Memo - Planned Unit Development Code

City Council - 26 January 2010

Background

The planning commission has been working on the changing the Planned Unit Development code, the R-1-12,000PUD Zone code over the last year. Basically the PUD code and the R-1-12,000PUD codes contradicted each other, didn't work together as planned, and made it hard to negotiate amenities in a development. In working on these codes, it is proposed that the Large Scale Development code be rescinded with the Mountain Home Development code being moved to "Other Zones" in the development code.

The Planned Unit Development code currently states that PUDs are allowed citywide. Members of the council and commission have been concerned with this wording.

Our code is difficult in that we have a PUD code and an R-1-12,000 PUD code. Having the two different codes is confusing and there are many contradicting portions of the two codes. If you only allow PUDs in the R-1-12,000 PUD zone, why not have the language of the PUD zone combined with the R-1-12,000 PUD zone? Many cities allow PUDs in multiple zones with the clause that they must be approved and their allowance is not a given. PUDs can be a benefit in that you can get more amenities and better development in trade for higher density. Also, the city usually has more control with the design and layout of the development. You could take a half acre zone and allow third acre lots with a PUD. Highland does this to gain park space surrounding the homes throughout the city.

A contradiction of this code is that the R-1-12,000 PUD code establishes setbacks, just like any other zone in the city (side, front, and rear yards), yet the PUD code states that all setback requirements are waived. A developer can choose which ever setbacks they want. What the PUD code was trying to do was to allow zero lot lines for condos, townhomes, etc, yet the R-1-12,000 PUD zone doesn't allow this. Also, with the PUD zone, the problem is by neglecting the front and rear setbacks for any development as well as side setbacks between single family homes or as a buffer between lower and higher density development can lead to safety problems and leaves the city with limited control.

The PUD zone states that a development must be over 15 acres. The R-1-12,000 zone states that the 15 acre requirement can be waived. The PUD code allows for multi-family units yet the R-1-12,000 only lists single-family dwellings as the permitted use. The PUD code states that you start with the base density of the zone (12,000 sq. ft. lots) and then can get bonus density up to 25%, yet there is no mention to a minimum lot size.

Lastly, the Elk Ridge Meadows PUD had two main issues that made it problematic.

1. The development came in at a density that didn't trigger the density bonus of the zone; therefore the commission could not require harder siding or other amenities.
2. The open space area that was created in lieu of larger lots was not required to be landscaped and we ended up with "Natural Grass and Wildflowers".

Proposed PUD Code

The planning commission's work over the year has been to make the PUD code easier to use and understand and to gear it towards density in return for park/open space, primarily to increase the city recreational opportunities to support a growing population. The new code does the following:

1. Creates a PUD Overlay Zone that can be used in all residential zones except hillside zones.
2. Requires that 20 acres or more be a part of a PUD development. This restriction only allows its use in about 4 locations in the city, mostly in areas still to be annexed.
3. Simplifies the density allowed per acre in return for park and open space area.
4. Clarifies that the design and amenities of the park areas are a negotiation process with the developer and the planning commission.
5. Gives a table based on acreage of what amenities can be chosen to add recreational activities.

Proposed R-1-12,000 Zone Code

The proposal is to convert the current R-1-12,000PUD Zone into a regular zone. It would only be used where the current Elk Ridge Meadows PUD is and not general planned as a future land use anywhere else. The changes to it as compared to the current R-1-12,000PUD code are minimal and mostly include deleting language about using a PUD in conjunction with it.

Proposed Rescinding of the Large Scale Development Code

This portion of the code use to contain the Planned Residential Development (PRD) code (could only be used in conjunction with the CE-1 zone), the current PUD code, and the Mountain Home Developments code (only allowed in the
CE-2 zone - cabins in Loafer Canyon). The PRD code was rescinded with the creation of the Hillside Cluster Overlay Zone and moved to "Other Zones" section in the code. This is also where the new Senior Housing Overlay zone resides. It is proposed to also move the proposed PUD Overlay Zone and the Mountain Home Development Zone to the "Other Zones" location too. This leaves no reason to keep the Large Scale Development Code since it has no zones within it and it s regulations are covered in the new overlay zones.

Two changes are proposed to the Mountain Home Development code including adding the approval process into it from the Large Scale Development code and changing the road grades portion of the code to be the same as the rest of the zones in the city (current zone allow grades up to 15%).

Public Hearing/Planning Commission Motion

This item was advertized in the paper, on the website, and in the city newsletter. There were no comments from the public on this issue and the planning commission recommended that the proposed changes to the code as described in this memo be made.

Planning Commission Motion: John Houck motioned and Paul Squires to accept as noted in the staff recommendation from the memo with the addition of 10-11E-70-3 "parking shall be obscured from an adjacent street with landscaping such as berming vegetation or fencing". Vote: yes-all (4), no-none, absent (3) – Kelly Liddiard, Dayna Hughes, Kevin Hansbrow

City Council Discussion

1. Is the new PUD code easier to use and clearly explain what is desired for in a PUD development?
2. Is the mix of density for amenities the appropriate mix?
3. Is the proposed R-1-12,000 zone written as a normal zone in the appropriate fashion?
4. Is moving the special zones including the new PUD code and the MHD code out of the Large Scale Development Zone a good fit?
5. Are the changes to the MHD code appropriate?

Proposed Motion

I motion that in reviewing the proposed changes to the Planned Unit Development Code and the R-1-12,000PUD Zone code the city council agrees with the planning commission's findings that the new PUD Overlay code and the reformatting the R-1-12,000PUD code into a normal single family residential zone will allow the planning commission and city council to foster better PUD developments and provide for the recreational activities that will be needed with a growing population. The council also agrees with the planning commission's findings that this change is in keeping with the general plan to create a variety of housing types and park space. We also agree with the planning commission in finding that with the proposed changes that the Large Scale Development Code it is no longer needed and that the Mountain Home Development Code should be relocated in the development code with the addition of an approval process and the change to standardize road grades.

Planning Commission Minutes - Draft

10 December 2009

Weston Youd, Co-chair, opened the public hearing at 7:06pm. (no public comments were made).

Weston Youd, Co-chair, closed the public hearing at 8:06pm.

John Houck had a question on the public utilities easement. 10-11E-60-6 Side Setback/Interior Lots-SF – It only allows 8 feet for a side setback. Is that enough? He's fine with the easement.

Shawn Eliot said for the size of lots, it's not that small. Elk Ridge is 12 foot side setback, but most cities are 8 feet. In the current PUD code, all setbacks are waived and they can do whatever they want. This was put into place to have a little control.

Weston Youd explained that it will be a minimum total of 16 feet between the homes.

John Houck said he didn't look at it that way. So he is ok with 16 feet in between homes. He also asked about the parking lots for multi-family housing. John wondered if the parking lot would be right on the street and how it would look. How is that esthetically going to look?

Shawn Eliot explained that with the senior housing development has parking right along the street so they were required to put in a berm and a hedge so it would break down the look of a lot of cars. Shawn is going to add something to require that it looks esthetically pleasing and the lot is obscured.

John Houck asked why there isn't a minimum lot size. There is a multi-family development and no minimum lot size.

Shawn Eliot explained that in a PUD there are so many lots per acre so there wouldn't be an excessive amount. Multi-family is specific that twin homes and town homes are only allowed.

Weston Youd said there is a square footage requirement so the lot size can't be too small.

John Houck indicated the square footage requirement is a minimum of 900 square feet.

Jason Bullard asked if they could just take the line out that says there isn't a minimum lot size. If there are requirements on everything else, why would that statement be there?

Shawn Eliot said the reason it is in the current code is to allow them to do multi-family developments. Single-family housing there are lot sizes. Multi-family housing usually don't have a lot.

Jason Bullard argued that if you sit down with a map and a lot size and the requirements, you can find out what you can do there.

Shawn Eliot indicated that square footage would be done rather than lot size.

Jason Bullard again asked why then would you want that statement indicating there isn't a minimum lot size.

Weston Youd said then a person can own just the footprint of the building and not the lot. The lot is owned by the development. The dwelling is owned by the individual that is why there is a zero-lot line. So the structure is owned by the owner and the association owns the property.

Shawn Eliot said most of the multi-family housing that he has seen, the person does own the land under the home – it's a zero lot line. But by doing that it's more the square footage of the footprint…it's not an actual lot that is thought of when building a single-family development.

Jason Bullard asked if this code would allow for a multi-family to go right next to a different kind of property without having a setback.

Shawn Eliot answered no because all dwellings in a multi-family development must set back 30 feet from any adjoining property, including any other phase in the PUD development. It is typical.

Jason Bullard asked if that meant that there has to be a minimum lot size to build a building on a lot with a setback.

Shawn Eliot said it is the building, though.

John Houck said 12,000 square foot lot.

Shawn Eliot said that's not on the multi-family housing though.

Weston Youd said that's the PUD for single-family.

Shawn Eliot said it depends on the underlying zone. If it's a half-acre lot zone, then you can go all the way down to 10,000 square feet. They can't all be 10,000 square feet because of the size of the land. There is going to be a mixture of different housing types. In a half-acre lot zone, 2 units per acre are allowed if doing a PUD.

John Houck quoted 10-7-C-8 Page 10 – multiple story dwelling shall meet or exceed the following. It doesn't say how high.

Shawn Eliot said there is a building height ordinance that would cover that. The PUD is just an overlay zone over the current zone.

Weston Youd indicated that the building height ordinance would supersede that.

John Houck would like to have 10-7-C-8 explained. 900 square foot for the minimum on a two story?

Shawn Eliot said the multi-family is 900 sq feet for the main level for a two story.

Weston Youd explained a two-story can have 900 sq foot main level and then 900 on top, which equals out to be 1800 sq feet between the two floors. So if it is tall, it can be a little smaller.

Shawn Eliot explained that there is an R1-12,000 PUD zone, which is unique. There is a zone attached to the PUD zone and then also a PUD code that is supposed to work together, that don't. It is proposed that there be just an R-1-12,000 zone and allow a PUD overlay zone. The proposed general plan indicates that the R-1-12,000 zone is the only place in the city and then it is done. Going forward, there are still half-acre lots that can be bigger developments so that they work well with the code and get amenities.

John Houck asked about off-street parking. They must provide two parking spaces per unit. It doesn't say a garage or an enclosed area for each space.

Shawn Eliot quoted "not less than two off-street parking spaces at pertinent to a dwelling shall be enclosed within a garage or other closed structure".

John Houck asked if it could just be one-car and have the other outside.

Shawn Eliot said it says "not less than two" so there has to be a two car garage. All of the zones have the exact same language. It could be worded better.

JOHN HOUCK MOTIONED AND PAUL SQUIRES TO ACCEPT AS NOTED IN THE STAFF RECOMMENDATION FROM THE MEMO WITH THE ADDITION OF 10-11E-70-3 "PARKING SHALL BE OBSCURED FROM AN ADJACENT STREET WITH LANDSCAPING SUCH AS BERMING VEGETATION OR

FENCING". VOTE: YES-ALL (4), NO-NONE, ABSENT (3) – KELLY LIDDIARD, DAYNA HUGHES, KEVIN HANSBROW

Memo dated 12/10/2009 – "The planning commission in reviewing the proposed changes to the Planned Unit Development Code and the R-1-12,000 PUD Zone code find that the new PUD code and the reformatting the R-1-12,000PUD code into a normal single family residential zone will allow the planning commission and city council to foster better PUD developments and provide for the recreational activities that will be needed with a growing population. The commission also finds that this change is in keeping with the general plan to create a variety of housing types and park space. The commission also finds that with the proposed changes that the Large Scale Development Code it is no longer needed and that the Mountain Home Development Code should be relocated in the development code with the addition of an approval process and the change to standardize road grades. The planning commission recommends to the city council that they approve the above mentioned changes."

Sections

NEW PROPOSED PUD CODE

10-11E-10 Legislative Intent

Clustering of lots, well designed neighborhoods and streetscapes, a variety of housing units, and creating park space are all a priority of the general plan. A Planned Unit Development (PUD) Overlay development can allow for more density by allowing smaller lots, and in some areas, multifamily units, in return for development amenities and parks. The main focus of the PUD is to gain park space.

10-11E-20 Zone Requirements

Developments in utilizing the overlay zone are required to adhere to the underlying zone requirements, gain council approval, and be larger in scale.

10-11E-20-1 Planned Unit Development Zone Regulations

All developments utilizing the Planned Unit Development Overlay Zone must also adhere to the requirements of the underlying zone as well as other codes applicable citywide. Exceptions include the requirements and exceptions listed in the Planned Unit Development Overlay Zone. These include lot size, density, and building envelope setbacks.

10-11E-20-2 Overlay Zone Approval

Use of the Planned Unit Development Overlay Zone must be approved by the city council. If an applicant is denied the use of the overlay zone, the development will revert back to the underlying zone requirements. It shall be the city council's sole discretion to decide if a project should be allowed to use the Planned Unit Development Overlay within the intent of the ordinance as noted above.

