systems;
7 The expected heights, velocity, duration, rate of rise and sediment transport of the flood waters and the effects of wave action, if applicable, expected at the site;
8 The necessity to the facility of a waterfront location, where applicable;

9 The availability of alternative locations, not subject to flooding or erosion damage, for the proposed use;
10 The relationship of the proposed use to the comprehensive plan for that area.

(d) VARIANCE PROCEDURES

1 The appeal Board as established by the community shall hear and render judgment on requests for variances from the requirements of this ordinance.
2 The Appeal Board shall hear and render judgment on an appeal only when it is alleged there is an error in any requirement, decision, or determination made by the Floodplain Administrator in the enforcement or administration of this ordinance.
3 Any person or persons aggrieved by the decision of the Appeal Board may appeal such decision in the courts of competent jurisdiction.
4 The Floodplain Administrator shall maintain a record of all actions involving an appeal and shall report variances to the Federal Emergency Management Agency upon request.
5 Variances may be issued for the reconstruction, rehabilitation or restoration of structures listed on the National Register of Historic Places or the State Inventory of Historic Places, without regard to the procedures set forth in the remainder of this ordinance.
1 6. Variances may be issued for new construction and substantial improvements to be erected on a lot of one-half acre or less in size contiguous to and surrounded by lots with existing
2 structures constructed below the base flood level, providing the relevant factors in Section C(2) of this Article have been fully considered. As the lot size increases beyond the one-half acre, the technical justification required for issuing the variance increases.
6 Upon consideration of the factors noted above and the intent of this ordinance, the Appeal Board may attach such conditions to the granting of variances as it deems necessary to further the purpose and objectives of this ordinance (Article 1, Section C).
7 Variances shall not be issued within any designated floodway if any increase in flood levels during the base flood discharge would result.
8 Variances may be issued for the repair or rehabilitation of historic structures upon a determination that the proposed repair or rehabilitation will not preclude the structure's continued designation as a historic structure and the variance is the minimum necessary to preserve the historic character and design of the structure.
9 Prerequisites for granting variances:

a) Variances shall only be issued upon a determination that the variance is the minimum necessary, considering the flood hazard, to afford relief.
b) Variances shall only be issued upon:
    1) showing a good and sufficient cause;
    2) a determination that failure to grant the variance would result in exceptional hardship to the applicant, and
    3) a determination that the granting of a variance will not result in increased flood heights, additional threats to public safety, extraordinary public expense, create nuisances, cause fraud on or victimization of the public, or conflict with existing local laws or ordinances.
c) Any application to which a variance is granted shall be given written notice that the structure will be permitted to be built with the lowest floor elevation below the base flood elevation, and that the cost of flood insurance will be commensurate with the increased risk resulting from the reduced lowest floor elevation.

11. Variances may be issued by a community for new construction and substantial improvements and for other development necessary for the conduct of a functionally dependent use provided that:
a) the criteria outlined in Article 4, Section D(1)-(9) are met, and
b) the structure or other development is protected by methods that minimize flood damages

during the base flood and create no additional threats to public safety.

6-16-105. PROVISIONS FOR FLOOD HAZARD REDUCTION

(a) GENERAL STANDARDS

In all areas of special flood hazards all new construction, substantial improvements and manufactured homes shall be:

1 be designed (or modified) and adequately anchored to prevent flotation, collapse or lateral movement of the structure resulting from hydrodynamic and hydrostatic loads, including the effects of buoyancy;

2 be constructed by methods and practices that minimize flood damage;

3 be constructed with materials resistant to flood damage;

4 be constructed with electrical, heating, ventilation, plumbing, and air conditioning equipment and other service facilities that are designed and/or located so as to prevent water from entering or accumulating within the components during conditions of flooding.

5 be designed to minimize or eliminate infiltration of flood waters into the system;

6 be designed to minimize or eliminate infiltration of flood waters into the sanitary sewage system and discharge from the sanitary sewage systems into flood waters; and,

7 have any on site waste disposal systems located to avoid impairment to them or contamination from them during flooding.

(b) SPECIFIC STANDARDS

In all areas of special flood hazards where base flood elevation data has been provided as set forth in (i) Article 3, Section B, (ii) Article 4, Section B(8), or (iii) Article 5, Section C(3), the following provisions are required:

1 Residential Construction **-**new construction and substantial improvement of any residential structure shall have the lowest floor (including basement), elevated to or above the base flood elevation. A registered professional engineer, architect, or land surveyor shall submit a certification to the Floodplain Administrator that the standard of this subsection as proposed in Article 4, Section C(1)a., is satisfied.

2 Nonresidential Construction - new construction and substantial improvements of any commercial, industrial or other nonresidential structure shall either have the lowest floor (including basement) elevated to or above the base flood level or together with attendant utility and sanitary facilities, be designed so that below the base flood level the structure is watertight with walls substantially impermeable to the passage of water and with structural components having the capability of resisting hydrostatic and hydrodynamic loads and effects of buoyancy. A registered professional engineer or architect shall develop and/or review structural design, specifications, and plans for the construction, and shall certify that the design and methods of construction are in accordance with accepted standards of practice as outlined in this subsection. A record of such certification which includes the specific elevation (in relation to mean sea level) to which such structures are floodproofed shall be maintained by the Floodplain Administrator.

3 Enclosures - new construction and substantial improvements, with fully enclosed areas below the lowest floor that are usable solely for parking of vehicles, building access or storage in an area other than a basement and which are subject to flooding shall be designed to automatically equalize hydrostatic flood forces on exterior walls by allowing for the entry and exit of floodwaters. Designs for meeting this requirement must either be certified by a registered professional engineer or architect or meet or exceed the following minimum criteria:

a) A minimum of two openings having a total net area of not less than one square inch for every square foot of enclosed area subject to flooding shall be provided.

b) The bottom of all openings shall be no higher than one foot above grade.

c) Openings may be equipped with screens, louvers, valves, or other coverings or devices provided that they permit the automatic entry and exit of floodwaters.

4. **Manufactured Homes** -

a) Require that all manufactured homes to be placed within Zone A on a community's FHBM or FIRM shall be installed using methods and practices which minimize flood damage. For the purposes of this requirement, manufactured homes must be elevated and anchored to resist flotation, collapse, or lateral movement. Methods of anchoring may include, but are not limited to, use of over-the-top or frame ties to ground anchors. This requirement is in addition to applicable State and local anchoring requirements for resisting wind forces.

b) Require that manufactured homes that are placed or substantially improved within Zones A1-30, AH, and AE on the community's FIRM on sites (i) outside of a manufactured home park or subdivision, (ii) in a new manufactured home park or subdivision, (iii) in an expansion to an existing manufactured home park or subdivision, or (iv) in an existing manufactured home park or subdivision on which a manufactured home has incurred "substantial damage" as a result of a flood, be elevated on a permanent foundation such that the lowest floor of the manufactured home is elevated to or above the base flood elevation and be securely anchored to an adequately anchored foundation system to resist flotation, collapse, and lateral movement.

c) Require that manufactured homes be placed or substantially improved on sites in an existing manufactured home park or subdivision with Zones A1-30, AH and AE on the community's FIRM that are not subject to the provisions of paragraph (4) of this section be elevated so that either:

1) the lowest floor of the manufactured home is at or above the base flood elevation, or

2) the manufactured home chassis is supported by reinforced piers or other foundation elements of at least equivalent strength that are no less than 36 inches in height above grade and be securely anchored to an adequately anchored foundation system to resist flotation, collapse, and lateral movement.

5. **Recreational Vehicles -** Require that recreational vehicles placed on sites within Zones A1-30, AH, and AE on the community's FIRM either:

a) be on the site for fewer than 180 consecutive days,

b) be fully licensed and ready for highway use, or

c) meet the permit requirements of Article 4, Section C(1), and the elevation and anchoring requirements for "manufactured homes" in paragraph (4) of this section. A recreational vehicle is ready for highway use if it is on its wheels or jacking system, is attached to the site only by quick disconnect type utilities and security devices, and has no permanently attached additions.

(c) STANDARDS FOR SUBDIVISION PROPOSALS

1 All subdivision proposals including the placement of manufactured home parks and subdivisions shall be consistent with Article 1, Sections B, C, and D of this ordinance.
2 All proposals for the development of subdivisions including the placement of manufactured home parks and subdivisions shall meet Development Permit requirements of Article 3, Section C; Article 4, Section C; and the provisions of Article 5 of this ordinance.
1 3. Base flood elevation data shall be generated for subdivision proposals and other proposed development including the placement of manufactured home parks and subdivisions
2 which is greater than 50 lots or 5 acres, whichever is lesser, if not otherwise provided pursuant to Article 3, Section B or Article 4, Section B (8) of this ordinance.
3 All subdivision proposals including the placement of manufactured home parks and subdivisions shall have adequate drainage provided to reduce exposure to flood hazards.
4 All subdivision proposals including the placement of manufactured home parks and subdivisions shall have public utilities and facilities such as sewer, gas, electrical and water systems located and constructed to minimize or eliminate flood damage.

(d) STANDARDS FOR AREAS OF SHALLOW FLOODING (AO/AH ZONES)

Located within the areas of special flood hazard established in Article 3, Section B, are areas designated as shallow flooding. These areas have special flood hazards associated with base flood depths of 1 to 3 feet where a clearly defined channel does not exist and where the path of flooding is unpredictable and where velocity flow may be evident. Such flooding is characterized by ponding or sheet flow; therefore, the following provisions apply:

1 All new construction and substantial improvements of residential structures have the lowest floor (including basement) elevated above the highest adjacent grade at least as high as the depth number specified in feet on the community's FIRM (at least two feet if no depth number is specified).
2 All new construction and substantial improvements of non-residential structures;
3

a) have the lowest floor (including basement) elevated above the highest adjacent grade at least as high as the depth number specified in feet on the community's FIRM (at least two feet if no depth number is specified), or;

b) together with attendant utility and sanitary facilities be designed so that below the base flood level the structure is watertight with walls substantially impermeable to the passage of water and with structural components having the capability of resisting hydrostatic and hydrodynamic loads of effects of buoyancy.

1 A registered professional engineer or architect shall submit a certification to the Floodplain Administrator that the standards of this Section, as proposed in Article 4, Section C (1)a., are satisfied.
2 Require within Zones AH or AO adequate drainage paths around structures on slopes, to guide flood waters around and away from proposed structures.

(e) FLOODWAYS

Floodways - located within areas of special flood hazard established in Article 3, Section B, are areas designated as floodways. Since the floodway is an extremely hazardous area due to the velocity of flood waters which carry debris, potential projectiles and erosion potential, the following provisions shall apply:

1 Encroachments are prohibited, including fill, new construction, substantial improvements and other development within the adopted regulatory floodway *unless* it has been demonstrated through hydrologic and hydraulic analyses performed in accordance with standard engineering practice that the proposed encroachment would not result in any increase in flood levels within the community during the occurrence of the base flood discharge.
2 If Article 5, Section E (1) above is satisfied, all new construction and substantial improvements shall comply with all applicable flood hazard reduction provisions of Article 5.
3 Under the provisions of 44 CFR Chapter 1, Section 65.12, of the National Flood Insurance Regulations, a community may permit encroachments within the adopted regulatory floodway that would result in an increase in base flood elevations, provided that the community **first** applies for a conditional FIRM and floodway revision through FEMA.

6-16-106. Penalties.

No structure or land shall hereafter be constructed, located, extended, converted, or altered without full compliance with the terms of this ordinance and other applicable regulations. Violation of the provisions of this ordinance by failure to comply with any of its requirements (including violations of conditions and safeguards established in connection with conditions) shall constitute a class B misdemeanor for each violation. Nothing herein contained shall prevent Bountiful City from making such other lawful action as is necessary to prevent or remedy any violation.

Chapter 17: Public Utility Easements

6-17-101. Public Utility Easements.

Public utility easements may be vacated only by the Bountiful City Council.

Title 7

Reserved

Title 8
Public Health

Chapter 1: Disposition of Garbage

8-1-101. Spilling Garbage.

It is unlawful for any person transporting garbage, rubbish or other matter of any kind to permit, allow or cause it to fall and remain on any public street, public property, or upon the property of others.

8-1-102. Dumping Garbage.

It is unlawful to dump, deposit, leave, or permit to be dumped, deposited or left, any garbage, rubbish, tree clippings, cut grass or any other waste material at any location other than the Bountiful City Landfill without the consent of the landowner.

8-1-103. Bountiful City Landfill.

The City Council may by resolution establish one or more City landfills to be used for public or private dumping grounds. The Council may adopt rules and regulations with respect to the same, which may specify the location of the landfill and the kind or classes of material which may be dumped there. It is unlawful to dump, or to permit or cause to be dumped, any waste material at any place within the City which has not been approved by the City Council for such purpose.

8-1-104. City Garbage Collection Program.

(a) All residences in the City, including single family housing, and multiple family housing of less than eight units, shall have City garbage collection service available to them, and all shall be charged for the City's garbage collection service.

(b) Institutional, commercial and multiple family housing projects of eight or more units shall have such commercial garbage collection service as they may arrange.

(c) Rates to be charged for City garbage collection service shall be set by resolution of the City Council.

8-1-105. Cleaning Required of Vacated Premises.

Any person vacating a dwelling, business, detached building or any other structure or the immediate adjacent grounds, shall remove all garbage, trash, refuse, cut tree branches or other vegetation, or inoperable vehicles, and leave the property in a sanitary condition, withn 24 hours after vacating.

8-1-106. Placement of Garbage Containers for Collection.

Garbage containers shall not be placed in the street prior to the evening of the day before the day scheduled for garbage collection. All empty containers shall be removed from the street the same day as they are emptied.

Chapter 2: Animal Control

8-2-101. Comprehensive Animal Control Ordinance.

This Ordinance shall be known as the "Comprehensive Animal Control Ordinance of Bountiful".

8-2-102. Definitions.

ANIMAL. Any and all types of livestock, dogs and cats, and all other subhuman creatures, both domestic and wild, male and female, singular and plural.

ANIMAL SHELTER. Any facility owned or operated by a governmental entity or any animal welfare organization which is incorporated within the State of Utah for the purpose of preventing cruelty to animals and used for the care and custody of seized, stray, homeless, quarantined, abandoned, or unwanted dogs, cats, or other small domestic animals.

ANIMALS AT LARGE. An animal shall be considered to be "at large" when it is off the owners property and not under immediate control by means of a durable restraint device, capable to keeping the animal restrained; or animal on the property of the owner and not securely confined by a leash, building, fenced area, or appropriate transport device.

BITE. Any actual puncture, tear, or abrasion of the skin inflicted by the teeth of an animal.

CAT. Any age feline of the domesticated types.

CATTERY. An establishment for boarding, breeding, buying, grooming, or selling cats for profit.

DANGEROUS ANIMAL. Any animal that, according to the records of the Davis County Animal Control department, or other City or County Police agency and or officer;

(a) Has inflicted injury on a human being with or without provocation on public or private property, or

(b) has killed a domestic animal with or without provocation while off the owner's property, or

(c) has previously been found to be "Potentially Dangerous", the owner having received notice of such, and it is witnessed and documented that the animal aggressively bites, attacks or endangers the safety of humans or domestic animals, or

(d) the animal is found to be in violation of any of the restrictions placed upon the animal by the Department of Animal Control, pertaining to a Potentially Dangerous animal, as designated in this ordinance.

DOG. Any canis familiaris over four months of age. Any canis familiaris under the age of four months is a puppy.

ESTRAY. Any livestock found running at large, whose owner cannot be found after a reasonable search.

KENNEL. Land or buildings used in the keeping of three or more dogs, four months or older.

LIVESTOCK. Any normally domesticated animal that is not a cat, or dog, such as; cattle, sheep, goats, mules, burros, swine, horses, geese, ducks, turkeys, etc.

PET. A domesticated animal kept for pleasure rather than utility, including but not limited to, birds, cats, dogs, fish, hamsters, mice, and other animals associated with man's environment.

PET SHOP. Any establishment containing cages or exhibition pens, not part of the kennel or cattery, wherein dogs, cats, birds, or other pets for sale are kept or displayed.

POTENTIALLY DANGEROUS ANIMAL. Any animal that with or without provocation chases or approaches a person upon the streets, sidewalks, or any public grounds in a threatening or menacing fashion, or apparent attitude of attack, or any animal with a known propensity, tendency or disposition to attack with or without provocation. In addition a potentially dangerous animal is any animal that because of witnessed and documented action is believed capable of causing injury, or otherwise posing a threat to the safety of humans or domestic animals.

QUARANTINE. The isolation of an animal in a substantial enclosure so that the animal is not subject to contact with other animals or unauthorized persons.

RESTRAINT DEVICE. Any chain, leash, cord, rope or other device commonly used to restrain an animal.

RIDING SCHOOL OR STABLE. An establishment which offers boarding and/or riding instruction for any horse, pony, donkey, mule, or burro or which offers such animals for hire.

VICIOUS ANIMAL. Any animal which has

(a) inflicted severe injury on a human being with or without provocation on public or private property,

(b) has killed a domestic animal with or without provocation while off the owner's property, or

(c) has been previously found to be dangerous, the owner having received notice of such and the animal again bites, attacks, or endangers the safety of humans or domestic animals, or it is witnessed and documented that the animal is in violation of restrictions placed upon it as a potentially dangerous or dangerous animal pursuant to Sections 8-2-125 and 8-2-126 of this ordinance.

WILD ANIMAL. Any animal which is not commonly domesticated or which is of a wild or predatory nature, or any animal which, because of its size, growth propensity, vicious nature or other characteristics,

would constitute an unreasonable danger to human life, health, or property if not kept, maintained or confined in a safe and secure manner. Those animals, however domesticated, shall include but are not limited to:

(a) Alligators, crocodiles, caiman.

(b) Bears (ursidae). All bears including grizzly bears, brown bears, and black bears.

(c) Cat family (felidae). All except the commonly accepted domesticated cats; including cheetahs, cougars, leopards, lions, lynx, panthers, mountain lions, tigers, and wildcats.

(d) Dog family (canidae). All, except domesticated dogs, and including wolf, fox, coyote, and wild dingo. Any dog cross bred with a wild animal as described above shall be considered to be a wild animal.

(e) Porcupine.

(f) Primate. (All subhuman primates)

(g) Raccoon. (All varieties)

(h) Skunks.

(i) Venomous snakes or lizards.

(j) Weasels. (All, weasels, martins, wolverines, ferrets, badgers, otters, ermine, mink and mongoose, except that the possession of mink shall not be prohibited when raised commercially for their pelts, in or upon a properly constructed legally operated ranch.

8-2-103. Appointment of Animal Control Director.

Bountiful has contracted with Davis County concerning the enforcement of this Comprehensive Animal Control Ordinance. However, no such contract divests Bountiful City and its employees of any right or power of enforcement, and all actions of the Animal Control Director of Davis County and her agents as it affects the city of Bountiful shall be subject to the review and approval of the Bountiful City Manager.

8-2-104. Duties of Director

The Animal Control Director of Davis County shall have the following duties and responsibilities:

(a) The Director shall see that taxes and licenses imposed by this ordinance are collected and properly distributed.

(b) The Director shall supervise the collection of carcasses of all dead dogs and cats from the streets of participating communities, and shall supervise the delivery of them together with the carcasses of all animals put to death at the Animal Control Shelter, as hereinafter provided, to the North Davis Refuse Disposal site or such other place as designated by the Davis County Board of Commissioners.

(c) The Director shall keep an accurate account of all monies collected by the department and from whom all fees are collected from the sale of licenses, and all other services rendered by himself or his employees, and deliver the said funds to the Davis County Auditor as set forth in the County Financial Policy.

(d) The Director shall supervise the keeping of a register showing the breed, sex and color of each animal impounded, the date and reason for such impounding and the disposition of each impounded animal.

(e) The Director shall supervise the Animal Shelter and keep the same in a sanitary and orderly condition.

(f) The Director shall supervise the Animal Control Officers and other agents and employees of the Animal Control Department.

8-2-105. Powers and Authority of Animal Control Officials.

(a) The Animal Control Director or any person employed by the Department of Animal Control as an Animal control shall be vested with the power and authority to enforce this ordinance.

(b) The Animal Control Director, assistants, and Animal Control Officers are hereby authorized and empowered to apprehend and take with them and impound any animal found in violation of this ordinance, and all other duties prescribed in the enforcement of this ordinance.

8-2-106. Right of Entry for Enforcement

In the enforcement of this ordinance, all Peace officers or Animal Control officials or employees of the Davis County Health Department, are hereby authorized to enter onto the open premises of any person or entity to take possession of any animal in violation of this ordinance.

8-2-107. Interfering with Officers Prohibited

It is unlawful for any person to knowingly and intentionally interfere with the director or any Animal Control Officer in the lawful discharge of his duties as prescribed in this ordinance.

8-2-108. Licensing and Registration of Dogs

It is unlawful for any person to own, keep, harbor, or maintain a dog over the age of four months, without registering and obtaining a license for such dogs from the Animal Control Department or authorized vendor. All dogs brought into Davis County shall require registering and licensing within thirty days after they enter Davis County, or within thirty days after having reached the age of four months. The annual fee for all dog licenses shall be from time to time set by resolution by the board of County Commissioners. For any dog not registered within thirty days after having been brought into Davis County, or within thirty days of being four months old, the owner thereof will be required to pay an additional license "late fee" which shall be set from time to time by resolution of the board of County Commissioners. No dog shall be licensed as spayed or neutered without proof that the surgery has been performed.

Dog licenses shall be renewed each year, with each license being valid from the date of purchase for twelve consecutive months with the license expiration date one year from the date of purchase. Licenses not renewed within thirty days of expiration shall be subject to the applicable late fee.

8-2-109. Exemptions for Licensing.

The provisions of Section 6 of this ordinance shall not apply to the following:

(a) Licensed dogs whose owners are non-residents, temporarily (up to thirty days) within Davis County, provided however, that licensed dogs whose owners remain within Davis County longer than thirty days may transfer current license from another county to Davis County upon payment of a transfer fee and proof of current rabies vaccination.

(b) Individual dogs within a property licensed kennel or other such establishment.

(c) A person 60 years of age or older may, upon proof of age, obtain a dog license for an unsterilized dog or cat at a reduced rate as set from time to time by the Commission. A person 60 years of age or older may obtain a dog license for a spay or neutered dog for a one-time fee as established by the County Commission.

(d) "Seeing-eye" dogs properly trained to assist blind persons if such dogs are actually being used by the blind person to assist them in moving from place to place, or "Seeing eye" dogs registered in a recognized training program.

(e) "Hearing" dogs properly trained to assist deaf person if such dogs are actually used by deaf persons to aid them in responding to sounds.

(f) Dogs especially trained to assist officials of governmental agencies in the performance of their duties, and which are owned or maintained by such agencies.

Notwithstanding the foregoing, nothing in this section shall be construed so as to exempt any dog from having a current rabies vaccination every two years.

8-2-110. Tag and Collar Required.

Upon payment of the license fee, there shall be issued to the owner, a metallic tag for each dog so licensed. Every owner shall be required to provide each dog with a collar to which the license tag must be affixed, and shall see that the collar and tag are constantly worn. In the event a dog tag is lost of destroyed, a duplicate will be issued by the Animal Control Department upon presentation of a receipt showing the payment of the license fee for the current year, and payment of a fee to be set from time to time by the Board of County Commissioners. The license shall not be transferable from one dog to another and no refund shall be made on any dog license for any reason whatsoever.

8-2-111. Removal of Tag Unlawful

It is unlawful to remove from a registered dog its collar and/or its tag.

8-2-112. Kennel License.

It is unlawful for any person to operate or maintain a kennel without first obtaining a "Kennel license" from the Animal Control Department, which license shall be in addition to all other required zoning and health inspections and permits as required by City and State Law. Animal owners making application for a Kennel License shall first seek approval from the city or county zoning department, and an inspection approval from the Davis County Health Department. Upon notification from the health department that the kennel facility has been inspected and approved, Davis County Animal Control personnel will perform an additional and final inspection, and upon approval, issue a Kennel License. Kennel licenses shall also be valid for one year from the date of purchase. No kennel license shall be issued to any location where it is prohibited by zoning regulations.

8-2-113. Number of Dogs and/or Cats per Residence.

No person or persons at any one residence within the jurisdiction of this ordinance shall at any one time own, harbor, license or maintain more than two dogs and/or cats, except as otherwise provided in this chapter.

8-2-114. Regulatory Permits.

It is unlawful for any person to operate a boarding kennel, cattery, pet shop, groomery, riding stable, or any similar establishment, unless such person first obtains a regulatory permit from the Animal Control Department, which permit shall be in addition to all other required licenses. All applications for permits to operate such establishments shall be submitted together with the required permit fee on a printed form provided by the Animal Control Department. Before the permit is issued, approval shall be granted by the Davis County Health Department, and appropriate zoning authority and the Animal Control Division. Establishments in existence prior to the ratification of this ordinance shall obtain such regulatory permit with ninety days of written notification of the "Regulatory Inspector" that such a permit is necessary. Permits are not transferable to another person, business, owner or location.

8-2-115. Display of Permit.

A valid permit shall be posted in a conspicuous place in each establishment. The permittee shall notify the Animal Control Department with thirty days of any change of it's establishment, or operation which may affect the status of the permit. In the event of a change in ownership of the establishment, the permittee shall notify the department of Animal Control immediately.

8-2-116. Renewal of Permit.

Any permit issued pursuant to this section shall automatically expire one year immediately following the date of issue. Within two months prior to the date of expiration of the permit, the permittee shall apply for a renewal of the permit and pay the required fee. Any application made after the expiration date, except in application for a new establishment opening subsequent to that date shall be accompanied by a late application fee in addition to the regular permit fee.

8-2-117. Exemptions.

Research facilities where bona fide medical or related research is being conducted, humane shelters and other animal establishments operated by state or local government or which are licensed by federal law are excluded from the licensing requirements of this ordinance.

8-2-118. Inspections.

All establishments required to obtain a permit under this ordinance shall be subject to periodic inspections, and the inspector shall make a report of such inspection with a copy to be filed with the Department of Animal Control.

8-2-119. Suspension or Revocation of Permit.

(a) Grounds. A permit may be suspended or revoked or a permit application rejected on any one or more of the following grounds:

(1) Falsification of facts in a permit application,

(2) violation of any of the provisions of this ordinance or any other regulation governing the establishment, including noise, building and zoning ordinances, or maintaining or selling illegal species.

(3) Conviction of a charge of cruelty to animals.

(b) Procedure. If an inspection of any facility operating with a Regulatory permit reveals a violation of

this ordinance, the inspector shall notify the permit holder or operator of such violation by means of an inspection report form, or other written notice. The notification shall:

(1) Set forth the specific violation found.
(2) Establish a specific and reasonable period of time for the correction of the violation(s) found.

(3) State that any failure to comply with any notice issued in accordance with the provisions of this ordinance shall result in immediate suspension of the permit.

(4) State that an opportunity for an appeal from any notice of inspection finding shall be provided if a written request for hearing is filed with the Division of Animal Control within five days of the date of notice.

Upon request of a hearing, a minimum of five days notice shall be given to the permittee advising him the date and time of such hearing and listing the cause or causes for such suspension or revocation.

No new permit shall be issued to any person whose permit has been previously revoked except upon application for a new permit, accompanied by the required application fee and unless or until all requirements of this ordinance have been met.

Any permit granted under this ordinance may be suspended or revoked by the Animal Control Department for violations listed in this chapter.

8-2-120. Notice Served.

Notice provided for under this ordinance shall be deemed to have been properly served when the original of the inspection report form or other notice has been delivered personally to the permit holder or person in charge. Or such notice has been sent by certified mail to the last known address of the permit or license holder. A copy of such notice shall be filed with the records of the Department of Animal Control.

8-2-121. Nuisance Animals.

All persons having custody of animals shall exercise proper care and control of his/her animal(s) in order to prevent them from becoming a nuisance. Any owner or possessor of an animal who keeps such animal contrary to the provision of the ordinance shall be guilty of a Class C misdemeanor and subject to punishment under authority of this ordinance.

An animal shall be deemed to be a nuisance if the animal:

(a) Causes damage to the property of anyone other than it owner.

(b) Causes unreasonable odors.

(c) Causes unsanitary conditions

(d) Barks, whines, howls, or makes other disturbing noises for an extended period of time.

(e) Chases vehicles.

(f) Is an animal which has been impounded for being at large, or it's owner or possessor has been convicted for the dog being at large on three separate occasions within a twelve month period.

(g) Is an animal previously declared potentially dangerous or dangerous and is found in violation of restrictions placed on that dog by the Department of Animal Control.

(h) Charges, attacks, bites or injures a person or another animal off the owner's property with or without provocation.

8-2-122. Abatement of Public Nuisance Animals.

When it reasonably appears to the Animal Control Director that any animal is a nuisance as defined in this chapter, and that such nuisance should be abated, the Director shall first attempt to obtain the written consent of the animal's owner to abate the animal. Abatement shall be defined to include either relocating or euthanizing the animal. If the animal owner's consent cannot be readily obtained, the Animal Control Director may file a complaint with a court of competent jurisdiction charging the maintenance of a nuisance. The charge shall set forth the facts according to the best of the Director's information and belief, indicating that the owner is maintaining a nuisance. and the nuisance should be abated. Until such time as the owner may be summoned to appear before the court, the animal(s) may be taken into impound by the department of Animal Control and held there pending a decision by the court. If the complaint is denied, a hearing will be set purusant to the normal procedure of the court. If the court finds that the complaint of maintaining a nuisance has been proven, the Department will seek an order from the court setting out the method of abatement. Abatement by relocation shall not be an option if the animal represents a continuing threat of serious harm, such as in the case of a vicious dog. If relocation is ordered, the court may set whatever conditions are necessary to guarantee that the said animal shall not constitute a nuisance in the future.

In the event the court determines that the animal is a nuisance, the owner shall pay the cost of all impoundment fees, maintenance fees, or any other fee that may incur as a result of such impoundment.

8-2-123. Control and Fencing.

(a) It is unlawful for any person owning or having the custody, possession or control of any livestock to allow, either negligently or with specific intent, the livestock to run at large in or about a public property or roadway, where such is not permitted by law, or to otherwise permit the animal to be herded, pastured or to go upon the land of another without permission.

(b) All fencing of property where livestock are kept shall be of sufficient construction to prevent the escape of or injury to the animals being confined within the fencing. The fencing shall be maintained so that no part of such fence, absent extraordinary circumstances, may be broken, damaged or in any way create the possibility of injury to the confined livestock or to allow the escape thereof.

Failure to property confine any class of livestock shall constitute a violation of this section.

8-2-124. Female Dogs in Heat.

Except for planned breeding, any owner or person having charge, care, custody or control of any female dog in heat shall, in addition to restraining such dog from running at large, cause such dog to be constantly confined in a building or secure enclosure so as to prevent it from attracting by scent or coming into contact with other dogs, or creating a nuisance.

8-2-125. Possession of a Potentially Dangerous Animal.

Any person who owns or maintains a potentially dangerous animal shall use all reasonable means at his or her disposal to restrict a potentially dangerous animal from injuring any other person or animal. The Department of Animal Control may, at the discretion of the Director or his authorized agents, from time to

time impose specific restrictions regarding the housing of potentially dangerous animals.

8-2-126. Possession of Dangerous or Wild Animal.