10-11E-20-3 Minimum Development Size

A Planned Unit Development must include 20 or more acres. The development may include multiple phases to achieve the 20 acres required.

10-11E-20-4 Housing Design Mix

A mix of housing elevations with varying siding types is required. Vinyl siding can be used on up to 25% of a structure. Hard siding types such as brick, stucco, composite board, stone, etc. can be used in full or in combination to create a mix of elevations.

10-11E-20-5 Multi-Family Development

Multi-family housing is considered town homes and condominiums. Multi-family housing is only allowed in a PUD when the underlying zone allows 12,000 sq. ft. lots.

10-11E-20-6 Overall Density

Overall density is based on the underlying zone. In designing a development, undevelopable land on 30% or greater slopes, ravines and drainages, earthquake faults, or other undevelopable lands identified by the planning commission, must first be removed from the total acreage of the development to arrive at a net acreage. Land for roads, trails, and the required 25% parks/open space can be kept within the net acreage calculation. The following table illustrates the dwelling units allowed in a PUD based on the underlying zone minimum lot size. The Dwelling Units per Acre (DUA) would be multiplied by the net acreage to arrive at the amount of lots allowed in a development.

10-11E-20-7 PUD Dwellings per Acre Table

Underlying Zone	PUD Dwelling Units p/Acre
20,000	2.00 DUA
15,000	2.50 DUA
12,000	3.00 DUA

10-11E-20-8 Development Phasing

A PUD shall include a phasing plan which specifies the timing of public improvements and residential construction. This plan must be submitted to the planning commission at or before the submission of the preliminary plan. The phasing plan shall include the number of units or parcels to be developed in each phase, the approximate timing of each phase, the timing on construction of public improvements and subdivision amenities to serve each phase whether on or off site and the relationship between the public improvements in the current subdivision and contiguous land previously subdivided. Phasing of a public park can occur if in the first phase of a development, the land for the park is deeded to the city. Subsequent park phases must be approved by the planning commission with an emphasis that the timeline represents a balance between economic and community needs. A developer must request approval by the planning commission a revision of the overall phasing plan which may be necessary due to conditions such as changing market conditions, inclement weather or other factors. Failure to revise an outdated plan can result in a lapse of PUD approval.

10-11E-30 Open Space Requirement

The main purpose of utilizing the PUD is to provide parks and recreation facilities for the city. It shall be required that at least 25% of a PUD be dedicated as open space. Open space cannot be a part of individual lots. Any area 25 feet from a dwelling cannot be counted toward the 25% open space requirement. Ravines, drainages, fault lines, unstable soils, can be included within open space areas. All slopes of 20% or greater (unless approved by the planning commission to be included as part of a lot) must be included within open space areas. Unique land features could require more than 25% of the development be dedicated as open space.

10-11E-30-2 Open Space Ownership

All open space areas shall be maintained by the owner of the project if held in single ownership, a homeowners' association if sold separately, or dedicated and accepted by the city for maintenance purposes. All open space areas must provide emergency vehicle access.

10-11E-30-1 Park Space

The 25% open space requirement shall include park space. The planning commission shall decide the appropriate percentage of park space verses other open space, but generally at least 80% of the acreage set aside as open space should be in the form of a park. Park space can be interspersed with natural terrain and turf grass areas. Amenities in the park can include, play areas, soccer, basketball court, football, and/or baseball fields, volley ball court, trails, benches, picnic areas, pavilion, bathrooms, gazebo, parking area, and any other features approved by the planning commission. Proper size and construction of fields and equipment shall be required at a municipal park standard. Adequate lighting for game play, security, and parking shall be provided. Parking will include 1 stall per 3,500 sq ft. of park space. The following table shows the minimum improvements in park space based off the acreage of a development applied to a points system. Multiple features can be added to gain the required points needed. The larger the development, the more emphasis shall be given to recreation facilities. The planning commission shall work with the developer in determining the appropriate mix of park amenities and can adjust items in the table in negotiation with the developer. The planning commission shall review current recreation facilities in choosing mix of facilities.

10-11E-30-2 Park Space Amenities Table

		Development Size in Acres			
		<30	30-50	51-75	76>
Points Needed ➡		100	175	225	275
Feature	Points	Park Must Include = X			
Playing Field	(min.) ➡	X (2)	X (4)	X (6)	X (8)
Baseball Field	20				
Soccer/Football Field	20				
Basketball Court	20				
Bench	1				
Gazebo	5				
Parking Lot	12	X	X	X	X
Pavillion/w Tables	10		X	X	X
Picnic Tables	1				
Play Area	15	X	X	X	X
Restrooms	15	X	X	X	X
Trail - Linear	7				
Trail - Loop	7				

10-11E-30-3 Other Open Space

Other open space areas not within the park can be allowed, generally up to 20% of the acreage set aside as open space, and can include landscape strips along major roadways (outside the area required in the road right-of-way), entrance features, trails, roundabouts, steep sloped native areas, etc. Small pockets of improved open space as parks are not allowed.

10-11E-40 Landscaping

Landscape materials must be installed prior to completion of all Planned Unit Developments. A landscaping plan must be drawn, designed and certified by a licensed landscape architect and submitted to the planning commission for their approval. The plan shall show planting materials, irrigation, structural features, playgrounds, sport fields, building locations, and hard surfaces (streets, sidewalks, trails, etc.). It shall also show grading with contours and spot elevations before construction and anticipated contours and elevations after completion. A cash bond of 125% of landscaping costs will be posted prior to recording whether the landscaped area is proposed to be in city ownership or in a private homeowners association. If weather does not permit for landscaping to be installed prior to subdivision completion, the city can extend installation up to May 15 the following year. An inspection shall be performed by the city building inspector to verify work complies with all city code and ordinance requirements before the bond is released.

If the subdivision contains individual lots to be built upon after subdivision completion, only common areas and front yards in the subdivision will be subject to this requirement.

10-11E-40-1 -- Types of Landscaping

Landscaping shall include the treatment of the ground surface with live materials such as, but not limited to, sod, grass, ground cover, trees, shrubs, vines and other growing horticultural plant material. In addition, a combination of xeriscape plantings and the utilization of native vegetation are encouraged in clusters on smaller and flatter terrain lots and allowed exclusively on slopes over 15%. Native vegetation includes grasses and trees that are currently established in the non-developed hillside areas of the city. Erosion control and elimination of noxious weeds must be accomplished in order to qualify as native plantings. Simply grading the ground and letting vegetation to grow back is not allowed because this promotes noxious weeds to grow. Landscaping may also include other decorative surfacing such as bark chips, crushed stone, mulch materials, or pavers. Structural features such as fountains, pools, statues, playgrounds, and benches shall also be considered a part of the landscaping, but such objects alone shall not meet the requirements of landscaping. Hard surfaces, such as concrete or asphalt, shall not cover more than 30% of a front yard area.

10-11E-40-2 Street Trees
To allow for proper root depth needed within planter strips and to recognize the higher elevation growth requirements, the following trees are approved to be planted within the planter strip area between the sidewalk and the street; Autumn Blaze Maple, Norway Maple, Honey Locus, Summit Ash, Green Spire Linden, Autumn Purple Ash. Street trees shall be shown on the landscaping plan. Trees shall have a trunk of at least 2 inch caliper and be potted rather than burlap balled to provide for stronger growth in the Elk Ridge environment. Each street within a these type of developments shall have the same type of tree planted along it. All units shall have at least 2 trees within the planter strip adjacent to the unit (4 on corner lots). The required sight distance at intersections shall be maintained.

10-11E-40-3 Monument Signs
In the entry way to a development, neighborhood, and for each park, a monument sign shall be erected stating the name of the development, neighborhood, or park.

10-11E-50 Lighting
Street lighting is required on major transportation corridors, in parks, and along the trail system. Lighting shall be Dark Sky Compliant and shall not shine into the yards of adjoining properties.

10-11E-60 Subdivision Design Requirements - Single Family
When developing a PUD the following must be considered for each single family phase of the development:

10-11E-60-1 Lot Size - SF
Minimum lot size of a single family unit development is based on the underlying zone minimum lot size. Table 10-11E-30-2 shows the underlying zone minimum lot size with a minimum lot size for a PUD overlay in the corresponding zone.

10-11E-60-2 Minimum Lot Size Table

Underlying Zone	PUD Overlay
20,000	10,000
15,000	8,000
12,000	7,500

10-11E-60-3 Building Envelope - SF
The building envelope location within a single family unit development lot should conform to the natural terrain and remain within the flattest areas of the lot. This area could be considerably smaller than the lot to accomplish this requirement. The minimum building envelope size for a single family unit lot is 4,000 square feet. The front, side and rear setback requirements still must be met.

10-11E-60-4 Lot Frontage - SF
Frontage for a single family unit lot along a city street shall be a minimum of 80 feet.

0-11E-60-5 Front Setback - SF
All dwellings and other main buildings in a single family unit development shall be set back not less than 25 feet from the front lot line which abuts on any existing or proposed public street right-of-way. An exception for a 20 foot front setback can be given by the planning commission for a staggering effect of the units, if they conclude that street line of sight views are not compromised.

10-11E-60-6 Side Setback/Interior Lots - SF
All dwellings and other main buildings in a single family unit development, including any attached garage or similar structure, shall have side setbacks of 8 feet or greater from any side property line not abutting a street.

10-11E-60-7 Side Setback/Corner Lots - SF
All dwellings and other main buildings in a single family unit development, including any attached garage or similar structure, shall have side setback of 8 feet or greater on the side not abutting any existing or proposed road, and shall have a side setback of 25 feet or greater on the side which abuts on any existing or proposed road. A line of sight triangle of 30 feet measured from the back of curb on a corner shall be preserved.

10-11E-60-8 Rear Setback - SF
All dwellings or other main buildings in a single family unit development shall be set back 25 feet or greater from the rear lot line. On corner lots for a garage that is attached to the rear of the dwelling, the required rear setback for the garage may be reduced to 15 feet or greater from the rear lot line. No living area can be included within the garage footprint in this reduced area.

10-11E-60-9 Lot Frontage/Setback Table - SF

Area	Setback/Width
Lot Frontage on Road	80 feet
Front Setback	25 feet
Front Setback - Exception	20 feet
Side Setback - Interior lot	8 feet
Side Setback - Corner lot	25 feet
Line of Sight Triangle - Corner lot	30 feet
Rear Setback - Main Structure	25 feet
Rear Setback - Garage	15 feet
Public Utility Easement - Front	10 feet
Public Utility Easement - Sides/Rear	8 feet
Building Envelope Size	4,000 sq ft. min.

10-11E-70 Subdivision Design Requirements - Multi-Family
When developing a PUD the following must be considered for each multi-family phase of the development:

10-11E-70-1 Lot Size - MF
There is no minimum lot size in a multi-family development. Zero lot lines are allowed.

10-11E-70-2 Building Envelope - MF
The building envelope location within a lot should conform to the natural terrain and remain within the flattest areas of the lot. This area could be considerably smaller than the lot to accomplish this requirement. The building envelop can be only to the extent of the structure. There is no minimum building envelope size for a multi-family unit lot.

10-11E-70-3 Lot Frontage/Parking - MF
All units in a multi-family unit development must have access to a city street. This can be through direct access or through a parking lot. All shared parking lots must have two accesses to a city street and shall be obscured from an adjacent street with landscaping such as berming, vegetation, or fencing.

10-11E-70-4 Front Setback - MF
All dwellings and other main buildings in a multi-family unit development shall be set back not less than 20 feet from the front lot line which abuts on any existing or proposed public street right-of-way. An exception for a zero front setback can be given by the planning commission if they conclude that street line of sight views are not compromised.

10-11E-70-5 Side Setback/Interior Lots - MF
All dwellings and other main buildings in a multi-family unit development, including any attached garage or similar structure, are not required a side setback if abutting an interior unit or lot in that specific phase of the PUD development.

10-11E-70-6 Side Setback/Corner Lots - MF
All dwellings and other main buildings in a multi-family unit development, including any attached garage or similar structure shall have a side setback of 20 feet or greater on the side which abuts on any existing or proposed road. A line of sight triangle of 30 feet measured from the back of curb on a corner shall be preserved.

10-11E-70-7 Rear Setback - MF
All dwellings or other main buildings in a multi-family unit development shall be set back 25 feet or greater from the rear lot line. On corner lots for a garage that is attached to the rear of the dwelling, the required rear setback

for the garage may be reduced to 15 feet or greater from the rear lot line. No living area can be included within the garage footprint in this reduced area.

10-11E-70-8 Setback from Adjoining Development - MF
All dwellings in a multi-family PUD development must setback 30 feet from any adjoining property, including any other phase of the PUD development.

10-11E-70-9 Lot Frontage/Setback Table - MF

Area	Setback/Width
Front Setback	20 feet
Front Setback - Exception	0 feet
Side Setback - Interior lot	None
Side Setback - Corner lot	20 feet
Line of Sight Triangle - Corner lot	30 feet
Rear Setback - Main Structure	25 feet
Rear Setback - Garage	15 feet
Setback to Adjacent Development	30 feet
Public Utility Easement - Dev. Parameter	10 feet
Building Envelope Size	None

TITLE 10 DEVELOPMENT CODE | CHAPTER 7 RESIDENTIAL ZONES
ARTICLE C. R-1-12,000~~-PUD~~ RESIDENTIAL ZONE

Conversion of R-1-12,000PUD zone code into R-1-12,000 zone code

10-7C-1: LEGISLATIVE INTENT:
A. The R-1-12,000~~-PUD~~ residential zone covers the portion of the city which is primarily suited for ~~planned residential~~ denser development abutting adjacent development in bordering cities. Development within the zone is represented by a commingling of one-family dwellings and parks, schools, churches, and other community facilities designed to serve the residents of the city. ~~This zone should only be used in conjunction and comply with the regulations of the planned unit developments (PUD) section of the code in chapter 14 of this title.~~ The zone is characterized by smaller lots, quiet residential conditions favorable to the rearing of children and an abundance of open space. Owners and developers of property within this zone should bear in mind that primacy is given to residential development and maintain their properties in recognition thereof.

B. The specific regulations necessary for the accomplishment of the intent of the zone are hereinafter set forth.

10-7C-2: PERMITTED USES:
The following buildings, structures and uses of land shall be permitted upon compliance with the applicable requirements of this title:

- Common Household Pets
- Foster care homes containing not more than three (3) nonrelated foster care occupants.
- Home occupations subject to the provisions of section 10-12-17 of this title.
- Orchards and field crops.
- Residential facilities for persons with a disability pursuant to Utah Code Annotated section 10-9-605.
- Residential facilities for the elderly pursuant to Utah Code Annotated section 10-9-502.
- Single-family dwellings.
- Utility transmission projects, minor. (Ord. 04-7, 8-17-2004, eff. 9-17-2004)

10-7C-3: CONDITIONAL USES:
The following buildings, structures and uses of land shall be permitted conditional uses upon compliance with the applicable requirements of this title and after approval has been given by the designated review agency: (Ord. 01-12-11-23, 12-11-2001, eff. 1-11-2002; amd. 2003 Code)

- Accessory apartments (see 10-12-29 for requirements).
- ~~Local commercial establishments.~~
- Wells, water storage tanks and similar facilities and structures. (Ord. 04-7, 8-17-2004, eff. 9-17-2004; amd. Ord. 08-9, 7-8-2008)

10-7C-4: LOT SIZE AND FRONTAGE: ~~**10-7C-4: AREA AND WIDTH:**~~
12,000 sq. ft. or larger lots are the allowed base density of the zone. Frontage along a city street shall be a minimum of 80 ft. For lots abutting an elbow type curve or cul-de-sac the frontage requirement may be reduced to ~~80~~ 60 feet, provided that the width requirement is satisfied at the front lot line adjoining the street. ~~The minimum area and width requirements for a zoning lot shall be as follows:~~

~~Use~~	~~Minimum Area~~	~~Minimum Width*~~
~~Single-family dwellings~~	~~12,000 square feet~~	~~100 ft~~
~~Churches~~	~~2.5 acres~~	~~200 ft~~
~~Schools~~	~~5 acres~~	~~200 ft~~

~~*For purposes of determining compliance with the width requirements, the measurement of lot width shall be made along the front lot line at the minimum front setback line. In the instance of a lot where more than 75~~

~~percent of the front lot line abuts upon a cul-de-sac or curve having a radius of less than 80 feet, the width of lot shall be measured along a line which is at right angle to the point of tangency of said curve at its approximate midpoint, and at a distance of not more than 40 feet from the front lot line.~~

10-7C-5: ACCESS:

Each lot shall abut upon and have direct access to a city street. ~~The distance of said abutting side shall be not less than the minimum width requirement of the zone, except that the length of the abutting side may be reduced to not less than sixty feet (60') when the lot fronts upon a cul-de-sac or curve in a designated city street and the lot lines radiate in such a manner that the width of the lot will meet or exceed the minimum lot width requirements as determined in accordance with the provisions section 10-7C-4 of this article. (Ord. 01-12-11-23, 12-11-2001, eff. 1-11-2002)~~

10-7C-6: LOCATION:

A. Main Buildings: All dwellings and other main buildings and structures shall be set back in accordance with the following:

1. Front Setback: All dwellings and other main buildings shall be setback not less than thirty feet (30') from the front lot line which abuts on any existing or proposed public street. (Ord. 01-12-11-23, 12-11-2001, eff. 1-11-2002)
2. Side Setback:
    a. Interior Lot: All dwellings and other main buildings, including any attached garage or similar structure, shall be set back not less than twelve feet (12') from any side property line not abutting a street. (Ord. 02-4-9-6, 4-9-2002, eff. 4-25-2002)
    b. Corner Lots; Side Abutting Street: All dwellings and other main buildings shall be set back not less than thirty feet (30') from the side lot line which abuts on any existing or proposed public street, subject to section 10-15C-4 of this title.
3. Rear Setback:
    a. Interior Lots: All dwellings or other main buildings shall be set back not less than thirty feet (30') from the rear lot line.
    b. Corner Lots: All dwellings and other main buildings shall be set back not less than thirty feet (30') from the rear lot line, except that where a garage is attached to the rear of the dwelling, the required rear setback for said garage may be reduced to not less than twelve feet (12') as measured from the rear lot line to the closest part of the building.

B. Accessory Buildings: For accessory building requirements, see supplemental regulations, section 10-12-5 of this title. (Ord. 01-12-11-23, 12-11-2001, eff. 1-11-2002)

10-7C-7: UTILITIES:

All dwellings and other structures used for human occupancy shall be served by the city's culinary water and sanitary sewer system or other approved system, in accordance with the provisions of section 10-12-21 of this title, and also electric, natural gas and telephone utility systems. (Ord. 01-12-11-23, 12-11-2001, eff. 1-11-2002)

10-7C-8: DWELLINGS:

A. Area of Dwellings: Each dwelling shall conform to one of the following:

1. A rambler type dwelling shall contain a main floor living area of not less than one thousand two hundred (1,200) square feet; or
2. A multi-story dwelling shall meet or exceed all of the following:
    a. The dwelling shall have a total "building footprint area" of not less than one thousand (1,000) square feet as measured from the outside of the foundation wall;
    b. Not less than nine hundred (900) square feet of the "building footprint area" shall be devoted exclusively to living space (portions of the footprint area occupied by garages, porches, breezeways and similar areas shall be excluded); and
    c. The dwelling shall contain a total living area of not less than one thousand eight hundred (1,800) square feet located on building floors or levels, located entirely above the finished grade of the ground surface adjacent to the foundation of the structure.

B. Minimum Dimension: The minimum width or length dimension of any dwelling as measured from the outside wall shall be not less than twenty four feet (24'). Nonliving spaces such as garages, porches and sheds shall not be included in determining compliance with this requirement. (Ord. 01-12-11-23, 12-11-2001, eff. 1-11-2002)

C. Off Street Parking:

1. Not less than two (2) off street parking spaces shall be required for each dwelling unit. Each off street parking space shall be not less than ten feet by twenty feet (10' x 20') per space and shall not be located within any portion of a front or side setback area adjacent to a street.
2. Not less than two (2) off street parking spaces appurtenant to a dwelling shall be enclosed within a garage or other covered structure.

D. Special Provisions: All dwellings shall conform to the special provisions relating to dwellings set forth under section 10-12-27 of this title. (Ord. 01-12-11-23, 12-11-2001, eff. 1-11-2002; amd. Ord. 08-15, 9-23-2008, eff. 9-24-2008)

10-7C-9: BUILDING SITE:

A. Reverse Slope Driveways Prohibited; Exceptions: No driveway providing access to a garage or off street parking area within a lot shall have a down slope grade from the adjacent street to the garage or covered off street parking area except when approved by the planning commission. The planning commission may approve a down slope driveway upon finding that any drainage of surface water will be adequately diverted from entry into the dwelling, garage or other covered parking area and that the proposed diversion treatment will not impact adjacent properties.

B. Buildable Area Required For Lots in All Residential Zones; Exceptions:

1. Each lot shall contain a "buildable area", as defined in section 10-2-2 of this title, of not less than four thousand (4,000) square feet. All dwellings shall be located within said buildable area.
2. Notwithstanding the requirements of subsection B1 of this section, a building permit may be issued for any existing lot of record which does not contain a "buildable area", as defined in section 10-2-2 of this title, upon an approval of a site plan by the planning commission and a finding that the proposed placement of the building conforms to all other requirements of the zone.

C. Grading Plan Required: A final grading plan will be required for each lot prior to the issuance of a building permit for construction of a dwelling therein. (Ord. 01-12-11-23, 12-11-2001, eff. 1-11-2002)

~~D. New Developments: All new developments shall conform to the regulations of chapter 15 of this title. Developments of less than fifteen (15) acres may be permitted with approval from the planning commission and city council. (Ord. 05-5, 10-11-2005, eff. 11-3-2005)~~

TITLE 10 DEVELOPMENT CODE | CHAPTER 14 LARGE SCALE DEVELOPMENTS

Rescinding of Large Scale Development Code
(includes removing old PUD code and minor changes to MHD code, both codes moved to 10-11 “Other Zones”.

10-14-1: INTENT:

The intent and purpose of the large scale development provisions of this development code shall be:

A. To facilitate the orderly development of the city in accordance with the city's general plan.

B. To provide a procedure which permits increased flexibility, particularly in environmentally sensitive lands, in the design of certain projects.

C. To reduce the tax burden for special services, the costs of which can be more appropriately charged to property owners within the developments.

D. To facilitate a more economical arrangement of buildings, circulation systems, land use, drainage and utilities than would otherwise be possible using conventional development requirements.

E. To promote superior maintenance of buildings and jointly owned open space and facilities within the development, through the use of agreements between the city and homeowners' or property owners' associations.

F. To facilitate proper development of otherwise derelict and inaccessible parcels.

G. To establish more definitively the rights, duties and responsibilities of land developers and unit owners with respect to the development and maintenance of large scale projects.

H. To coordinate the requirements of the condominium enabling act and the planning enabling act. (Ord. 97-7-8-8, 7-8-1997)

10-14-2: TYPES OF LARGE SCALE DEVELOPMENTS; CONDITIONAL:

The following large scale development may be constructed within the city, but may be located only in the zone in which such development is listed as a conditional use:

Type Of Large Scale Development	Permitted Zones
Planned mountain home developments	CE-2

(Ord. 97-7-8-8, 7-8-1997; amd. Ord. 08-4, 2-26-2008)

10-14-3: PLANNING, DESIGN AND DOCUMENTATION:

The layout and design of all large scale developments and all plans, plats, documents, agreements, brochures, statements and other submissions shall be prepared in accordance with the provisions of this development code and city standards as directed by the planning commission or their authorized representative. (Ord. 97-7-8-8, 7-8-1997)

10-14-4: CONSTRUCTION REQUIREMENTS:

A. Improvements Constructed In Accordance With Plans: All individual large scale developments shall be constructed in accordance with the approved final plans, and all final plans, plats, documents and agreements shall be binding on the developer, his successors, grantees and assignees, and shall limit the use of the land in the development as set forth in the approved plans, documents and agreements. Construction work which is not in accordance with approved final plans shall constitute a violation of this development code.

B. Construction Of Improvements Within Permitted Time Period: All improvements required under the terms of the

applicable type of large scale development shall be constructed within the time period specified for the duration of the guarantee of performance, except that the city council, upon recommendation of the planning commission, may require the developer to install the landscaping on all or part of the common open space or to construct other specific required improvements on all or part of an approved large scale development within a time period which is less than the maximum time period specified, but which shall not be less than six (6) months from the date of said approval.

C. Failure To Record Or Construct Within Timely Manner: In the event that the final plat of a large scale development is not recorded at the office of the Utah County recorder within twelve (12) months of the date of final approval by the city council or in the event of failure of the developer to start construction of required improvements within twelve (12) months after the date of final approval, the city council, after due notice and public hearing on the matter, may revoke any building permits issued and may repeal all prior approvals of the development.

D. Staged Construction Permitted: Development may be carried out in progressive stages, provided assurance is given to the city council that the requirements and intent of this development code with respect to each stage, shall be fully complied with. Each stage shall be considered as a separate application.