(a) It is unlawful to own, harbor or maintain a dangerous or wild animal in any residential zone in the city.

(b) It is unlawful to own, harbor or maintain a dangerous or wild animal in any commercial zone in the city except a governmentally-owned animal shelter or a veterinarian office or hospital. In such cases, animals must be maintained by means of protective devices adequate to prevent such animals from escaping or injuring the public. Every facility controlling or maintaining such animals shall comply with all state and federal regulations regarding quarantine and vaccination as directed for each species. All such wild animals shall be kept under confinement on the premises, and shall be maintained in such a manner as to not endanger the life or limb of any persons lawfully entering such premises.

8-2-127. Animals at Large Prohibited.

It is unlawful for the owner or keeper of any animal to allow, permit or suffer such animal to run at large. Any animal at large is hereby declared to be a public nuisance which may be summarily abated by capture and removal by the City or its agents.

8-2-128. Allowing Domestic Fowls to Trespass Prohibited.

It is unlawful for the owner of any domestic fowls such as turkeys, ducks, geese, chickens, peacocks or any other variety of fowl to permit such fowls to trespass or go upon the premises of another or to run at large on any public property or roadway. Fowls kept and maintained by municipalities within the confines of public parks or aviaries are exempt, except that they shall not be allowed on public roadways.

8-2-129. Staking Animals Improperly on Unenclosed Premises.

It is unlawful for any person to chain, stake out or tether any animal on any unenclosed premises in such a manner that the animal may go beyond the property line unless such person has permission of the owner of the affected property. No animals are to be staked along public roadways and sidewalks.

8-2-130. Animal Waste.

The person having custody of an animal shall be responsible for the immediate removal of any excreta deposited by his animal on any public walk, recreation area, or private property other than that belonging to the owner of the animal. It is unlawful to fail to do so.

8-2-131. Impoundment Authorized.

The Animal Control Department shall place all animals which are taken into custody in a designated animal impound facility.

The following animals may be taken into custody and impounded as deemed necessary:

(a) Any animal being kept or maintained contrary to the provisions of this ordinance.

(b) Any animal running at large, with any reasonable means used to immobilize or capture such animal.

(c) Any animal which is by this ordinance required to be licensed and is not licensed; an animal not wearing a tag shall be presumed to be unlicensed for the purposes of this section.

(d) Sick or injured animals whose owner cannot be immediately located or whose owner requests impoundment and agrees to pay a reasonable fee for the services rendered.

(e) Any abandoned, neglected animal, whose safety may be threatened should the animal not be readily placed into protective custody.

(f) Animals which are not vaccinated for rabies in accordance with the requirements of this ordinance.

(g) Any animal needing to be held for quarantine.

(h) Any potentially dangerous or dangerous animal not properly confined as required by sections _____ and _ of this ordinance.

(i) Any animal in the custody of any person or persons who are arrested or otherwise detained by any police officer, in the event another responsible party cannot be located by the owner.

8-2-132. Impoundment/Recordkeeping Requirements.

The impounding facility shall keep a record of each animal impounded, which includes the following information;

(a) Complete description of the animal including any tag numbers.

(b) The manner and date of impound.

(c) The location of the pickup and identification number of the impounding officer.

(d) The manner and date of disposal.

(e) The name and address of the redeemer or purchaser.

(f) The name and address of any person relinquishing the animal.

(g) All fees received.

(h) All expenses accruing during impoundment.

8-2-133. Redemption Requirements.

(a) The owner of any impounded animal or his authorized representative may redeem such animal before disposition, provided he pays:

(1) The impound fees,

(2) The daily board charge,

(3) The veterinary costs incurred during the impound period,

(4) License fee, if applicable,

(5) A transportation fee if transportation of an impounded animal by specialized equipment is

required. "Specialized equipment" is that equipment, other than the usual patrol and operation vehicles of animal control, which is designed for specific purposes such as, but not limited to, livestock trailers and carcass trailers. This fee shall be determined by the Davis County Commission at a level which approximates the cost of utilizing the specialized equipment in the particular situation.

(6) Any other expenses incurred to impound an animal in accordance with state or local laws, including any reasonable restitution for property damage created by the animal, or that occurs as a result of the impoundment.

(b) The Davis County Commission, at the recommendation of the Director of Animal Control shall from time to time set impound fees and daily board charges for the impounding of animals. Such fees shall take into account the type of animal impounded.

8-2-134. Terms of Impoundment Destruction and Disposal of Animals.

(a) Animals shall be impounded for a minimum of three calendar days before further disposition unless the animal is wearing a license tag or other identification, in which case it shall be held a minimum of five calendar days. Reasonable effort shall be made to notify the owner of any animal wearing a license or other identification during that time. Notice shall be deemed given when sent to the last known address of the listed owner. Any animal voluntarily relinquished to the animal control facility by the owner thereof for destruction or other disposition need not be kept for the minimum holding period before release or other disposition as herein provided.

(b) All animals, except those quarantined or confined by court order, or those subject to Section 4-25-4, Utah Code Annotated, which are held longer than the minimum impound period, and all animals voluntarily relinquished to the impound facility, may be destroyed or disposed of as the Director of Animal Control shall direct. Any healthy dog or cat may be sold in compliance with the Davis County Animal Control Adoption Policy after payment of all applicable fees. Other small animals, not included as livestock may also be sold as determined by the director.

(c) Any licensed animal impounded and having or suspected of having serious physical injury or contagious disease, requiring medical attention may, at the discretion of the Animal Control Director, be released to the care of a Veterinarian with or without the consent of the owner.

(d) When, in the judgment of the Director of Animal Control, it is determined that an animal should be destroyed for humane reasons or to protect the public from imminent danger to persons or property, such animal may be destroyed without regard to any time limitation otherwise established in this ordinance, and without court order.

(e) The Animal Control Director or any of his agents may destroy an animal upon request of the owner without transporting the animal to County facilities. An appropriate fee shall be charged to the owner for the destruction and any subsequent disposal of the carcass done by the department of Animal Control.

(f) Cats may be dealt with in conformity with the Davis County Animal Service program under the "Community Cat Act" (Utah Code §11-46-301 et seq).

8-2-135. Declaration and Disposal of Vicious Animals.

If the Davis County Animal Control Director, his assistants, or authorized agents determine, as a result of witnessed incident, that an animal is potentially dangerous or dangerous, and find that the animal is in violation of such restrictions as the department deems necessary for the safety of persons and/or animals in

the community, the department may declare the animal to be a vicious animal. The department of Animal Control, including any officers or agents thereof, are hereby authorized to immediately take possession of the vicious animal and place the animal in a proper quarantine facility.

After placing the animal in the animal control facility, the Director shall first attempt to obtain the written consent of the animal's owner to destroy the animal in a humane manner. If the animal owner's consent cannot be readily obtained, the Animal Control Director shall file a complaint with the Circuit or District Court claiming that the animal is vicious and needs to be destroyed. If the court finds that the animal is vicious, then the Animal Control Department will seek an order from the Court allowing the Department to destroy the animal in a humane manner.

In the event the Court determines that the animal is a vicious animal, the owner shall pay the cost of all impoundment fees, maintenance fees, or any other fee that may be incurred as a result of such impoundment.

8-2-136. Animal Rabies Vaccination Requirements.

All dogs, cats or other animals susceptible to rabies for which a federally approved vaccine is available shall be vaccinated at six months of age by a licensed veterinarian or rabies clinic. Every dog shall be revaccinated every twenty four months and every cat revaccinated every twelve months thereafter. Any unvaccinated dog or cat over six months of age adopted or brought into the jurisdiction must likewise be vaccinated initially. Thereafter valid protection must be maintained.

8-2-137. Exception for Transient Animals.

The provisions of this chapter with respect to vaccination shall not apply to any animal owned by a person temporarily remaining within the jurisdictions for less than thirty days. Such animals shall be kept under strict supervision of the owner. It is unlawful to bring any animal into the jurisdiction which does not comply with the animal health laws and import regulations.

8-2-138. Vaccination Certification and Tags.

(a) It is the duty of each veterinarian, when vaccinating any animal for rabies, to complete a certificate of rabies vaccination, in duplicate, which includes the following information;

(1) Owner's name and address

(2) Description of the animal

(3) Date of vaccination

(4) Rabies vaccination tag number

(5) Type of vaccine administered

(6) Manufacturer's serial number of vaccine

(b) A copy of the certificate shall be distributed to the owner of the animal, and original retained by the issuing veterinarian. The veterinarian and the owner shall retain their copies of the certificate for the interval between vaccinations specified in this chapter.

(c) Additionally, a metal or durable plastic rabies vaccination tag, serially numbered, shall be securely attached to the collar or harness of the animal. An animal not wearing such a tag shall be deemed to be unvaccinated and may be impounded and dealt with pursuant to this ordinance.

8-2-139. Impoundment of Animals without Valid Vaccination Tags.

(a) Any vaccinated animal impounded because of a lack of a rabies vaccination tag may be reclaimed by it's owner by furnished proof of a rabies vaccination and payment of all impoundment fees prior to release.

(b) Any unvaccinated animal may be reclaimed prior to disposal by payment of impound fees and by obtaining a rabies vaccination within seventy-two hours of release.

(c) Any animal not reclaimed within the prescribed period of time shall be disposed of pursuant to provisions of Chapter 5.04.

8-2-140. Rabid Animal Reports.

Any person having knowledge of the whereabouts of an animal known to have been exposed to, or suspected of having rabies, or of an animal or person bitten by such a suspect animal, shall notify the division of Animal Control, or the State or Health Department.

8-2-141. Quarantine and Disposition of Biting or Rabid Animals.

(a) An animal that has rabies or shows signs of having rabies, and every animal bitten by another animal affected with rabies, or that has been exposed to rabies shall be reported by the owner as set forth above, and shall immediately be confined in a secure place by the owner. The owner shall turn over the animal to the Animal Control agents upon demand.

(b) The owner of any animal of species subject to rabies which has been bitten by another animal known to be capable of harboring the rabies virus, shall surrender the animal to an authorized official upon demand. Any person authorized to enforce this ordinance may enter upon private property to seize the animal, if the owner refuses to surrender the animal.

(c) Any animal of a species subject to rabies that bites a person or animal or is suspected of having rabies may be seized and quarantined for observation for a period of not less than ten days by the Animal Control Department. The owner of the animal shall bear the cost of the confinement. The animal shelter shall be the normal place for such quarantine, but other arrangements, including confinement by the owner may be made by the Animal Control Department, if the animal has current rabies vaccinations at the time the bite is inflicted, or if there are other special circumstances justifying an exception. A person who has custody of an animal under quarantine shall immediately notify the department of Animal Control if the animal shows any signs of sickness or abnormal behavior, or if the animal escapes confinement. It is unlawful for any person who has custody of a quarantined animal to fail or refuse to allow a health or Animal Control Officer to make an inspection or examination during the period of quarantine. If the animal dies within ten days from the date of the bite, the person having custody shall immediately notify the Animal Control Department in order that the department may immediately remove and deliver the head to the State Health Department. If at the end of the ten day period, an investigating officer of the Department of Animal Care and Control examines the animal and finds no sign of rabies, the animal may be released to the owner or, in the case of a stray, it shall be disposed of as provided in chapter 5.04.

(d) Unvaccinated Bitten Animals.

(1) In the case of an unvaccinated animal species subject to rabies, which is known to have been bitten by a known rabid animal, such bitten or exposed animal shall be immediately destroyed.

(2) If the owner is unwilling to destroy the bitten or exposed animal, the animal shall be immediately isolated and quarantined for six months under veterinary supervision, the cost of such confinement to be paid in advance by the owner. The animal shall be destroyed if

the owner does not comply herewith.

(e) Vaccinated Bitten Animals.

(1) If the bitten or exposed animal is currently vaccinated, as prescribed herein, the animal shall be revaccinated within twenty-four hours and quarantined for a period of thirty days following the revaccination; or

(2) If the animal is not revaccinated within 24 hours, the animal shall be isolated and quarantined under veterinary supervision for 6 months.

(3) The animal shall be destroyed if the owner does not comply with subdivisions 1 or 2 of this subsection (d), regarding exposure by known rabid animals.

(f) Removal of Quarantined Animal. It is unlawful for any person to remove any such animal from the place of quarantine without written permission of the Director of Animal Control.

8-2-142. Duty to Report Bites.

(a) Any person having knowledge of any individual or animal having been bitten by an animal of a species subject to rabies shall report the incident immediately to the department of Animal Control.

(b) The owner of an animal that bites a person and any person bitten by an animal shall report the bite to the department of Animal Control within 24 hours of the bite, regardless of whether or not the biting animal is of a species subject to rabies.

(c) A physician or other medical personnel who renders professional treatment to a person bitten by an animal, the bite of which might cause rabies, shall report the fact that he has rendered professional treatment to the Department of Animal Control within 24 hours of his first professional attendance. He shall report the name, sex, and address of the person bitten as well as the type and location of the bite. If known, he shall give the name and address of the owner of the animal that inflicted the bite, and any other facts that may assist the Animal Control Department.

(d) Any person treating an animal bitten, injured, or mauled by another animal shall report the incident to the Department of Animal Control. The report shall contain the name and address of the owner of the wounded, injured or bitten animal, the name and address of the owner and description of the animal which caused the injury, and the location of the incident.

(e) Any person not conforming with the requirements of this chapter shall be in violation of this ordinance.

8-2-143. Cruelty to Animals.

A person commits cruelty to animals when he:

(a) Causes one animal or fowl to fight with another.

(b) Intentionally or carelessly administers or applies any poisonous or toxic drug or any material injurious to tissues or organs to any animal or livestock, or procures or permits the same to be done, whether the animals be his own property or that of another. This provision shall not be interpreted so as to prohibit the use of poisonous substances for the control of vermin in furtherance of public health when applied in such a manner as to reasonably prohibit access to other animals.

(c) By act or omission causes pain, suffering, terror or torment, or if he injures, mutilates, or causes disease or death to any animal or fowl.

(d) Administers or applies or procures or permits the administration of application of any trapping mechanism, other than a live capture trap or exposes such a trapping mechanism to domestic animals or livestock, with the intent to harm or take the animal whether the animal be his own property or that of another. All set live capture traps shall be checked and emptied daily. All traps must have owner identification permanently affixed to them.

(e) Neglects or fails to supply such animal with necessary and adequate exercise, care, rest, food, drink, air, light, space, shelter, protection from the elements, and/or medical care.

(f) Raises, trains, purchases, or sells any animal or fowl for fighting or harbors fowl for fighting purposes, which has the comb clipped or the spur altered or who is in possession of an artificial spur.

(g) Is present as a spectator at any animal contest wherein one animal or fowl is caused to fight with another, or rents any building, shed, room, yard, ground, or premises for the purpose of holding such a contest between animals; or knowingly suffers or permits the use of any building, shed, room, yard, ground, or premises belonging to him or under his control for any of these purposes.

(h) Abandons an animal.

(i) Performs or causes to be performed any of the following operations:

(1) Inhumanely removes any portion of the beak of any bird, domestic or wild.

(2) Alters the gait or posture of any animal, by surgical, chemical, mechanical, or any other means, including soring.

(3) Crops or cuts the ears, removes an animal's claws or sterilizes a dog or cat and is not a licensed veterinarian.

(4) Inhumanely docks the tail of an animal or removes an animals dewclaws.

(j) Sells, purchases, owns, or has custody of any animal or fowl that have been dyed, painted, or otherwise artificially colored.

(k) Sells or offer for sale, raffle, prizes, a premium, or an advertising device any chicks, goslings, ducklings, or other fowl younger than eight weeks of age in quantities of less than six birds to an individual recipient.

(l) Offers chicks, ducklings, goslings, or other fowl for sale; raffles, offers as a prize, a premium, or an advertising device, or displays chicks, ducklings, goslings, or other fowl to the public without providing and operating brooders or other heating devices that may be necessary to maintain the chicks, ducklings, goslings, or other fowl in good health, and without keeping adequate food and water available to the birds at all times.

(m) Awards live animals, fish, or fowl as prizes or inducements.

(n) Carries or causes to be carried any animal in a manner harmful to that animal. Suitable racks, cars, crates, or cages in which such animals may stand, move freely, or lie down during transportation, or while awaiting slaughter, must be provided.

(o) Leaves any animal confined in a vehicle unattended in excessively hot or cold weather.

(p) Continuously drives or works a horse or other animal to a point of observable strain, and denies the animal rest periods. Working animals shall be offered water periodically.

(q) Takes or kills any bird(s) or robs or destroys any nest, eggs, or young or any bird in violation of the laws of the State of Utah.

(r) Inhumanely hobbles livestock or other animals.

(s) Leaves any livestock species used for draught, driving, or riding purposes, on the street without protection from the weather and without food and water for a period of time that would endanger the health or safety of the animal.

(t) Recklessly rides or drives any horse, or other livestock species on any street, highway, or avenue within this jurisdiction.

(u) Induces or encourages an animal to perform through the se of chemical, mechanical, electrical or manual devices in a manner which will cause, or is likely to cause physical injury or unnecessary suffering.

8-2-144. Defenses.

(a) It is a defense to prosecution under this section that the conduct of the actor towards the animal was by a licensed veterinarian using an accepted veterinary practice or directly related to a bona fide experimentation for scientific research; provided, that if the animal is to be destroyed, the manner employed will not be unnecessarily cruel unless directly necessary tot he veterinary purpose or scientific research involved.

(b) Any person may kill a dog while it is attacking, chasing or worrying any domestic animal having a commercial value, or any species of hoofed protected wildlife, while attacking domestic fowls, or while such dog is being pursued thereafter.

(c) Any dog making a vicious and unprovoked attack on any person, except when the attack is in defense of the person, family or property of the dog's owner, may be killed by any person while it is making such an attack.

8-2-145. Injuries and Communicable Diseases.

No person shall knowingly harbor or keep any animal with a serious injury, or afflicted with mange, ringworm, distemper, parvo, kennel cough, or any other contagious disease, unless such animal is being given adequate treatment to control or eliminate disease.

8-2-146. Charge of Violator Seizure of Animals.

It is the duty of a person filing charges under this chapter to seize or arrange to be seized an animal found in the keeping or custody of a person being charged, and which are being used or will be used as evidence in the case resulting from such charge. The person making said seizure shall cause such animals to be delivered immediately to the department of Animal Control, or in such cases as may be necessary to a veterinarian for treatment. It shall be the duty of that department to humanely hold such animals until further court order regarding their disposal. The perpetrator of any such act shall be responsible for the costs of impound, board, and any medical expenses incurred during the holding period of the animal.

8-2-147. Harboring of Animals Prohibited Duty to Notify.

It is unlawful for any person to harbor or keep within this jurisdiction any lost or strayed animal. Whenever any animal shall be found which appears to be lost or strayed, it shall be the duty of the finder to notify the Davis County Animal Shelter within 72 hours. The Animal Control Director may take the Animal into protective custody.

8-2-148. Motorist Duty to Report upon Striking an Animal.

It is the duty of the operator of any motor vehicle or self propelled vehicle upon the streets of this jurisdiction to immediately notify, upon injuring, striking, maiming or running down any domestic animal, the animal's owner, the department of animal control, or the police department. In addition, it shall be the duty of the operator of the motor vehicle to remain with the animal or to obtain a responsible person to remain with the animal until professional assistance arrives. Emergency vehicles are exempted from the requirements of this section.

8-2-149. Places Prohibited to Animals.

(a) It is unlawful for any person to take or permit any animals, excluding hearing or seeing eye dogs, whether on a leash or in the arms of their owners, in any establishment or place of business where food or food products are sold or distributed, including but not limited to restaurants, grocery stores, meat markets, and fruit or vegetable stores or the Bountiful City Cemetery.

(b) Dogs, whether on a leash or not on a leash, shall be completely prohibited from school premises or posted picnic, pond, and play areas. This, however, shall not apply to guide dogs in the company of a blind or hearing impaired person, or trained dogs in the present of their masters for the purpose of public education programs or law enforcement exercises.

(c) Dogs are permitted in all City parks subject to the following:

(1) All dogs must remain on a leash and under the direct control of the dog owner or custodian. Leashes must be of suitable strength and shall not be more than six feet (6') in length. No more than two (2) dogs per owner or keeper of any dog are permitted.

(2) Each dog must be properly registered with the license tag affixed to a collar which must be worn at all times.

(3) An owner or keeper of any dog shall not allow, permit or suffer a dog to be inside the designated boundary of a playground or sandbox, on any play structure or component, inside any designated water play area or component, inside the boundary of a tennis, pickleball or volleyball court, baseball diamond or any other sports court.

(4) All dogs must remain on leash and under the immediate control of an owner or keeper. Dogs shall not be fastened or otherwise tethered to any tree, bench, table, play equipment or any other structure or vegetation within a City park.

(5) An owner or keeper of any dog shall immediately remove all animal waste and place it in a City park waste receptacle.

8-2-150. Power and Authority of Animal Control Officer.

In the performance of his duties, the animal control officer is hereby vested with the power and authority of that office within the County Animal Control Department. Badges of authority shall be issued by the County Animal Control Director, officers having received and been sworn to the oath of office by the Clerk of Davis County.

8-2-151. Investigation.

Animal Control Officers and/or Peace officers may enter upon privately owned land to investigate reports of vicious animals, cruelty cases, rabies and other contagious animal disease, and to investigate violations of and enforce the provisions of this ordinance.

8-2-152. Penalties.

Any person violating any provision of this ordinance shall be deemed guilty of a Class B Misdemeanor and shall be punished within the confines of that class as prescribed by the laws of the state of Utah. If any violation be continued, each day's violation is a separate offense.

8-2-153. Applicability of Procedure for all Peace Officers.

The foregoing provisions of this ordinance shall govern all peace officers in issuing citations for violations of this ordinance, but the procedure prescribed herein shall not otherwise be exclusive of any other method prescribed by law for the arrest and prosecution of a person for offense of like grade.

8-2-154. Barns and Stables, Bins for Manure - Distance from Dwellings.

(a) Every owner, lessee or occupant of a building or premises used for a barn, or stable shall provide the same with a fly-tight bin for manure, pending its removal, of such dimensions as to contain all accumulations of manure or barn cleanings, and no manure or barn cleanings shall be allowed to accumulate on the floors or adjacent grounds.

(b) No such bins shall be built, kept of maintained nearer to any adjoining house than 100 feet, and then the contents thereof shall be removed from the said bin and said bin thoroughly cleaned at lease once every seven days.

(c) No manure or barn cleanings shall be stacked or piled or caused or permitted to be stacked or piled for any fertilizing purposes on any truck, farm, or garden in the City within 200 feet of any place used in whole or in part for dwelling purposes, unless stored in a closed bin covered to prevent breeding and access of flies thereto.

(d) No owner, lessee or occupant shall keep in any unsanitary condition or improperly ventilated any barn or stable or premises adjacent thereto or in connection therewith.

(e) No animals, excepting household pets, shall be kept or maintained closer than 200 feet from a dwelling.

(f) No barn, pen or corral shall be kept closer than 200 feet from any street.

Chapter 3: Pigeons

8-3-101. Definitions.

For the purpose of this chapter, unless otherwise defined, the following terms shall have the meaning herein given:

"Pigeon". Any bird belonging to the family columbidae except those members of the family columbidae whose taking or keeping is subject to regulation by the federal government or the Utah Division of Wildlife Resources.

"Pigeon Loft". Any structure, building or facility used to keep, house, raise, breed, care or maintain pigeons and that meets the requirements of this section.

8-3-102. Maximum Allowed.

It is lawful to own, harbor, keep or maintain pigeons in the City of Bountiful, but only in accordance with the provisions of this section:

(a) It is unlawful to own, harbor, keep or maintain more than 75 pigeons.

(b) It is unlawful to own, harbor, keep or maintain 25 or more pigeons without first as a condition precedent, obtaining a pigeon loft permit as required and provided in subsection 8-3-103.

(c) It is required of those persons who own, harbor, keep or maintain more than 10 pigeons, to maintain such pigeons in a pigeon loft, which shall be maintained in accordance with the provisions of subsection 8-3-105.

8-3-103. Pigeon Loft Permit.

(a) Permit. Any person who desires to keep pigeons in a number of 25 or more shall make application to the License Assessor for a pigeon loft permit.

(b) Application. Applications for a pigeon loft permit shall be made in writing to the License Assessor. The application shall show:

(1) The name of the person desiring a pigeon loft permit.

(2) Location of the pigeon loft.

(3) Basic plans and specifications of the proposed pigeon loft, showing size and dimensions.

(4) The distance between the location of the proposed pigeon loft and the nearest dwelling.

(5) A statement granting unto the License Assessor or Code Enforcement Officer, or such other authorized agent of the City, permission to enter upon the premises for the purpose of inspecting the

premises and the pigeon loft.

(c) Issuance - Expiration - Non-transferable. Upon receipt of the application, the License Assessor or his designee shall inspect the applicant's premises and if, in his judgment, the applicant can and will comply with the provisions of this section, shall issue a pigeon loft permit. Such permit, if granted, will permit the holder thereof to keep not to exceed 75 pigeons. The pigeon loft permit shall expire on the last day of the calendar year, but may be renewable on a calendar year basis thereafter. Such permit shall not be transferable to another person by the holder thereof.

(d) Fee. The fee for the pigeon loft permit shall be assessed annually on a calendar year basis and shall be in the amount of $50.00, provided however that the fee for the pigeon loft permit during the first year of issuance shall be prorated as of the date of the application.

8-3-104. Pigeon Lofts - Minimum Distance from Adjacent Dwellings.

All pigeon lofts, as permitted by this section, shall be located and maintained at a distance not less than 100 feet from neighboring adjacent dwellings.

8-3-105. Pigeon Loft Maintenance.

Those persons who own, harbor, keep or maintain 10 or more pigeons as permitted by this section, shall be required to maintain them in a pigeon loft and in accordance with the following provisions and requirements:

(a) Pigeon lofts shall be maintained so as to adhere to the following requirements and standards:

(1) The pigeon loft shall be operated, maintained in a clean and sanitary condition in order to prevent insect or rodent propagation or conditions for the transmission of disease.

(2) All waste material shall be removed and properly disposed of and the property kept free of litter, trash or garbage.

(3) Odors, nuisances and vermin-producing conditions shall be minimized by regular cleaning and the reasonable use of insecticides.

(4) Each pigeon loft shall be constructed in such a manner as being capable of retaining the pigeons therein to prevent escape.

(b) Pigeons shall be confined to an approved pigeon loft at all times with the exception of controlled exercise periods, which exercise periods shall be limited to one hour in the daylight morning and one hour in the daylight afternoon of each day.

8-3-106. Revocation.

The License Assessor, upon reasonable notice and hearing, may revoke said pigeon loft permit if the applicant violates any of the provisions of this section or for good cause shown.

Chapter 4: Pest Control

8-4-101. Rodents.

(a) Every person owning or occupying or controlling any real property in the City shall prevent the ingress of rats or other rodents thereto, and to this end shall use such materials in construction or repair of such structures as are rat and rodent proof.

(b) Every person owning, occupying or controlling any premises in the City shall maintain the same in a clean and sanitary condition and remove therefrom any matter detrimental to health. All foods, provisions, goods, wares and merchandise shall be so located as to prevent rats from gaining access thereto or coming in contact therewith.

(c) No rubbish, waste matter or manure or other material shall be placed, left or dumped, or permitted to accumulate or remain in any building, place or premises in the City so that the same shall or may afford food or a harboring or breeding place for rats, rodents or other pests.

(d) Every person owning, occupying or controlling any premises in the City when evidence of rat or rodent infestation on these premises is discovered, shall at once take any and every appropriate action to eradicate such rat or rodent infestation and shall make such changes in the use of the premises or such changes in the structures on the premises as to prevent recurrence of the rat or rodent infestation.

8-4-102. Mosquitoes.

(a) The County Health Officer and his duly appointed deputies may:

(1) Take all necessary and proper steps for the extermination of mosquitoes within the City limits.

(2) Enter upon, without hindrance, any lands within the City for the purpose of inspection to ascertain whether breeding places of mosquitoes exit upon such lands, or to abate public nuisances in accordance with provisions of this Chapter; or to ascertain if notices to abate the breeding of mosquitoes upon such lands have been complied with; or to treat with oil or other larvicidal material any breeding places of mosquitoes upon such lands.

(b) Any breeding place for mosquitoes which exists by reason of any use made of the land on which it is found, or of any artificial change in its natural condition, is a public nuisance.

(1) The nuisance may be abated in any action as provided by law.

(2) Whenever a nuisance specified in this Chapter exists upon any property in the City, the Health Officer may, in writing, notify the record owner or person in charge or in possession of the property of the existence of the nuisance.

(3) The notice may direct that the owner shall, within a specified time, abate the nuisance by destroying the larvae or pupae that are present.

(4) The notice may further direct that the owner shall, within a specified time, perform any work that may be necessary to prevent the recurrence of breeding in the place specified in the notice.

(5) The notice shall be served upon the owner of record or person having charge or possession of the property upon which the nuisance exits, or upon the agent of either.

(c) Before complying with the requirements of the notice, the owner may request a hearing before the Board of Health at a time and place fixed by the Health Commissioner within ten days of the request.

At a hearing the Board of Health shall redetermine whether or not the owner shall abate the nuisance and prevent its recurrence and shall specify a time within which the work shall be completed.

(d) In the event that the nuisance is not abated within the time specified in the notice or at the hearing, the City may abate the nuisance by destroying the larvae or pupae and by taking appropriate measure to prevent the recurrence of further breeding.

The cost of abatement shall be repaid to the City by the owner.

8-4-103. Flies and Other Insect Pests.

It is unlawful to suffer or permit to have upon his premises, whether owned or occupied by him, either one or more of the following unsanitary conditions:

(a) Manure which is not securely protected from flies.

(b) Any privy, vault, cesspool, sink, pit or like place which is not securely protected from flies.

(c) Garbage which is not securely protected from flies.

(d) Vegetable waste, trash, litter or refuse of any kind in which flies may breed or multiply.

Every person owning, occupying or controlling any premises in the City when evidence of fly or other insect infestation or breeding on these premises is discovered, shall at once take any and every appropriate action to eradicate such fly or other insect infestation or breeding and shall make such changes in the conditions on the premises as to prevent the recurrence of the fly or other insect infestation or breeding.

8-4-104. Bees.

(a) Purpose. The purpose of this section is to authorize beekeeping subject to certain requirements intended to avoid problems that may otherwise be associated with beekeeping in populated areas.

(b) Definitions.
Apiary: Any place where one or more colonies of bees are located.
Beekeeper: A person who owns or has charge of one or more colonies of bees.
Beekeeping: The keeping, maintaining or allowing of one or more colonies of bees.
Beekeeping Equipment: Anything used in the operation of an apiary, such as hive bodies, supers, frames, top and bottom boards, and extractors.
Colony: Bees in any hive including queens, workers, or drones.
Hive: A frame hive, box hive, box, barrel, log, gum skep, or other artificial or natural receptacle which may be used to house bees.
Honeybee: The common honeybee, *Apis mellifera* species, at any stage of development, but not including the African honeybee, *Apis mellifera scutellata* species, or any hybrid thereof.

(c) Registration.

(i) Each beekeeper shall be registered with the Utah Department of Agriculture and Food as provided in the Utah Bee Inspection Act set forth in Title 4, Chapter 11 of the Utah Code, as amended.