E. Adjustments To Standards Permitted; Procedure For Approval: Adjustments to the strict application of the standards and specifications of this chapter or the city development and construction standards may be authorized by the city council after recommendation from the planning commission. Any such adjustment shall be granted only upon a finding that, because of topographic or other unique physical condition, the standard appealed from:

1. Is unnecessary for the proper development of the subdivision and will not be required in the future;

2. Would result in an unreasonable hardship if adhered to;

3. May be granted without destroying the intent of the standard or this development code; and (Ord. 97-7-8-8, 7-8-1997)

4. The adjustment does not constitute a variance from the terms of the zoning ordinance (such variances are to be granted only by the appeal authority). (Ord. 97-7-8-8, 7-8-1997; amd. Ord. 07-7, 4-24-2007)

F. Limited Authority Of Appeal Authority: The powers of the appeal authority shall be limited by the provisions of Utah Code Annotated section 10-9-701. (Ord. 97-7-8-8, 7-8-1997; amd. 2003 Code; Ord. 07-7, 4-24-2007)

10-14-5: PROCEDURE FOR APPROVAL:

The procedure to be followed in securing approval of a large scale development project shall be as follows:

A. Acquire Submission Materials: Any person desiring to undertake a large scale development project within the city shall first acquire copies of the relevant application materials and regulations relating to the type of large scale development proposed for development. The purpose of this requirement is to ensure that the developer is fully aware of the approval procedure, the requirements and standards for design and construction of the project and the content of the required documents and statements.

B. Preapplication Conference:

1. The developer shall prepare and present to the planning commission, or their designated representatives, where applicable:

a. A sketch plan and general written description of the project.

b. A statement indicating the present ownership status of the land.

2. The purpose of the conference is to provide informal assistance to the developer in the preparation of the plans

early in the process and in a form which will facilitate the required reviews and action by the planning commission and other approval agencies.

3. Members of the planning commission or the designated representative may suggest changes in the proposed layout or other materials in order that the project may be more fully consistent with the city's general plan and also with the city's development regulations and policies.

4. The sole purpose in holding the conference shall be to aid the developer in the preparation of his plans and documents. In no way shall the conference or any of the suggestions made therein be construed to constitute approval of the plan or a waiver of compliance with any requirement of this development code.

C. Developer Prepares And Submits Preliminary Plans And Documents:

1. Following the preapplication conference, the developer shall prepare and submit the required preliminary plans and documents to the planning commission or its designated representative. The materials submitted shall include:

a. An application for approval of the large scale development.

b. Copies of all required preliminary plans, documents and statements.

c. Evidence of payment of the required review fee.

d. Evidence of compliance with the water rights conveyance requirements of this development code.

2. The number of copies of application materials, time of submittal prior to meetings, place of delivery and other particulars relating to the application process shall be as determined, from time to time, by the planning commission.

3. All submissions shall be prepared in accordance with city standards. In order for the development to be placed on the agenda, all plans, documents and submittals must be submitted to the planning commission office in accordance with the submittal procedures in effect at the time of the request. (Ord. 97-7-8-8, 7-8-1997)

D. Planning Commission Review; Action; Public Hearing:

1. The planning commission shall review the preliminary plans, documents and submittal materials and shall advertise and hold a public hearing on the proposed project. The hearing shall be called, noticed and conducted by the planning commission in accordance with current law. Following the public hearing, the planning commission shall act to approve or disapprove the proposal, approve it subject to modification, or table action subject to modification.

2. Approval by the planning commission shall not constitute approval of the project but shall be deemed as a finding that the project plan and documents conform with the minimum requirements and intent of the development code provisions relating to the specific project and a recommendation to the city council regarding approval of the proposed project.

E. City Council Review: The city council shall review the preliminary plans, documents and submittal materials, as recommended by the planning commission, and shall issue a decision regarding approval. (Ord. 06-7, 4-25-2006, eff. 5-16-2006)

F. City Council Action:

1. Determination:

a. Following the public hearing, the city council shall act upon the preliminary plans, documents and submittal materials to approve, disapprove or approve subject to modification. If disapproved, no further action is required.

If approved subject to significant modification, the plans, documents and submittal materials shall be returned to the planning commission with instructions that the developer modify the plans and/or documentsin accordance with required changes and to resubmit the modified proposal to the planning commission for its further review and recommendation.

b. If approved or approved with incidental modification, the preliminary plans and documents shall be returned to the planning commission with instruction to authorize the developer to proceed to prepare and submit the final plans and documents through the planning commission.

2. Project Vested Upon City Council Motion: Upon passage of a motion by the city council to approve the preliminary plans and documents, the project shall be considered to have vested and the city shall be committed to grant final approval of the final plans and documents, subject to compliance with all procedures, standards, requirements and any conditions attached to said approval related to the applicable large scale development.

3. Validity: Approval of the preliminary plans and documents shall be valid for twelve (12) months from the date of action by the city council. The time limit may be extended for an additional year upon approval by the city council, subject to the prior recommendation of the planning commission. Any extension of time shall be officially requested in writing, and submitted to the planning commission office thirty one (31) days prior to the end of the twelve (12) month preliminary approval period.

4. Final Approval Prior To Construction: No construction shall be permitted until final approval of the development has been obtained from the city council, in accordance with the following provisions. (Ord. 98-5-26-6, 6-26-1998)

G. Final Plats, Plans And Documents:

1. After receiving preliminary approval from the city council, the developer shall prepare and submit to the planning commission:

a. Application for final approval.

b. A reproducible tracing suitable for recording, where applicable.

c. Copies of the final plat, plans, documents, statements and engineering drawings.

d. An itemized estimate of the cost of constructing the required improvements.

e. Evidence of payment of review and recording fee.

f. Documents conveying evidence of compliance with water rights requirements of the city.

2. The number of copies for each of the above items shall be as determined, from time to time, by the planning commission.

3. All submissions shall be prepared in accordance with city standards. In order for the development to be placed on the agenda, the final plans, plat and documents must be submitted to the planning commission office in accordance with the submittal procedures in effect at the time of the request.

H. Planning Commission Acts On Final Plat, Plans, Documents And Statements:

1. When the plans, plat, documents, cost estimates, and other materials required for approval have been completed in final form, the developer may make application to the planning commission, and the planning commission will grant final approval after reviewing the final plan and ascertaining that:

a. The final plans conform with the conditions of the preliminary approval.

b. The final plat complies with the requirements and standards relating to the applicable type of large scale development.

c. The dedications, documents and statements comply with the standards relating to the applicable type of large scale development.

d. The estimates of cost of constructing the required improvements are acceptable.

e. Tax liabilities of the common open space (wherever a large scale development involves the reservation of common open space) have been determined.

f. The proposed performance guarantee is in accordance with the provisions of chapter 16 of this title and is in an amount sufficient to cover the cost of the outstanding required improvements.

2. Upon a finding of approval, the planning commission chair shall be authorized to sign required final plats.

I. Developer Submits Performance Guarantees: Upon approval of the final plat by the planning commission, the applicant shall proceed to make arrangements suitable to the city for posting a bond or other financial assurance guaranteeing construction of all uncompleted required improvements. Said performance guarantee shall be in conformance with the provisions of chapter 16 of this title.

J. City Council Acts On Final Plans, Plats And Documents:

1. After the planning commission has approved the final plans, plats, documents and other materials, a copy of the same shall be submitted to the city council for its approval. The city councilwill review said materials and also the proposed performance guarantees and, subject to a properly presented motion, may approve said plans; execute all appropriate documents, agreements and final plats; and accept all public dedications.

2. Final approval shall be by adoption and publication of an "ordinance of approval" by the city council. The ordinance of approval shall identify the territory included in the project and shall incorporate, by reference, all applicable documents and materials.

3. Upon adoption and publication of the ordinance of approval, the ordinance, together with the referenced plats, documents and materials shall be considered as an amendment of the official zone map and constitute the specific lot area and width, setback, access and similar requirements applicable to the project area.

K. City Records Plats And Documents: Upon acceptance of the performance guarantees, compliance with any conditions of approval, receipt of all executed documents and passage and publication of the amending ordinance, the city shall record, or cause to be recorded, all final plats, documentation and agreements in the office of the county recorder and shall notify the developer to proceed with construction.

L. Amendments: The plans, plats, documents and statements may be amended by following the same procedure required for initial approval. No change shall be made which is contrary to the intent of the city land use plan or the standards and requirements of this development code. Any amendment of a recorded final plat which also qualifies as a subdivision (division of the property into 2 or more separate parcels) shall not be approved or recorded until the existing recorded plat has been amended in accordance with the then applicable requirements and procedures for amendment of subdivision plats. (Ord. 97-7-8-8, 7-8-1997)

CHAPTER 10 ARTICLE C. PLANNED UNIT DEVELOPMENTS (PUD)

10-14C-1: PURPOSE:

The purpose of the planned unit development article is to allow and encourage a flexible, efficient and imaginative development pattern. Planned unit developments can:

A. Provide flexible development options where a standard lot pattern is not practical or desirable due to physical constraints.

B. Promote attractive architectural design, creative lot configuration, provide open spaces, and ensure efficient delivery of services.

C. Promote usable public and private recreation areas, parks, trails and open space with assurance of maintenance.

D. Reduce development costs and ongoing maintenance costs.

E. Provide high quality affordable housing.

F. Allow the construction of attractive attached multi-family dwellings, such as twin homes and condominiums. (Ord. 00-8-8-10, 8-8-2000, eff. 9-21-2000)

10-14C-2: DEVELOPMENT DESCRIPTION:

A planned unit development (PUD) is a development containing residential and/or nonresidential lots or units with some or all of the parcels reduced below the minimum lot sizes required by the zoning district. Projects are planned to achieve a coordinated functional and unified development pattern. A PUD allows greater flexibility in project layoutwhile assuring that the character of the underlying district is maintained and the requirements of the design guidelines and standard specifications are satisfied. Applicants are eligible for a density bonus based on provision of additional amenities in the development. Planned unit developments are conditional uses in all zones in the city. (Ord. 00-8-8-10, 8-8-2000, eff. 9-21-2000)

10-14C-3: APPROVAL PROCESS:

A planned unit development is a conditional use permit which requires approval by the planning commission. Other development approvals may also be necessary, such as concept, preliminary or final plat approval, zone change and/or general plan amendment. (Ord. 00-8-8-10, 8-8-2000, eff. 9-21-2000)

10-14C-4: MINIMUM SIZE:

The minimum acreage required for a planned unit development shall be fifteen (15) acres. The minimum number of units shall be fifteen (15). The project must demonstrate adequate acreage to develop a project that is beneficial to both the residents of the project and the city as a whole. (Ord. 05-5, 10-11-2005, eff. 11-3-2005)

10-14C-5: OPEN SPACE:

Each planned unit development is required to contain at least twenty five percent (25%) open space, which may contain recreation activity areas, picnic pavilions, gazebos, water features, playgrounds, parks, trails, steep slopes, stream or canal corridors, wetlands, open fields, or landscaped areas. The planning commission and/or city council shall ultimately determine what qualifies as open space. Open space calculations shall not include any common areas which are within thirty feet (30') of any structure. The open space may be held in common, administered by a homeowners' association, dedicated to the city upon acceptance by the city council, or used to provide amenities in the development. The twenty five percent (25%) open space requirement may not be used as part of the requirement to obtain a density bonus under the provisions of any other section herein. In order to achieve the maximum twenty five percent (25%) density bonus, at least ten percent (10%) of the density bonus total must be attained through the provision of additional open space. Maintenance of the open space is the responsibility of the owner of the development, if held in single ownership, or a homeowners' association, if the dwelling units are sold separately, unless dedicated to the city and accepted by the city council. (Ord. 05-5, 10-11-2005, eff. 11-3-2005)

10-14C-6: DENSITY:

A. Base Density: The base density for each planned unit development is determined by preparing a concept map which meets all of the city requirements, without exceptions, variances or bonuses on the subject property. The total number of lots available in the concept determines the base density.

B. Density Bonus: An applicant for a planned unit development is eligible for a density bonus based on additional

amenities provided in the project approval. Density in excess of the base density may be considered for projects which satisfy the requirements of one or more of the density bonus amenities listed below. Each amenity is assigned a potential density bonus figured as a percentage increase in dwelling units. The total density bonus shall not exceed twenty five percent (25%) above the base density.

C. Density Bonus Amenities: An application for a planned unit development may include one or more of the following amenities in the design of the subdivision and be considered for a density bonus in accordance with this section. Each amenity is followed by a percentage increase in total project density for providing the amenity. The maximum density bonus allowed is equal to a twenty five percent (25%) increase in dwelling units above the base density. If an applicant were to provide all of the density bonus amenities in a single project, the total density increase would still be limited to a maximum of twenty five percent (25%). The density increases listed represent maximum allowed, and the planning commission is entitled to approve less than the maximum amount listed.

1. Active Recreation: Active recreation facilities which are provided for all citizens of the city are entitled to a density bonus. Active recreation areas may include swimming pools, sports courts, spas and other similar areas and are eligible for up to a fifteen percent (15%) density increase.