(ii) Any beekeeping by a person who is not registered is illegal and declared to be a public nuisance, which may be summarily abated.

(d) Beekeeping.

(i) Hives on Residential Lots. As provided in this section, and notwithstanding any contrary provision in Title 14 of this Code, an apiary, consisting of not more than five hives or an equivalent capacity, may be maintained in a side yard or the rear yard of any residential lot that is larger than 5,000 square feet. On a residential lot that is 0.5 acre or larger, the number of hives located on the lot may be increased to ten hives. Hives shall not be located in front yards. Rooftop hives shall be situated in such a way as to minimize the impact on adjacent properties.

(ii) Hives. Honeybee colonies shall be kept in hives with removable frames which shall be kept in sound and usable condition, and shall be operated and maintained as provided in the Utah Bee Inspection Act and the Utah Administrative Code. Hives shall be placed at least ten feet from any property line (which limit may be waived in writing by the adjacent property owner) or sidewalk or street right of way, and six inches above the ground, as measured from the ground to the lowest portion of the hive. Hives within twenty-five feet of a property line or sidewalk or street right of way shall be shielded by a flyway barrier. Ownership of hives shall be conspicuously marked as required by State law. Hives shall not exceed seven feet in height above ground or rooftop level, including all brooders, stands or other component.

(iii) Flyways. A hive shall be placed on property so the general flight pattern of bees is in a direction that will deter bee contact with humans and domesticated animals. If any portion of a hive is located within twenty-five feet from an area which provides public access or from a property line on the lot where an apiary is located, as measured from the nearest point on the hive to the property line, a flyway barrier at least six feet in height shall be established and maintained around the hive except as needed to allow access. Such flyway, if located along the property line or within five feet of the property line, shall consist of a solid wall, fence, dense vegetation, or a combination thereof, which extends at least ten feet beyond the hive in each direction so that bees are forced to fly to an elevation of at least six feet above ground level over property lines in the vicinity of the apiary.

(iv) Water. Each beekeeper shall ensure that a convenient source of water on the beekeeping property is available to the colony continuously between March 1 and October 31 of each year. The water shall be in a location that minimizes any nuisance created by bees seeking water on neighboring property.

(v) Equipment. Each beekeeper shall ensure that no bee comb or other beekeeping equipment is left upon the grounds of an apiary site. Upon removal from a hive, all such equipment shall promptly be disposed of in a sealed container or placed within a building or other bee-proof enclosure.

(vi) Permission. A person shall not locate or maintain a hive on property owned or occupied by another person without first obtaining written permission from the owner or occupant.

(f) Conflict of Regulations.

In the event of a conflict between any regulation set forth in this section and chapter any honeybee management regulations adopted by the State of Utah or the Davis County Health Department, the most restrictive regulations shall apply.

(g) Violations.

(i) It is unlawful to house, raise, keep or maintain bees within the limits of the City of Bountiful except in strict compliance with this ordinance. Any such unlawful activity is a class C misdemeanor and hereby declared to be a public nuisance, and may be summarily abated and/or prosecuted by criminal and/or civil action.

(ii) Even if conducted in compliance with this section, it is unlawful for any person to maintain an apiary or keep any colony on any property in any manner that is a public nuisance or threatens public health or safety.

Chapter 5: Cost Recovery for Hazardous Materials Emergencies and Fires

8-5-101. Definitions.

For the purpose of this ordinance, the following terms phrases and words shall mean:

A "hazardous materials emergency" means a sudden and unexpected release of any substance that, because of its quantity, concentration or physical, chemical or infectious characteristics, presents a direct and immediate threat to public safety or the environment, and requires immediate action to mitigate the threat or a fire built, maintained, attended to, or otherwise used in violation of the Campfires and Burning Section of the Bountiful Municipal Code.

"Expenses" means all costs incurred for the response, containment and/or removal and disposal of hazardous materials on initial remedial action or the response, containment, and/or extinguishment of a fire that is in violation of the Campfires and Burning Section of the Bountiful City Municipal Code. It includes, but is not necessarily limited to, the actual labor costs of government and other personnel of both the City and other responding agencies or organizations, including workers compensation benefits, fringe benefits, administrative overhead, and any costs of equipment, equipment operation, materials, disposal and any contract labor or materials.

8-5-102. Recovery of Expenses.

Bountiful City may recover expenses incurred by the City from those persons whose negligent or intentional actions caused the hazardous materials and/or fire emergency. The payment of expenses under this section does not constitute an admission of liability or negligence in any legal action for damages.

8-5-103. Recovery Procedure.

(a) The City shall determine responsibility for the emergency and notify the responsible party by mail of the City's determination of responsibility and the costs to be recovered.

(b) The notice shall specify that the party determined to be responsible may appeal the City's decision to the Bountiful City Administrative Law Judge.

8-5-104. Action to Recover Costs.

In the event that the responsible party does not pay the hazardous materials and/or fire emergency costs within thirty days after assessment or determination of appeal, the City may initiate a legal action to recover such costs, including reasonable attorney's fees.

Chapter 6: Refuse and Weed Control

8-6-101. Definitions.

As used in this Chapter:

"Inspector" means the Bountiful City Code Enforcement Officer or his authorized representatives.

"Noxious Weeds" means any plant the Commission of Agriculture of the State of Utah determines to be especially injurious to public health, crops, livestocks, land or other property.

8-6-102. Noxious Weeds, Unsightly or Deleterious Objects

It is unlawful for any owner or tenant of real property to permit, cause or to allow:

(a) Weeds to be upon the premises in excess of 6 inches in height:

(b) Garbage, refuse, unsightly or deleterious objects or structures to be upon the property except in an enclosed building.

8-6-103. Removal by City and Collection of Costs.

The City may give notice to property owners, remove the weeds and collect costs in the manner provided by State law.

Chapter 7: Noise Ordinance

8-7-101. General Prohibitions.

It is unlawful to:

(a) intentionally disturb the quiet, comfort or repose of any person in his dwelling by making unreasonably loud noises, which under the circumstances would disturb a person of average and reasonable sensitivities; or

(b) make unreasonably loud noises with a reckless disregard that the noise is disturbing the quiet, comfort or repose of any person in his dwelling, which under the circumstances would disturb a person of average and

reasonable sensitivities, after being informed that the noise is having that effect; or

(c) make unreasonably loud noises with the intention of preventing or disrupting a lawful meeting, gathering, business or other lawful activity, which under the circumstances would disturb a person of average and reasonable sensitivities; or

(d) make unreasonably loud noises with a reckless disregard that the noise is preventing or disrupting a lawful meeting, gathering, business or other lawful activity, which under the circumstances would disturb a person of average and reasonable sensitivities, after being informed that the noise is having that effect.

8-7-102. Specific Prohibitions.

The following acts are unlawful between the hours of 11:00 p.m. and 6:00 a.m.:

(a) Loading Operations. Loading, unloading, opening or otherwise handling boxes, crates, containers, garbage containers or other objects;

(b) Construction Work. Operating, or causing to be operated, any equipment used in construction, repair, alteration or demolition work on buildings, structures or streets.

(c) Commercial Power Equipment. Operating, or permitting to be operated, any power equipment, in excess of five horsepower.

(d) Garbage Collection. The collection of garbage, waste or refuse.

8-7-103. Exemptions.

(a) The restrictions set forth in the preceding two sections do not apply in case of actual emergencies.

(b) Applications for a temporary permit for relief from the foregoing restrictions on the basis of undue hardship may be made to the City. The applicant must explain why no other reasonable alternative is available. Any permit granted by the City Manager or his or her authorized representative shall contain all conditions upon which the permit has been granted, including but not limited to the effective dates, any time restrictions, location, and any other reasonable requirements to minimize adverse affects upon the surrounding neighborhood.

(c) The foregoing prohibitions do not apply to snow removal activities.

Chapter 8: Repealed.

[See the Davis County Drinking Water Source Protection Ordinance]

Chapter 9: Public Nuisance Abatement Ordinance

8-9-101. Nuisance Abatement Ordinance.

8-9-102. Purpose

8-9-103. Definitions.

8-9-104. Appointment and Duties of the Municipal Inspector.

8-9-105. Inspection, Notice and Order by the Municipal Inspector.

8-9-106. Enforcement.

8-9-101. Nuisance Abatement Ordinance.

This Chapter of the Bountiful City Code is entitled, "The Public Nuisance Abatement Ordinance." It is based upon the authority granted in Sections 10-11-1 through 10-11-4, 10-8-60, 10-3-702 and other sections of the Utah Code.

8-9-102. Purpose.

(a) It is the purpose of this Ordinance to:

(i) designate, regulate, and provide a procedure for, the abatement of the growth and spread of injurious and noxious weeds, garbage and refuse, public nuisances, and illegal objects or structures, under §§10-11-1 through 10-11-4 of the Utah Code and this Bountiful Nuisance Ordinance; and

(ii) provide a procedure for the abatement of the growth and spread of injurious and noxious weeds, garbage and refuse, public nuisances, and illegal objects or structures, under the Bountiful City Code, the Bountiful City Land Use Ordinance, and other applicable laws.

(b) The procedure provided herein is not exclusive and does not repeal or replace other remedies and procedures legally available.

8-9-103. Definitions. "Illegal object or structure" means any object or structure that (1) is prohibited or otherwise illegal in its location, condition or for any other reason, under the Bountiful City Code, the Bountiful City Land Use Ordinance, the International Building Code, the Fire Code, or any other code adopted by the City, or by State law, or (2) is declared illegal by decision of the Municipal Inspector, Bountiful Planning Director, Bountiful City Council, Planning Commission, Administrative Committee, City Engineer, Building Official or Building Inspector, City Power Director, Fire Marshal, or Administrative Law Judge under applicable law.

"Noxious weeds" means those weeds designated by the Utah State Commissioner of Agriculture and Food under the Utah Noxious Weed Act (§4-17-1 et seq Utah Code).

"Public nuisances" means any structure or condition declared to be a public nuisance by (a) the Municipal Inspector appointed under §8-9-104, (b) the Bountiful City Code, including the Bountiful City Land Use Ordinance (c) decision of the Bountiful City Council, Planning Director, Planning Commission, Administrative Committee, City Engineer, Building Official or Building Inspector, City Power Director, or Administrative Law Judge, (d) the Fire Marshal or Fire Chief of the South Davis Fire Agency; (e) the Utah State Code or any State rules or regulations, (f) Davis County or any of its agencies, (g) the State of Utah or any of its agencies, (h) the United States government or any of its agencies, or (i) any court of competent jurisdiction.

8-9-104. Appointment and Duties of the Municipal Inspector.

(a) The Bountiful City Engineer, Assistant City Engineer, Building Official, Building Inspector, Power Director, Fire Marshal, Fire Chief and Planning Director are each appointed as "Municipal Inspector" under the provisions of §10-11-1(1)(a) of the Utah Code.

(b) The Municipal Inspector shall have the duty to examine and investigate real property for the growth and spread of injurious and noxious weeds, garbage and refuse, a public nuisance, or an illegal object or structure.

8-9-105. Inspection, Notice and Order by the Municipal Inspector.

(a) If a Municipal Inspector conducts an inspection under §8-9-104(b), the Inspector shall afterward enter written findings of the inspection, examination and investigation, and deliver written notice thereof in accordance with the provisions of §10-11-2(2) of the Utah Code.

(b) The Municipal Inspector shall require the property owner, occupant, or other person responsible for the property, to abate, eradicate or destroy, or remove any item or condition found in violation of applicable law or which constitutes a public nuisance.

(c) The Notice and Order shall notify that the property owner may file a written objection to all or part of the findings or order within 20 days after the day of the statement post-mark or date of personal delivery. If a property owner files an objection, the City shall mail or deliver notice of the hearing date and time to the property owner. If an objection is filed, in all hearings hereunder the Bountiful City Administrative Law Judge shall hold a hearing in accordance with the Open and Public Meetings Act, and shall review the matter de novo. The Administrative Law Judge shall take and receive evidence and fully hear and determine the matter which relates to the Notice, and shall uphold the findings and order of the Municipal Inspector if there is sufficient evidence to justify the findings. "Sufficient evidence to justify the findings" means that the City has presented substantial evidence (more than a scintilla but less than a preponderance) that the findings and order are justified.

8-9-106. Enforcement.

If the property owner, occupant or other person responsible for the property fails to comply with the Notice and Order, the Municipal Inspector may abate the nuisance and recover the cost of the abatement in accordance with the provisions of §§10-11-3 and 10-11-4 of the Utah Code.

Title 9

Bountiful Redevelopment Agency

Chapter 1: Establishment of Redevelopment Agency

9-1-101. Purpose.

The purpose of this ordinance is to designate the City Council of Bountiful as the Redevelopment Agency of the City of Bountiful, pursuant to the provisions of the Utah Neighborhood Development Act.

9-1-102. Need.

The City Council of Bountiful, Utah, finds that in order to preserve and further promote the continued peace, health, safety, welfare and good order of the City and that it is necessary to create and designate the City Council of the City as the Redevelopment Agency.

9-1-103. Designation.

The Bountiful City Council is designated as the Redevelopment Agency of Bountiful, and shall have the powers and duties as are specified in the Utah Neighborhood Development Act.

Chapter 2: C.B.D. Neighborhood Development Plan

9-2-101. Neighborhood Development Plan Officially Adopted.

The "C.B.D. Neighborhood Development Plan," dated April 22, 1981, is hereby designated as the official redevelopment plan of the project area.

9-2-102. Project Boundaries.

The legal description of the boundaries of the project area covered by the redevelopment plan entitled "C.B.D. Neighborhood Development Plan," dated April 22, 1981, as amended through August 9, 2011, is as follows:

Beginning at the southwest corner of Block 4, Plat A, Bountiful Townsite survey. Said point of beginning is also N 89°38’33” E 34.96 ft., along the Section line, S 0°11’26” E 483.71 ft. along the westerly line of an existing street (400 East Street) and S 89°44’04” W 2220.30 ft. along the northerly line of an existing street (500 South Street) from the northeast corner of Section 30, T.2N, R.1E, SLB&M and running thence S 0°36’11” E 1,006.1 ft., more or less, along the easterly line of an existing street (Main Street) to a point on the south line of the property owned by Davis County and occupied by the Davis County Library South Branch; thence along said south line N 89°06’45” E 250.00 ft.; thence Due South 330.00 ft.; thence S 77°35’21” W 353.3 ft. more or less to a point S 85°34’ E 363 ft., more or less, from the northeast corner of

Lot 30 of Park View Subdivision; thence N 85°34' W 363 ft., more or less, along property lines to said northeast corner of Lot 30, thence N 85°34' W 100 ft., more or less, along the northerly line of said Lot 30 to a point 2.5 ft. S 0°09'34" W of the southwest corner of Carriage Crossing Condominiums Phase 3; thence N 0°09'34" E 2.5 ft. along the extended westerly line of said Carriage Crossing Condominiums Phase 3 to the southwest corner of said Phase 3; thence Westerly, northerly, easterly, and northerly four (4) courses along the westerly boundary of amended Carriage Crossing Condominiums Phase 7 as follows: N 85°51'00" W 181.53 ft., N 0°02'20" W 74.71 ft., N 89°34'20" E 159.36 ft., and N 0°09'34" E 616.99 ft.; thence leaving said Phase 7, N 0°09'34" E 125ft., more or less, to the centerline of Mill Creek; thence westerly nine courses along said centerline of Mill Creek as follows: N 65°43'56" W 167.48 ft., S 0°09'34" W 11.81 ft., S 64°22'34" W 94.41 ft., N 81°08'26" W 162.7 ft., N 67°22'26" W 88.10 ft., S 59°27'34" W 87 ft., S 86°28'34" W 130.6 ft., N 72°24'26"W 42.40 ft., N 88°51'26" W 89.60 ft., to the easterly line of an existing street (200 West Street); thence Westerly along said centerline of Mill Creek 560 ft., more or less, to the southwest corner of property recorded in Book 926, Page 1029, Entry No. 630514 of Davis County records; thence N 0°18' W 301.53 ft. along the property line to the northwest corner of said property; thence S 89°41'14" W 1253 ft., more or less, along the southerly line of an existing street (500 South Street) to the southeast corner of intersection at 500 West Street and 500 South Street; thence S 0°00'04" E 2505 ft., more or less, along the easterly line of an existing street (500 West Street) to the southeast corner of intersection at 500 West Street and 1250 South Street; thence N 89°56' E 400.00 ft. along the southerly line of an existing street (1250 South Street); thence S 0°07' E 686.28 ft. along the westerly line of Meadow Lane Subdivision Plat E and a westerly line of the Corporation of the Presiding Bishop property located in Book 344, Page 539, Entry No. 298731 of Davis County records; thence S 89°56' W 101.72 ft. along a northerly line of said Presiding Bishop property; thence S 0°07' E 198 ft. along a westerly line of said Presiding Bishop property; thence N 89°44'03" E 810 ft., more or less, to the northeast corner of intersection at 1500 South Street and State Road (U-106); thence N 26°48'30" E 407 ft., more or less, along the southeast line said State Road (U-106) to the southwest corner of Continental Townhouse Condominiums; thence N 89°49'30" E 294.58 ft. along a southerly line of said Continental Townhouse Condominiums; thence S 0°10' W 90.35 ft. along a westerly line of said Continental Townhouse Condominiums; thence Easterly 146 ft. along a southerly line of said Continental Townhouse Condominiums; thence Southerly 815 ft., more or less, along the westerly line of an existing street (200 West Street) to the southeast corner of property recorded in Book 636, Page 417, Entry No. 454188 of Davis County records; thence N 87°50'12" W 221.05 ft. to the southwest corner of said property; thence Southwesterly 4,350 ft., more or less, along the southeasterly line of said Main Street and the easterly line of 500 West Street to a point east 66.00 ft. from the northeast corner of Summer Garden Townhouse Condominiums; thence West 66.00 ft. to said northeast corner of Summer Garden Townhouse Condominiums; thence Thirteen (13) courses along the boundary (including the northwesterly right-of-way) of said Summer Garden Townhouse Condominiums as follows: N 63°54'15" W 203.69 ft., N 59°36'20" W 200.00 ft., N 64°53'20" W 203.19 ft., N 64°53'20" W 163.81 ft., S 31°19'40" W 30.00 ft. along the southeasterly line of Highway 91 (South Main Street), S 64°53'20" E 163.81 ft., S 31°19'40" W 234.82 ft., S 89°41'20" E 29.20 ft.; S 31°19'40" W 120.0 ft., S 89°58'20" E 162.0 ft., S 31°19'40" W 13.813 ft., S 89°58'20" E 102.387 ft., S 0°05'00" E 142.00 ft.; thence S 89°58'20" E 453.22 ft. along the northerly line of an existing street (2600 South Street); thence S 0°05'30" E 634.31 ft. along the westerly line of said 500 West Street; thence Westerly and northerly nine (9) courses along the southerly and westerly boundary line of Colonial Square Subdivision as follows: S 89°32'04" W 347.32 ft., N 76°58'26" W 132.16 ft., N 37°54'30" W 162.18 ft., S 89°42'02" W 154.96 ft., N 0°05'30" W 58.35 ft., S 89°34'30" W 162.58 ft., N 0°05'30" W 42ft., S 89°35'30" E 233.03 ft., N 0°16'00" E 317 ft., thence N 89°58'20" W 456.22 ft., more or less, along the southerly line of said 2600 South Street to the centerline of an existing street (South Main Street); thence Northeasterly 3,460 ft., more or less, along said centerline of South Main Street; thence N 89°54' W 410.04 ft., more or less, along the extended southerly line of property recorded in Book 1170, Page 1002, Entry No. 788585 and said southerly line to the southeasterly line of an existing highway (U-106); thence Northeasterly 2,040 ft., more or less, along the southeasterly line of said U-106 Highway to the southeast corner of the intersection of U-106 Highway and 1500 South Street; thence S 89°44'03" W 1,136 ft., more or less, along the southerly line of an existing street (1500 South Street); thence Northerly four (4) courses along the existing Bountiful city limit line as follows: N 0°00'12" W 2803.64 ft. along the centerline

of an existing street (500 West Street), S 89°59’48” W 462.00 ft., N 0°00’12” W 480.00 ft., and S 87°58’43” W 538.33 ft. to a point 1000.0 ft. west of the centerline of said 500 West Street; thence N 0°00’12” W 194.0 ft. more or less to a point on the Bountiful City Limit Line; thence along said City Limit Line the following four (4) courses, N 89°46’41” E 758.14 ft, N 0°11’12” W 297.95 ft., S 89°48’48” W 90.00 ft., and N 0°11’12” W 290.16 ft., more or less, to the north line of Section 25, T.2N, R.1W, SLB&M; thence S 89°59’16” E 372 ft., more or less, along said north line of Section 25; thence S 0°11’12” E 522 ft., more or less, along the easterly line of said 500 West Street; thence N 89°41’14” E 1781.20 ft. along the northerly line of said 500 South Street to the centerline of an existing street (200 West Street); thence N 89°44’04” E 1,317.40 ft. along said northerly line of 500 South Street; thence N 0°15’24” W 1,044.45 ft. along the westerly line of said Main Street; thence S 89°32’55” W 154.00 ft. along the southerly line of an existing street (200 South Street); thence S 0°11’29” E 165.00 ft. along a property line; thence S 89°40’49” W 110.00 ft. along the northerly line of Lot No. 1, Block 17, Plat A of Bountiful Townsite Survey; thence S 0°08’38” E 214.50 ft. along the westerly line of said Lot No. 1 and said lot line extended southerly; thence S 89°48’43” W 360.70 ft. along the southerly line of an existing street (300 South Street); thence N 0°01’51” W 709.00 ft. along the westerly line of an existing street (100 West Street); thence easterly along the southerly line of an existing street (100 South Street) to the southwest corner of the intersection of 100 South Street and Main Street; thence northerly along the westerly line of an existing street (Main Street) to the northwest corner of the intersection of Center Street and Main Street; thence westerly along the northerly line of an existing street (Center Street) to the northwest corner of the intersection of Center Street and 100 West Street; thence N 0°01’51” W along the westerly line of an existing street (100 West Street) 379.0 ft.; thence N 89°42’06” E 620.50 ft. along the northerly line of an existing street (100 North Street); thence N 0°03’00” W 1090.90 ft. along the westerly line of said Main Street; thence N 89°44’29” E 363.00 ft. along the southerly line of an existing street (400 North Street); thence S 0°09’23” E 165.00 ft. along the westerly line of Lot No.4, Block 52, Plat A Bountiful Townsite Survey; thence N 89°44’28” E 72.00 ft. along the southerly line of said Lot No.4; thence S 0°11 ‘07” E 214.50 ft. along a property line; thence N 89°44’27” E 60.00 ft. along the southerly line of an existing street (300 North Street); thence S 0°12’34” E 330.00 ft. along property lines; thence S 89°44’24” W 396.00 ft. along the northerly line of an existing street (200 North Street); thence S 0°03’00” E 381.4 ft. along said easterly line Main Street; thence N 89°41’32” E 610.5 ft. along the northerly line of an existing street (100 North Street); thence S 0°15’45” E 379.5 feet; thence westerly 610.5 ft. along the northerly line of an existing street (Center Street); thence southerly 429.0 ft. along the easterly line of an existing street (Main Street); thence easterly 264.0 ft. along the southerly line of an existing street (100 South Street); thence South 165.0 ft.; thence West 99.0 feet; thence South 214.5 ft., more or less, to the southerly line of an existing street (200 South Street); thence S 89°32’55” W 165.0 ft. along said southerly line of 200 South Street; thence S 0°15’24” E 1,044.45 ft. along the easterly line of said Main Street to the point of beginning.

9-2-103. Purposes of Redevelopment Plan.

The purposes and intent of the City Council of Bountiful, Utah with respect to the project area is to accomplish the following purposes by adoption of the redevelopment plan entitled, "C.B.D. Neighborhood Development Plan," dated April 22, 1981.

(a) Removal of structurally substandard buildings to permit the return of the project area land to economic use and new construction.

(b) Removal of impediments to land disposition and development through assembly of land into reasonably sized and shaped parcels served by improved public utilities and new community facilities.

(c) Rehabilitation of buildings to assure sound long term economic activity in the core area of the City of Bountiful.

(d) The elimination of environmental deficiencies, including among others, small and irregular lot subdivision, overcrowding of the land and inadequate off-street parking.

(e) Achievement of an environment reflecting a high level of concern for architectural and urban design principles developed through encouragement, guidance, appropriate controls and professional assistance to owner participants and redevelopers.

(f) Implement the tax increment financing provisions of the Utah Neighborhood Development Act, which is incorporated herein by reference and made a part of this ordinance.

(g) The strengthening of the tax base and economic health of the entire community and of the State of Utah.

(h) Provisions for improvements to public streets, curbs and sidewalks, other public rights-of-way, street lights, landscaped areas, public parking and other public improvements.

9-2-104. Plan Incorporated by Reference.

The redevelopment plan entitled, "C.B.D. Neighborhood Development Plan," dated April 22, 1981, is incorporated herein by reference and made a part of this ordinance. Three copies of said plan shall be filed and maintained in the office of the City Recorder for public inspection.

9-2-105. Council Findings.

The City Council of Bountiful, Utah, hereby determines and finds as follows:

(a) The project area comprising the major portion of the commercial area of the City of Bountiful as above described is a "blighted area" as defined in Section 11-19-2, Utah Code Annotated 1953, as amended, and that the redevelopment of said area is necessary to effectuate the public purposes set forth in the Utah Neighborhood Development Act and public purposes intended by the establishment of the Redevelopment Agency of the City of Bountiful.

(b) The redevelopment plan would redevelop the above-described area in conformity with the Utah Neighborhood Development Act and is in the best interests of the public peace, health, safety and welfare of the area and the community.

(c) The adoption and carrying out of the plan is feasible and economically sound.

(d) The redevelopment plan conforms to and is compatible with the master plan of the City of Bountiful, Utah.

(e) The carrying out of the redevelopment plan will promote the public peace, health, safety and welfare of the community and will effectuate the purposes and policy of the Utah Neighborhood Development Act.

(f) The condemnation of the real property, if and as provided for in the redevelopment plan, is necessary to the execution of the redevelopment plan and adequate provisions have been made for the payment of said property to be acquired as required by law.

(g) The Redevelopment Agency of the City of Bountiful has a feasible plan for the relocation of persons, if any, to be temporarily or permanently displace from housing facilities in the project area.

(h) Persons displaced from the project area, if any, are able to find or will be able to find either in the project area or in areas not generally less desirable in regard to public utilities and public and commercial facilities, and at rents or prices within their financial means and available to them, decent, safe and sanitary dwellings equal in number to the number of dwellings displaced and reasonably accessible to their places of employment.

9-2-106. Housing Facilities.

The City Council of the City of Bountiful is satisfied that permanent housing facilities will be available within three years from the time occupants of the project area, if any, are displaced and that pending the development of such facilities, temporary housing at comparable rents to those existing at the time of the displacement will be available in the general area.

9-2-107. Tax Increment Financing.

This ordinance adopting the redevelopment plan entitled, "C.B.D. Neighborhood Development Plan," dated April 22, 1981, incorporates the provisions of tax increment financing permitted by the Utah Neighborhood Development Act and specifically Section 11-19-29, Utah Code Annotated, 1953, as amended, which provides as follows:

(a) Any redevelopment plan may contain a provision that taxes, if any, levied upon taxable property in a redevelopment project each year by or for the benefit of the State of Utah, any city, county, city and county, district or other public corporation (hereinafter sometimes called "Taxing agencies") after the effective date of the ordinance approving the redevelopment plan, shall be divided as follows:

(1) That portion of the taxes which would be produced by the rate upon which the tax is levied each year by or for each of the taxing agencies upon the total sum of the assessed value of the taxable property in the redevelopment project as shown upon the assessment roll used in connection with the taxation of such property by such taxing agency, last equalized prior to the effective date of such ordinance, shall be allocated to and when collected shall be paid into the funds of the respective taxing agencies as taxes by or for said taxing agencies on all other property are paid (for the purpose of allocating taxes levied by or for any taxing agency or agencies which did not include the territory in a redevelopment project on the effective date of such ordinance but to which such territory has been annexed or otherwise included after such effective date, the assessment roll of the county last equalized on the effective date of the ordinance shall be used in determining the assessed valuation of the taxable property in the project on the effective date); and

(2) That portion of the levied taxes each year in excess of such amount shall be allocated to and when collected shall be paid into a special fund of the redevelopment agency to pay the principal of and interest on loans, moneys advance to or indebtedness (whether funded, refunded, assumed or otherwise) incurred by such redevelopment agency to finance or refinance, in whole or in part, such redevelopment project. Unless and until the total assessed valuation of the taxable property in a redevelopment project exceeds the total assessed value of the taxable property in such project as shown by the last equalized assessment roll referred to in subsection (1) of this section, all of the taxes levied and collected upon the taxable property in such redevelopment project shall be paid into the funds of the respective taxing agencies. When such loans, advances and indebtedness, if any, and interest thereon, have been paid, all moneys thereafter received from taxes upon the taxable property in such redevelopment project shall be paid into the funds of the respective taxing agencies as taxes on all other property are paid.

Chapter 3: Bountiful Gateway Neighborhood Development Plan

9-3-101. Neighborhood Development Plan.

It has become necessary and desirable to adopt a redevelopment plan entitled, "Bountiful Gateway Neighborhood Development Plan," dated November 10, 1989.

9-3-102. Project Boundaries.

The legal description of the boundaries of the project area covered by the redevelopment plan entitled, "Bountiful Gateway Neighborhood Development Plan," dated November 10, 1989, is as follows, to-wit:

The Bountiful Gateway Neighborhood Development Project Area, hereinafter referred to as the project area, is enclosed within the following boundaries:

The West Bountiful City portion of the Project Area is as follows:

Beginning at a point North 89 degrees 59'16" West along the section line 450.10 feet from the Northeast corner of Section 25, Township 2 North, Range 1 West, Salt Lake Base and Meridian, Davis County, Utah and running thence along the East line of West Bountiful City the following courses and distances: North 0 degrees 12'25" West 325.61 feet; thence North 89 degrees 47'35" East 278.12 feet to the West line of 500 West Street; thence North 0 degrees 12'25" West 173.00 feet; thence South 89 degrees 47'35" West 278.12 feet; thence North 0 degrees 12'25" West 535.53 feet; thence leaving said City line South 89 degrees 47'35" West 749.72 feet to the East line of I-15; thence South 0 degrees 56'00" West 208.88 feet to a point on the 895.37 foot radius curve to the left; thence Southeasterly along the arc of said curve 481.32 feet (central angle = 30 degrees 48'); thence South 29 degrees 52'00" East 231.45 feet to a point on the 1015.37 foot radius curve to the right; thence Southerly along the arc of said curve 545.83 feet (central angle = 30 degrees 48'); thence South 0 degrees 56'00" West 148.41 feet; thence South 0 degrees 10'37" East 33.00 feet to the centerline of 500 South Street; thence North 89 degrees 49'23" East 255.24 feet; thence North 0 degrees 10'37" West 33.00 feet; thence North 0 degrees 12'25" West 217.78 feet; thence North 89 degrees 49'23" East 67.08 feet; thence North 89 degrees 49'23" East 100.02 feet; thence North 0 degrees 12'25" West 289.97 feet to a point of beginning. Containing 20.81 acres.

The Bountiful City portion of the Project Area is as follows:

Beginning at a point North 89 degrees 59'16" West along the section line 450.10 feet from the Northeast Corner of Section 25, Township 2 North, Range 1 West, Salt Lake Base and Meridian, Davis County, Utah and running thence South 89 degrees 59'16" East 107.64 feet; thence North 0 degrees 00'44" East 163.30 feet; thence South 89 degrees 59'16" East 169.85 feet to the West lien of 500 West Street; thence South 0 degrees 12'25" East 163.35 feet to the section line; thence South 89 degrees 59'16" East 80.00 feet to the East line of 500 West Street; thence North 0 degrees 12'25" West 1035.20 feet; thence South 89 degrees 47'35" West 358.12 feet to the West line of Bountiful City; thence along the City line the following courses and distances South 0 degrees 12'25" East 535.53 feet; thence North 89 degrees 47'35" East 278.12 feet to the West line of 500 West Street; thence South 0 degrees 12'25" East 173.00 feet; thence South 89 degrees 47'35" West 278.12 feet; thence South 0 degrees 12'25" East 325.61 feet to the point of beginning. Containing 6.67 acres.

The entire project area including both Bountiful City and West Bountiful City is described as follows:

Beginning at a point North 89 degrees 59'16" West along the section line 450.10 feet from the

Northeast Corner of Section 25, Township 2 North, Range 1 West, Salt Lake Base and Meridian, Davis County, Utah and running thence South 89 degrees 59'16" East 107.64 feet; thence North 0 degrees 00'44" East 163.30 feet; thence South 89 degrees 59'16" East 169.85 feet to the West line of 500 West Street; thence South 0 degrees 12'25" East 163.35 feet to the section line; thence South 89 degrees 59'16" East 80.00 feet to the East line of 500 West Street; thence North 0 degrees 12'25" West 1035.20 feet; thence South 89 degrees 47'35" West 1107.84 feet to the East line of I-15; thence South 0 degrees 56'00" West 208.88 feet to a point on a 895.37 foot radius curve to the left; thence Southeasterly along the arc of said curve 481.32 feet (central angel = 30 degrees 48'); thence South 29 degrees 52'00" East 231.45 feet to a point on a 1015.37 foot radius curve to the right; thence Southerly along the arc of said curve 545.83 feet (central angle = 30 degrees 48') thence South 0 degrees 56'00" West 148.41 feet; thence South 0 degrees 10'37" East 33.00 feet to the centerline of 500 South Street; thence North 89 degrees 49'23" East 255.24 feet; thence North 0 degrees 10'37" West 33.00 feet; thence North 0 degrees 12'25" West 217.78 feet; thence North 89 degrees 48'23" East 67.08 feet; thence North 89 degrees 49'23" West 289.97 feet to the point of beginning. Containing 27.57 acres.

9-3-103. Purposes of Redevelopment Plan.

The purpose and intent of the City Council of the City of Bountiful with respect to the project area, is to accomplish the following purposes by adoption of the redevelopment plan entitled, "Bountiful Gateway Neighborhood Development Plan," dated November 10, 1989:

(a) Removal of structurally substandard buildings to permit the return of the project area land to economic use and new construction.

(b) Removal of impediments to land disposition and development through assembly of land into reasonably sized and shaped parcels serviced by improved public utilities and new community facilities.

(c) Rehabilitation of buildings to assure sound long-term economic activity in the core area of the City of Bountiful.

(d) Elimination of environmental deficiencies, including among others, small and irregular lot subdivision, overcrowding of the land and inadequate off-street parking.

(e) Achievement of an environment reflecting a high level of concern for architectural and urban design principles, developed through encouragement, guidance, appropriate controls and professional assistance to owner participants and redevelopers.

(f) Implement the tax increment financing provisions of the Utah Neighborhood Development Act, Utah Code Annotated, Section 11-19-29, et seq., which is incorporated herein by reference and made a part of this Ordinance.

(g) Strengthening of the tax base and economic health of the entire community and of the State of Utah.

(h) Provisions for improvements to public street, curbs and sidewalks, other public rights-of-way, street lights, landscaped areas, public parking, and other public improvements.

9-3-104. Plan Incorporated by Reference.

The redevelopment plan entitled, "Bountiful Gateway Neighborhood Development Plan," dated November 10, 1989, together with supporting documents is incorporated herein by reference, is attached hereto, and made a part of this Ordinance. Copies of said Plan shall be filed and maintained in the office of the City Recorder for public inspection.

9-3-105. Plan Officially Designated.

The "Bountiful Gateway Neighborhood Development Plan," dated November 10, 1989, is hereby designated as the official redevelopment plan of the project area.

9-3-106. City Council Findings.

The City Council of the City of Bountiful City hereby determines and finds as follows:

(a) The project area, as above described, is a "blighted area" as defined in Section 11-19-2, Utah Code Annotated 1953, as amended, and that the redevelopment of said area is necessary to effectuate the public purposes set forth in the Utah Neighborhood Development Act.

(b) The redevelopment plan would redevelop the area in conformity with the Utah Neighborhood Development Act and is in the interests of the public peace, health, safety and welfare of the area and the community.

(c) The adoption and carrying out of the redevelopment plan is feasible and economically sound.

(d) The redevelopment plan conforms to the master plan or general plan of the City of Bountiful.

(e) The carrying out of the redevelopment plan will promote the public peace, health, safety and welfare of the community and will effectuate the purposes and policy of the Utah Neighborhood Development Act.

(f) The condemnation of the real property, as provided for in the redevelopment plan, is necessary to the execution of the redevelopment plan and adequate provisions have been made for the payment for property to be acquired as provided by law.

(g) The Redevelopment Agency of Bountiful City has a feasible method or plan for the relocation of families and person displaced from the project area, if the redevelopment plan may result in the temporary or permanent displacement of any occupants of housing facilities in the project area.

(h) There are or are being provided in the project area or in other areas not generally less desirable in regard to public utilities and public and commercial facilities and at rents or prices within the financial means of the families and person displaced from the project area, decent, safe, and sanitary dwelling sequel in number to the number of and available to such displaced families and persons and reasonably accessible to their places of employment.

9-3-107. Project Area Restrictions.

The City Council finds that the Project Area is restricted to buildings, improvements or lands which are detrimental or inimical to the public health, safety or welfare of the community.

9-3-108. Housing Facilities.

The City Council of the City of Bountiful is satisfied that permanent housing facilities will be available within three years from the time occupants of the project area are displaced and that pending the development of such facilities, there will be available to such displaced occupants adequate temporary housing facilities at rents comparable to those in the community at the time of their displacement.

9-3-109. Tax Increment Financing.

This Ordinance adopting the redevelopment plan adopted, "Bountiful Gateway Neighborhood Development Plan," dated November 10, 1989, specifically incorporates the provisions of tax increment financing permitted by Section 11-19-29, Utah Code Annotated, 1953, as amended, which provides in part the following:

(a) Any redevelopment plan may contain a provision that taxes, if any, levied upon taxable property in a redevelopment project each year by or for the benefit of the State of Utah, any city, county, city and county, district or other public corporation (hereinafter sometimes called "taxing agencies") after effective date of the ordinance approving the redevelopment plan, shall be divided as follows:

(1) That portion of the taxes which would be produced by the rate upon which the tax is levied each year by or for each of the taxing agencies upon the total sum of the assessed value of the taxable property in the redevelopment project as shown upon the assessment roll used in connection with the taxation of such property by such taxing agency, last equalized prior to the effective date of such ordinance, shall be allocated to and when collected shall be paid into the funds of the respective taxing agencies as taxes by or for said taxing agencies on all other property are paid (for the purpose of allocating taxes levied by or for any taxing agency or agencies which did not include the territory in a redevelopment project on the effective date of such ordinance but to which such territory has been annexed or otherwise included after such effective date, the assessment roll of the county last equalized on the effective date of the ordinance shall be used in determining the assessed valuation of the taxable property in the project on the effective date); and...

(2) In a redevelopment project with a redevelopment plan adopted after April 1, 1983, that portion of the levied taxes each year in excess of the amount allocated to and when collected paid into funds of the respective taxing agencies under subsection (1)(a) shall be allocated to and when collected shall be paid into a special fund of the redevelopment agency according to the limits set forth in subsection (f) to pay the principal of and interest on loans, monies advanced to, or indebtedness (whether funded, refunded, assumed, or otherwise) incurred by such redevelopment agency after April 1, 1983, to finance or refinance, in whole or in part, such redevelopment project. Payment of tax revenues to the redevelopment agency shall be subject to and shall except uncollected or delinquent taxes in the same manner as payments of taxes to other taxing agencies are subject to collection. Unless and until the total assessed valuation of the taxable property in a redevelopment project exceeds the total assessed value of the taxable property in such project as shown by the last equalized assessment roll referred to in subsection (1)(a) of this section, all of the taxes levied and collected upon the taxable property in such redevelopment project shall be paid into the funds of the respective taxing agencies. When such loans, advances, and indebtedness, if any, and interest thereon, have been paid, all monies thereafter received from taxes upon the taxable property in such redevelopment project shall be paid into the funds of the respective taxing agencies as taxes on all other property are paid.

Chapter 4: Rules Governing Participation

9-4-101. General Provisions.

(a) Purpose. These rules are promulgated by the Redevelopment Agency of Bountiful City, Utah, (hereinafter the "Agency") to provide for reasonable participation in the redevelopment of property in project areas adopted by the Agency (hereinafter the "Project Area" by owners, operators of businesses, tenants, and other persons and entities holding interests in property within the Project Area, and to set forth the procedures governing such participation and preferences.

(b) Rules. The Rules governing participation and preference by owners, operators of business and tenants of the Redevelopment Agency of Bountiful City for Redevelopment Project Areas adopted by the Agency be and the same are hereby approved pursuant to law.

(c) Participants. Persons or entities holding interests in property within the Project Area shall have a reasonable opportunity to become "participants" in the Plan, in contrast to "developers," whose interests in the Project Area are acquired solely from the Agency without having held other interests in the Project Area.

(d) Priorities and Preferences. The Agency shall extend priorities to persons or entities holding interests in property in the Project area, to have the opportunity to continue in, or, if the Agency acquires the land of the owner or the land with which the person or entity's interest is associated, to re-enter the Project Area if such persons or entities otherwise meet the requirements for participation in project areas adopted by the Agency (hereinafter the "Redevelopment Project") prescribed in any Redevelopment Plan adopted by the Agency (hereinafter the "Redevelopment Plan") and in these Rules. Priorities are opportunities conferred on participants to be given reasonable priority over developers with respect to any aspect of the redevelopment of the Project Area under the Redevelopment Plan.

9-4-102. Types of Participation Available.

(a) General. The Agency may permit owners and tenants within the Project Area to be given the opportunity to participate in the redevelopment of the Project Area by:

(1) Owners retaining, maintaining, and, if necessary, rehabilitating all or portions of their properties;

(2) Owners acquiring adjacent or other properties in the project area;

(3) Owners selling all or portions of their improvements to the Agency, retaining the land, and developing their properties;

(4) Owners selling all or portions of their properties to the Agency and purchasing other properties in the project area;

(5) Owners selling all or portions of their properties to the Agency and obtaining preferences to re-enter the project area;

(6) Tenants having opportunities to become owners of property in the project area, subject to the opportunities of owners of property in the project area; and

(7) Other methods approved by the Agency.

(b) Remaining in Substantially the Same Location. Participation may consist of persons or entities with property interests in the Project Area remaining in substantially the same location either by retaining all or portions of the property, or by purchasing all or portions of the property and purchasing adjacent property from the Agency. Persons or entities which participate in the same location may be required to rehabilitate or demolish all or part of their existing buildings or the Agency may acquire improvements only, then remove or

demolish the improvements, and permit the participants to develop the land.

(c) Exchanges. Participation may consist of the Agency buying land and improvements from existing owners, and offering other parcels for purchase by such participants.

(d) Preferences. Participation may consist of obtaining participants' preferences to re-enter the Project Area.

(e) Other Forms of Participation. The Agency may allow such other forms of participation by persons or entities holding interest in property within the Project Area as are necessary and appropriate to advance the purposes of the Redevelopment Plan and are consonant with Utah Laws.

9-4-103. Priorities and Preferences.

(a) Priorities and Preferences. The Agency shall extend reasonable preferences to persons or entities holding interests within the Project area to participate in the Redevelopment Project, subject to the requirement prescribed in the Redevelopment Plan and these Rules. The Agency may structure priorities and preferences in any manner it deems necessary to further the ends of the Redevelopment Plan and which is consonant with its obligation to extend reasonable priorities and preferences to participants.

(b) Participants and Developers. In view of the priorities and preferences, the Agency is obligated to extend to participants over developers, participants shall have first claim to opportunities to participate in any and all phases of the Redevelopment Project, and shall be given priority over developers unless the Agency determines that the interested participants are not capable or qualified to undertake the aspect of the Redevelopment Project in question. If no participants are interested in undertaking a particular aspect of the Redevelopment Project, the Agency is free to allow developers to take advantage of the opportunity.

(c) Factors Limiting Participation Opportunities in General. Participation in the redevelopment of the Project Area by as many owners, tenants and other interest holders as possible is desired. However, participation opportunities shall necessarily be subject to and limited by such factors as the following:

(1) Removal, relocation and/or installation of public utilities and public facilities.

(2) The elimination and changing of some land uses.

(3) The realignment, abandonment, widening or opening of public streets and rights-of-way.

(4) The ability of participants to finance acquisition and development in accordance with the Redevelopment Plan.

(5) Reduction in the total number of individual parcels in the Project Area.

(6) The assembly and development of areas for public and/or private development in accordance with the Redevelopment Plan.

(7) Change in orientation and character of the Project Area.

(d) Factors Affecting Priorities and Preference of Participants. If conflicts develop among participants desiring to participate in the Redevelopment Plan with respect to particular sites or land uses, the Agency is authorized to establish reasonable priorities and preferences among the parties and to determine a solution by consideration of such factors as:

(1) Length of time in the area.

(2) Accommodation of as many participants as possible.
(3) Ability to perform.
(4) Similar land use to similar land uses.
(5) Conformity with intent and purpose of the Redevelopment Plan.
(6) Any other factors the Agency deems relevant in the particular circumstances.

(e) Participation by Joint Entities. To the extent feasible, opportunities to participate may be exercised by entities formed by two or more persons, or entities which join together in partnerships, corporations, or other joint entities for the purpose of participating in the Redevelopment Project. So long as one of the person or entities joining in the joint entity is a participant, the joint entity may be treated as a participant.

9-4-104. Participation Procedure.

(a) Participation Agreements. The Agency is authorized to enter into participation agreements with all participants in the Redevelopment Project. Such agreements may relate to properties not purchased or not to be purchased by the Agency. Each agreement will contain provisions necessary to insure that the participation proposal will be carried out, and that the subject property will be developed or used in accordance with the conditions, restrictions, rules and regulations of the Redevelopment Plan and the agreement. Each agreement will require the participant to join in the recordation of such documents as the Agency may require in order to insure such development and use. Participation agreements will be effective only if approved by the Agency.

(b) Statements of Interest. Before making offers to purchase property in the Project Area, the Agency shall notify the persons or entities holding interest in any such properties by certified mail, return receipt requested, that the Agency is considering the acquisition of such property. The Agency shall include a form entitled "Statement of Interest in Participating" with the notification. Within 30 days of receipt of such notification, any owner interested in participating in the Redevelopment Project shall file a "Statement of Interest in Participating" with the Executive Director of the Agency. Any person or entity holding an interest in property within the Project Area may also submit such a statement at any time before such notification.

The notice letter shall inform the party to whom it is directed that failure to file a written Statement of Interest will result in waiver of the Party's opportunity to participate on a priority or preferred basis in the Redevelopment Project. The Agency may disregard any Statements of Interest received after the expiration of the 30-day period.

The Agency shall consider such Statements as are submitted on time and seek to develop reasonable participation for those submitting such Statements whether to stay in place, to move to another location, to obtain priorities and preferences to re-enter the Project Area, etc.

9-4-105. Enforcement.

In the event property is not developed, maintained, rehabilitated, or used in conformance with the Redevelopment Plan or a Participation Agreement, the Agency is authorized to (1) purchase the property, (2) purchase any interest in the property sufficient to obtain conformance, or (3) take any other appropriate action sufficient to obtain such conformance.

9-4-106. Amendments of Owner Participation Rules.

The Agency may amend these rules at any meeting two weeks after publication of one notice in a newspaper

of general circulation in the City of Bountiful at least seven days after written notice has been given to all members of the Agency's Governing Board. The effective date of any amendment shall be the date on which it is approved by the Agency or on such other date as the Agency may specify in approving the Amendment.

Title 10

Bountiful Criminal Code

10-1-101. Bountiful Criminal Code.

The provisions of this Title shall be known as the "Bountiful Criminal Code". Unless otherwise, stated, all violations of this chapter are class B misdemeanors.

10-1-102. Battery.

It is a misdemeanor for any person to unlawfully use force or violence upon the person of another.

10-1-103. Electric Fences.

It is a class C misdemeanor for any person to maintain, erect or cause to be erected any electric fence along or adjacent to any street or as a division between adjoining parcels of land. Any such fence is hereby declared to be a nuisance.

10-1-104. Throwing Missiles.

It is unlawful to willfully or carelessly throw any stone, stick, snowball or any other missile at any person, window, vehicle, or other property, or in such a manner as to frighten or annoy any person.

10-1-105. Monuments.

It is unlawful to displace, remove, injure, in any way interfere with, or place obstructions upon any survey stake or monument marked as such.

10-1-106. Children in Vehicles.

It is unlawful for any person, having in his care or control a child under six years of age, to at any time lock or confine, or suffer to be locked or confined, or left unattended, even though not locked or confined, such child in any automobile, bus, trailer or other vehicle, upon a public street, public property, or in an area open to the public for parking, for a period of time exceeding ten minutes. A child is unattended under this section if the oldest person with the child is under the age of twelve years.

10-1-107. Littering.

It is unlawful for any person:

(a) to throw, deposit, or discard, or to permit to be dropped, thrown, deposited, or discarded upon any public road, highway, park, recreation area or other public or private land, or waterway, any glass bottle, glass, nails, tacks, wire, cans, barbed wire, boards, trash or garbage, paper or paper products, or any other substance which would or could mar or impair the scenic aspect or beauty of such land whether under private, state, county, municipal, or federal ownership without the permission of the owner, or person having control or custody of the land;

(b) who is distributing handbills, leaflets, etc., to fail to take whatever measures are reasonably necessary to keep such material from littering streets or public or private property;

(c) driving a vehicle to fail to secure any cargo in such a reasonable manner as will prevent the cargo, or any part of it, from littering or spilling upon streets or public or private property;

(d) in charge of a construction or demolition site to fail to take whatever measures are reasonably necessary to prevent the accumulation of litter at the site;

(e) operating a trailer park, drive-in restaurant, gasoline station, shopping center, grocery store, tavern, or public parking lot to fail to maintain sufficient litter receptacles on said premises to accommodate the litter that accumulates there; or

(f) to throw or otherwise deposit litter from a vehicle upon any street or upon public or private property.

10-1-108. Handbills.

It is unlawful for any person, directly or indirectly, to place, attach or distribute any printed matter:

(a) on any public street, park or other public place, except to such persons who willingly accept it;

(b) upon any premises where signs against trespassing or advertising are posted;

(c) upon any premises where the owner or occupant thereof has verbally or in writing instructed the person not to do so;

(d) upon any premises which are temporarily or continuously uninhabited or vacant.

10-1-109. Firearms, Weapons, and Shooting Ranges.

(a) Except as provided in subsection (b), it is unlawful:

(i) to hunt within the City limits of Bountiful;

(ii) to discharge any air gun, BB gun, slingshot, crossbow, bow and arrows, or similar contrivance;

(iii) to discharge any firearm within the City, or when the projectile will come to rest or is intended to come to rest within the City limits;

(iv) to construct, erect, maintain, allow or otherwise utlize a shooting course, skeet station, bullet or arrow backstop or box, or similar shooting range within a residential zone in Bountiful City;

(v) to erect, maintain, allow or otherwise utilize a target or targets for the purpose of discharging a dangerous weapon, shotgun, pistol, firearm, bow and arrow or similar contrivance at the target or targets from, toward or within a residential zone in Bountiful City.

(b) Hunting and discharging firearms, bows and arrows and other weapons, are lawful if done with written permission from City officials pursuant to a City-authorized activity.

(c) This Section 10-1-109 shall not apply to peace officers acting within the scope of their duties, or to those acting in reasonable self-defense, or to owners and patrons of a lawfully operated and permitted shooting range.

10-1-110. Knives.

It is unlawful to sell, offer for sale, or expose for sale any spring-blade, snap-blade or similar-type knife.

10-1-111. Curfew.

(a) Except as provided in subsection (b) below, it shall be unlawful for any person under the age of eighteen years to be in or upon any sidewalk, street, alley or other public place between the hours of 12:00 midnight and 5:00 a.m. of any day.

(b) The provision of subsection (a) shall not apply when a minor is:

(1) accompanied by an adult who is the parent or other person having the care and custody of such minor;

(2) attending or returning home from a function of any school or church;

(3) on any emergency errand or specific activity authorized by his parent or other person having the care and custody of such minor; or

(4) engaged in legitimate employment which requires his presence at the public places during the prohibited hours.

(c) It is unlawful to assist, aid, abet or encourage any minor to violate the provisions of subsection (a). It is unlawful to use any influence or otherwise to entice or persuade any minor from his parents, guardians or other persons having charge or custody of such minor without the consent of such parents, guardians or custodians.

10-1-112. Snow Removal.

(a) Snow and ice must be removed from sidewalks within 24 hours of the end of a storm.

It is unlawful for any person owning, having charge or control of, or occupying any property, building, lot, land or any real estate abutting on any street to fail, refuse, or neglect to remove promptly and effectually every snowfall from the sidewalk in front of such property. In any event, all such snow and ice must be removed within 24 hours of the end of the storm.

Any area of a sidewalk which has not been cleared of snow as required in this subsection is hereby declared to be a public nuisance, and may be abated by civil or criminal legal action. The City is hereby authorized to remove any such snow, and the owner of the property shall be liable for the costs thereof. The City Attorney shall collect any unpaid removal costs from the property owner by appropriate legal action.

(b) It is unlawful to place snow removed from private or public property, including from a driveway or sidewalk, into a public street.

10-1-113. Spitting.

It is unlawful for any person to expectorate or spit saliva or tobacco on the floor of any public building, or at or upon any person.

10-1-114. Allowing Minors at Taverns.

(a) It is unlawful for any person to operate any beer hall, tavern or lounge in the City where beer is kept or sold for consumption on the premises or consumed, without first making and posting in a conspicuous place a regulation which shall read, "No person under 21 years of age permitted in these premises", and enforcing the same.

(b) It is unlawful for any person in charge of or employed in such beer hall, tavern or lounge to permit any person under the age of 21 years to enter upon or remain in any such premises, or for any person under the age of 21 years to enter upon or remain in said premises for any purpose except to make deliveries or carry messages to the proprietor thereof and depart therefrom immediately.

(c) The restrictions of this section shall not apply to the presence of minors at restaurants.

10-1-115. Resisting a Law Enforcement Official

It is unlawful to wilfully:

(a) Resist, obstruct or prevent a person recognized to be a law enforcement official from performing any authorized act or duty, or effecting a lawful arrest or detention of such person or another; or

(b) Fail or refuse to comply with any lawful order of a person recognized to be a law enforcement official.

10-1-116. Adoption of State Code

The following provisions of the Utah Code are adopted as ordinances of the City. Violations of these provisions shall be of the same classification as provided under State law, provided, however, that the maximum penalty shall not be greater than that permitted by law for a class B misdemeanor.

(a) Punishments (Chapter 3 of Title 76), as follows: Section 76-3-301.

(b) Offenses Against the Person (Chapter 5 of Title 76) as follows:

- Part 1 Sections 76-5-102, 76-5-106, 76-5-106.5, 76-5-107.5, 76-5-108, and 76-5-109; and

- Part 3 Section 76-5-304.

(c) Offenses Against Property (Chapter 6 of Title 76) as follows:

- Part 1 Sections 76-6-102, 76-6-104, and 76-6-106;

- Part 2 Sections 76-6-205 and 76-6-206;

- Part 4 in its entirety;

- Part 5 Sections 76-6-504, 76-6-505, 76-6-506 through 76-6-506.6, 76-6-507, 76-6-513, 76-6-515, 76-6-518, and 76-6-521;

- Part 6 in its entirety; and

- Part 8 in its entirety.

(d) Offense Against the Administration of Government (Chapter 8 of Title 76) as follows:

- Part 1 Section 76-8-106;

- Part 2 Sections 76-8-201 and 76-8-203;

- Part 3 Sections 76-8-301, 76-8-302, 76-8-305, 76-8-306, 76-8-307, 76-8-308, 76-8-309, 76-8-312, 76-8-13 and 76-8-315;

- Part 4 Sections 76-8-405 through 76-8-411, 76-8-415, 76-8-417 & 76-8-420;

- Part 5 Sections 76-8-503, 76-8-504, 76-8-506, 76-8-507, 76-8-511, 76-8-512, 76-8-513 and 76-8-514;

- Part 7 Sections 76-8-703, 76-8-704, 76-8-705, & 76-8-71 through 76-8-717.

(e) Offenses Against Public Order and Decency (Chapter 9 of Title 76) in its entirety.

(f) Offenses Against Public Health, Safety, Welfare and Morals (Chapter 10 of Title 76) as follows: Parts 1 through 15 and Part 21 in their entirety.

(g) The Utah Controlled Substances Act (Chapter 37 of Title 58) as follows: §58-37-8.

(h) Offenses on School Property (Chapter 3 of Title 53A) as follows: Sections 53A-3-501 through 53A-3-504.

(i) Alcoholic Beverage Control Act (Chapter 12 of Title 32A) as follows: Sections 32A-12-101 through 32A-12-506.

(j) The Utah Drug Paraphernalia Act (Chapter 37a of Title 58) in its entirety.

(k) The Utah Imitation Controlled Substances Act (Chapter 37b of Title 58) in its entirety.

(l) The Cohabitant Abuse Procedures Act (Chapter 36 of Title 77) as follows: Sections 77-36-3 and 77-36-3.1.

(m) Provisions Concerning juveniles (Chapter 3a of Title 78) as follows: Sections 78-3a-19 and 78-3a-20.7.

(n) Utah Fireworks Act (Chapter 3 of Title 11).

10-1-117. Fighting.

It is unlawful to engage in fighting. It is no defense to this section that it was engaged in by mutual consent.

10-1-118. Disconnecting Emergency Phone.

It is unlawful to disconnect, or attempt to disconnect, a telephone (or similar device) with the intention of preventing or hindering another person from making a call to the police department, fire department or other law enforcement or emergency services.

10-1-119. Directing a laser pointer at law enforcement officers prohibited.

(a) "Laser pointer" means any device which projects a small area (or "dot") of light onto another object.

(b) It is unlawful for any person to direct light from a laser pointer at a uniformed police officer, security guard, school safety officer, firefighter, emergency medical worker, or any other uniformed city, state or federal peace officer, investigator or emergency service worker, or the marked service vehicle of any such individual.

10-1-120. Entering Motor Vehicle Without Owner Permission.

It is unlawful and a class B misdemeanor to enter a motor vehicle without the permission of the owner of that motor vehicle.

10-1-121. Feeding of Deer Prohibited.

(a) Except as provided in subsection (c), it is unlawful for any person to intentionally feed deer or make food available for consumption by deer, elk or moose on private or public property. This includes any fruit, grain, mineral, salt, vegetable, or other material placed outdoors for consumption by deer.

(b) Each property owner shall remove any materials placed on the owner's property for the purpose of feeding deer, elk or moose. Failure to remove such materials within 24 hours of notice from the City shall constitute a class C misdemeanor .

(c) Any materials placed for the purpose of feeding deer, elk or moose are hereby declared to be a public nuisance, which may be abated summarily, by civil action, or by criminal prosecution.

(d) This section does not apply to City police officers, animal control officers, or Federal or State wildlife officials who are acting within the scope of the person's authority.

(e) This ordinance does not apply to naturally growing vegetation, or to planted vegetation growing in yards, gardens or beds.

10-1-122. Campfires and Burning.

(a) For purposes of this Section, "fire" shall mean any burning materials or coals or any smoldering materials or coals, with or without visible flame, including campfires, burning materials, coals, or flames, and smoldering materials, coals, or flames used for cooking, warming, aesthetics, lighting, ceremonies, or otherwise.

(b) Except as provided in this Section, it is unlawful to build, maintain, attend, or otherwise use fire, within the City from April 1st through October 31st of each year. This applies to any fire which is on or within one-half (1/2) mile of any road, motorized trail, or when fire is within one-half (1/2) mile of any residential structure, unless otherwise permitted by this Section or other governing law; and

(c) Except as provided in this Section, it is unlawful for any person in the City to willfully, recklessly, or negligently set on fire, cause to be set on fire, or procure to be set on fire, any tree, shrub, grass, brush, undergrowth, cultivated crops, or other property on any land, public or private, not his or her own, without permission from the property owner.

(d) Permissible Fire. It is lawful to build, maintain, attend to, or use fire, within the City as follows:

(1) In fireplaces within residential structures;

(2) By fire departments in the performance of their official duties or training;

(3) For agriculture and horticultural operations to burn ditch banks, pruning debris, stubble, and dead or diseased trees, bushes, and plants;

(4) For controlled heating of orchards or other crops;

(5) By the forest service, law enforcement, or search and rescue units in the performance of official duties;

(6) By persons using portable gas stoves, lanterns, or tent heaters , which use natural gas, jellied petroleum, or pressurized liquid fuel whether outdoors, within a building, an enclosed recreational vehicle, or tent, unless otherwise posted as closed to such use(s);

(7) At permanent facilities constructed for the use of fires within developed City parks, campgrounds, picnic areas, or administrative sites designated by the City, Davis County, or the Forest Service;

(8) Recreational fires on private lands, pursuant to Subsection (e);

(9) Recreational fires on public lands between November 1st and March 31st of each year, pursuant to Subsection (f).

(e) Recreational Fires - Private Lands. Recreational fires on private property within the City are generally permitted; however, such recreational fires:

(1) Shall not be conducted within twenty-five (25) feet of a structure or combustible material unless in an established fire pit;

(2) Shall be no larger than three (3) feet in diameter and two (2) feet high;

(3) Shall have extinguishing capabilities readily available;

(4) Shall not be used to burn rubbish, garbage, waste, or debris; and

(5) Shall be required to be extinguished if deemed to constitute a hazardous situation.

(f) Recreational Fires - Public Lands. Recreational fires on Federal and County public lands within the City are generally permitted between November 1st and March 31st of each year; however, such recreational fires:

(1) Shall be conducted under conditions that do not allow for the fire to escape a confined area and ignite other materials;

(2) Shall be conducted at permanent facilities constructed for the use of fires within developed campgrounds, picnic areas, or administrative sites designated by the City, Davis County or the Forest Service;

(3) Shall be no larger than three (3) feet in diameter and two (2) feet high;

(4) Shall have extinguishing capabilities readily available; and

(5) Shall be required to be extinguished if deemed to constitute a hazardous situation.