2. Common Buildings Or Facilities: Developments which contain buildings or facilities constructed for use by the citizens of the community for meetings, indoor recreation, receptions, classes or other similar uses are eligible for up to a ten percent (10%) density increase.

3. Design Theme: Developments which incorporate design elements into the project consistent with an architectural style or motif encouraged by the planning commission or city council in a manner compatible with surrounding or planned development, are eligible for up to a ten percent (10%) density increase.

4. Environmental Preservation: Developments that are designed to preserve or protect sensitive environmental areas such as existing trees, floodplains, steep slopes, wetlands, or high ground water table areas are eligible for up to a fifteenpercent (15%) density increase.

5. Fencing: Developments which incorporate fencing throughout the project in harmony with the architectural features of the structures such as brick columns, or vinyl, wood or cinder block fencing and have provisions for the perpetual maintenance of the fence are eligible for up to a five percent (5%) density increase.

6. Landscaping: Developments which install landscaping that will be maintained by an automatic sprinkler system are eligible for a density increase. The following landscaping features are eligible for the indicated density increases:

a. Developments which incorporate detached sidewalks with grass, shrubs, perennial flowers and trees along all streets of the development are eligible for up to a five percent (5%) density increase.

b. Developments which provide landscaped islands in parking areas that are at least five hundred (500) square feet in size are eligible for up to a ten percent (10%) density increase.

c. Developments which provide completely landscaped front yards, including grass or other acceptable ground cover, at least three (3) one-gallon shrubs and two (2) shade or evergreen trees with at least a two inch (2") caliper are eligible for up to a five percent (5%) density increase.

7. Materials: Developments which incorporate at least eighty percent (80%) brick, stone, wood or stucco into the design of each facade in the project are eligible for up to a five percent (5%) density increase. (Ord. 00-8-8-10, 8-8-2000, eff. 9-21-2000)

8. Open Space In Addition To Twenty Five Percent Minimum: Developments which provide either "active" or "passive open space", as defined in this section, in addition to the twenty five percent (25%) minimum requirement, are eligible for a density increase. The density increase for additional open space shall be determined as indicated: a) developments which provide an additional ten (10) to fourteen percent (14%) open space (35 to 39 percent total) are eligible for up to a fifteen percent (15%) density increase; b) developments

which provide an additional fifteen (15) to nineteen percent (19%) open space (40 to 44 percent total) are eligible for up to a twenty percent (20%) density increase; and c) developments which provide more than an additional twenty percent (20%) open space (45 percent or greater total) are eligible for up to a twenty five percent (25%) density increase. All open space areas shall be maintained by the owner of the project if held in single ownership, a homeowners' association if sold separately, or dedicated and accepted by the city for maintenance purposes. All open space areas must provide emergency vehicle access.

9. Park Dedication: Dedication and acceptance of land to the city for use as a public park, trails or other recreational use which is equal to, or greater than, ten percent (10%) of the area of the development is eligible for up to a fifteen percent (15%) density increase. The land used for park dedication is in addition to the twenty five percent (25%) minimum open space requirement.

10. Passive Open Space: Developments which include passive open space areas such as large grass areas (at least $^{1}/_{4}$ acre in size), barbecue areas or water features are eligible for up to a ten percent (10%) density increase. The land used for passive open space is in addition to the twenty five percent (25%) minimum open space requirement. (Ord. 05-5, 10-11-2005, eff. 11-3-2005)

11. Special Features: Developments which provide special features such as fountains, streams, architectural features, design themes, or other features that are used commonly and are highly visible in the project, are eligible for up to a five percent (5%) density increase.

12. Theme Lighting: Developments which incorporate a lighting theme into the project such as lampposts, lighting along walkways, entranceway lighting and exterior building lighting in addition to the normal street lighting requirements of this code are eligible for up to a five percent (5%) density increase.

13. Commercial Uses: Developments which include commercial land uses in the project are eligible for up to a fifteen percent (15%) density increase.

14. Additional Items: At the discretion of the planning commission and city council, projects which include items or amenities not listed in this subsection, may be eligible for up to a fifteen percent (15%) density increase. Likewise, at the discretion of the planning commission and city council, projects which demonstrate exceptional merit may be able to increase the density bonus associated with one of the items or amenities listed in this subsection up to a maximum total bonus of fifteen percent (15%).

D. Total Project Density Determination: Total project density is determined by multiplying the base density by the total percent of density increase earned. In no case will the total project density exceed twenty five percent (25%) more than the base density (i.e., base density 4.0 units per acre, density increase 25 percent, total project density is 5.0 units per acre). (Ord. 00-8-8-10, 8-8-2000, eff. 9-21-2000)

10-14C-7: RELATIONSHIP TO OTHER DEVELOPMENT ORDINANCES:

This article is intended to be supplementary to the otherprovisions of this title. Unless specifically indicated in this article, all requirements of this title and any other development ordinances of the city must be satisfied with the following exceptions: (Ord. 00-8-8-10, 8-8-2000, eff. 9-21-2000)

A. The setback requirements are waived for all structures within the planned unit development, except as required by the building code and those that border the development. (Ord. 00-8-8-10, 8-8-2000, eff. 9-21-2000; amd. 2003 Code)

B. The frontage requirements are waived for all lots or parcels within the planned unit development, except those located across a public street from a development which meets the frontage requirements of this title.

C. The density of the development shall be equal to or less than the total project density in accordance with the base density section (subsection 10-14C-6A of this article), whether or not the density is consistent with this title. (Ord. 00-8-8-10, 8-8-2000, eff. 9-21-2000)

10-14C-8: COORDINATION OF PUD WITH SUBDIVISION APPROVAL:

~~It is the intent of these regulations that subdivision review be carried out simultaneously with the review of planned unit developments. If approved by the city, a PUD with mixed uses will not be considered a spot zone. (Ord. 00-8-8-10, 8-8-2000, eff. 9-21-2000)~~

~~10-14C-9: PUD SUBMISSION AND APPROVAL REQUIREMENTS:~~

~~A. Neighborhood Meeting: The applicant for any PUD development shall conduct at least one neighborhood meeting, prior to the submission of the site plan application, to explain the proposed development and to address all neighborhood concerns. Written notice shall be given by the applicant to all property owners within a three hundred foot (300') radius of the development, as well as to the owners of all residential property within one-fourth ($^1/_4$) mile of the development. Notice of the meeting shall be delivered by the applicant at least one week prior to the date of the meeting. Phone calls or informal door to door contacts are not considered neighborhood meetings. Such meeting(s) shall be accomplished prior to the site plan being submitted to the city. The application for site plan approval shall include a list of all individuals who were notified, a roster of attendees at the meeting, and a copy of the minutes from the neighborhood meeting.~~

~~B. Application: An application shall be submitted to the city for any planned unit development. Additionally, all planned unit development projects will be required to submit applications and provide all information required by the concept plan, preliminary plan and final plat as set forth herein. After a meeting with the staff or, if deemed appropriate, the planning commission, the applicant may prepare and submit an application for preliminary plan approval. (Ord. 05-5, 10-11-2005, eff. 11-3-2005)~~

~~10-14C-10: PHASING:~~

~~All subdivisions with more than ten (10) lots, parcels or units shall include a phasing plan which specifies the timing of public improvements and residential construction. This plan must be submitted to the planning commission at or before the submission of the preliminary plan. The phasing plan shall include the number of units or parcels to be developed in each phase, the approximate timing of each phase, the timing on construction of public improvements and subdivision amenities to serve each phase whether on or off site and the relationship between the public improvements in the current subdivision and contiguous land previously subdivided. A developer may request a revision of the phasing plan which may be necessary due to conditions such as changing market conditions, inclement weather or other factors. (Ord. 00-8-8-10, 8-8-2000, eff. 9-21-2000)~~

~~10-14C-11: LANDSCAPING:~~

~~A. Each dwelling unit space or lot shall be completely graded and landscaped in the front, side and rear yard areas prior to issuance of a certificate of occupancy.~~

~~1. The space or lot shall be landscaped with suitable plants, shrubs, trees, grass and similar landscaping materials. Xeriscape is acceptable landscaping provided that complete erosion control and elimination of noxious weeds is accomplished.~~

~~2. On any dwelling unit space or lot, concrete or asphaltic cement shall not cover more than thirty percent (30%) of a front yard, fifty percent (50%) of a rear yard, and one hundred percent (100%) of one side yard. (Ord. 06-2, 1-10-2006, eff. 2-10-2006)~~

TITLE 10 DEVELOPMENT CODE | CHAPTER 11 OTHER ZONES
ARTICLE F. PLANNED MOUNTAIN HOME OVERLAY ZONE ~~DEVELOPMENTS~~

Relocation of the Mountain Home Development Code, addition of approval process and road grade changes.

~~10-14B-1~~ 10-11F-1: INTENT; APPLICATION:

Planned mountain home developments may be constructed in those zones in which they are specifically listed as a conditional use, subject to compliance with the following conditions and procedures. (Ord. 97-7-8-8, 7-8-1997; amd. 2003 Code)

~~10-14B-2~~ 10-11F-2: PERMITTED USES:
The following buildings, structures and uses of land may be permitted within a MHD:

- Access streets and roads, water and sewer systems and facilities, picnic areas, corrals and similar common recreation areas and facilities for the use and enjoyment of the members of the development.
- Any use permitted in the CE-2 zone.
- Walls, fences. (Ord. 97-7-8-8, 7-8-1997; amd. 2003 Code)

~~10-14B-3~~ 10-11F-3: PLANNING AND DOCUMENTATION:
Review and approval of a proposed project by the city shall be carried out through the submission of a preliminary and final application as follows:

A. Preliminary Application and Plan:

1. The preliminary application and plan for approval of a planned mountain home development shall contain:
   a. A preliminary layout plan showing:
      (1)The proposed layout of the project, including the location of each development cluster area and each existing and proposed lot or building site within the cluster;
      (2)Common areas and facilities;
      (3)Areas to be designated for open space;
      (4)Roads and travel ways;
      (5)Location and size of existing and proposed water lines and other utility facilities and the easements appurtenant thereto.
   b. A contour map of the proposed project area.
   c. Profile and cross sections of existing and proposed streets and travel ways.
   d. A statement indicating the availability of water rights (private systems only).
   e. A preliminary statement of approval of the proposed water and sewer facilities.
   f. Preliminary copies of proposed organizational documents and open space preservation agreement.
   g. Such other materials as may be reasonably required by the planning commission.

2. The layout plan and supplementary materials shall be prepared in substantial compliance with the standards required for a preliminary plan of a subdivision.

B. Final Plan:

1. The application and plan for final approval of the project shall contain the following:
   a. A final layout plan (final plat) showing:
      (1) The boundaries of the project;
      (2) The boundary of each development cluster;
      (3) The location of each lot or building site;
      (4) The location of all areas proposed for use as common areas and open space areas;
      (5) The location of all building setback lines; and
      (6) The location of all utility and travel easements.
   b. Final copies of organizational documents and open space preservation agreement.
   c. Copies of water rights documents.
   d. Evidence of approval of the water system plan by the state health department.
   e. Estimates of the cost of constructing the required improvements and a bond guaranteeing the installation of the required improvements. The content of the estimates and bond shall be the same as required under the city subdivision ordinance.
   f. Evidence of approval of the sewage disposal facilities by the city-county health department.

2. The final layout plan required hereunder shall be considered as the final plan of the project and shall be prepared in accordance with the requirements for a final plat of a subdivision and be suitable for recording in the office of the county recorder.

3. In the instance of a development where building sites are to be held in common ownership, the individual

building sites within a cluster shall be identified on the final plan, but need not be individually described. In such instance, each development cluster shall be described and shall be considered as a separate parcel.

4. Upon final approval by the city council the final plat, describing the outer boundary of the project, the boundary of each development cluster, each lot within the cluster (where individual lots are to be sold), the designated open space areas and all parcels and easements for roads and other common purposes shall be recorded in the office of the county recorder. (Ord. 97-7-8-8, 7-8-1997)

~~10-14B-4~~ 10-11F-4: PROCEDURE FOR APPROVAL:
The procedure to be followed in securing approval of a large scale development project shall be as follows:

A. Acquire Submission Materials: Any person desiring to undertake a large scale development project within the city shall first acquire copies of the relevant application materials and regulations relating to the type of large scale development proposed for development. The purpose of this requirement is to ensure that the developer is fully aware of the approval procedure, the requirements and standards for design and construction of the project and the content of the required documents and statements.

B. Pre-Application Conference:

1. The developer shall prepare and present to the planning commission, or their designated representatives, where applicable:
   a. A sketch plan and general written description of the project.
   b. A statement indicating the present ownership status of the land.