(g) Open Burning. Any open burning within the City is regulated by and shall comply with any permitting, regulations, and directives of the South Davis Metro Fire Service Area, Davis County Fire Marshal and the Utah Department of Environmental Quality, Air Quality Division.

(h) Liability. Authorization or permission to burn or build, maintain, attend, or use fire within the City shall in no way relieve an individual from personal liability due to neglect or failure to use reasonable precautions and exercise due care regarding burning or fire. Any recklessly or negligently caused fire shall be subject to cost recovery provisions of the Bountiful Municipal Code.

(i) Any or all fires may be prohibited by the Fire Marshal in any specified areas of the City at any time of the year due to hazardous fire conditions.

(j) A violation of this Section shall be a class "B" misdemeanor.

10-1-123. Graffiti Removal

(a) As used in this Section:

(1) "Graffiti" means any form of unauthorized printing, writing, drawing, spraying, scratching, affixing, etching, or inscribing on a surface.

(2) "Remove or Cover" means washing, sandblasting, chemically treating, painting or otherwise eliminating the graffiti to blend the affected area with the surrounding structure or property such that the affected area is virtually indistinguishable from the remainder of the structure or property. When using paint to cover graffiti on a painted surface the paint used to cover the graffiti shall match the color of the painted surface.

(b) It shall be unlawful for any person owning or occupying real property within Bountiful City, after receiving written notice from the City, to fail to Remove or Cover any Graffiti from or on any structure located upon any real property within the City, when the Graffiti is visible from the street or other public property.

(c) Subsection (b) applies to both the owner of the real property and the person occupying the property.

(d) A violation of this section is an infraction.

Title 11

Bountiful City Franchise Ordinance

Part 1: Rights-of-Way Ordinance

Chapter 1: Declaration of Findings and Intent; Scope of Ordinance

11-1-101. Findings Regarding Rights-of-Way.

The City of Bountiful finds that the Rights-of-Way within the City:

(a) are critical to the travel and transport of persons and property in the business and social life of the City;

(b) are intended for public uses and must be managed and controlled consistent with that intent;

(c) can be partially occupied by the facilities of utilities and other public service entities delivering utility and public services rendered for profit, to the enhancement of the health, welfare, and general economic well-being of the City and its citizens; and

(d) are a unique and physically limited resource requiring proper management to maximize the efficiency and to minimize the costs to the taxpayers of the foregoing uses and to minimize the inconvenience to and negative effects upon the public from such facilities' construction, placement, relocation, and maintenance in the Rights-of-Way.

11-1-102. Finding Regarding Compensation.

The City finds that the City should receive fair and reasonable compensation for use of the Rights-of-Way.

11-1-103. Finding Regarding Local Concern.

The City finds that while Telecommunications Systems are in part an extension of interstate commerce, their operations also involve Rights-of-Way, municipal franchising, and vital business and community service, which are of local concern.

11-1-104. Finding Regarding Promotion of Telecommunications Services.

The City finds that it is in the best interests of its taxpayers and citizens to promote the rapid development of Telecommunications Services, on a nondiscriminatory basis, responsive to community and public interest, and to assure availability for municipal, educational and community services.

11-1-105. Findings Regarding Franchise Standards.

The City finds that it is in the interests of the public to Franchise and to establish standards for franchising Providers in a manner that:

(a) fairly and reasonably compensates the City on a competitively neutral and non-discriminatory basis as provided herein;

(b) encourages competition by establishing terms and conditions under which Providers may use the Rights-of-Way to serve the public;

(c) fully protects the public interests and the City from any harm that may flow from such commercial use of Rights-of-Way;

(d) protects the police powers and Rights-of-Way management authority of the City, in a manner consistent with federal and state law;

(e) otherwise protects the public interests in the development and use of the City infrastructure;

(f) protects the public's investment in improvements in the Rights-of-Way; and

(g) ensures that no barriers to entry of Telecommunications Providers are created and that such franchising is accomplished in a manner that does not prohibit or have the effect of prohibiting Telecommunication Services, within the meaning of the Telecommunications Act of 1996 (“Act”)

11-1-106. Power to Manage Rights-of-Way.

The City adopts this Telecommunications Ordinance pursuant to its power to manage the Rights-of-Way, pursuant to common law, the Utah Constitution and statutory authority, and receive fair and reasonable, compensation for the use of Rights-of-Way by Providers as expressly set forth by Section 253 of the Act.

11-1-107. Scope of Ordinance.

This Ordinance shall provide the basic local scheme for Providers of Telecommunications Services and Systems that require the use of the Rights-of-Way, including Providers of both the System and Service, those Providers of the System only, and those Providers who do not build the System but who only provide

Services. This Ordinance shall apply to all future Providers and to all Providers in the City prior to the effective date of this Ordinance, whether operating with or without a Franchise as set forth in Section 12.2.

11-1-108. Excluded Activity.

(a) **Cable TV.** This Ordinance shall not apply to cable television operators otherwise regulated by the cable television provisions of the Bountiful City Code.

(b) **Wireless Services.** This Ordinance shall not apply to Personal Wireless Service Facilities.

(c) **Provisions Applicable to Excluded Providers.** Providers excused by other law that prohibits the City from requiring a Franchise shall not be required to obtain a Franchise, but all of the requirements imposed by this Ordinance through the exercise of the City's police power and not preempted by other law shall be applicable.

Chapter 2: Defined Terms

11-1-201. Definitions.

For purposes of this Ordinance, the following terms, phrases, words, and their derivatives shall have the meanings set forth in this Section, unless the context clearly indicates that another meaning is intended. Words used in the present tense include the future tense, words in the single number include the plural number, words in the plural number include the singular. The word "shall" and "will" are mandatory, and "may" is permissive. Words not defined shall be given their common and ordinary meaning.

(a) "Application" means the process by which a Provider submits a request and indicates a desire to be granted a Franchise to utilize the Rights-of-Way of all, or a part, of the City. An Application includes all written documentation, verbal statements and representations, in whatever form or forum, made by a Provider to the City concerning: the construction of a Telecommunications System over, under, on or through the Rights-of-Way; the Telecommunications Services proposed to be provided in the City by a Provider; and any other matter pertaining to a proposed System or Service.

(b) “City” means the city of Bountiful, Utah.

(c) "Completion Date" means the date that a Provider begins providing Services to customers in the City.

(d) "Construction Costs" means all costs of constructing a System, including make ready costs, other than engineering fees, attorneys or accountants fees, or other consulting fees.

(e) "Control" or "Controlling Interest" means actual working control in whatever manner exercised, including, without limitation, working control through ownership, management, debt instruments or negative control, as the case may be, of the System or of a Provider. A rebuttable presumption of the existence of Control or a Controlling Interest shall arise from the beneficial ownership, directly or indirectly, by any Person, or group of Persons acting in concert, of more than thirty-five percent (35%) of any Provider (which Person or group of Persons is hereinafter referred to as "Controlling Person"). "Control" or "Controlling Interest" as used herein may be held simultaneously by more than one Person or group of Persons.

(f) "FCC" means the Federal Communications Commission, or any successor thereto.

(g) "Franchise" means the rights and obligation extended by the City to a Provider to own, lease, construct, maintain, use or operate a System in the Rights-of-Way within the boundaries of the City. Any such authorization, in whatever form granted, shall not mean or include: (i) any other permit or authorization

required for the privilege of transacting and carrying on a business within the City required by the ordinances and laws of the City; (ii) any other permit, agreement or authorization required in connection with operations on Rights-of-Way or public property including, without limitation, permits and agreements for placing devices on or in poles, conduits or other structures, whether owned by the City or a private entity, or for excavating or performing other work in or along the Rights-of-Way.

(h) "Franchise Agreement" means a contract entered into in accordance with the provisions of this Ordinance between the City and a Franchisee that sets forth, subject to this Ordinance, the terms and conditions under which a Franchise will be exercised.

(i) "Gross Revenue" includes all revenues of a Provider that may be included as gross revenue within the meaning of Chapter 26, Title 11 Utah Code annotated, 1953, as amended. In the case of any Provider not covered within the ambit of Chapter 26, Title 11, Utah Code, the definition of "Gross Revenue" shall be that set forth in the Franchise Agreement.

(j) "Infrastructure Provider" means a Person providing to another, for the purpose of providing Telecommunication Services to customers, all or part of the necessary System which uses the Rights-Of-Way.

(k) "Open Video Service" means any video programming services provided to any Person through the use of Rights-of-Way, by a Provider that is certified by the FCC to operate an Open Video System pursuant to sections 651, *et seq.*, of the Telecommunications Act (to be codified at 47 U.S.C. Title VI, Part V), regardless of the System used.

(l) "Open Video System" means the system of cables, wires, lines, towers, wave guides, optic fiber, microwave, laser beams, and any associated converters, equipment, or facilities designed and constructed for the purpose of producing, receiving, amplifying or distributing Open Video Services to or from subscribers or locations within the City.

(m) "Operator" means any Person who provides Service over a Telecommunications System and directly or through one or more Persons owns a Controlling Interest in such System, or who otherwise controls or is responsible for the operation of such a System.

(n) "Ordinance" or "Telecommunications Ordinance" means this Telecommunications Ordinance concerning the granting of Franchises in and by the City for the construction, ownership, operation, use or maintenance of a Telecommunications System.

(o) "Person" includes any individual, corporation, partnership, association, joint stock company, trust, or any other legal entity, but not the City.

(p) "Personal Wireless Services Facilities" has the same meaning as provided in Section 704 of the Act (47 U.S.C. 332(c)(7)(c)), which includes what is commonly known as cellular and PCS Services that do not install any System or portion of a System in the Rights-of-Way.

(q) "Provider" means an Operator, Infrastructure Provider, Resaler, or System Lessee.

(r) "PSC" means the Public Service Commission, or any successor thereto.

(s) "Resaler" refers to any Person that provides local exchange service over a System for which a separate charge is made, where that Person does not own or lease the underlying System used for the transmission.

(t) "Rights-of-Way" means the surface of and the space above and below any public street, sidewalk, alley,

or other public way of any type whatsoever, now or hereafter existing as such within the City.

(u) "Signal" means any transmission or reception of electronic, electrical, light or laser or radio frequency energy or optical information in either analog or digital format.

(v) "System Lessee" refers to any Person that leases a System or a specific portion of a System to provide Services.

(w) "Telecommunications" means the transmission, between or among points specified by the user, of information of the user's choosing (*e.g.*, data, video, and voice), without change in the form or content of the information sent and received.

(x) "Telecommunications System" or "System" means all conduits, manholes, poles, antennas, transceivers, amplifiers and all other electronic devices, equipment, Wire and appurtenances owned, leased, or used by a Provider, located in the Rights-of-Way and utilized in the provision of Services, including fully digital or analog, voice, data and video imaging and other enhanced Telecommunications Services. Telecommunications System or Systems also includes an Open Video System.

(y) "Telecommunications Service(s)" or "Services" means any telecommunications services provided by a Provider within the City that the Provider is authorized to provide under federal, state and local law, and any equipment and/or facilities required for and integrated with the Services provided within the City, except that these terms do not include "cable service" as defined in the Cable Communications Policy Act of 1984, as amended by the Cable Television Consumer Protection and Competition Act of 1992 (47 U.S.C. § 521, *et seq.*), and the Telecommunications Act of 1996. Telecommunications System or Systems also includes an Open Video System.

(z) "Wire" means fiber optic Telecommunications cable, wire, coaxial cable, or other transmission medium that may be used in lieu thereof for similar purposes.

Chapter 3: Franchise Required

11-1-301. Non-Exclusive Franchise.

The City is empowered and authorized to issue non-exclusive Franchises governing the installation, construction, and maintenance of Systems in the City's Rights-of-Way, in accordance with the provisions of this Ordinance. The Franchise is granted through a Franchise Agreement entered into between the City and Provider.

11-1-302. Every Provider Must Obtain.

Except to the extent preempted by federal or state law, as ultimately interpreted by a court of competent jurisdiction, including any appeals, every Provider must obtain a Franchise prior to constructing a Telecommunications System or providing Telecommunications Services using the Rights-of-Way, and every Provider must obtain a Franchise before constructing an Open Video System or providing Open Video

Services via an Open Video System. Any Open Video System or Service shall be subject to the customer service and consumer protection provisions applicable to the Cable TV companies to the extent the City is not preempted or permitted as ultimately interpreted by a court of competent jurisdiction, including any appeals. The fact that particular Telecommunications Systems may be used for multiple purposes does not obviate the need to obtain a Franchise for other purposes. By way of illustration and not limitation, a cable operator of a cable system must obtain a cable franchise, and, should it intend to provide Telecommunications Services over the same System, must also obtain a Telecommunications Franchise.

11-1-303. Nature of Grant.

A Franchise shall not convey title, equitable or legal, in the Rights-of-Way. A Franchise is only the right to occupy Rights-of-Way on a non-exclusive basis for the limited purposes and for the limited period stated in the Franchise; the right may not be subdivided, assigned, or subleased, except as may be expressly provided in the Franchise Agreement. A Franchise does not excuse a Provider from obtaining appropriate access or pole attachment agreements, and making required payments, before collocating its System on the property of others, including the City's property. This section shall not be construed to prohibit a Provider from leasing conduit to another Provider, so long as the Lessee has obtained a Franchise.

11-1-304. Current Providers.

Except to the extent exempted by federal or state law, any Provider acting without a Franchise on the effective date of this Ordinance shall request issuance of a Franchise from the City within 90 days of the effective date of this Ordinance. If such request is made, the Provider may continue providing service during the course of negotiations. If a timely request is not made, or if negotiations cease and a Franchise is not granted, the Provider shall comply with the provisions of Section 9.4.

11-1-305. Nature of Franchise.

The Franchise granted by the City under the provisions of this Ordinance shall be a nonexclusive Franchise providing the right and consent to install, repair, maintain, remove and replace its System on, over and under the Rights-of-Way in order to provide Services.

11-1-306. Regulatory Approval Needed.

Before offering or providing any Services pursuant to the Franchise, a Provider shall obtain any and all regulatory approvals, permits, authorizations or licenses for the offering or provision of such Services from the appropriate federal, state and local authorities, if required, and shall submit to the City upon the written request of the City evidence of all such approvals, permits, authorizations or licenses.

11-1-307. Term.

No Franchise issued pursuant to this Ordinance shall have a term of less than five (5) years or greater than fifteen (15) years. Each Franchise shall be granted in a nondiscriminatory manner.

Chapter 4: Compensation and Other Payments

11-1-401. Compensation.

As fair and reasonable compensation for any Franchise granted pursuant to this Ordinance, a Provider shall have the following obligations:

11-1-402. Application Fee.

In order to offset the cost to the City to review an Application for a Franchise and in addition to all other fees, permits or charges, a Provider shall pay to the City, at the time of Application, $500 as a non-refundable Application fee.

11-1-403. Franchise Fees.

The Franchise fee, if any, shall be set forth in the Franchise Agreement. The obligation to pay a Franchise fee shall commence on the Completion Date. The Franchise fee is offset by any business license fee or business license tax enacted by the City.

11-1-404. Excavation Permits.

The Provider shall also pay fees required for an excavation permit as provided in the Excavation Permit Ordinance.

11-1-405. Timing.

Unless otherwise agreed to in the Franchise Agreement, all Franchise Fees shall be paid on a monthly basis within forty-five (45) days of the close of each calendar month.

11-1-406. Fee Statement and Certification.

Unless a Franchise Agreement provides otherwise, each fee payment shall be accompanied by a statement showing the manner in which the fee was calculated and shall be certified as to its accuracy.

11-1-407. Future Costs.

A Provider shall pay to the City and/or to third parties, at the direction of the City, an amount equal to the reasonable costs and reasonable expenses that the City incurs for the services of the City and/or third parties (including but not limited to attorneys and other consultants) in connection with any renewal or Provider-initiated renegotiation, or amendment of this Ordinance or a Franchise, provided, however, that the parties shall agree upon a reasonable financial cap at the outset of negotiations. In the event the parties are unable to agree, either party may submit the issue to binding arbitration in accordance with the rules and procedures of the American Arbitration Association. Any costs associated with any work to be done by the Power and Public Works Department to provide space on City owned poles shall be borne by the Provider.

11-1-408. Taxes and Assessments.

To the extent taxes or other assessments are imposed by taxing authorities, other than the City on the use of the City property as a result of a Provider's use or occupation of the Rights-of-Way, the Provider shall be responsible for payment of its pro rata share of such taxes, payable annually unless otherwise required by the taxing authority. Such payments shall be in addition to any other fees payable pursuant to this Ordinance.

11-1-409. Interest on Late Payments.

In the event that any payment is not actually received by the City on or before the applicable date fixed in the Franchise, interest thereon shall accrue from such date until received at the rate charged for delinquent state taxes.

11-1-410. No Accord and Satisfaction.

No acceptance by the City of any fee shall be construed as an accord that the amount paid is in fact the correct amount, nor shall such acceptance of such fee payment be construed as a release of any claim the City may have for additional sums payable.

11-1-411. Not in Lieu of Other Taxes or Fees.

The fee payment is not a payment in lieu of any tax, fee or other assessment except as specifically provided in this Ordinance, or as required by applicable law. By way of example, and not limitation, excavation permit fees and fees to obtain space on the City owned poles are not waived and remain applicable.

11-1-412. Continuing Obligation and Holdover.

In the event a Provider continues to operate all or any part of the System after the Term of the Franchise, such operator shall continue to comply with all applicable provisions of this Ordinance and the Franchise, including, without limitation, all compensation and other payment provisions throughout the period of such continued operation, provided that any such continued operation shall in no way be construed as a renewal or other extension of the Franchise, nor as a limitation on the remedies, if any, available to the City as a result of such continued operation after the term, including, but not limited to, damages and restitution.

11-1-413. Costs of Publication.

A Provider shall assume any publication costs associated with its Franchise that may be required by law.

Chapter 5: Franchise Applications

11-1-501. Franchise Application.

To obtain a Franchise to construct, own, maintain or provide Services through any System within the City, to obtain a renewal of a Franchise granted pursuant to this Ordinance, or to obtain the City approval of a transfer of a Franchise, as provided in Subsection 7.1.2, granted pursuant to this Ordinance, an Application must be filed with City on the form attached to this Ordinance as Exhibit A, which is hereby incorporated by reference. The Application form may be changed by the City Manager so long as such changes request information that is consistent with this Ordinance. Such Application form, as amended, is incorporated by

reference.

11-1-502. Application Criteria.

In making a determination as to an Application filed pursuant to this Ordinance, the City may, but shall not be limited to, request the following from the Provider:

(a) A copy of the order from the PSC granting a Certificate of Convenience and Necessity, if any is necessary for Provider's offering of services within the State of Utah.

(b) Certification of the Provider's financial ability to compensate the City for Provider's intrusion, maintenance and use of the Rights-of-Way during the Franchise term proposed by the Provider;

(c) Provider's agreement to comply with the requirements of Section 6 of this Ordinance.

(d) Prior to making any attachments to poles or using any City conduit, the Provider must enter into a pole attachment or conduit agreement with the City.

11-1-503. Franchise Determination.

The City, in its discretion, shall determine the award of any Franchise on the basis of these and other considerations relevant to the use of the Rights-of-Way, without competitive bidding.

Chapter 6: Construction and Technical Requirements

11-1-601. General Requirement.

No Provider shall receive a Franchise unless it agrees to comply with each of the terms set forth in this Section governing construction and technical requirements for its System, in addition to any other reasonable requirements or procedures specified by the City or the Franchise, including requirements regarding locating and sharing in the cost of locating portions of the System with other Systems or with City utilities. A Provider shall obtain an excavation permit, pursuant to the excavation ordinance, before commencing any work in the Rights-of-Way.

11-1-602. Quality.

All work involved in the construction, maintenance, repair, upgrade and removal of the System shall be performed in a safe, thorough and reliable manner using materials of good and durable quality, and shall be performed by qualified and licensed construction and maintenance personnel. If, at any time, it is determined by the FCC or any other agency granted authority by federal law or the FCC to make such determination, that any part of the System, including, without limitation, any means used to distribute

Signals over or within the System, is harmful to the public health, safety or welfare, or quality of service or reliability, then a Provider shall, at its own cost and expense, promptly correct all such conditions.

11-1-603. Licenses and Permits.

A Provider shall have the sole responsibility for diligently obtaining, at its own cost and expense, all permits, licenses or other forms of approval or authorization necessary to construct, maintain, upgrade or repair the System, including but not limited to any necessary approvals from Persons and/or the City to use private property, easements, poles and conduits. A Provider shall obtain any required permit, license, approval or authorization, including but not limited to excavation permits, pole attachment agreements, etc., prior to the commencement of the activity for which the permit, license, approval or authorization is required.

11-1-604. Relocation of the System.

(a) **New Grades or Lines.** If the grades or lines of any Rights-of-Way are changed at any time in a manner affecting the System, then a Provider shall comply with the requirements of the excavation ordinance.

(b) **The City Authority to Move System in case of an Emergency.** The City may, at any time, in case of fire, disaster or other emergency, as determined by the City in its reasonable discretion, cut or move any parts of the System and appurtenances on, over or under the Rights-of-Way of the City, in which event the City shall not be liable therefor to a Provider. The City shall notify a Provider in writing prior to, if practicable, but in any event as soon as possible and in no case later than the next business day following any action taken under this Section. Notice shall be given as provided in Section 11.4.

(c) **A Provider Required to Temporarily Move System for Third Party.** A Provider shall, upon prior reasonable written notice by the City or any Person holding a permit to move any structure, and within the time that is reasonable under the circumstances, temporarily move any part of its System to permit the moving of said structure. A Provider may impose a reasonable charge on any Person other than the City for any such movement of its Systems.

(d) **Rights-of-Way Change - Obligation to Move System.** When the City is changing a Rights-of-Way and makes a written request, a Provider is required to move or remove its System from the Rights-of-Way, without cost to the City, to the extent provided in the excavation ordinance. This obligation does not apply to Systems originally located on private property pursuant to a private easement, which property was later incorporated into the Rights-of-Way, if that private easement grants a superior vested right. This obligation exists whether or not the Provider has obtained an excavation permit.

11-1-605. Protect Structures.

In connection with the construction, maintenance, repair, upgrade or removal of the System, a Provider shall, at its own cost and expense, protect any and all existing structures belonging to the City. A Provider shall obtain the prior written consent of the City to alter any water main, power facility, sewerage or drainage system, or any other municipal structure on, over or under the Rights-of-Way of the City required because of the presence of the System. Any such alteration shall be made by the City or its designee on a reimbursable basis. A Provider agrees that it shall be liable for the costs incurred by the City to replace or repair and restore to its prior condition in a manner as may be reasonably specified by the City, any municipal structure or any other Rights-of-Way of the City involved in the construction, maintenance, repair, upgrade or removal of the System that may become disturbed or damaged as a result of any work thereon by or on behalf of a Provider pursuant to the Franchise.

11-1-606. No Obstruction.

In connection with the construction, maintenance, upgrade, repair or removal of the System, a Provider shall not unreasonably obstruct the Rights-of-Way of fixed guide way systems, railways, passenger travel, or other traffic to, from or within the City without the prior consent of the appropriate authorities.

11-1-607. Safety Precautions.

A Provider shall, at its own cost and expense, undertake all necessary and appropriate efforts to prevent accidents at its work sites, including the placing and maintenance of proper guards, fences, barricades, security personnel and suitable and sufficient lighting, and such other requirements prescribed by OSHA and Utah OSHA. A Provider shall comply with all applicable federal, state and local requirements including but not limited to the National Electric Safety Code.

11-1-608. Repair.

After written reasonable notice to the Provider, unless, in the sole determination of the City, an eminent danger exists, any Rights-of-Way within the City which are disturbed or damaged during the construction, maintenance or reconstruction by a Provider of its System may be repaired by the City at the Provider's expense, to a condition as good as that prevailing before such work was commenced. Upon doing so, the City shall submit to such a Provider an itemized statement of the cost for repairing and restoring the Rights-of-Ways intruded upon. The Provider shall, within thirty (30) days after receipt of the statement, pay to the City the entire amount thereof.

11-1-609. System Maintenance.

A Provider shall:

(a) Install and maintain all parts of its System in a non-dangerous condition throughout the entire period of its Franchise.

(b) Install and maintain its System in accordance with standard prudent engineering practices and shall conform, when applicable, with the National Electrical Safety Code and all applicable other federal, state and local laws or regulations.

(c) At all reasonable times, permit examination by any duly authorized representative of the City of the System and its effect on the Rights-of-Way.

11-1-610. Trimming of Trees.

A Provider shall have the authority to trim trees, in accordance with all applicable utility restrictions, ordinance and easement restrictions, upon and hanging over Rights-of-Way so as to prevent the branches of such trees from coming in contact with its System.

Chapter 7: Franchise and License Non-Transferrable

11-1-701. Notification of Sale.

(a) Notification and Election. When a Provider is the subject of a sale, transfer, lease, assignment, sublease

or disposed of, in whole or in part, either by forced or involuntary sale, or by ordinary sale, consolidation or otherwise, such that it or its successor entity is obligated to inform or seek the approval of the PSC, the Provider or its successor entity shall promptly notify the City of the nature of the transaction. The notification shall include either:

(1) the successor entity's certification that the successor entity unequivocally agrees to all of the terms of the original Provider's Franchise Agreement, or

(2) the successor entity's Application in compliance with Section 5 of this Ordinance.

(b) Transfer of Franchise. Upon receipt of a notification and certification in accordance with Subsection 11-7-101(a)(1), the City designee, as provided in this ordinance, shall send notice affirming the transfer of the Franchise to the successor entity. If the City has good cause to believe that the successor entity may not comply with this Ordinance or the Franchise Agreement, it may require an Application for the transfer. The Application shall comply with Chapter 5.

(c) If PSC Approval No Longer Required. If the PSC no longer exists, or if its regulations or state law no longer require approval of transactions described in Section 11-1-701, and the City has good cause to believe that the successor entity may not comply with this Ordinance or the Franchise Agreement, it may require an Application. The Application shall comply with Chapter 5.

11-1-702. Events of Sale.

The following events shall be deemed to be a sale, assignment or other transfer of the Franchise requiring compliance with Section 11-1-701:

(a) the sale, assignment or other transfer of all or a majority of a Provider's assets to another Person;

(b) the sale, assignment or other transfer of capital stock or partnership, membership or other equity interests in a Provider by one or more of its existing shareholders, partners, members or other equity owners so as to create a new Controlling Interest in a Provider;

(c) the issuance of additional capital stock or partnership, membership or other equity interest by a Provider so as to create a new Controlling Interest in such a Provider; or

(d) the entry by a Provider into an agreement with respect to the management or operation of such Provider or its System.

Chapter 8: Oversight and Regulation

11-1-801. Insurance, Indemnity and Security.

Prior to the execution of a Franchise, a Provider will deposit with the City an irrevocable, unconditional letter of credit or surety bond as required by the terms of the Franchise, and shall obtain and provide proof of the insurance coverage required by the Franchise. A Provider shall also indemnify the City as set forth in the

Franchise.

11-1-802. Oversight.

The City shall have the right to oversee, regulate and inspect periodically the construction, maintenance, and upgrade of the System, and any part thereof, in accordance with the provisions of the Franchise and applicable law. A Provider shall establish and maintain managerial and operational records, standards, procedures and controls to enable a Provider to prove, in reasonable detail, to the satisfaction of the City at all times throughout the Term, that a Provider is in compliance with the Franchise. A Provider shall retain such records for not less than the applicable statute of limitations.

11-1-803. Maintain Records.

A Provider shall at all times maintain:

(a) On file with the City, a full and complete set of plans, records and "as-built" hard copy maps and, to the extent the maps are placed in an electronic format, they shall be made in electronic format compatible with the City's existing GIS system, of all existing and proposed installations and the types of equipment and Systems installed or constructed in the Rights-of-Way, properly identified and described as to the types of equipment and facility by appropriate symbols and marks which shall include annotations of all Rights-of-Ways where work will be undertaken. As used herein, “as-built” maps includes “file construction prints.” Maps shall be drawn to scale. "As-built" maps, including the compatible electronic format, as provided above, shall be submitted within 30 days of completion of work or within 30 days after completion of modification and repairs. “As- built” maps are not required of the Provider who is the incumbent local exchange carrier for the existing System to the extent they do not exist.

(b) Throughout the term of the Franchise, a Provider shall maintain complete and accurate books of account and records of the business, ownership, and operations of a Provider with respect to the System in a manner that allows the City at all times to determine whether a Provider is in compliance with the Franchise. Should the City reasonably determine that the records are not being maintained in such a manner, a Provider shall alter the manner in which the books and/or records are maintained so that a Provider comes into compliance with this Section. All financial books and records which are maintained in accordance with the regulations of the FCC and any governmental entity that regulates utilities in the State of Utah, and generally accepted accounting principles shall be deemed to be acceptable under this Section.

11-1-804. Confidentiality.

If the information required to be submitted is proprietary in nature or must be kept confidential by federal, state or local law, upon proper request by a Provider, such information shall be classified as a Protected Record within the meaning of the Utah Government Records Access and Management Act (“GRAMA”), making it available only to those who must have access to perform their duties on behalf of the City, provided that a Provider notifies the City of, and clearly labels the information which a Provider deems to be confidential, proprietary information. Such notification and labeling shall be the sole responsibility of the Provider.

11-1-805. Provider's Expense.

All reports and records required under this Ordinance shall be furnished at the sole expense of a Provider, except as otherwise provided in this Ordinance or a Franchise.

11-1-806. Right of Inspection.

For the purpose of verifying the correct amount of the franchise fee, the books and records of the Provider pertaining thereto shall be open to inspection or audit by duly authorized representatives of the City at all reasonable times, upon giving reasonable notice of the intention to inspect or audit the books and records, provided that the City shall not audit the books and records of the Provider more often than annually. The Provider agrees to reimburse the City the reasonable costs of an audit if the audit discloses that the Provider has paid ninety-five percent (95%) or less of the compensation due the City for the period of such audit. In the event the accounting rendered to the City by the Provider herein is found to be incorrect, then payment shall be made on the corrected amount within thirty (30) calendar days of written notice, it being agreed that the City may accept any amount offered by the Provider, but the acceptance thereof by the City shall not be deemed a settlement of such item if the amount is in dispute or is later found to be incorrect.

Chapter 9: Rights of the City

11-1-901. Enforcement and Remedies.

(a) Enforcement - City Designee. The City is responsible for enforcing and administering this Ordinance, and the City or its designee, as appointed by the City Manager is authorized to give any notice required by law or under any Franchise Agreement.

(b) Enforcement Provision. Any Franchise granted pursuant to this Ordinance shall contain appropriate provisions for enforcement, compensation, and protection of the public, consistent with the other provisions of this Ordinance, including, but not limited to, defining events of default, procedures for accessing the Bond/Security Fund, and rights of termination or revocation.

11-1-902. Force Majeure.

In the event a Provider's performance of any of the terms, conditions or obligations required by this Ordinance or a Franchise is prevented by a cause or event not within a Provider's control, such inability to perform shall be deemed excused and no penalties or sanctions shall be imposed as a result thereof. For the purpose of this section, causes or events not within the control of a Provider shall include, without limitation, acts of God, strikes, sabotage, riots or civil disturbances, failure or loss of utilities, explosions, acts of public enemies, and natural disasters such as floods, earthquakes, landslides, and fires.