2. The purpose of the conference is to provide informal assistance to the developer in the preparation of the plans early in the process and in a form which will facilitate the required reviews and action by the planning commission and other approval agencies.

3. Members of the planning commission or the designated representative may suggest changes in the proposed layout or other materials in order that the project may be more fully consistent with the city's general plan and also with the city's development regulations and policies.

4. The sole purpose in holding the conference shall be to aid the developer in the preparation of his plans and documents. In no way shall the conference or any of the suggestions made therein be construed to constitute approval of the plan or a waiver of compliance with any requirement of this development code.

C. Developer Prepares and Submits Preliminary Plans and Documents:

1. Following the pre-application conference, the developer shall prepare and submit the required preliminary plans and documents to the planning commission or its designated representative. The materials submitted shall include:
   a. Copies of all required preliminary plans, documents and statements.
   b. Evidence of payment of the required review fee.
   c. Evidence of compliance with the water rights conveyance requirements of this development code.

2. The number of copies of application materials, time of submittal prior to meetings, place of delivery and other particulars relating to the application process shall be as determined, from time to time, by the planning commission.

3. All submissions shall be prepared in accordance with city standards. In order for the development to be placed on the agenda, all plans, documents and submittals must be submitted to the planning commission office in accordance with the submittal procedures in effect at the time of the request. (Ord. 97-7-8-8, 7-8-1997)

D. Planning Commission Review; Action; Public Hearing:

1. The planning commission shall review the preliminary plans, documents and submittal materials and shall advertise and hold a public hearing on the proposed project. The hearing shall be called, noticed and conducted by the planning commission in accordance with current law. Following the public hearing, the planning commission shall act to approve or disapprove the proposal, approve it subject to modification, or

table action subject to modification.

2. Approval by the planning commission shall not constitute approval of the project but shall be deemed as a finding that the project plan and documents conform with the minimum requirements and intent of the development code provisions relating to the specific project and a recommendation to the city council regarding approval of the proposed project.

E. City Council Review: The city council shall review the preliminary plans, documents and submittal materials, as recommended by the planning commission, and shall issue a decision regarding approval. (Ord. 06-7, 4-25-2006, eff. 5-16-2006)

F. City Council Action:

1. Determination:
   a. Following the public hearing, the city council shall act upon the preliminary plans, documents and submittal materials to approve, disapprove, or approve subject to modification. If disapproved, no further action is required. If approved subject to significant modification, the plans, documents and submittal materials shall be returned to the planning commission with instructions that the developer modify the plans and/or documents in accordance with required changes and to resubmit the modified proposal to the planning commission for its further review and recommendation.
   b. If approved or approved with incidental modification, the preliminary plans and documents shall be returned to the planning commission with instruction to authorize the developer to proceed to prepare and submit the final plans and documents through the planning commission.

2. Project Vested Upon City Council Motion: Upon passage of a motion by the city council to approve the preliminary plans and documents, the project shall be considered to have vested and the city shall be committed to grant final approval of the final plans and documents, subject to compliance with all procedures, standards, requirements and any conditions attached to said approval related to the applicable large scale development.

3. Validity: Approval of the preliminary plans and documents shall be valid for twelve (12) months from the date of action by the city council. The time limit may be extended for an additional year upon approval by the city council, subject to the prior recommendation of the planning commission. Any extension of time shall be officially requested in writing, and submitted to the planning commission office thirty one (31) days prior to the end of the twelve (12) month preliminary approval period.

4. Final Approval Prior To Construction: No construction shall be permitted until final approval of the development has been obtained from the city council, in accordance with the following provisions. (Ord. 98-5-26-6, 6-26-1998)

G. Final Plats, Plans and Documents:
1. After receiving preliminary approval from the city council, the developer shall prepare and submit to the planning commission:
   a. Application for final approval.
   b. A reproducible tracing suitable for recording, where applicable.
   c. Copies of the final plat, plans, documents, statements and engineering drawings.
   d. An itemized estimate of the cost of constructing the required improvements.
   e. Evidence of payment of review and recording fee.
   f. Documents conveying evidence of compliance with water rights requirements of the city.

2. The number of copies for each of the above items shall be as determined, from time to time, by the planning commission.

3. All submissions shall be prepared in accordance with city standards. In order for the development to be placed on the agenda, the final plans, plat and documents must be submitted to the planning commission office in accordance with the submittal procedures in effect at the time of the request.

H. Planning Commission Acts on Final Plat, Plans, Documents and Statements:

1. When the plans, plat, documents, cost estimates, and other materials required for approval have been

completed in final form, the developer may make application to the planning commission, and the planning commission will grant final approval after reviewing the final plan and ascertaining that:

a. The final plans conform with the conditions of the preliminary approval.

b. The final plat complies with the requirements and standards relating to the applicable type of large scale development.

c. The dedications, documents and statements comply with the standards relating to Mountain Home Development zone.

d. The estimates of cost of constructing the required improvements are acceptable.

e. Tax liabilities of the common open space (wherever a development involves the reservation of common open space) have been determined.

f. The proposed performance guarantee is in accordance with the provisions of chapter 16 of this title and is in an amount sufficient to cover the cost of the outstanding required improvements.

2. Upon a finding of approval, the planning commission chair shall be authorized to sign required final plats.

I. Developer Submits Performance Guarantees: Upon approval of the final plat by the planning commission, the applicant shall proceed to make arrangements suitable to the city for posting a bond or other financial assurance guaranteeing construction of all uncompleted required improvements. Said performance guarantee shall be in conformance with the provisions of chapter 16 of this title.

J. City Council Acts on Final Plans, Plats and Documents:

1. After the planning commission has approved the final plans, plats, documents and other materials, a copy of the same shall be submitted to the city council for its approval. The city council will review said materials and also the proposed performance guarantees and, subject to a properly presented motion, may approve said plans; execute all appropriate documents, agreements and final plats; and accept all public dedications.

2. Final approval shall be by adoption and publication of an "ordinance of approval" by the city council. The ordinance of approval shall identify the territory included in the project and shall incorporate, by reference, all applicable documents and materials.

3. Upon adoption and publication of the ordinance of approval, the ordinance, together with the referenced plats, documents and materials shall be considered as an amendment of the official zone map and constitute the specific lot area and width, setback, access and similar requirements applicable to the project area.

K. City Records Plats And Documents: Upon acceptance of the performance guarantees, compliance with any conditions of approval, receipt of all executed documents and passage and publication of the amending ordinance, the city shall record, or cause to be recorded, all final plats, documentation and agreements in the office of the county recorder and shall notify the developer to proceed with construction.

L. Amendments: The plans, plats, documents and statements may be amended by following the same procedure required for initial approval. No change shall be made which is contrary to the intent of the city land use plan or the standards and requirements of this development code. Any amendment of a recorded final plat which also qualifies as a subdivision (division of the property into 2 or more separate parcels) shall not be approved or recorded until the existing recorded plat has been amended in accordance with the then applicable requirements and procedures for amendment of subdivision plats. (Ord. 97-7-8-8, 7-8-1997)

~~10-14B-5~~ 10-11F-5: DENSITY:

The maximum number of lots or dwelling sites permitted within a proposed mountain home development shall be as determined by the planning commission, upon a detailed slope analysis of the proposed project area, in accordance with the following schedule:

Percent Of Slope	Density
0% to 15%	1 lot per acre
15% to 30%	1 lot per 10 acres
30% and greater	1 lot per 20 acres

(Ord. 97-7-8-8, 7-8-1997)

~~10-14B-6~~ 10-11F-6: MINIMUM PROJECT AREA:
The minimum base area required to qualify for a planned mountain home development project shall be one hundred (100) acres. (Ord. 97-7-8-8, 7-8-1997)

~~10-14B-7~~ 10-11F-7: DWELLING CLUSTERS:
A. Location: All lots and all designated dwelling sites (for projects where the building area is to be retained in common ownership) shall be located within a designated development cluster. A project may contain more than one development cluster. Each cluster shall contain not less than five (5) separate building sites (except for developments having fewer than 5 building sites for the entire development).

B. Area: Each individual lot or designated dwelling site shall contain an area not less than twenty thousand (20,000) square feet or more than two and one-half (21/2) acres. (Ord. 97-7-8-8, 7-8-1997)

C. Buildable Area:

1. Each individual lot or building site shall contain at least one area of not less than four thousand (4,000) square feet which qualifies as a "buildable area", as defined in section 10-2-2 of this title. The location of each buildable area shall be designated on the preliminary and final plans for the project (designated buildable area) and a notation placed on the recorded plat that all main and accessory buildings shall be located within the designated buildable area.
2. For purposes of compliance with this subsection, the designated buildable area shall be determined based on its current natural state. No portion of any designated buildable area shall contain territory which has been subject to artificial grading or which requires grading in order to comply, except the city council, with the prior recommendation of the planning commission, may approve minor inclusions of incidental areas having a slope of twenty percent (20%) or greater as part of the designated buildable area upon a finding that the requested area comprises an incidental part of the lot and that the inclusion of the area will not be inimical to the intent of the standard or the purpose of the zone. (Ord. 98-5-26-6, 6-26-1978)

D. Access: Each lot or building site shall abut upon and have direct access to a city street or designated private travel way. The distance of the abutting side shall be not less than one hundred feet (100'), except that the length of the abutting side may be reduced to not less than seventy feet (70') in instances where the lot fronts upon a cul-de-sac or sharp curve and the side lot lines radiate in such a manner that the width of the lot measured at a point not less than forty feet (40') from the front lot line will meet the minimum width requirements of this section. (Ord. 08-9, 7-8-2008)

E. Setback: Each dwelling in the project shall be set back from the lot boundary line in accordance with the setback line as shown on the approved plat, except that where the dwelling sites are to remain in common ownership and no setback lines are shown on the plan, no portion of any occupied structure shall be located closer than eighty feet (80') to another occupied structure. (Ord. 97-7-8-8, 7-8-1997)

F. Slope: Up to ten percent (10%) of the area of a lot or building site may consist of territory having a slope in excess of thirty percent (30%), as shown on the slope analysis map. (Ord. 08-9, 7-8-2008)

~~10-14B-8~~ 10-11F-8: STREETS AND TRAVEL WAYS:
A. Access: Each development cluster and each lot or designated dwelling site within a development cluster shall front upon and have direct access to a designated city street or a private vehicular travel way. Where access is to be provided over a private travel way, ownership of said travel ways shall be held by the homeowners' association from the point of connection to an existing public street ~~rights~~ and throughout the project area.

B. Improvement Required: All existing public streets and all streets proposed to be dedicated to the public shall be improved in accordance with city standards for public streets. All vehicular travel ways intended to remain in private ownership shall be improved in accordance with city standards for mountain home developments.

C. Road Slope: No street shall have a grade of more than 8%, except that the planning commission may approve up to a 10% grade for short straight stretches of roadway under 300 feet in length. The commission must conclude that the 8% standard would result in undesirable extra earthwork or circuitous routes and that the proposed steep grade section will not result in the establishment of a hazardous condition. It is the responsibility of the developer to present evidence that the additional allowance in grade is desirable. The city engineer and fire chief shall provide recommendation regarding hazardous conditions and any other concerns on the proposed

steep grade sections. It must also be demonstrated that for dead end or temporary stubbed streets constructed on grades over 8%, that the road shall not be constructed in a manner that would make adjacent future development be out of compliance with the 300 foot requirement. ~~Grade: No street or travel way shall have a grade of more than ten percent (10%), except that the city council may approve grade up to fifteen percent (15%) for short stretches of road way where, in its opinion, the ten percent (10%) standard would result in undesirable extra earthwork or circuitous routes and that the proposed steep grade section will not result in the establishment of a hazardous condition.~~

D. Slope: No street or travel way providing access to a development cluster shall be constructed in a location or in such a manner which results in the creation of a slope face exceeding the critical angle of repose or a disturbed cross section which exceeds the cut and fill slope standards for streets in the city. Any driveway providing access to a buildable area shall have a slope of not more than twelve percent (12%) and shall not result in any cut or fill slopes greater than seven feet (7'). Any cut or fill between five (5) and seven feet (7') shall be subject to planning commission and city council review.

E. Stabilization and Re-vegetation: All disturbed cut and fill slope areas shall be stabilized and re-vegetated. The submittal materials for any planned mountain development project shall include a detailed re-vegetation plan showing the intended re-vegetation treatment for all cut and fill slope areas and the performance guarantees amounts shall include the cost of re-vegetation.

F. Continuous Circulation; Cul-De-Sacs: To the maximum extent possible, the design of the road/travel way system shall provide for continuous circulation throughout the project. Cul-de-sacs (dead end roads) shall be allowed only where unusual conditions exist which make other designs undesirable. Cul-de-sac streets shall be not longer than four hundred fifty feet (450') and shall be terminated by a turnaround or loop road of not less than one hundred twenty feet (120') in diameter.