11-1-903. Extended Operation and Continuity of Services.

(a) Continuation After Expiration. Upon either expiration or revocation of a Franchise granted pursuant to this Ordinance, the City shall have discretion to permit a Provider to continue to operate its System or provide Services for an extended period of time not to exceed six (6) months from the date of such expiration or revocation. A Provider shall continue to operate its System under the terms and conditions of this Ordinance and the Franchise granted pursuant to this Ordinance.

(b) Continuation by Incumbent Local Exchange Carrier. If the Provider is the incumbent local exchange carrier, it shall be permitted to continue to operate its System and provide Services without regard to revocation or expiration, but shall be obligated to negotiate a renewal in good faith.

11-1-904. Removal or Abandonment of Franchise Property.

(a) Abandoned System. In the event that (1) the use of any portion of the System is discontinued for a continuous period of twelve (12) months, and thirty (30) days after no response to written notice from the City to the last known address of Provider; (2) any System has been installed in the Rights-of-Way without complying with the requirements of this Ordinance or Franchise; or (3) the provisions of Section 3.5 are applicable and no Franchise is granted, a Provider, except the Provider who is an incumbent local exchange carrier, shall be deemed to have abandoned such System.

(b) **Removal of Abandoned System.** The City, upon such terms as it may impose, may give a Provider written permission to abandon, without removing, any System, or portion thereof, directly constructed, operated or maintained under a Franchise. Unless such permission is granted or unless otherwise provided in this Ordinance, a Provider shall remove within a reasonable time the abandoned System and shall restore, using prudent construction standards, any affected Rights-of-Way to their former state at the time such System was installed, so as not to impair their usefulness. In removing its plant, structures and equipment, a Provider shall refill, at its own expense, any excavation necessarily made by it and shall leave all Rights-of-Way in as good condition as that prevailing prior to such removal without materially interfering with any electrical or telephone cable or other utility wires, poles or attachments. The City shall have the right to inspect and approve the condition of the Rights-of-Way cables, wires, attachments and poles prior to and after removal. The liability, indemnity and insurance provisions of this Ordinance and any security fund provided in a Franchise shall continue in full force and effect during the period of removal and until full compliance by a Provider with the terms and conditions of this Section.

(c) Transfer of Abandoned System to City. Upon abandonment of any System in place, a Provider, if required by the City, shall submit to the City a written instrument, satisfactory in form to the City, transferring to the City the ownership of the abandoned System.

(d) Removal of Above-Ground System. At the expiration of the term for which a Franchise is granted, or upon its revocation or earlier expiration, as provided for by this Ordinance, in any such case without renewal, extension or transfer, the City shall have the right to require a Provider to remove, at its expense, all above-ground portions of a System from the Rights-of-Way within a reasonable period of time, which shall not be less than one hundred eighty (180) days. If the Provider is the incumbent local exchange carrier, it shall not be required to remove its System, but shall negotiate a renewal in good faith.

(e) Leaving Underground System. Notwithstanding anything to the contrary set forth in this Ordinance, a Provider may abandon any underground System in place so long as it does not materially interfere with the use of the Rights-of-Way or with the use thereof by any public utility, cable operator or other Person.

Chapter 10: Obligation to Notify

11-1-1001. Publicizing Work.

Before entering onto any private property, a Provider shall make a good faith attempt to contact the property owners in advance, and describe the work to be performed.

Chapter 11: General Provisions

11-1-1101. Conflicts.

In the event of a conflict between any provision of this Ordinance and a Franchise entered pursuant to it, the provisions of this Ordinance in effect at the time the Franchise is entered into shall control.

11-1-1102. Severability.

If any provision of this Ordinance is held by any federal, state or local court of competent jurisdiction, to be invalid as conflicting with any federal or state statute, or is ordered by a court to be modified in any way in order to conform to the requirements of any such law and all appellate remedies with regard to the validity of the Ordinance provisions in question are exhausted, such provision shall be considered a separate, distinct, and independent part of this Ordinance, and such holding shall not affect the validity and enforceability of all other provisions hereof. In the event that such law is subsequently repealed, rescinded, amended or otherwise changed, so that the provision which had been held invalid or modified is no longer in conflict with such law the provision in question shall return to full force and effect and shall again be binding on the City and the Provider, provided that the City shall give the Provider thirty (30) days, or a longer period of time as may be reasonably required for a Provider to comply with such a rejuvenated provision, written notice of the change before requiring compliance with such provision.

11-1-1103. New Developments.

It shall be the policy of the City to liberally amend this Ordinance, upon Application of a Provider, when necessary to enable the Provider to take advantage of any developments in the field of Telecommunications which will afford the Provider an opportunity to more effectively, efficiently, or economically serve itself or the public.

11-1-1104. Notices.

All notices from a Provider to the City required under this Ordinance or pursuant to a Franchise granted pursuant to this Ordinance shall be directed to the officer as designated by the City Manager. A Provider shall provide in any Application for a Franchise the identity, address and phone number to receive notices from the City. A Provider shall immediately notify the City of any change in its name, address, or telephone number.

11-1-1105. Exercise of Police Power.

To the full extent permitted by applicable law either now or in the future, the City reserves the right to adopt or issue such rules, regulations, orders, or other directives that it finds necessary or appropriate in the lawful exercise of its police powers.

Chapter 12: Federal, State and City Jurisdiction

11-1-1201. Construction.

This Ordinance shall be construed in a manner consistent with all applicable federal and state statutes.

11-1-1202. Ordinance Applicability.

This Ordinance shall apply to all Franchises granted or renewed after the effective date of this Ordinance. This Ordinance shall further apply, to the extent permitted by applicable federal or state law to all existing Franchises granted prior to the effective date of this Ordinance and to a Provider providing Services, without a Franchise, prior to the effective date of this Ordinance.

11-1-1203. Other Applicable Ordinances.

A Provider's rights are subject to the police powers of the City to adopt and enforce ordinances necessary to the health, safety and welfare of the public. A Provider shall comply with all applicable general laws and ordinances enacted by the City pursuant to its police powers. In particular, all Providers shall comply with the City zoning and other land use requirements.

11-1-1204. City Failure to Enforce.

A Provider shall not be relieved of its obligation to comply with any of the provisions of this Ordinance or any Franchise granted pursuant to this Ordinance by reason of any failure of the City to enforce prompt compliance.

11-1-1205. Construed According to Utah Law.

This Ordinance and any Franchise granted pursuant to this Ordinance shall be construed and enforced in accordance with the substantive laws of the State of Utah.

Part 2: Cable Television.

11-2-101. Scope of Ordinance.

This Part applies only to the franchising of providers of cable television services.

11-2-102. Legislative Intent.

The City finds that the continuation and development of cable television and communications system has great benefit and impact upon the residents of Bountiful City. Because of the complex and rapidly changing technology associated with cable television, the City further finds that the public convenience, safety and general welfare can best be served by establishing regulatory powers which should be vested in the City or

such persons as the City shall designate. It is the City's intent to insure that City residents receive a high quality cable television service comparable to the best offered in any community in Davis County; that any inconvenience to residents in the development, operation, and maintenance of a cable system or systems be minimized; and that the City is properly compensated for the administration of cable television franchises and the use of the public rights of way.

11-2-103. Definitions.

"Cable Act" means the Cable Communications Policy Act of 1984 (Public Law No. 98-549, 47 USC 521 (Supp.)) as amended by the Cable Television Consumer Protection and Competition Act of 1992.

"Cable Communications System", "System", or "Systems", also referred to as "Cable Television System", "Cable System", "CATV System", or "Community Antenna TV System", shall have the meaning specified for "Cable Communications System" in the Cable Act.

"Grantee" means the party to whom the Franchise is granted, its agents, employees, lawful successors, transferees or assignees.

"Grantor" means Bountiful City.

"Gross Revenues" means all cash, credits, property of any kind or nature or other consideration received directly or indirectly by the Grantee, arising from or attributable to operation of the Cable Television System in the City.

11-2-104. Unlawful Activity.

(a) It is unlawful to operate a Cable Communications System within the City without first obtaining from the City a Franchise to do so.

(b) No Cable Communications System shall be allowed to occupy or use the streets of the City without a franchise.

(c) In addition to the criminal and civil remedies provided by Federal and State law, it is a misdemeanor for any person, firm or corporation to create or make use of any unauthorized connection, whether physically, electrically, acoustically, inductively, or otherwise, with any part of the System without the express consent of the Grantee. It is a misdemeanor for any person to tamper with, remove, or injure any property, equipment, or part of the System or any means of receiving services provided thereto, without the express consent of the Grantee.

11-2-105. Grant of Franchise.

(a) Subject to the requirements of this ordinance, the City may grant to any Grantee a nonexclusive, revocable Franchise to construct, operate, maintain, and reconstruct a Cable Communications System within part or all of the City. The Franchise shall constitute both a right and an obligation to provide the services of a Cable Communications System as required by the provisions of this ordinance.

(b) The material provisions of any franchises granted pursuant to this ordinance shall be comparable, in order that one operator not be granted an unfair competitive advantage over another, and to provide all parties equal protection under the law. The Franchising Authority shall not authorize or permit a System to operate within the Franchise area on terms or conditions more favorable or less burdensome to any one operator.

11-2-106. Required Extensions of Service.

(a) Grantee is hereby authorized to extend the Cable System as necessary, as desirable, or as required pursuant to the franchise agreement.

(b) No Subscriber shall be refused service arbitrarily.

11-2-107. Two-Way Capability.

(a) The Grantee shall design and construct the system in such a manner as to provide return response capability and so as to permit the introduction of return video and two way data signals as production technology allows and as the demand requires.

(b) Grantee shall assign and allocate to Bountiful an exclusive two-way Electronic Information Handling (EIH) downstream channel, and an EIH upstream channel.

11-2-108. Procedure for Remedying Franchise Violations.

(a) In the event that the City believes that Grantee has violated any provision of the Franchise, the City may make a written demand on Grantee that it remedy such violation. From delivery of such notice the Grantee shall (a) within 14 days, respond to the Franchising Authority, contesting the assertion of noncompliance, or (b) have 30 days to cure such default, or © in the event that, by the nature of default, such default cannot be cured within the 30-day period, initiate reasonable steps to remedy such default and notify the Franchising Authority of the steps being taken and the projected date that they will be completed.

If the Grantee fails to comply or the City believes the Grantee to still be not in compliance, and the alleged violation is of a significant material provision of the franchise, a meeting with the City Manager shall be held to review the alleged violation. If this meeting does not result in a satisfactory resolution, and/or Grantee requests a hearing, then a hearing shall be held, and Grantee shall be provided with an opportunity to be heard upon thirty (30) days written notice to Grantee of the time and the place of the hearing and the allegations of Franchise violations.

(1) Any hearing held will be conducted by the City Council.

(2) The costs incurred by the parties for attorney's fees, expert witness fees and other expenses shall be borne solely by the party incurring the costs.

(3) All witnesses testifying at any hearing held pursuant to this section shall be sworn witnesses and shall be subject to direct and cross-examination. However, formal rules of evidence applicable to the trial of civil and criminal proceedings in the trial courts of the State of Utah shall not be applicable to the hearing. The provisions of the Administrative Procedures Act, commencing at Section 63-46b-1, et. seq. U.C.A. 1953, as amended, or any successor legislative enactment, shall not be applicable to any such hearing. The hearing may be continued from time to time.

(4) The City Council shall upon conclusion of the hearing prepare findings of fact and conclusions.

The decision shall be made filed and mailed to the Grantee not later than thirty (30) calendar days after the conclusion of the hearing.

(b) If, after the hearing, the City Council determines that a non-compliance occurred or still exists, then the City may impose a remedy including, without limitation:

(1) making the correction itself, and charging the cost to the Grantee;

(2) commencing an action at law for monetary damages, or seeking other equitable relief;

(3) requiring the filing of a financial performance instrument by the Grantee to insure future performance; or

(4) in the case of a substantial default of a material provision of the Franchise, declaring the Franchise terminated.

(c) If the decision by the City Council is that there are grounds for termination of the Franchise and that the Franchise shall be terminated, the City Council shall adopt a resolution which terminates the Franchise and includes its findings and conclusions. A copy of the resolution shall be mailed to the Grantee.

(d) The Grantee shall not be held in default or non-compliance with the provisions of the Franchise, nor suffer any enforcement or penalty relating thereto, for such non-compliance or alleged defaults are caused by strikes, acts of God, power outages, or other events reasonably beyond its ability to control.

11-2-109. Alternative Remedies.

No provision of this ordinance shall be deemed to bar the right of the City to seek or obtain judicial relief from a violation of any provision of the Franchise or any rule, regulation, requirement or directive promulgated thereunder. Neither the existence of other remedies identified in this ordinance nor the exercise thereof shall be deemed to bar or otherwise limit the right of the City to recover monetary damages for such violation by the Grantee, or judicial enforcement of the Grantee's obligations by means of specific performance, injunction relief or mandate, or any other judicial remedy at law or in equity.

No provision of this ordinance shall be deemed to bar any rights the Grantee may have under law and the right to review of any decision by the City Council by a court of competent jurisdiction.

11-2-110. Franchise Fee.

(a) For the use of the streets and for the purposes of providing revenue with which to defray the costs or regulation arising out of the granting of this Franchise under this ordinance, Grantee shall pay a Franchise Fee.

(b) During the term of the Franchise, Grantee shall pay to the City an amount equal to five percent (5%) per year of the Grantee's annual Gross Revenue received.

(c) The Franchise Fee shall be paid quarterly forty-five (45) days after the end of each quarter. Each payment shall be accompanied by a report from a representative of the Grantee showing the basis for the computation.

(d) No acceptance of any payment shall be construed as an accord that the amount paid is, in fact, the correct amount, nor shall such acceptance of payment be construed as a release of any claim which the City may have for further or additional sums payable under the provisions of this Section.

(e) Any Franchise Fees which remain unpaid after the dates specified in Section 7-1-135 above shall be delinquent and shall thereafter accrue interest at 18% until paid.

11-2-111. Application for Franchise.

(a) No initial cable television franchise shall be issued except upon written application to the City. Such forms shall contain such information as the City Council may prescribe as to the:

(1) Citizenship and character of the applicant.

(2) The financial, technical and other qualifications of the applicant to operate the system.

(3) Complete information as to its principals and ultimate beneficial owners, including, in the case of corporations, all stockholders both nominal and beneficial owning 1% or more of the issued and outstanding stock, and in the case of incorporated associations, all members and ultimate beneficial owners however designated.

(4) Description in detail of the equipment or facilities proposed to be constructed, installed and maintained.

(5) A statement or schedule setting forth the number of channels and all of the television or radio stations proposed to be received, transmitted, conducted, relayed or otherwise conveyed over its system.

(6) Such other information as the City may deem appropriate or necessary.

Such application shall be signed by the applicant or a duly authorized representative.

(b) The City Council, after the last date fixed for the receipt of the application, shall cause to be published in a newspaper of general circulation within the City, a notice of a public hearing, giving the time, date, place of such hearing, and listing the names of the applicants and inviting public examination of the applicants and qualification of said applicants.

(c) A public hearing shall be conducted in accordance with the standards of due process in fairness to applicants and the public and in accordance with the FCC rules and regulations and orders and policies pertinent to such hearing. Each applicant shall be notified of the time and location of his application to be considered.

(d) At the option of the City and upon application of the Grantee, any franchise granted under this chapter may be renewable in the same manner as required herein for obtaining an original franchise except those provisions which are by their terms expressly inapplicable. The City Council may, at its option, waive compliance with any or all of the requirements of this section. Any proceedings undertaken by the Franchising Authority that relate to the renewal of the Grantee's Franchise shall be governed by and comply with the provisions of the Cable Act, as amended, unless the procedures and substantive protections set forth therein shall be deemed to be preempted and superseded by the provisions of any subsequent provision of federal or state law.

11-2-112. Application Fee.

Each initial application shall be accompanied by a non-refundable filing fee in the amount of $500.00.

Part 3: Pipeline Franchises

11-3-101. Scope of Part 3.

This Part 3 of Title 11 of the Bountiful City Code applies to pipelines that will be located inside the geographical limits of the City of Bountiful without providing direct local services to Bountiful residents or businesses on a general or widespread basis.

11-3-102. Franchise Required.

(a) A Franchise issued by the Bountiful City Council in the form of a Franchise Agreement is required to install any pipeline in a public street or public right of way or upon City-owned land, or to do any excavation or other construction work whatsoever in connection with such a pipeline.

(b) No person or entity shall locate pipelines in a public street or public right of way or upon City-owned land, or do any excavation or other construction work whatsoever, without first entering into a current Franchise agreement with the City. Any excavation, construction or other physical work done prior to the granting of a pipeline Franchise, or done inconsistently with any pipeline Franchise granted, is a class B misdemeanor, and is hereby declared to be a public nuisance which may be abated summarily or by legal action of the City.

11-3-103. Franchise Agreement.

The Bountiful City Council is authorized to enter into a Franchise Agreement with an applicant as it deems in the best interests of the City and its residents, subject to the provisions of the Bountiful City Code and applicable Federal and State law.

(a) If the proposed pipeline is not mandated by applicable Federal or State law, the City Council has the discretion to grant or deny the application as it deems appropriate.

(b) If the proposed pipeline is mandated by applicable Federal or State law, the City Council may in the Franchise Agreement attach such conditions as are necessary to protect the public interest, the citizens of Bountiful, and to comply with the Bountiful City Code and other applicable law.

(c) A Franchise Agreement shall have a term of not less than five years but not greater than fifteen years.

(d) The term "Franchise" means the rights and obligations granted by the City to a Franchisee to lease, construct, maintain, use or operate a pipeline in the public streets and public rights of way within the boundaries of the City, and upon City-owned lands within or beyond those boundaries. Any such authorization, in whatever form granted, does not mean or include: (i) any other permit or authorization required for the privilege of transacting and carrying on a business within the City required by the ordinances and laws of the City; (ii) any other permit, agreement or authorization required in connection with operations on public streets, public rights of way or public property including, without limitation, permits and agreements for placing devices on or in poles, conduits or other structures, whether owned by the City or a private entity, or for excavating or performing other work in or along the rights of way.

(e) A Franchisee must comply with all provisions of the Franchise Agreement and with all other

requirements of the Bountiful City Code, including specifically Title 6 Chapter 9 concerning Excavation in Streets and Public Properties, construction codes, and other applicable Federal, State and Local laws and regulations.

11-3-104. Regulatory Approval Needed.

(a) Prior to any installation or construction pursuant to a Franchise Agreement, the Franchisee shall obtain any and all regulatory approvals, permits, authorizations or licenses required by law from the appropriate federal, state and local authorities, and shall submit to the City upon the written request of the City evidence of all such approvals, permits, authorizations or licenses.

(b) The Franchisee shall have the sole responsibility for diligently obtaining, at its own cost and expense, all permits, licenses or other forms of approval or authorization necessary to construct, maintain, upgrade or repair the pipeline. A Franchisee shall obtain any required permit, license, approval or authorization, including but not limited to excavation permits, pole attachment agreements, etc., prior to the commencement of the activity for which the permit, license, approval or authorization is required.

11-3-105. Nature of Franchise Granted.

(a) A Franchise does not convey title, equitable or legal, in the streets, rights of way or City-owned lands, to which it applies. A Franchise is only the right to occupy rights of way on a non-exclusive basis for the limited purposes and for the limited period stated in the Franchise; the right may not be subdivided, assigned, or subleased, except as may be expressly provided in the Franchise Agreement.

(b) Any pipeline Franchise granted is non-exclusive. Other Franchises may be granted to other entities.

(c) A Franchise and Franchise Agreement are non-transferrable without the express written approval of the Bountiful City Council, which approval shall not be unreasonably withheld.

11-3-106. Compensation to the City.

(a) The City finds that the City should receive fair and reasonable compensation for permitting persons and entities to use the streets, public rights of way and City-owned lands, including lease compensation, reimbursement for actual costs incurred, and payment for staff time spent in administering and in connection with such Franchises and uses.

(b) As fair and reasonable compensation for any Franchise granted, a Franchisee shall pay to the City the following:

(i) Application Fee. In order to offset the cost to the City to review an application for a Franchise and in addition to all other fees, permits or charges, a Franchisee shall pay to the City, at the time of application, $5,000 as a non-refundable application fee.

(ii) Lease Fee. A lease fee shall be set forth in the Franchise Agreement, which shall be compensation for the privilege and advantage of using the ground within the public streets, public rights of way, and City-owned lands. The Franchisee shall pay the Lease Fee annually in advance, due no later than January 15th of each year.

(iii) Reimbursement of Costs. The Franchisee shall reimburse to the City all costs actually incurred by the City in connection with the pipeline, the Franchise Agreement, and the ongoing supervision and administration of the pipeline and its construction and installation. This includes payments to third parties for consultation, services rendered, supplies required, and all management costs for the reasonable, direct and actual costs incurred in exercising authority over the public streets, public rights of way and City-owned lands. The Franchisee shall pay such costs within 45 days of being billed.

(iv) Reimbursement of City Staff Time. The Franchisee shall reimburse to the City the full cost of staff time spent in connection with the pipeline, the Franchise Agreement, and the ongoing supervision and administration of the pipeline and its construction and installation. This includes all management costs for the reasonable, direct and actual costs incurred in exercising authority over the public streets, public rights of way and City-owned lands. The Franchisee shall pay such costs within 45 days of being billed.

(c) No acceptance by the City of any fee shall be construed as an accord that the amount paid is in fact the correct amount, nor shall such acceptance of such fee payment be construed as a release of any claim the City may have for additional sums payable.

11-3-107. Compensation to Other Entities.

The Franchisee shall pay all costs incurred by other entities with existing facilities in the public streets and public rights of way for the removal, relocation, and/or replacement of those facilities in order to accommodate the installation of any pipeline and its appurtenances under a Franchise.

11-3-108. Power to Manage Public Streets and Public Rights of way.

(a) The City asserts full power to manage the public streets, public rights of way and City-owned lands, pursuant to common law and case law, the United States and Utah Constitution, the Utah Code, and the Bountiful City Code.

(b) The City shall direct specifically where and how pipelines are to be located within the public streets, public rights of way and City-owned lands. This includes pipelines and all related appurtenances and support structures and work.

(c) All plans for work to be done within public streets, public rights of way and City-owned lands must be reviewed and approved in advance by the City. No excavation or construction work whatsoever shall be commenced until approval has been granted.

(d) All work within public streets, public rights of way and City-owned lands must be done in compliance with the plans approved by the City.

(e) The City shall have the right to oversee, regulate and inspect the construction, maintenance, and upgrade of the pipeline, and any part thereof. A Franchisee shall establish and maintain managerial and operational records, standards, procedures and controls to enable a Franchisee to prove, in reasonable detail, to the satisfaction of the City at all times, that the Franchisee is in compliance with the Franchise.

(f) The Franchisee shall at all times maintain on file with the City, a full and complete set of plans, records and "as-built" hard copy maps and, to the extent the maps are placed in an electronic format,

they shall be made in electronic format compatible with the City's existing GIS system, of all existing and proposed installations and the types of equipment and Pipelines installed or constructed in the public streets, public rights of way and on City-owned lands, properly identified and described as to the types of equipment and facility by appropriate symbols and marks which shall include annotations of all rights of ways where work will be undertaken. As used herein, "as-built" maps includes "file construction prints." Maps shall be drawn to scale. "As-built" maps, including the compatible electronic format, as provided above, shall be submitted within 30 days of completion of work or within 30 days after completion of modification and repairs. "As- built" maps are not required of the Franchisee who is the incumbent local exchange carrier for the existing pipeline to the extent they do not exist.

11-3-109. Construction Work.

(a) Quality. All work performed by the Franchisee under the Franchise Agreement and the requirements of the Bountiful City Code, including the construction, maintenance, repair, upgrade and removal of any pipeline, shall be performed in a safe, thorough and reliable manner using materials of good and durable quality, and shall be performed by qualified and licensed construction and maintenance personnel. All work and materials shall be in conformity with all applicable Federal, State and City law.

(b) Protection of Structures. In connection with the construction, maintenance, repair, upgrade or removal of a pipeline, the Franchisee shall, at its own cost and expense, protect any and all existing structures belonging to the City and other entities. A Franchisee shall obtain the prior written consent of the City to alter any water main, power facility, sewerage or drainage system, or any other municipal structure on, over or under the rights of way of the City required because of the presence of the pipeline. Any such alteration shall be made by the City or its designee on a reimbursable basis. A Franchisee shall pay the costs incurred by the City to replace or repair and restore to its prior condition in a manner as may be reasonably specified by the City, any municipal structure or any other public streets or public rights of way of the City involved in the construction, maintenance, repair, upgrade or removal of the pipeline that may become disturbed or damaged as a result of any work thereon by or on behalf of the Franchisee.

(c) Obstruction. In connection with the construction, maintenance, upgrade, repair or removal of a pipeline, the Franchisee shall not unreasonably obstruct the public streets or public rights of way without the prior consent of the appropriate authorities.

(d) Safety. A Franchisee shall, at its own cost and expense, undertake all necessary and appropriate efforts to prevent accidents at its work sites, including the placing and maintenance of proper guards, fences, barricades, security personnel and suitable and sufficient lighting, and such other requirements prescribed by OSHA and Utah OSHA. A Franchisee shall comply with all applicable federal, state and local requirements.

11-3-110. Insurance.

(a) Prior to the execution of a Franchise, a Franchsiee will deposit with the City an irrevocable, unconditional letter of credit or surety bond as required by the terms of the Franchise, and shall obtain and provide proof of the insurance coverage required by the Franchise.

(b) No work shall be permitted in the public streets, the public rights of way or on City-owned lands until a construction completion bond, in a form and by an institution satisfactory to the City, has

been provided by the Franchisee. This bond shall be a cash or surety bond in the amount of 100% of the total cost of the installation of the pipeline, the moving of other facilities to accommodate the pipeline, the closure, paving and restoration of the street, and all other costs associated in fulfillment of the requirements of the Franchise Agreement and applicable law, in the manner shown on the approved engineering drawings and in accordance with the City's specifications.

(c) The Franchisee and all work done by the contractors, subcontractors and agents of the Franchisee must be insured as to comprehensive general liability, and give evidence thereof, in an amount reasonably related to the scope of the work to be completed and the risks thereof, as required in the Franchise Agreement. Such amounts shall at a minimum be $2,000,000 / $2,000,000, but may be more as required by the City in the Franchise Agreement. The insurance must indemnify the City against all liability for personal and bodily injury, death, and damage to property arising from activities conducted pursuant to the Franchise. The City, its officials, employees and agents, shall be listed as additional insureds.

11-3-111. Indemnification.

The Franchisee shall indemnify Bountiful City, its officials, employees and agents, from any and all liability whatsoever from activities conducted pursuant to the Franchise.

Chapter 4: Wireless Facilities in the Public Right of Way

11-4-101. Scope and Purpose.

This Chapter 4 of Title 11 of the Bountiful City Code applies to Small Wireless Facilities in the City's public Right-of-Way. The purpose of this Chapter is to regulate the installation, construction, operation, co-location, modification, maintenance, and removal of Small Wireless Facilities in the City's public Right-of-Way, balancing the benefit of wireless services with other established goals, objectives and values of the City while promoting and protecting the public health, safety and welfare of the citizenry and the general public.

11-4-102 Authority.

In accordance with Federal and State law, the City may exercise zoning, land use, planning, placement and permitting authority with respect to wireless support structures and utility poles. To the fullest extent allowed under Federal and State law, rules and regulations, the City reserves the

right to regulate zoning, land use, planning, placement and permitting related to wireless communication facilities.

11-4-103 Applicability.

All references to Small Wireless Facilities in this Chapter shall refer only to Small Wireless Facilities in the Right-of-Way. No person shall install, construct, modify, or otherwise place any Small Wireless Facility within the public Right-of-Way in violation of the provisions of this Chapter. No Small Wireless Facilities shall be collocated on any power, traffic or directional poles within the City. The definitions used in this Chapter apply only to this Chapter.

11-4-104 Definitions.

Antenna – Communications equipment that transmits or receives an electromagnetic radio frequency signal used in the provision of a wireless service.

Applicant – A wireless provider who submits an application.

Application – A request submitted by a wireless provider to the City for a permit to collocate a Small Wireless Facility in the Right-of-Way or install, modify, or replace a Utility Pole or Wireless Support Structure.

Authority Pole – A Utility Pole owned, managed, or operated by, or on behalf of, the City.

Collocate – To install, mount, maintain, modify, operate, or replace a Small Wireless Facility on a Wireless Support Structure or Utility Pole, or, ground-mounted equipment, adjacent to a Wireless Support Structure or Utility Pole.

Decorative pole – An Authority Pole that is specially designed and placed for an aesthetic purpose and on which attachments are prohibited (other than Small Wireless Facilities, informal or directional signs, or temporary holiday or special event attachments).

Design District – An area that is zoned or otherwise designated by the City as an area of historic or other significance for which the City maintains and enforces unique design and standards. The area of 100 South Bountiful Boulevard to 800 South Bountiful Boulevard and Temple View Drive shall be known as the Bountiful Temple Design District.

Gross Revenue – Means the same as gross receipts from telecommunications services as defined in Utah Code Ann. § 10-1-402.

Historic District – A group of buildings, properties, or sites that are listed in the National Register of Historic Places, formally determined eligible for listing in the National Register of Historic Places by the Keeper of the National Register, or in an historic district or area created under Utah Code Ann. § 10-9a-503.

Master License Agreement – An agreement between a provider and the City that sets forth general terms and conditions pursuant to which the provider may install and operate small wireless facilities in the Right-of-Way.

Micro Wireless Facility – A type of Small Wireless Facility that, not including any antenna, is no larger in dimension than 24 inches in length, 15 inches in width, and 12 inches in height on which any exterior antenna is no longer than 11 inches and only provides Wi-Fi service.

Permit – Written authorization required by the City and issued under this Chapter for construction, excavation or other work in, or obstruction of, the public Right-of-Way allowing a wireless provider to perform an action or initiate, continue, or complete a project, subject to the terms of this Chapter and a Master License Agreement.

Right-of-Way – Includes the areas on, below or above all public highways, roadways, streets, roads, sidewalks, alleys, dedicated Rights-of-Way, owned by or dedicated for public use or dedicated to the City. It does not include utility or other easements not located within the above described areas.

Small Wireless Facility – A wireless facility on which each wireless provider's antenna could fit within an enclosure of no more than six cubit feet in volume, and for which all wireless equipment associated with the wireless facility, whether ground-mounted or pole-mounted, is cumulatively no more than 28 cubic feet in volume, not including any electric meter, concealment element, telecommunications demarcation box, grounding equipment, power transfer switch, cut-off switch, vertical cable run for the connection of power or other service, wireless provider antenna, or coaxial or fiber-optic cable that is immediately adjacent to or directly associated with a particular collocation, unless the cable is a wireline backhaul facility. If more than one Small Wireless Facility is collocated on a structure, the facilities together shall collectively not exceed the total size dimensions described herein.

Substantial Modification – A proposed modification or replacement to an existing Wireless Support Structure that will substantially change the physical dimensions of the wireless support structure under the substantial change standard established in 47 C.F.R. Sec. 1.40001(7) or a proposed modification in excess of the site dimensions specified in 47 C.F.R. Part 1, Appendix C, Sec. III.B.

Utility Pole – A pole or similar structure that is in a Right-of-Way and is or may be used for: wireline communications, electric distribution, lighting, or the collocation of a Small Wireless Facility. Utility pole does not include traffic control signs, street signs, a Wireless Support Structure, a structure that supports electric transmission lines, or electric power poles owned by the City.

Wireless Facility – Equipment at a fixed location that enables wireless communication between user equipment and a communications network, including equipment associated with wireless communications regardless of the technological configuration, a radio transceiver, an antenna, a coaxial or fiber-optic cable, a regular or backup power supply, or comparable equipment. A Wireless Facility does not include the structure or an improvement on, under, or within which the equipment is collocated; or a coaxial or fiber-optic cable that is: (i) between wireless structures or utility poles; (ii) not immediately adjacent to or directly associated with a particular antenna; or (iii) a wireline backhaul facility.

Wireless Provider – A wireless infrastructure provider or wireless service provider.

Wireless Service – Any service using licensed or unlicensed spectrum, whether at a fixed location or mobile, provided to the public using a wireless facility. "Wireless Service" includes the use of Wi-Fi.

Wireless Support Structure – An existing or proposed structure that is in the Right-of-Way and designed to support or capable of supporting a wireless facility, including a monopole, tower, either guyed or self-supporting, billboard or building. A Wireless Support Structure does not include: a structure designed solely for the collocation of a Small Wireless Facility, utility pole, City owned structure that supports electric lines used for the provision of municipality electric service, or structure owned by the City that uses electric lines that are used for the provision of electrical service.

11-4-105 Orders, Rules and Regulations.

In addition to the requirements set forth in this Chapter, the City may adopt orders, rules and regulations which are reasonably necessary to accomplish the purposes of and are consistent with this Chapter.

11-4-106 Master License Agreement Required

(a) A wireless provider may not install, repair, maintain, remove and replace wireless facilities in the Right-of-Way without first entering into a master license agreement with the City.

(b) The City is empowered and authorized to grant nonexclusive master license agreements on a nondiscriminatory basis, governing the installation, operation, use and maintenance of wireless facilities in the city's rights of way that are consistent with the provisions of this Chapter.

(c) The City may negotiate additional or different terms with the different wireless providers, in the exercise of City's reasonable discretion and pursuant to the City's police powers and proprietary rights in the Rights-of-Way.

(d) The City shall grant a master license agreement to a wireless provider pursuant to ordinance authorizing the negotiation and execution of a master license agreement. Acceptance of the master license shall occur by the wireless provider executing the authorized master license agreement within 30 days of recordation of the authorizing ordinance. Any amendment or extension thereof will also require city council approval.

(e) The term of a master license agreement may be renewed if the wireless provider is in compliance with the master license agreement and all applicable laws, rules, and regulations, including this Chapter. At the expiration of the term of the master license agreement, the wireless provider shall remove its wireless facilities from the Right-of-Way.

(f) If a wireless provider has telecommunications systems that may be used for multiple purposes, such as a wireline backhaul facility or video services system, then such provider shall obtain a franchise or other relevant agreement from the City for each permitted purpose.

(g) Before offering or providing any wireless services pursuant to the master license agreement, a wireless provider shall obtain all other regulatory approvals, permits, authorizations or licenses for the offering or providing of such services from the appropriate Federal, State, and local authorities, if required, and shall submit to the City evidence of the same.

(h) The grant of a master license agreement does not excuse the wireless provider from obtaining (i) any permit or other authorization required to engage in or carry on any business within the City as required by the laws, rules, and regulations of the City, (ii) any other permit, agreement or authorization required in connection with the use of property or facilities owned by third parties, or (iii) any other permit or authorization required in connection with excavating or performing other work in or along the Right-of-Way.

(i) Any wireless provider acting without a master license agreement on the effective date of the ordinance codified in this Chapter shall request issuance of a master license agreement from the city within 90 days of the effective date of this Ordinance. If such request is made, the wireless provider may continue to provide services during the course of negotiations. If a timely request is not made, or if a master license agreement is not granted, the wireless provider shall remove its equipment from the public way within 30 days of notice from the City.

(j) A master license agreement shall not convey title, equitable or legal, in the Right-of-Way. A master license agreement is the right to non-exclusively occupy the Right-of-Way for the limited purposes and time period stated in the agreement.

(k) A master license agreement granted pursuant to this Chapter shall contain appropriate provisions for enforcement, compensation, and protection of the public, consistent with the other provisions of this Chapter, including, but not limited to, defining events of default, procedures for accessing the bond/security fund, and rights of termination or revocation.

(l) In the event a wireless provider continues to operate all or any of its wireless facilities after the terms of the master license has expired, such wireless provider shall continue to comply with all applicable provisions of this Chapter and the master license agreement, including, without limitation, all compensation provisions; provided, that any such continued operations shall in no way be construed as a renewal or other extension of the master license agreement, nor as a limitation on the remedies available to the city as a result of such continued operation after the term, including, but not limited to, damages and restitution.

11-4-107 Use by Right-of-Way for Small Wireless Facilities and Utility Poles

(a) Subject to the provisions of this Chapter and the issuance of a permit, a Wireless Provider may:

(1) Collocate a Small Wireless Facility;

(2) Install, operate, modify, maintain or replace:

(a) a Utility Pole associated with the Wireless Provider's collection of Small Wireless Facilities;

(b) Equipment required for a Wireless Provider's Collocation of Small Wireless Facilities; or

(c) Authority Pole with the wireless provider's collection of Small Wireless Facilities.

(3) Except, an Applicant may not install a new Utility Pole in a Right-of-Way without the City's discretionary, nondiscriminatory, and written consent, if the Right-of-Way is adjacent to a street or thoroughfare that is:

(a) not more than 60 feet wide, as depicted in the official plat records;

(b) adjacent to single-family residential lots, other multifamily residences or undeveloped land that is designated for residential use by master plan, zoning or deed restrictions.

(b) Small Wireless Facilities and new, modified, and replacement Utility Poles, Authority Poles and Wireless Support Structures in the Right-of-Way shall be allowed in any zoning district after staff review and approval in accordance with the standards set forth in this Chapter.

(c) A Small Wireless Facility, Utility Pole or Authority Pole may not:

(1) obstruct or hinder the usual travel or public safety on a Right-of-Way;

(2) obstruct, damage, or interfere with another utility facility in a Right-of-Way or a utility's use of the utility's facility in a Right-of-Way or the clear view area of any public or private driveway or drive approach.

(d) Construction and maintenance by the Wireless Provider shall comply with all applicable legal obligations for the protection of underground and overhead utility facilities.

11-4-108 Design Standards.

(a) Integrated Design. The design and location of a Small Wireless Facility, Utility Pole, and/or Wireless Support Structure shall comply with all standards adopted by the City. Small Wireless Facilities shall be architecturally integrated into the Wireless Support Structure and shall be installed in a manner that prioritizes and minimizes the visual impact. Small Wireless Facilities should not be readily noticed. Exposed cabling is prohibited, except for Collocations on existing structures where internal cable routing is not feasible (e.g., on a wooden pole). To the extent reasonably feasible from an engineering, construction and design perspective, the application shall consider the surrounding colors, materials, and architectural features to ensure that the design of the new facility is compatible with the surrounding area and the goals of the City.

(b) Height Limitations. A new or modified Utility Pole or Authority Pole that has a collocated Small Wireless Facility may not exceed 50 feet above ground level. An antenna of a Small Wireless Facility that is attaching to an existing Utility Pole may not extend more than 10 feet above the top of a Utility Pole.

(c) Decorative Poles. If necessary to collocate a Small Wireless Facility, a Wireless Provider may replace a decorative pole, if the replacement pole reasonably conforms to the design aesthetic of the displaced decorative pole.

(d) Separation Distance. The placement of Small Wireless Facilities, Utility Poles, Authority Poles and Wireless Support Structures in the Right-of-Way shall have a minimum separation distance of 300 feet.

(e) Historic and Design Districts.

(1) A wireless provider shall participate in a pre-application meeting with the City's Planning Staff and obtain design approval from the City before collocating a new Small Wireless Facility or installing a new Utility Pole in an area that is zoned or otherwise designated as a Historic District or a Design District.

(2) All Small Wireless Facilities in Historic or Design Districts shall, to the extent possible, use design techniques including, but not limited to the use of materials, colors, textures, screening, undergrounding, or other design options that will blend the Small Wireless Facilities to the surrounding natural setting and built environment. Design, materials and colors of Small Wireless Facilities shall be compatible with the surrounding environment. Designs shall be compatible with structures and vegetation located in the Right-of-Way and on adjacent parcels.

(3) Should the Director determine that such design meets the intent of this Code and the community is better served thereby, the design may include the use of man-made trees, clock towers, bell steeples, light poles, buildings, and similar alternative design mounting structures that are compatible with the natural setting and surrounding structures, and camouflage or conceals the presence of Antennas or Poles so as to make them architecturally compatible with the surrounding area pursuant to this Chapter.

(4) All visible exterior surfaces on all Small Wireless Facilities shall be constructed out of or finished with non-reflective materials.

(5) Subject to the permit process set forth in this Chapter, the City may require a reasonable, technically feasible, nondiscriminatory, or technologically neutral design or concealment measure in an historic district or design district, unless the facility is excluded from evaluation for effects on historic properties under 47 C.F.R. Sec. 1.1307(a)(4).

(6) No above ground wireless facilities or poles shall be installed in the Bountiful Temple Design District.

(f) Aesthetics. Small Wireless Facilities shall not be lighted or marked unless required by an applicable governmental authority. Signs located at the Small Wireless Facilities shall be limited to ownership and contact information, FCC antenna registration number (if required) and any other information as required by an applicable governmental authority. Commercial advertising is strictly prohibited.

(g) Undergounding. All new fiber backhaul lines, electrical distribution lines, wires, cables, or other facilities serving Small Wireless Facilities must be located underground, however antennas or other facilities required to remain above ground in order to be functional are permitted as approved by the City.

11-4-109 Additional Requirements.

(a) Insurance and bonding: A wireless provider will be responsible for carrying and maintaining insurance and bonds as may be required in the master license agreement and in connection with obtaining a permit.

(b) Indemnity: A wireless provider shall indemnify, save harmless, and defend City, its officers and employees, from and against all losses, claims, counterclaims, demands, actions, damages, costs, charges, and causes of action of every kind or character, including attorneys' fees, arising out of or in connection with such provider's wireless facilities or use of the public way, unless and to the extent caused by the City's negligence.

(c) Electrical Service: A wireless provider will be solely responsible for establishing electrical power services for to each of its wireless facilities and for the payment of all electrical utility charges to the City.

(d) Inspections: All wireless facilities and wireless provider-owned structures shall be maintained by the wireless provided in a clean and good condition, free of graffiti, and rusting, excessive dirt, and peeling paint. The City shall have the authority to conduct inspections of the wireless facilities and structures at any time to determine whether such facilities and structures comply with the requirements of this Chapter. The City shall notify provider in writing of any failed inspections and provide 30 days to provider to remedy any failed inspection. If provider fails to remedy any failed inspection, the City may remedy any defect and provider shall pay to the City the actual costs incurred by the City along with any administrative penalties set forth by the City.

(e) Compliance with law: All Small Wireless Facilities must at all times comply with all applicable federal, state, and local building codes and safety codes and regulations. All Small Wireless Facilities and structures shall be constructed and installed to manufacturer's specifications.

(f) Hazardous Materials. Provider shall not possess, use, generate, release, discharge, store, dispose of, or transport any hazardous materials on, under, in, above, to, or from any Right-of-Way except in compliance with all applicable environmental laws and pre-approved by city. Wireless provider shall promptly reimburse city for any fines or penalties levied against c because of wireless provider's failure to comply with environmental laws.

(g) Provider shall follow all City Ordinances regarding insurance, bonding, and any other requirement applicable to other entities utilizing the the Right-of-Way.

(h) Additional requirements: Wireless facilities will be subject to any additional requirements set forth in the applicable master license agreement and permit.

11-4-109 Permitting, Application, and Review Process.

(a) All Applicants shall be required to obtain a permit to Collocate a Small Wireless Facility in a Right-of-Way or to install a new, modified, or replacement Utility Pole, Authority Pole or Wireless Support Structure associated with a Small Wireless Facility in a Right-of-Way.

(b) City staff is authorized and empowered to create any necessary forms, rules, regulations and requirements consistent with this Chapter that are necessary to assist the City in the permitting, application and review process.

(b) All Applications shall contain the following:

(1) Application form signed by the Applicant or authorized representative;

(2) Zoning and construction drawings;

(3) Application fee;

(4) An industry-standard pole load analysis indicating that the structure on which the wireless facilities will be mounted will safely support the load. If a small wireless facility cannot be safely installed on the respective structure, applicant shall either replace the structure with a compliant structure of the same type, or propose a new location;

(5) A photograph of each proposed location (to be used to review whether any part of the Right-of-Way is damaged during the construction and installation period;

(6) Proof or evidence of insurance as required by applicable City Ordinance or the master license agreement or any other agreement with the City; and

(7) An affidavit that the installation or collocation of the Small Wireless Facility shall be completed within 270 days after the day on which the City issues the permit.

(c) Application Fees. The application fee for the co-location of a Small Wireless Facility on an existing or replacement Utility Pole shall be $100 for each Small Wireless Facility on the same application. The application fee to install, modify or replace a Utility Pole associated with a Small Wireless Facility shall be $250 per application.

(d) Procedure for Review of Applications

(1) Within thirty (30) days of the receipt of an application for Review for the collocation of Small Wireless Facility or new, modified or replacement Utility Pole or Authority Pole, the City shall determine whether the application is complete and notify the Applicant in writing.

(2) If the City determines the application is incomplete, the City shall specifically identify the missing information in the written notification. The processing deadline shall be tolled from the day on which the City sends the Applicant the written notice to the day on which the City receives the Applicant's missing information or for a mutually agreeable period of time as identified in a written agreement between the Applicant and the City.

(3) Expiration of Application. An Application for a Small Wireless Facility expires if the City notifies the Wireless Provider that the Wireless Provider's Application is incomplete, in accordance with Subsection (2) and the Wireless Provider fails to respond within 90 days after the day on which the City notifies the wireless provider.

(e) Decision. The City shall approve or deny an Application for the Collocation of a Small Wireless Facility, within 60 days after the day on which the City receives the complete Application and for a new, modified, or replacement Utility Pole, within 105 days after the day on which the City receives the complete Application. If the City fails to approve or deny the Application within the applicable time period the Application is deemed approved.

(f) Denial of Application.

(1) The City may deny an Application to collocate a Small Wireless Facility or to install, modify, or replace a Utility Pole, only if the action requested in the Application:

(a) materially interferes with the safe operation of traffic control equipment;

(b) materially interferes with a sight line or a clear view area for transportation or pedestrians;

(c) materially interferes with compliance with the Americans with Disabilities Act of 1990, 42 U.S.C. Sec. 12101 et seq., or a similar federal or state standard regarding pedestrian access or movement;

(d) fails to comply with the requirements set forth in this Code;

(e) creates a public health or safety hazard; or

(f) obstructs or hinders the usual travel or public safety of the Right-of-Way.

(g) If the City denies an application, the City shall document the basis for the denial, including any specific law on which the denial is based and send written notification informing the Applicant of the denial, including the basis for the denial.

(h) Resubmission of Application. Within 30 days after the day on which the City denies an Application, the Applicant may, without paying an additional application fee cure any deficiency the City identifies in the Applicant's Application and resubmit the Application. The City shall approve or deny a revised Application within 30 days after the day on which the City receives the revised Application.

(1) Review of a revised Application is limited to the deficiencies documented as the basis for denial unless the Applicant has changed another portion of the Application.

(i) Consolidated Applications. If an Applicant seeks to Collocate multiple Small Wireless Facilities within the City, the City shall allow the Applicant, at the Applicant's discretion, to file a consolidated Application for the Collocation of up to 25 Small Wireless Facilities, if all of the Small Wireless Facilities in the consolidated Application are substantially the same type and proposed for collocation on substantially the same types of structures, or install, modify, or replace multiple Utility Poles within the City, the City shall allow the Applicant, at the Applicant's discretion, to file a consolidated Application for the installation, modification, or replacement of up to 25 Utility Poles.

(1) A consolidated Application may not combine Applications solely for collocation of Small Wireless Facilities on existing Utility Poles with Applications for the installation, modification, or replacement of a Utility Pole.

(2) If the City denies the application for one or more Utility Poles, or one or more Small Wireless Facilities, in a consolidated application, the City may not use the denial as a basis to delay the application process of any other Utility Pole or Small Wireless Facility in the same consolidated Application.

(3) An applicant may not file within a 30-day period more than one consolidated application or multiple applications that collectively seek permits for a combined total of more than 25 Small Wireless Facilities and Utility Poles.

(j) Exceptions to Permitting. Except as otherwise provided herein or in a master license agreement, applications for permits are not required for routine maintenance of the Small Wireless Facility or support structures for the Small Wireless Facility unless it interferes with pedestrian or vehicular traffic or affects the health, safety or welfare of the City.

11-4-110 Damage and Repair

If a Wireless Provider's activity causes damage to a pole or Right-of-Way, the Wireless Provider shall repair the pole or Right-of-Way to substantially the same condition as before the damage. If a Wireless Provider fails to make a repair required by the City within a reasonable time after written notice, the City may make the required repair; and charge the Wireless Provider the reasonable, documented, actual cost for the repair. If the damage causes an urgent safety hazard, the City may immediately make the necessary repair and charge the Wireless Provider the reasonable, documented, cost for the repair.

11-4-111 Enforcement and Remedies; Abandonment and/or Removal

(a) Enforcement: The City is responsible for enforcing and administering this Chapter. The City or its designee is authorized to give any notice required by law or under any master license agreement or permit. Failure of City to require performance of any term in this Chapter or the waiver by either party of breach hereof shall not prevent subsequent enforcement of that term and shall not be deeded a waiver of any subsequent breach.

(b) Abandonment and/or Removal of wireless facilities:

(1) In the event (a) the use of a wireless facility is discontinued for a continuous period of 12 months, (b) the term of the applicable master license agreement has expired, or (c) any wireless facility or structure has been installed in the Rights-of-Way without complying with the requirements of this Chapter, and the respective wireless facilities have not been removed by the wireless provider within 30 days of any such event, such wireless provider shall be deemed to have abandoned such wireless facility.

(2) If any wireless facility is deemed abandoned or installed without complying with the requirements of this Chapter, the wireless provider shall remove its wireless facilities and structures within 60 days of the City's notice of such abandonment and shall repair and restore the public way to a similar or better condition than at the time of the installation. Failure to do so may result in the City's removal of the facilities and structures at the wireless provider's cost. The City shall have the right to inspect and approve the condition of the public way, wireless facilities, and structures prior to and after removal. The liability, indemnity and insurance provisions of this Chapter and any security required of a wireless provider shall continue in full force and effect during the period of removal and until full compliance by a provider with the terms and conditions of this Chapter.

(c) Transfer and/or Acknowledgment of Abandoned System: Upon abandonment of any system, a provider, if required by the City, shall submit to the City a written instrument, in a form satisfactory to the City, transferring to the City the ownership of the abandoned system or, as the City may request, acknowledging abandonment of the system.

Title 12
Revenue and Taxation

Chapter 1: Sales and Use Tax Ordinance

12-1-101. Title.

This ordinance shall be known as the "Sales and Use Tax Ordinance of the City of Bountiful.

12-1-102. Sales and Use Tax.

(a) (1) There is levied and there shall be collected and paid a tax upon every retail sale of tangible personal property, services and meals made within the municipality at the rate of one percent.

(2) An excise tax is hereby imposed on the storage, use, or other consumption in this municipality of tangible personal property from any retailer on or after the operative date of this ordinance at the rate of one percent of the sales price of the property.

(3) For the purpose of this ordinance all retail sales shall be presumed to have been consummated at the place of business delivered by the retailer of his agent to an out-of-state destination or to a common carrier for delivery to an out-of-state destination. In the event a retailer has no permanent place of business, the place or places at which the retail sales are consummated shall be as determined under the rules and regulations prescribed by and adopted by the State Tax Commission. Public utilities as defined by Title 54, Utah Code Annotated, 1953, shall not be obligated to determined the place or places within any county or municipality where public utilities services are rendered, but the place of sale or the sales tax revenue by the State Tax Commission pursuant to an appropriate formula and other rules and regulations to be prescribed and adopted by it.

(b) (1) Except as hereinafter provided, and except insofar as they are inconsistent with the provisions of the Sales and Use Tax Act, all of the provisions of Chapter 12, Title 59, Utah Code Annotated, 1953, as amended, and in force and affect on the effective date of this ordinance, insofar as they relate to sales taxes, excepting Sections 59-12-101 and 59-12-119 thereof, are hereby adopted and made a part of the ordinance as thought fully set forth herein.

(2) Wherever, and to the extent that in Chapter 12 of Title 59, Utah Code Annotated, 1953, the State of Utah is named or referred to as the taxing agency, the name of this municipality shall be substituted therefor. Nothing in subparagraph (b) shall be deemed to require substitution of the name of the municipality for the word "State" when the word is used as part of the title of the State Tax Commission, or of the Constitution of the State of Utah, nor shall the name of the municipality be substituted for that of the State in any section when the result of that substitution would require action

to be taken by or against the municipality or any agency thereof, rather than by or against the State Tax Commission in performing the functions incident to the administration or operation of the ordinance.

(3) If an annual license has been issued to a retailer under Section 59-12-106 of the said Utah Code Annotated, 1953, an additional license shall not be required by reason of the section.

(4) There shall be excluded from the purchase price paid or changed by which the tax is measured:

(A) The amount of any sales or use tax imposed by the State of Utah upon a retailer or consumer;

(B) The gross receipts from the sale of or the cost of storage, use or other consumption of tangible personal property upon which a sales or use tax has become due by reason of the sale transaction to any other municipality and any county in the State of Utah, under the sales or use tax ordinance enacted by that county or municipality in accordance with the Sales and Use Tax Act.

12-1-103. Penalties.

Any person violating any of the provisions of this ordinance shall be deemed guilty of a misdemeanor.

Chapter 2: Municipal Energy Sales and Use Tax

12-2-101. Purpose.

It is the intent of the City of Bountiful to provide both a stable revenue source and create a more competitive environment for the energy industry by repealing its previous utilities franchise tax ordinance and adopting this municipal energy tax pursuant to and in conformity with the Municipal Energy Sales and Use Tax Act (§10-1-301 et seq of the Utah Code).

12-2-102. Definitions.

The City of Bountiful incorporates by reference those definitions contained in §10-1-303 of the Utah Code. In addition, the following definitions are adopted:

"Consumer" means a person who acquires taxable energy for any use that is subject to the Municipal Energy Sales and use Tax.

"Sale" means any transfer of title, exchange or barter, conditional or otherwise, in any manner, of taxable energy for a consideration. It includes: (1) installment and credit sales; (2) any closed transaction

constituting a sale; and (3) any transaction under which a right to acquire, use or consume taxable energy is granted under a lease or contract and the transfer would be taxable if any outright sale were made. "Storage" means any keeping or retention of taxable energy in the City of Bountiful for any purpose except sale in the regular course of business.

"Use" means the exercise of any right or power over taxable energy incident to the ownership or the leasing of the taxable energy. "Use" does not include the sale, display, demonstration or trial of the taxable energy in the regular course of business and held for resale.

12-2-103. Tax Imposed.

(a) There is hereby imposed on every sale or use of taxable energy within the City of Bountiful a tax equaling 6% of the delivered value of taxable energy to the consumer. This tax shall be known as the Municipal Energy Sales and Use Tax.

(b) The tax shall be calculated on the delivered value of the taxable energy to the consumer.

(c) The tax shall be in addition to any sales or use tax on taxable energy imposed by the City of Bountiful authorized by Title 59, Chapter 12, Part 2 of the Utah Code Annotated, The Local Sales and Use Tax Act.

12-2-104. Exemptions from the Tax.

(a) No exemptions are granted from the Municipal Energy Sales and Use tax except as expressly provided in Utah Code Ann. §10-1-305(2)(b); notwithstanding an exemption granted by §59-1-104 of the Utah Code.

(b) The exemptions provided in §10-1-305(2)(b) of the Utah Code are hereby adopted as exemptions from the Bountiful Municipal Energy Sales and Use Tax.

(c) The sale, storage, use or other consumption of taxable energy is exempt from the Municipal Energy Sales and Use Tax levied herein, provided: (1) the delivered value of the taxable energy has been subject to a municipal energy sales or use tax levied by another municipality with the States authorized by Title 59, Title 12, Part 3 of the Utah Code; and (2) the City of Bountiful is paid the difference between the tax paid to the other municipality and the tax that would otherwise be due under this ordinance, if the tax due under this ordinance exceeds the tax paid to the other municipality.

12-2-105. No Effect upon Existing Franchises.

(a) This chapter shall not alter any existing franchise agreements between the City of Bountiful and energy suppliers.

(b) There is a credit against the tax due from any consumer in the amount of a contractual franchisee fee paid if: (1) the energy supplier pays the contractual franchisee fee to the City of Bountiful pursuant to a franchise agreement in effect on July 1, 1997; (2) the contractual franchise fee is passed through by energy supplier to a consumer as a separately itemized charge; and (3) the energy supplier has accepted the franchise.

12-2-106. Tax Collection Contract with the State Tax Commission.

(a) On or before the effective date of this ordinance, the City of Bountiful shall contract with the State Tax Commission to perform all functions incident to the administration and collection of the Municipal Energy Sales and Use Tax, in accordance with this ordinance. The Mayor is hereby authorized to enter into agreements with the State tax Commission that may be necessary to the continued administration and operation of this Municipal Energy Sales and Use Tax Ordinance.

(b) An energy supplier shall pay the Municipal Energy Sales and Use Tax revenues collected from consumers directly to the City of Bountiful monthly if: (1) the City of Bountiful is the energy supplier; or (2) (i) the energy supplier estimates that the municipal energy sales and use tax collected annually from its Utah consumers equals $1,000,000 ore more, and (ii) the energy supplier collects the Municipal Energy Sales and Use Tax.

(c) An energy supplier paying the Municipal Energy Sales and Use Tax directly to the City of Bountiful may deduct any contractual franchise fees collected by the energy supplier qualifying as a credit and remit the net tax less any amount the energy supplier retains as authorized by §10-1-307(4) Utah Code.

12-2-107. Adoption of Title 59, Chapter 12, Part 1, and Amendments.

(a) The provisions of Part 1, Chapter 12, Title 59 of the Utah Code relating to sales and use taxes are hereby adopted, except the following:

(1) any provisions which are inconsistent with this ordinance or with the provisions of Title 10, Chapter 1, Part 3 of the Utah Code;

(2) Sections 59-12-101 and 59-12-119; and

(3) the amount of sales and use taxes stated therein.

(4) whenever the term "State" or "taxing authority" is used, the "City of Bountiful" shall be substituted, unless the context intends otherwise.

(b) Any amendments made to Part 1, Chapter 12, Title 59 of the Utah Code, which would be applicable to the City of Bountiful for the purposes of the carrying out of this ordinance are hereby incorporated into this ordinance by reference.

12-2-108. No Additional License Required.

No additional license to collect or report the Municipal Energy Sales and Use tax levied by this ordinance is required, provided the energy supplier collecting the tax has a license issued under §59-12-106 of the Utah Code.

Chapter 3: Telecommunications Service Tax.

12-3-101. Definitions.

As used in this ordinance:

(1) "Commission" means the State Tax Commission.

(2) (a) Subject to Subsections (2) (b) and (c), "customer" means the person who is obligated under a contract with a telecommunications provider to pay for telecommunications service received under the contract.

(b) For purposes of this ordinance, "customer" means:

(i) the person who is obligated under a contract with a telecommunications provider to pay for telecommunications service received under the contract; or

(ii) if the end user is not the person described in Subsection (2) (b) (i), the end user of telecommunications service.

(c) "Customer" does not include a reseller:

(i) of telecommunications service; or

(ii) for mobile telecommunications service, of a serving carrier under an agreement to serve the customer outside the telecommunications provider's licensed service area.

(3) (a) “End user" means the person who uses a telecommunications service.

(b) For purposes of telecommunications service provided to a person who is not an individual, "end user" means the individual who uses the telecommunications service on behalf of the person who is provided the telecommunications service.

(4) “Gross Receipts attributed to the municipality” means those gross receipts from a transaction for telecommunications services that is located within the municipality for the purposes of sales and use taxes under Utah Code Title 59, Chapter 12, Sales and Use Tax Act and determined in accordance with Utah Code section 59-12-207.

(5) “Gross receipts from telecommunications service” means the revenue that a telecommunications provider receives for telecommunications service rendered except for amounts collected or paid as:

(a) a tax, fee, or charge:

(i) imposed by a governmental entity;

(ii) separately identified as a tax, fee, or charge in the transaction with the customer for the telecommunications service; and

(iii) imposed only on a telecommunications provider;

(b) sales and use taxes collected by the telecommunications provider from a customer under Title 59, Chapter 12, Sales and Use Tax Act; or

(c) interest, a fee, or a charge that is charged by a telecommunications provider on a customer for failure to pay for telecommunications service when payment is due.

(6) "Mobile telecommunications service" is as defined in the Mobile Telecommunications Sourcing Act, 4 U.S.C. Sec. 124.

(7) "Municipality" means the City of Bountiful, Utah.

(8) "Place of primary use":

(a) for telecommunications service other than mobile telecommunications service, means the street address representative of where the customer's use of the telecommunications service primarily occurs, which shall be:

(i) the residential street address of the customer; or

(ii) the primary business street address of the customer; or

(b) for mobile telecommunications service, is as defined in the Mobile Telecommunications Sourcing Act, 4 U.S.C. Sec. 124.

(9) Notwithstanding where a call is billed or paid, "service address" means:

(a) if the location described in this Subsection (9) (a) is known, the location of the telecommunications equipment:

(i) to which a call is charged; and

(ii) from which the call originates or terminates;

(b) if the location described in Subsection (9) (a) is not known but the location described in this Subsection (8) (b) is known, the location of the origination point of the signal of the telecommunications service first identified by:

(i) the telecommunications system of the telecommunications provider; or

(ii) if the system used to transport the signal is not a system of the telecommunications provider, information received by the telecommunications provider from its service provider; or

(c) if the locations described in Subsection (9) (a) or (b) are not known, the location of a customer's place of primary use.

(8) (a) Subject to Subsections (9) (b) and (9) (c), "telecommunications provider" means a person that:

(i) owns, controls, operates, or manages a telecommunications service; or

(ii) engages in an activity described in Subsection (9) (a) (i) for the shared use with or resale to any person of the telecommunications service.

(b) A person described in Subsection (9) (a) is a telecommunications provider whether or not the Public Service Commission of Utah regulates:

(i) that person; or

(ii) the telecommunications service that the person owns, controls, operates, or manages.

(c) "Telecommunications provider" does not include an aggregator as defined in Utah Code Section 54- 8b-2.