G. Easement: An easement granting the city the right of access upon all private travel ways for city purposes shall be provided. (Ord. 97-7-8-8, 7-8-1997)

~~10-14B-9~~ 10-11F-9: WATER:
A. Each lot or building site shall be served by the city water system; provided, that the city may approve the use of a private system upon a finding that connection to the city system is not reasonably feasible and that such proposed private system will conform to the standards of a public water system and be approved by the state health department.

B. Where a private system is to be used, documentation shall be submitted with the application showing that the water supply shall be from a source capable of providing an adequate flow to meet the needs of all lots or building sites shown on the final plat and that the collection works, storage reservoirs and distribution line shall be sufficient in size to provide a volume of flow and level of pressure adequate for both culinary and fire protection in accordance with that document entitled wildfire hazards and residential development hereinafter adopted.

C. Where the requirements of the standards, relating to storage and flow for firefighting purposes, adopted pursuant to section 10-11F-15 of this article, are at variance with the provisions of the city's fire code, the provisions adopted by this article shall prevail.

D. Where a private water system is proposed, satisfactory evidence of an entitlement to a permanent year-round right to the use of water in an amount adequate for all lots or building sites proposed for final approval shall be submitted with the application. (Ord. 97-7-8-8, 7-8-1997)

~~10-14B-10~~ 10-11F-10: SEWAGE DISPOSAL:
Each lot or dwelling site shall be served by a central sewage collection and disposal system. (Ord. 01-12-11-19, 12-11-2001, eff. 1-11-2002)

~~10-14B-11~~ 10-11F-11: FIRE PROTECTION:
A. Spacing: Fire hydrant spacing shall conform to the standards adopted pursuant to section 10-11F-15 of this article, except that in no case shall a lot or dwelling site be more than two hundred fifty feet (250') from the closest hydrant.

B. State Recommendations: The proposed plan shall, to the maximum extent practicable, incorporate the

recommendations of the state department of natural resources as contained within the document adopted under section 10-11F-15 of this article.

~~10-14B-12~~ 10-11F-12: OPEN SPACE:
A. Required: All areas of the project not included within lots or building sites, used for roads or travel ways and developed common facilities shall be designated as common open space for the use and enjoyment of the occupants of the development.

B. Preservation Agreement: To assure that the designated open space area will remain as open space, the applicants/owners shall execute an open space preservation agreement with the city in which the owner agrees to refrain from excavating, making additional roadways, installing additional utilities or constructing any dwellings or other structures within the designated open space area without the prior approval of the city.

C. Included Area: The designated open space area shall include and contain all 100-year floodplain areas, defined floodways, all avalanche and rock fall hazard areas, all areas having a slope of thirty percent (30%) or greater (except those portions included as part of a lot pursuant to section 10-11F-7 of this article), or any other area of known significant physical hazard for development. (Ord. 97-7-8-8, 7-8-1997)

~~10-14B-13~~ 10-11F-13: IMPROVEMENTS:
A. Required; Minimum Standards: The following improvements shall be constructed in all developments. All required improvements shall meet minimum city standards and any such improvements not in place prior to the approval of the final plat by the city council shall be installed by the developer prior to the October 1 next following the date of final plat approval; provided, however, that upon a showing of good and sufficient cause (i.e., lateness of the final approval date, unexpected delays, etc.), the city council may extend the date of completion or authorize a longer period of time for completing construction of part or all of the uncompleted improvements to a date not more distant than July 1 of the next succeeding year.

B. Performance Guarantee: A performance guarantee securing the installation of all required improvements which have not been completed and accepted by the city council prior to final plat approval shall be required as a condition of final plat approval. The performance guarantee shall be in accordance with the provisions of chapter 16 of this title. (Ord. 97-7-8-8, 7-8-1997)

C. Included Minimum Improvements: The minimum improvements shall include:
1. Streets and travel ways, and including provisions for stabilization and re-vegetation of cut and fill slopes.
2. Water and sewerage mains and facilities.
3. Fire hydrants.
4. Any required drainage or flood control structures.
5. Any required restoration of cut and fill slopes.
6. The costs of installing landscaping and common facilities within any common open space area.
7. Secondary irrigation water system. (Ord. 06-4, 1-10-2006, eff. 2-10-2006)

~~10-14B-14~~ 10-11F-14: DOCUMENTATION:
The following documents and statements shall be submitted as part of the application for approval:

A. Organizational documents (articles of incorporation, bylaws, etc.).

B. Open space preservation agreement.

C. Letters or other statements from health authority regarding approval of water and sewer systems.

D. Water rights documents, service agreements from water company, as applicable.

E. Conveyance to city of right of access on private travel ways for city purposes. (Ord. 97-7-8-8, 7-8-1997)

~~10-14B-15~~ 10-11F-15: REVIEW GUIDELINES AND STANDARDS ADOPTED:
In conducting its review, the planning commission and the city council shall be guided by the terms of this title and the recommendations contained within that certain document entitled "Wildfire Hazards And Residential Development" as prepared by the state department of natural resources, 1986 printing, which document is by this reference adopted for use by the city; and also the terms and conditions set forth under the urban/wildland interface ordinance (see title 9, chapter 3 of this code). (Ord. 97-7-8-8, 7-8-1997)

Memo - Storage of Junk and Debris Code

26 January 2010
City Council

Background
With the creation of the new nuisance code, this portion of the development is not needed, is duplicative, contradicting and is confusing.

Current Code to Rescind
10-12-7: STORAGE OF JUNK AND DEBRIS PROHIBITED:

A. No yard or other open space shall be used for the storage, keeping, dismantling or abandonment of junk, debris, scrap metal, building materials, inoperable motor vehicles or machinery, household furnishings and appliances, or any parts thereof, at a level which constitutes the establishment of a "junk or automobile wrecking yard", except in those zone districts where such use is specifically permitted pursuant to the terms of this development code.

B. For purposes of determining compliance with this section, more than two (2) such items on any one property shall constitute a "junk or automobile wrecking yard".

New Nuisance Code that Addresses this Section
4-2-1-30-21 Junk Accumulation
Accumulation of used or damaged lumber; junk; salvage materials; abandoned, discarded or unused furniture; stoves, sinks, toilets, cabinets, or other fixtures or equipment stored so as to be visible from a public street, alley, or adjoining property. However, nothing herein shall preclude the placement of stacked firewood for personal non-commercial use on the premises.

4-2-1-30-30 Parking or Storage - Distressed Vehicles
Parking or storage of inoperative, unregistered, abandoned, wrecked or dismantled vehicles, or vehicle parts, outside of an enclosed structure or area on a premises, or in the public right-of-way.

Difference between the Two Codes
The main difference is the old code did allow for 2 items of junk or automobile wrecking yard items in sight from the road, now it does not allow any. In the passing of the nuisance code, it leaves 10-12-7 obsolete.

Public Comment /Planning Commission Motion
This item was advertized in the paper, on the website, and in the city newsletter. There were no comments from the public on this issue and the planning commission recommended that it be rescinded from the code as described in this memo.

Planning Commission Motion: John Houck motioned and Jason Bullard seconded to accept the memo as stated by the staff. Vote: yes – all (4), no – none, absent (3) Kelly Liddiard, Dayna Hughes, Kevin Hansbrow

City Council Discussion

1. Do 4-2-1-30-21 and 4-2-1-30-30 above address what is being rescinded in the development code?
2. Do these two sections of the new nuisance code need additional work (continue to allow junk or distressed vehicles?)

Proposed Council Motion

I motion that the city council, after reviewing the proposed rescinding of 10-12-7 “Storage of Junk and Debris” of the development code and reviewing the portions of the newly passed nuisance code that cover junk accumulation and distressed vehicles, finds with the planning commission, that the rescinding of 10-12-7 will take away any confusion of having contradicting code in different locations of the municipal and development code, that the new nuisance code is more appropriate in disallowing junk accumulation and the storage of distressed vehicles in open areas, and that the nuisance code is a more appropriate location in the municipal code to address these issues rather than the development code. The city council rescinds 10-12-7 of the development code.

Planning Commission Minutes - Draft

10 December 2009

Weston Youd, Co-chair, opened the public hearing at 7:09pm. (no public gave any comment)

Weston Youd, Co-chair, closed the public hearing at 8:06pm.

Shawn Eliot gave a description. The city council passed a new nuisance code – there is a municipal code that has the nuisance code in it. There is also a part in the development code that talked about nuisances – about junk in yards. It’s duplicative in that it is in two different places. This code contradicted things that were in the old nuisance code. So it says there can be two such items of any kind of junk in a yard, including household furnishings, appliances, etc. It says it is an establishment of a junk or automobile wrecking yard. Purposes of complying with this section, there can only be two such items on one property. It is not needed to recommending rescinding. It is code cleanup.

Further discussion took place as to what is allowed in the new nuisance code.

JOHN HOUCK MOTIONED AND JASON BULLARD SECONDED TO ACCEPT THE MEMO AS STATED BY THE STAFF. VOTE: YES – ALL (4), NO – NONE, ABSENT (3) KELLY LIDDIARD, DAYNA HUGHES, KEVIN HANSBROW

Memo dated 12/10/2009”The planning commission after reviewing the proposed rescinding of 10-12-7 Storage of Junk and Debris of the development code and reviewing the portions of the new nuisance code that cover junk accumulation and distressed vehicles, finds that the rescinding of 10-12-7 will take away any confusion of having contradicting code in different locations of the municipal and development code, that the new nuisance code is more appropriate in disallowing junk accumulation and the storage of distressed vehicles in open areas, and that nuisance code is a more appropriate location in the municipal code to address these issues rather than the development code. The planning commission recommends that the city council rescind 10-12-7 of the development code.”

Memo - Conditional Use Notice Requirement Code

26 January 2010
City Council

Background

With the creation of the Hobby Animal code staff has found an outdated requirement in the Conditional Use code regarding noticing property owners of public hearings. We require the city to notice the neighbors surrounding a proposed conditional use 14 days prior to a public hearing. About four years ago, the state changed the requirement of how many days notice is needed for mailing neighboring property owners notice about the required public hearing for a variety of issues. Code and general plan updates and amendments went from 14 to 10 days notice. Subdivisions went to a 3 day notice. State law for notification of Conditional Uses states that the required days to notice the neighboring property owners is per the city code, meaning there is no specified state law for the amount of time to notice people, the city sets it. When the city changed the other noticing requirements in the code (because of the state law change) we neglected to address if the 14 day requirement for Conditional Uses (which was used only because the other parts of the code regarding noticing required 14 days) should be changed. **Since the planning commission recommendation, Mayor Lutes recommends that the requirement be changed to 10 days vs. 3.**

This proposed code changes the area to notice around the proposed use from 200ft to 300ft. This is common practice in most cities and we have been following it for years.

Also proposed is to change the process of applicants supplying names and addresses, stamps, and envelopes to the mailing to the people to be noticed. The city has direct access to the county assessor files and can easily access them. This also guarantees that we comply with state noticing requirements. This is also a practice we have been doing for the last few years.

Current Conditional Use with Proposed Changes

10-12-37: APPROVAL PROCESSES AND REQUIREMENTS:

H. Conditional Uses:

1. *Projects That Apply: Any use of land or development proposed which is determined within the city code to be a conditional use shall comply with the requirements of this section prior to seeking any other approval necessary to permit the proposed activity or use.*

2. *Notification To Property Owners: At least ~~fourteen (14)~~ 3 days prior to the planning commission meeting at which the permit request will be first considered, the ~~applicant~~ city shall mail notice of the pending review to all adjacent property owners, as they appear on the official current rolls of the Utah County assessor, within ~~two hundred feet (200')~~ 300 ft. of the outermost boundary of the property on which the conditional use is proposed to occur. The notice shall advise the property owner that he or she has the right to be present at the meeting and to express any comments or concerns they may have regarding the proposed conditional use. ~~The applicant shall provide the city with a notification packet prior to the submission deadline. The notification packet shall include at least the following:~~*

   ~~a. A copy of the signed notification letter sent to the adjacent property owners with any and all maps and attachments;~~
   ~~b. A list of the names and addresses of all persons to whom the notice was mailed which may, but is not required to, consist of photocopies of the stamped envelopes showing the names, addresses and postage stamp; and~~
   ~~c. A statement which has been signed by the applicant and notarized stating at least the following:~~
      ~~(1) The notification letters have been mailed to every name and address listed in the notification packet submitted to the city;~~

~~*(2) The notification list is a complete list of adjacent property owners within two hundred feet (200') of the property on which the conditional use is proposed; and*~~
~~*(3) The date on which the notification letters were postmarked and mailed.*~~

Planning Commission Motion

The planning commission held a public hearing and received no comment on the issue. The commission recommended approval of the change to the city council.