(10) "Telecommunications service" means:

(a) telephone service, as defined in Utah Code Section 59-12-102, other than mobile telecommunications service, that originates and terminates within the boundaries of this state; and

(b) mobile telecommunications service, as defined in Utah Code Section 59-12-102:

(i) that originates and terminates within the boundaries of one state; and

(ii) only to the extent permitted by the Mobile Telecommunications Sourcing Act, 4 U.S.C. Sec. 116 et seq.

12-3-102. Levy of Tax.

There is hereby levied a municipal telecommunications license tax on the gross receipts from telecommunications service attributed to this municipality.

12-3-103. Rate of Tax Levy.

The rate of the tax levy shall be four percent of the telecommunication provider's gross receipts from telecommunications service that are attributed to the municipality subject to the following: If the location of a transaction is determined to be other than this municipality then the rate imposed on the gross receipts for telecommunications services shall be the lower of (1) the rate imposed by the taxing jurisdiction in which the transaction is located or (2) the rate for non- mobile telecommunication services shall be the rate imposed by the municipality in which the customers service address is located; or for mobile telecommunications service, the rate imposed by the municipality of the customer's primary place of use.

12-3-104. Rate limitation and exemption therefrom.

This rate of this levy shall not exceed 4% of the telecommunication provider's gross receipts from telecommunication service attributed to the municipality unless a higher rate is approved by a majority vote of the voters in this municipality that vote in:

(a) a municipal general election;

(b) a regular general election; or

(c) a local special election.

12-3-105. Effective date of tax levy.

This tax shall be levied beginning the earlier of July 1, 2004 or the first day of any calendar quarter after a 75 day period beginning on the date the Commission received notice pursuant to Utah Code Section10-1-403 that this municipality has enacted this ordinance.

12-3-106. Changes in Rate or Repeal of the Tax.

This ordinance is subject to the requirements of Utah Code Section 10-1-403. If the tax rate is changed or the tax is repealed, then the appropriate notice shall be given as provided in Utah Code Section 10-1-403.

12-3-107. Interlocal Agreement for collection of the tax.

On or before the effective date of the ordinance, the municipality shall enter into the uniform interlocal agreement with the Commission as described in Utah Code Section 10-1-405 for the collection, enforcement, and administration of this municipal telecommunications license tax.

12-3-108. Repeal of inconsistent taxes and fees.

Any tax or fee previously enacted by this municipality under authority of Utah Code Section 10-1-203 or Utah Code Title 11, Chapter 26, Local Taxation of Utilities Limitation is hereby repealed. Nothing in this ordinance shall be interpreted to repeal any municipal ordinance or fee which provides that the municipality may recover from a telecommunications provider the management costs of the municipality caused by the activities of the telecommunications provider in the rights-of-way of the municipality, if the fee is imposed in accordance with Utah Code Section 72-7-102 and is not related to the municipality's loss of use of a highway as a result of the activities of the telecommunications provider in a right of way, or increased deterioration of a highway as a result of the activities of the telecommunications provider in a right-of -way nor does this ordinance limit the municipalities right to charge fees or taxes on persons that are not subject to the municipal telecommunications license tax under this ordinance and locate telecommunications facilities, as defined in Utah Code Section 72-7-108, in this municipality.

Chapter 4: RAP Tax.

12-4-101. Purpose.

(a) Bountiful City submitted an opinion to the residents of the City at the municipal general election held on November 6, 2007, providing each voter an opportunity to express an opinion on the imposition of a local sales and use tax of one-tenth of one percent (0.10%) on certain qualifying transactions within the City to fund a performing arts center and other recreational and cultural facilities and organizations within the community. A majority of the City's registered voters voting on the opinion question voted in favor of imposing the RAP Tax. The purpose of this Chapter is to impose the RAP Tax as approved by Bountiful voters and to provide for the collection and distribution of the revenues generated by the RAP Tax.

(b) Bountiful City submitted an opinion question to the residents of the City at the general election held on November 4, 2014, providing each voter an opportunity to express an opinion on whether to continue the imposition of a local sales and use tax on one-tenth of one percent (0.10%) on certain qualifying transactions within the City to fund parks improvements and other recreational and cultural facilities and organizations. A majority of the City's registered voters voting on the ballot proposition voted in favor of continuing the imposition of the RAP Tax. The purpose of this Ordinance is to impose and continue the RAP Tax as approved by Bountiful voters and to provide for the collection and distribution of the revenues generated by the RAP Tax.

12-4-102. Compliance.

It is the intent of the City to comply will all applicable provisions and restrictions set forth in Utah Code Ann. §§ 59-12-1401, et seq., and other relevant provisions, regarding local option sales and use tax to fund recreational and zoological facilities and botanical, cultural and zoological organizations.

12-4-103. Recreation, Arts and Parks (RAP) Tax.

(a) There is hereby levied a local option sales and use tax on qualifying taxable transactions within Bountiful City at the rate of one-tenth of one percent (0.10%). This tax shall be known as the Recreation, Arts and Parks (RAP) Tax. The RAP Tax may be levied for a period of eight (8) years and may be reauthorized at the end of the eight-year period in accordance with applicable provisions of Utah Code Ann. § 59-12-1402, as amended.

(b) There is hereby levied a local option sales and use tax on qualifying taxable transactions within Bountiful City at the rate of one-tenth of one percent (0.10%). This tax shall be known as the Recreation, Arts and Parks (RAP) Tax. The RAP Tax shall be levied for a period of ten (10) years commencing April 1, 2016, and may be reauthorized at the end of the ten-year period in accordance with applicable provisions of Utah Code Ann. § 59-12-1402.

12-4-104. Collection.

The RAP Tax shall be administered, collected and enforced in accordance with the procedures set forth in Title 59, Chapter 12, Parts 1 and 2, of the Utah Code Annotated, as amended, regarding Tax Collection and Local Sales and Use Tax Act (excluding Subsections 59-12-205(2) through (7)), and Title 59, Chapter 1, of the same, as amended, regarding General Taxation Policies.

12-4-105. Use of Funds.

The monies generated from the RAP Tax shall be used for financing parks, recreational and cultural facilities within the City or within the geographic area of entities that are parties to an interlocal agreement with the City providing for recreational or cultural facilities; for operating expenses of cultural organizations within the City or within the geographic area of entities that are parties to an interlocal agreement with the City providing for the support of cultural organizations; and for any other eligible facilities or organizations provided by law.

12-4-106. Distribution of Funds.

The City may enter into an interlocal agreement with other qualifying entities and distribute the revenues generated by the RAP Tax to participant in the interlocal agreement as provided by law. Any funds generated by the RAP Tax and not distributed by interlocal agreement may be used for qualifying facilities and organizations approved by the City Council.

12-4-107. Effective Date.

(a) Except as otherwise provided by law for billing cycle transactions and catalogue sales, the enactment and imposition of the RAP Tax shall take effect on the first day of the calendar quarter following a ninety (90) day waiting period beginning on the date the Utah State Tax Commission receives notice from the City regarding its creation of the RAP Tax in accordance with Utah Code Ann. § 59-12-1402(5)(b), as amended. Pursuant to such provisions, the Bountiful City RAP Tax shall take effect on April 1, 2008.

(b) The enactment and imposition of the RAP Tax approved in this Ordinance and by the voters of Bountiful City on November 4, 2014, shall take effect on April 1, 2016, and be in effect for a period of ten years.

Title 13
Bountiful Traffic Code

Chapter 1: Traffic Code

13-1-101. Bountiful Traffic Code.

The provisions of this Title shall be known as the "Bountiful Traffic Code."

13-1-102. Reserved.

13-1-103. Parking Limitations.

(a) It is unlawful for any person who owns or has possession, custody or control of any vehicle to park or knowingly allow to be parked any vehicle or trailer on any street:

(1) between the hours of 2:00 a.m. and 6:00 a.m. during the months of November, December, January, February and March;

(2) when it is actually snowing, or within twelve hours thereafter. Due to the unique nature of the downtown area, this prohibition shall not apply to Main Street between 500 South and 400 North;

(3) for a period longer than 24 consecutive hours; or

(4) for a period longer than that allowed by appropriate signs, markings or parking meters giving notice of such parking time limitation.

(b) In any area in which parking upon a public street is divided into marked parking spaces, it is unlawful to park a vehicle other than within a single marked space.

(c) It is unlawful to park or place a motor vehicle, vehicle, trailer, object, structure, sign or other thing, except vegetation, utility poles and facilities, fire hydrants, or mailboxes between the curb line and the sidewalk. Any such thing parked thereon may be summarily removed by the City.

(d) (1) It is unlawful to park in any parking lot or on other property (not including public streets) owned by the City any car, truck, motorcycle, motor home, trailer, boat or other vehicle of any description for the purpose of advertising or of selling that vehicle.

(2) It is unlawful to park in any private parking lot or on other private property any car, truck, motorcycle, motor home, trailer, boat or other vehicle of any description for the purpose of advertising or of selling that vehicle, without the consent of the owner.

(e) It is unlawful to park in violation of marked parking restrictions, including but not limited to red fire lanes.

(f) It is unlawful to park commercial trucks, trailers, tractors or other vehicles greater than 20,000 pounds in weight in any areas of the City which are zoned as residential, except when making actual deliveries or doing work at the site where parked.

(g) Any vehicle parked in violation of this section is hereby declared to be a public nuisance, and may be removed summarily by the City by towing, and may be prosecuted criminally and/or civilly. The owner of any towed vehicle shall have the right of a post-towing hearing as provided in Section 13-1-121 of this Code.

(h) In any area in which parking upon a public street is divided into marked parking spaces, it shall be unlawful to park a vehicle other than within a single marked space.

(i) Unless a greater amount is ordered by the court, fines for parking violations paid within seven days shall be as follows: (a) $12.00 for overnight, snow, overtime and improper parking; (b) $17.00 for prohibited, double or fire zone parking; and (c) $107.00 or as set by state law for handicap parking. Parking tickets paid after seven days shall be increased $20.00, or as a court may order.

13-1-104. Parking Heavy Equipment in Residential Zone.

It is unlawful to park or allow to stand, or any owner thereof to knowingly allow to be parked or to stand, any motor vehicle having a total gross weight of 50,000 pounds, whether loaded or unloaded, or having a total length in excess of 24 feet from the most forward point of the vehicle or its load to the most rear point of said vehicle or its load, upon the street in a residential zone for a period longer than 24 hours. The length or weight of a trailer connected or attached to or in tandem with shall be combined with the weight or length or the motor vehicle to compute the total gross weight or length of such vehicle.

13-1-105. Funeral Processions.

The driver of each motor vehicle participating in a funeral procession shall display illuminated headlights thereon and must obey all traffic regulations and traffic control devices, unless at the time the individual automobiles in such procession are otherwise directed by a police officer.

13-1-106. Tracked Vehicles Prohibited.

(a) It is unlawful to drive, or permit to be driven, any tracked vehicle on a public street or sidewalk.

(b) Any person driving, or permitting the driving, a tracked vehicle on a public street or sidewalk is liable for the cost of repair to the street or sidewalk.

13-1-107. Cutting Through Corners.

It is unlawful to drive a motor vehicle through any private driveway, lot or similar area, whether vacant or not, where any residence, business establishment, manufactory, retail store, drug store, cafe, confectionery, drive-in, market, oil station, or any other kind of business or trade is maintained or carried on, for the purpose and with the intent of avoiding obedience to any traffic regulation or for the purpose and with intent of harassing and annoying the owner thereof or his patrons.

13-1-108. Driving on New Pavement.

It is unlawful to drive, ride or cause to be driven or ridden any animal, ride, drive or propel, or cause to be ridden, driven or propelled, any vehicle over or across any newly made pavement or freshly painted area on any public street, across or around which pavement there is a barrier, or at, over or near which there is a person or a sign warning person not to drive over or across such pavement or freshly painted area or a sign stating that the street is closed.

13-1-109. Standing Passenger.

It is unlawful to operate any vehicle while any person is standing on a seat or on the floor within such vehicle.

13-1-110. Skateboards, low profile motorized vehicles (pocket bikes) and Sleds.

(a) No person upon roller skates or riding in or by means of any coaster, sled, toy wagon, scooter or similar device, shall go upon any roadway except while crossing such roadway on a crosswalk and when so crossing such person shall be subject to all of the duties applicable to pedestrians.

(b) It is unlawful for the driver of any vehicle to knowingly drive or operate such vehicle upon a city street while any sled, sleigh, skateboard, wagon or similar device is towed, attached to or connected with such vehicle.

(c) It is unlawful to skateboard on streets, sidewalks and all other public places on Main Street between 400 North and 500 South.

(d) (1) It is unlawful for any person to operate a low profile motorized vehicle upon any street, sidewalk or other public property within Bountiful City. It is unlawful for an adult, parent, or guardian to allow or permit a minor to operate a low profile vehicle on public property within Bountiful City.

(2) As used in this Section a "low profile motorized vehicle" means any motorized vehicle that: (a) is not regulated by the State of Utah or by any other provisions of the City Code; (b) is not otherwise expressly permitted upon a highway or sidewalk; and (c) is less than thirty-six (36) inches in height when in its normal operating position, not including any flag, antenna, or other device attached or modifications made thereto. This definition includes, but is not limited to, "pocket" or miniature motorcycles.

13-1-111. Interfering with Driving.

No person shall engage in any activity or do any act which interferes with the safe operation of any vehicle.

13-1-112. Negligent Collision.

It is unlawful to operate a vehicle with such lack of due care or in such negligent manner as to cause or permit it to collide with any vehicle, person or object.

13-1-113. Unsafe Activity by Driver.

No driver shall engage in any activity that interferes with the safe control of his vehicle while same is in motion.

13-1-114. Improper Lookout.

It is unlawful to drive a vehicle on the roadway without keeping a reasonable and proper lookout for other traffic, objects, fixtures or property on the road or adjacent to it.

13-1-115. False Information Concerning Accident.

It is unlawful to knowingly and wilfully give to a peace officer investigating an accident false information concerning the identity of any person who has been involved in the accident or has committed the act investigated or to knowingly and wilfully mislead such officer concerning the identity of such person.

13-1-116. School Traffic Regulations.

(a) School Speed Limit. It is unlawful for any person to drive a motor vehicle upon school property at a speed greater than 10 miles per hour.

(b) The following signs or traffic markings shall have these meanings:

(1) Red curbs mean no stopping, standing or parking is permitted at any time.

(2) Yellow curbs or signs with the words "Restricted Zone", mean no stopping, standing or parking is permitted except as stated on the signs or markings giving notice thereof. This provision shall not apply on Sundays and legal holidays.

(c) School Parking.

(1) It is unlawful for any person to park a vehicle except within parking stalls as are designated by lines.

(2) It is unlawful for any person to park a vehicle in a "Restricted Zone" except as permitted on signs or markings giving notice thereof.

(3) It is unlawful for any person to park a vehicle in red curb or fire zones upon school property.

(4) It is unlawful for any person to leave any vehicle upon school property which constitutes a hazard or obstruction to the normal movement of traffic.

(5) Any vehicle stopped, standing or parked in violation of any of the provisions of this Chapter is a nuisance.

(d) Abatement of nuisance. Such nuisances as prescribed herein may be summarily abated by removing, by means of towing or otherwise.

(e) All traffic laws in the Bountiful Traffic Code and not inconsistent with the foregoing sections, apply to school property.

(f) Violation of this section is a class B misdemeanor.

13-1-117. Noisy Vehicle.

(a) At certain levels noise is detrimental to the public health, comfort, convenience, safety and welfare of the citizens of Bountiful. This Section is enacted to protect, preserve, and promote the health, welfare, peace and quiet of the citizens of Bountiful through the reduction, prohibition and regulation of noise. The intent of this Section is to establish and provide for sound levels that will eliminate unnecessary and excessive traffic noise and establish noise standards and sound levels that will promote a comfortable enjoyment of life and property and prevent sound levels which are physically harmful and detrimental to the individuals of the community.

(b) The following definitions shall apply in the interpretation and enforcement of this Section.

(1) " 'A' Weighted Sound Pressure Level" means the sound pressure level as measured with the sound level meter using the 'A' weighing network. The standard unit notation is dB(A).

(2) "dB(A) level" means the total sound level of all noises as measured by a sound level meter using the 'A' weighing network.

(3) "Decibel" means a logarithmic unit of amplitude which denotes the ratio of two (2) quantities.

(4) "Gross Vehicle Weight Rating" (also designated as GVWR) means the value specified by the manufacturer as the recommended maximum load weight of a single motor vehicle. In cases where trailers and tractors are separable, the gross combination rating (GCWR) which is the value specified by the manufacturer, the recommended maximum loaded weight of the combination vehicle, shall be used.

(5) "Motor Vehicle" means any vehicle which is propelled or drawn on land by a motor, such as, but no limited to: Passenger cars, trucks, truck trailers, semi-trailers, go-carts, snowmobiles and motorcycles.

(6) "Sound pressure level" means 20 times the logarithm to the base 10 of the ratio of the RMS sound pressure to the reference pressure of 20 micropascals. The sound pressure level is denoted as SPL and is expressed in decibels.

(7) "Sound level meter" means an instrument which includes a microphone, amplifier, RMS detector, integrator or time average, output meter, and weighing networks used to measure sound pressure levels.

(c) It is unlawful for any person to operate or cause to be operated, a motor vehicle, at any time and in such a manner that the sound level emitted by the motor vehicle exceeds the following noise limits for the category of vehicles designated in this subsection:

(1) Motor Vehicles GVWR, 10,000 lbs. or more. Any motor vehicle with a manufacture GVWR rating of 10,000 lbs or more, shall not emit a sound pressure level to exceed 88dB(A), when the emitted sound is measured by a sound level meter at a distance of 25 feet (7.5m) from the near side of the nearest land being monitored with the sound level meter at a height of at least 4 feet (1.2m).

(2) Motor Vehicles - GVWR 10,000 lbs. or less. Any motor vehicle with a manufacture GVWR rating of 10,000 lbs or less, shall not emit a sound pressure level to exceed 80dB(A), when the emitted sound is measured by a sound level meter at a distance of 25 feet (7.5m) from the near side of the nearest land being monitored, and at a height of at least 4 feet (1.2m).

(d) No person shall operate or cause to be operated, any motor vehicle not equipped with a muffler or sound dissipating device in good working order and in constant operation.

(e) The provisions of this Section shall no apply to noise resulting from any authorized police, fire or emergency vehicles or equipment.

13-1-118. Parking Unregistered Vehicles.

It is unlawful to park, or for an owner to knowingly permit to be parked, upon a street or upon public property a vehicle which is not currently registered in accordance with State law.

13-1-119. Obstructions to Traffic.

(a) It is unlawful to annoy or obstruct the free travel of any pedestrian or vehicle lawfully upon a public street.

(b) A person may obstruct the flow of vehicular traffic upon the public street, other than a state highway within the city, pursuant to permission given by the governing body under this section. The application for permission shall be made in writing to the City manager and shall state the purpose for which the obstruction is requested and the duration thereof. The application shall include the written consent or protest of each property owner, or each resident, if the property owner does not reside on the property., of each parcel of property, having frontage upon the street being blockaded, within 300 feet of the blockades, or the activity. The City Manager shall, within 10 days, recommend to the governing body whether the request should be issued or denied. The governing body shall, upon consideration of the application and the consent or protest of the adjacent property owners or residents, approve or disapprove of the proposed blockage or activity. The applicant shall comply with the regulations or directives of the city Manager or Police Chief concerning the blockage. Upon the applicant's wilful refusal to follow such regulations or directives, the Chief of Police or his officers shall abate the obstruction and report the incident to the governing body. The barricades shall be so arranged and maintained so as to allow access by vehicular and pedestrian traffic to residences within the barricaded area.

13-1-120. Off-Street Driving Prohibited.

It is unlawful to drive a motor vehicle on public or government property except upon street and parking lots. This prohibition shall not apply to authorized vehicles.

13-1-121. Procedures for Impounded Vehicles.

(a) Post-storage hearings for impounded vehicles. As to any vehicle impounded pursuant to this code by or at the request of the City, its agents or employees, a person who has a legal entitlement to possession of the vehicle has a right to a post-seizure administrative hearing to determine whether there was probable cause to impound the vehicle if such person files a written demand, on forms so provided for such a hearing, with the City within ten (10) days after such person has learned such vehicle has been impounded or within ten (10) days after the mailing of the date set in the Notice of Stored Vehicle, whichever occurs first. The Notice of Stored Vehicle shall be sent in the main to the legal and registered owner or their agent and to the garage where the vehicle is stored within forty-eight (48) hours, excluding weekends and holidays, after impounding and storage of the vehicle.

(b) Conduct of hearing. A hearing shall be conducted before a hearing officer designated by the City manager within forty-eight (48) hours of receipt of a written demand therefor from the person seeking the hearing unless such person waives the right to a speedy hearing. Saturdays, Sundays, and City holidays are to be excluded from the calculation of the 48-hour period. The hearing officer shall be someone other than the person who directed the impounding and storage of the vehicle. The sole issue before the hearing officer shall be whether there was probable cause to impound the vehicle in question.

"Probable cause to impound" shall mean such a state of facts as would lead a person of ordinary care and prudence to believe that there was sufficient breach of local, state or federal law to grant legal authority for the removal of the vehicle.

The hearing officer shall conduct the hearing in an informal manner and shall not be bound by technical rules of evidence. The Police Department shall carry the burden of establishing that there was probable cause to impound the vehicle in question. At the conclusion of the hearing, the hearing officer shall prepare a written decision. A copy of such decision shall be provided to the person demanding the hearing and the registered owner of the vehicle (if not the person requesting the hearing). The hearing officer's decision in no way affects any criminal proceeding in connection with the impound in question and that any criminal charges involved in such proceeding may only be challenged in the appropriate court. The decision of the hearing officer is final. Failure of the registered or legal owner, or their agent to request or attend a scheduled post-seizure hearing shall be deemed a waiver of the right to such hearing.

(c) Decisions of the hearing officers and their effect. The hearing officer shall only determine that as to the vehicle in issue either (a) there was probable cause to impound the vehicle or (b) there was no such probable cause, in the event that the hearing officer determines that there was no probable cause, the hearing officer shall prepare and date a Certificate of No Probable Cause, copies of which shall be given to the possessor of the vehicle and the Police Department. Upon receipt of the possessor's copy of such certificate, the garage having custody of the vehicle shall release the vehicle to its possessor. Upon a finding of no probable cause, towing and storage fees shall be paid by the City. If the possessor fails to present such certificate to the garage having custody of the vehicle within twenty-four (24) hours of its receipt, excluding such days when the garage is not open for business, the possessor shall assume liability for all subsequent storage charges. Such certificate shall advise the possessor of such requirement.

13-1-122. Adoption of State Code.

The following provisions of the Utah Code are adopted as ordinances of the City. Violations of these provisions shall be of the same classification as provided under State law, provided, however, that the maximum penalty shall not be greater than that permitted by law for a class B misdemeanor.

(a) The Motor Vehicle Act (Chapter 1a of Title 41), as follows:
- Part 1 Section 41-1a-102;

- Part 2 Sections 41-1a-201, 41-1a-205(4), 41-1a-214;
- Part 4 Sections 41-1a-401(1), 41-1a-403, 41-1a-404, 41-1a-414;
- Part 7 Section 41-1a-703;
- Part 11 Section 41-1a-1101; and
- Part 13 in its entirety.

(b) The Uniform Drivers License Act (Chapter 3 of Title 53). [Amended 94-2]

(c) Traffic Rules and Regulations (Chapter 6a of Title 41) in its entirety.

(d) Driving by Minors (Chapter 8 of Title 41) in its entirety.

(e) Motor Vehicle Financial Responsibility (Chapter 12a of Title 41) as follows:
- Sections 41-12a-103, 41-12a-301(1) and (5), 41-12a-302, 41-12a-502, and 41-12a-603.

(f) Off-Highway Vehicles (Chapter 22 of Title 41) in its entirety.

(g) Protection of Highways Act (Chapter 7 of Title 72) in its entirety.

Chapter 2: Parades

13-2-101. Purpose of Provisions

The purpose of this ordinance is to provide for the requirement that a permit be first issued for the holding, managing, and conducting of a parade on public streets or places, providing for the contents of an application for a parade permit, provisions relating to the issuance of such permit and revocation thereof, and providing for restrictions during parade activities and regulations for the use of public property adjacent to the parade route.

13-2-102. Definitions

As used in this chapter:

"Funeral Procession" means a single direct movement from a mortuary, church, or other public gathering place to the place of burial of a human body, under direction or supervision of a funeral director.

"Parade" means a march or procession of any kind.

13-2-103. Permit - Required

It is unlawful to hold, manage, conduct, aid, participate in, form, start or carry on any parade in or upon any public street, park, or other public place in the City unless and until a permit to conduct such parade has been obtained in compliance with the provisions of this chapter.

13-2-104. Exceptions

This chapter shall not apply to any of the following:

(a) Funeral processions;

(b) A governmental agency acting within the scope of its functions;

(c) Students participating in education activities, provided that:

(1) Such activity is authorized by the school district and is under the immediate direction and supervision of the school authorities authorized by the school district to approve and supervise such activity.

(2) If such student activity will result in blockage or closure of a street or public right-of-way, a permit under this chapter shall be required.

13-2-105. Permit - Application

(a) Application for permits under this chapter must be filed with the Chief of Police not less than twenty (20) business days in advance of the proposed parade.

(b) The application shall be in writing, and shall give the following information:

(1) The name, address, and telephone number of the person requesting the permit; if the parade is proposed to be conducted for on behalf of or by any organization, the name, address and telephone number of the headquarters of the organization and the authorized head of such organization shall be stated;

(2) The name, address, and telephone number of the person who will be directly in charge of and responsible for the parade;

(3) The date, time, and location and/or route of the proposed parade;

(4) The approximate number of person who will participate in the parade, the number and kinds of vehicles, equipment or animals which will be used.

(5) Plans for the assembly and dispersal of the parade, including times and locations thereof;

(6) Any additional information which the Chief of Police shall find reasonably necessary to make a determination of the findings required by Section 13-2-106, or its successor.

13-2-106. Permit - Issuance Conditions

The Chief of Police shall issue a permit as provided for hereunder when, from a consideration of the application and from such other information as may be otherwise obtained, he/she finds that:

(a) The conduct of such parade will not substantially interrupt the safe and orderly movement of other traffic;

(b) The concentrations of persons, animals and vehicles will not unduly interfere with proper fire, police, ambulance or other life-safety protection or service to areas where the parade will take place or areas contiguous thereto;

(c) The conduct of such parade is not reasonably likely to cause injury to person or property; and

(d) Such parade is not to be held for the primary purpose of advertising the goods, wares, or merchandise of a particular business establishment or vendor.

13-2-107. Permit - Additional Conditions

(a) The Chief of Police shall have authority to impose such conditions as are necessary to insure that all of the findings mentioned in Section 13-2-106, above, or its successor, shall exist during the continuation of the parade.

(b) In granting or denying the permit, the Chief of Police shall not consider the content, message, or First Amendment expression of the parade proposed, except that obscene materials and materials harmful to minors, as those terms are defined in Section 76-10-1201 et seq. Utah Code Annotated, 1953, as amended, or their successors and applicable City ordinances, may be restricted.

13-2-108. Permits - Contents

Conditions imposed on the issuance of any permit as provided for in Section 13-2-107 above, or its successor, shall be set forth in the permit.

13-2-109. Appeal Procedure

The applicant shall have the right to appeal the denial or qualification of a permit to the Bountiful City Administrative Law Judge. The notice of appeal shall be filed within ten days after the denial or qualification. The City Council shall act on such appeals within fourteen (14) business days. In considering the appeal, the City Council shall consider the reasonableness of the grounds for denial for qualification.

13-2-110. Permit - Revocation Conditions

(a) If, while the parade is in progress, the City representative at the event, as designated by the Chief of Police, determines that the conditions of the permit are not being complied with, the City representative shall inform the permittee's designated representative as provided in Subsection (b) of Section 13-2-111, or its successor, and, as appropriate, spectators or participants of the noncompliance.

(b) In the event the noncompliance is not promptly remedied and the City representative or police determine that such noncompliance jeopardizes public safety and welfare elements set forth in Section 13-2-106, or its successor, the City may revoke the permit. After a reasonable time for dispersal, any person continuing with the parade conducted under the revoked permit shall be guilty of a Class B misdemeanor.

13-2-111. Permittee Duties

(a) A permittee hereunder shall comply with all terms and conditions of such permit, and with all applicable laws and ordinances.

(b) The written permit obtained pursuant to this chapter shall be carried by the person heading or leading the activity for which the permit was issued.

13-2-112. Public Conduct Restrictions During Parade

(a) It is unlawful for any person unreasonably to obstruct, impede or interfere with any parade or with any person, vehicle or animal participating in the parade.

(b) The Chief of Police or his/her designated representative shall have the authority, when reasonably necessary, to prohibit or restrict the parking of vehicles along a street or highway or part thereof constituting part of the route of a parade. The Chief of Police, traffic engineer or other designated city officer shall post signs to such effect, and it shall be unlawful for any person to park or leave unattended any vehicle in violation thereof.

13-2-113. Reserved.

13-2-114. Regulations for Public Property Adjacent to Parade Routes.

The following regulations apply to public property adjoining parade routes and staging areas for parades. A violation of the following regulations is punishable as an infraction.

(a) No person shall claim or attempt to claim, reserve, occupy or otherwise control public property along parade route by the placement of any object, such as ropes, chairs, blankets, banners, vehicles, or barriers of any kind more than twelve (12) hours before the start of a parade. It is permissible to place an object or objects to claim or reserve public property along a parade route less than twelve (12) hours before the start of a parade. Any objects or personal property left unoccupied more than 12 hours before the start of a parade will be considered abandoned property and confiscated by the City.

No person shall claim or attempt to claim, reserve, occupy or otherwise control public property along parade route by the placement of any object, such as ropes, chairs, blankets, banners, vehicles, or barriers of any kind more than twelve (12) hours before the start of a parade unless a person or persons is physically and constantly present at the area claimed, reserved or occupied. Any objects or personal property left unoccupied more than 12 hours before the start of a parade will be considered abandoned property and confiscated by the City.

(b) No person shall place, erect, use or employ any tent or other enclosed shelters, including vehicles and trailers, on public property along a parade route or staging areas at any time.

(c) No person shall obstruct public sidewalks, paved portions of streets, or occupy any unsafe position or occupy a position which may cause damage to public or private property.

(d) From three hours before the start of a parade and continuing until the conclusion of the parade, no person shall park a motor vehicle, trailer or tent trailer on the streets designated as the parade route. Only motor vehicles and trailers which are participating in the parade are allowed to be in the areas designated as staging areas or along the parade route. Any vehicle, motor vehicle, trailer or tent trailer

parked in violation of this section is a public nuisance and may be towed from the prohibited area at the owner's expense.

(e) As part of the permit process, the Chief of Police may authorize the permit holder to reserve places for the observation of the parade and to erect and control seating on such reserved public property.

(f) From and after twenty-four (24) hours prior to the parade and continuing until the conclusion of the parade, all dogs, except seeing-eye dogs, police dogs and dogs which are actually part of the parade, shall be prohibited on public property along the parade route and staging areas whether or not such dogs are leashed. This subsection shall not prohibit owners of dogs who live adjacent to the parade route from taking their leashed dogs on walks to and from their property using the most direct route away from the parade route.

Title 14
Bountiful Land Use Ordinance

[Title 14 is maintained by the Planning and Zoning Department.]