JASON BULLARD MADE A MOTION AND JOHN HOUCK SECONDED TO ACCEPT THE RECOMMENDATION OF THE STAFF TO CHANGE THE CONDITIONAL USE NOTICE FROM 14 DAYS TO 3. VOTE: YES – ALL (4), NO – NONE, ABSENT (3) KELLY LIDDIARD, DAYNA HUGHES, KEVIN HANSBROW

City Council Discussion

1. Is the proposed 3 day notice mailed to adjoining property owners an appropriate amount of time for a land use issue (same as subdivisions?) Mayor Lutes recommends that it be 10 days.
2. Is the change from sending the notice to land owners from 200ft to 300ft appropriate?
3. Is the change from requiring an applicant to supply noticing addresses to the city vs. the city doing it appropriate?

Proposed Council Motion

I motion that the city council, after reviewing the proposed changes to 10-12-37 Conditional Uses, agrees with the planning commission findings that the change from 14 days notice to ?? days for a conditional use public hearing is more in line with the subdivision approval code, state law, and is a reasonable amount of time to receive a personal notice by mail. Also, the council finds that changing the notice area around the proposed conditional use from 200ft to 300ft will better notice the land owners that could be affected by the proposed use and that the mailing of notices should be handled by the city.

Planning Commission Minutes - Draft

Planning Commission Meeting 10 December 2009

Weston Youd, Co-chair, opened the public hearing at 7:09pm. (no public commented)
Weston Youd, Co-chair, closed the public hearing at 8:06pm.

Weston Youd read the memo background. "With the creation of the Hobby Animal code staff has found an outdated requirement in the Conditional Use code. About four years ago, the state changed the requirement for public hearings from 14 to 10 days for amending code and general plans. For subdivisions it went to a 3 day notice. State law for notification of Conditional Uses states that it is per the city code, meaning there is no specified amount of time to notice people. At the time, the city changed all the noticing code requirements to match the state law, but neglected to address if the 14 day requirement for Conditional Uses (which was used only because changing code required 14 days) should be changed."

Shawn Eliot said that state law says for a conditional use is that they are noticed based off of whatever is in the city code. It is proposed to make the notice time period consistent with other notices time periods.

JASON BULLARD MADE A MOTION AND JOHN HOUCK SECONDED TO ACCEPT THE RECOMMENDATION OF THE STAFF TO CHANGE THE CONDITIONAL USE NOTICE FROM 14 DAYS TO 3. VOTE: YES – ALL (4), NO – NONE, ABSENT (3) KELLY LIDDIARD, DAYNA HUGHES, KEVIN HANSBROW

Memo - Storage of Junk and Debris Code

26 January 2010
City Council

Background
With the creation of the new nuisance code, this portion of the development is not needed, is duplicative, contradicting and is confusing.

Current Code to Rescind
10-12-7: STORAGE OF JUNK AND DEBRIS PROHIBITED:

A. No yard or other open space shall be used for the storage, keeping, dismantling or abandonment of junk, debris, scrap metal, building materials, inoperable motor vehicles or machinery, household furnishings and appliances, or any parts thereof, at a level which constitutes the establishment of a "junk or automobile wrecking yard", except in those zone districts where such use is specifically permitted pursuant to the terms of this development code.

B. For purposes of determining compliance with this section, more than two (2) such items on any one property shall constitute a "junk or automobile wrecking yard".

New Nuisance Code that Addresses this Section
4-2-1-30-21 Junk Accumulation
Accumulation of used or damaged lumber; junk; salvage materials; abandoned, discarded or unused furniture; stoves, sinks, toilets, cabinets, or other fixtures or equipment stored so as to be visible from a public street, alley, or adjoining property. However, nothing herein shall preclude the placement of stacked firewood for personal non-commercial use on the premises.

4-2-1-30-30 Parking or Storage - Distressed Vehicles
Parking or storage of inoperative, unregistered, abandoned, wrecked or dismantled vehicles, or vehicle parts, outside of an enclosed structure or area on a premises, or in the public right-of-way.

Difference between the Two Codes
The main difference is the old code did allow for 2 items of junk or automobile wrecking yard items in sight from the road, now it does not allow any. In the passing of the nuisance code, it leaves 10-12-7 obsolete.

Public Comment /Planning Commission Motion
This item was advertized in the paper, on the website, and in the city newsletter. There were no comments from the public on this issue and the planning commission recommended that it be rescinded from the code as described in this memo.

Planning Commission Motion: John Houck motioned and Jason Bullard seconded to accept the memo as stated by the staff. Vote: yes – all (4), no – none, absent (3) Kelly Liddiard, Dayna Hughes, Kevin Hansbrow

City Council Discussion

3. Do 4-2-1-30-21 and 4-2-1-30-30 above address what is being rescinded in the development code?
4. Do these two sections of the new nuisance code need additional work (continue to allow junk or distressed vehicles?)

Proposed Council Motion

I motion that the city council, after reviewing the proposed rescinding of 10-12-7 "Storage of Junk and Debris" of the development code and reviewing the portions of the newly passed nuisance code that cover junk accumulation and distressed vehicles, finds with the planning commission, that the rescinding of 10-12-7 will take away any confusion of having contradicting code in different locations of the municipal and development code, that the new nuisance code is more appropriate in disallowing junk accumulation and the storage of distressed vehicles in open areas, and that the nuisance code is a more appropriate location in the municipal code to address these issues rather than the development code. The city council rescinds 10-12-7 of the development code.

Planning Commission Minutes - Draft

10 December 2009

Weston Youd, Co-chair, opened the public hearing at 7:09pm. (no public gave any comment)

Weston Youd, Co-chair, closed the public hearing at 8:06pm.

Shawn Eliot gave a description. The city council passed a new nuisance code – there is a municipal code that has the nuisance code in it. There is also a part in the development code that talked about nuisances – about junk in yards. It's duplicative in that it is in two different places. This code contradicted things that were in the old nuisance code. So it says there can be two such items of any kind of junk in a yard, including household furnishings, appliances, etc. It says it is an establishment of a junk or automobile wrecking yard. Purposes of complying with this section, there can only be two such items on one property. It is not needed to recommending rescinding. It is code cleanup.

Further discussion took place as to what is allowed in the new nuisance code.

JOHN HOUCK MOTIONED AND JASON BULLARD SECONDED TO ACCEPT THE MEMO AS STATED BY THE STAFF. VOTE: YES – ALL (4), NO – NONE, ABSENT (3) KELLY LIDDIARD, DAYNA HUGHES, KEVIN HANSBROW

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Memo - Nuisance Code

26 January 2010
City Council

Same memo from Dec 8 meeting with additions in red.

Background

With the creation of the new animal code, the mayor and members of the council requested that we look at the nuisance code to make it more usable, make a process for citing offenders, and to assign fines. This new code was passed by the city council in October. The application of the new code has concerned some citizens and staff is asking for guidance from the council to see if how the code is being applied is what was wanted. Shawn Eliot identified the nuisances and documented them; Corbett Stephens hand delivered all of the notices and talked to anyone that was home.

At the council meeting on 8 Dec 2009, citizens expressed their concerns about the new code positively and negatively. The main concerns heard were ranged from, "we need to enforce the code", or "we are a country small town that shouldn't have these rules", or "residents should be able to talk to each other and not involve the city". Some like the new code as is, some would like the new code rescinded and the old code returned.

Another comment at the meeting was brought up regarding the comparison of Elk Ridge to other cities, some of which were larger than Elk Ridge such as Murray and St. George. It was stated that we are not as large as these cities and should not have rules like them. One thing to note, while these cities do have more population, commercial districts, multi-family districts, large roads and freeways, they also have single family neighborhoods that are similar to our neighborhoods.

Trailers/Boats/RVs/Junk Automobiles in Front Setback

The trailer issue seems to be one that causes much concern. The issues are:

1. About 80% of the nuisance findings issued have complied.
2. Some haven't complied feeling they should be allowed to store these items within the front setback area.
3. The city hasn't cared all these years, why now?
4. Some state that they were told by the city that they could park them in these areas.
5. Some state that the neighbors don't care so why is it a problem.
6. Some think the zoning code should be less strict in the older areas of the city then in the newer ones.
7. The new code only allows one trailer/boat/RV on a corner lot if there is not a place to store it to the side or back of the home.
8. The planning commission recommended that one of these items be allowed on an interior lot if not a place to store to the side or back. The council didn't approve this in their motion.
9. Staff has not worried about if a trailer is farther behind a home then in front. Is this ok?

Options

1. Revert back to old code completely and don't classify any nuisances.
2. Keep current code, just remove the storage of trailers/boats/etc. section.
3. Keep new code and clarify some areas of concern found in this first round of nuisance issuances.
   a. Should storage of a trailer, boat, etc. in the front yard setback be allowed, period? (all lots instead of just corner lots).
   b. Where in the front yard setback can these items be stored (graveled area, cement pad, adjacent to the driveway only, anywhere in the front yard).
   c. How close to the street can they be stored (closer to home than street, out of ROW, or just a measurement from the street like 10 or 15 feet?
   d. If not to allow one item in front yard setback, can a portion of a stored item on the side of a dwelling stick out into the front yard setback? More behind the dwelling than in front? A measurement in front of the dwelling like 10 feet?

e. For home owners within the 2 year window of installing front yard landscaping, should the city allow for items to be stored in front yard setback because fencing or cement/gravel driveway pads are not yet installed?

How to Present a Nuisance Finding

This is the other big issue. Many people were shocked to receive a finding.

1. Propose that an article in the newsletter/website be placed that states the code that we are focusing on and that in x amount of time we will be issuing nuisance findings.
2. Propose that at the same time as the article that we send a courtesy letter to those that are currently out of compliance stating the code and that we will be issuing finding of nuisance letters in x amount of time.
3. For those that already were issued a nuisance finding, propose that we do the following:
    a. Send a letter better explaining the city's position on the issue (and what has occurred with these meetings since they got the notice).
    b. Explain better how to enter into a contract with the city if more time is needed to take care of the issue.
    c. For current nuisance findings allow additional time (till May) before we issue citations, because we put everything on hold and being winter it is harder to take care of these issues.

Other Issues

Are there any other portions of the code or how we implement the code that need to be discussed?

1. Garbage Cans?
2. Smoking?

Old Code

4-2-1: NUISANCE DEFINED:

A. State Statute Adopted: The city hereby incorporates, as though fully set forth herein, the provisions of Utah Code Annotated section 76-10-801 et seq., to define, control, eliminate and set the punishment for any nuisance offense occurring within the city.

B. Definition Of Nuisance: In addition to the above referenced provisions of state law, a "nuisance" is also defined to mean the following:

1. Any condition or use of premises or of building exterior which is deleterious or injurious to public health, obnoxious or unsightly, which includes, but is not limited to, keeping or deposition on, or scattering over the premises, lumber, junk, trash, debris, abandoned, discarded or unused objects or equipment such as furniture, stoves, refrigerators, freezers, cans, containers or other items;

2. Whatever unreasonably or unlawfully affects the health or safety of one or more persons;

3. Anything which unreasonably or unlawfully interferes with, obstructs or tends to obstruct, or renders dangerous for passage, any public street, highway, sidewalk, stream, ditch or drainageway;

4. "Noxious weeds", as may be defined by the Utah state commissioner of agriculture; or any weeds more than twelve inches (12") tall; or any weeds within thirty feet (30') of a structure, or weeds within ten feet (10') of the outer edge of any public street; or weeds in any other location, including vacant lots and open fields that constitute an unreasonable fire hazard;

5. Any building or structure which is unfit for human habitation, or which is an unreasonable hazard to the health of people residing in the vicinity thereof, or which presents an unreasonable fire hazard in the vicinity where it is located;

6. Any accumulation of rubbish, trash, refuse, junk, abandoned materials, metals, lumber, machinery or inoperable vehicles;

7. Noxious or unreasonable odors, fumes, gas, smoke, soot or cinders;

8. Leaving or permitting to remain outside of any dwelling for more than ten (10) days, any vehicle on jacks, blocks or similar equipment, or having deflated tires, or from which the chassis, engine, wheels or tires have been removed, or without valid registration, or any part of a vehicle when such vehicle or part thereof is located in an unenclosed area (except in a licensed junkyard).

C. Author Of Nuisance Defined: Where a nuisance exists upon property and is the outgrowth of the usual, natural or necessary use of the property, the landlord or his agent, the tenant or his agent, and all other persons having control of the property on which such nuisance exists, shall be deemed to be the authors thereof and shall be equally liable and responsible. Where any such nuisance shall arise from the unusual or unnecessary use of such property or from the business thereon conducted, then the occupants and all other persons contributing to the continuance of such nuisance shall be deemed the authors. (Ord. 02-8-13-15, 8-13-2002, eff. 9-13-2002)

4-2-2: NUISANCE INSPECTOR:

A. Authority: Nuisance inspection and determination of nuisances will fall under the duties of the appointed zoning administrator. (Ord. 02-8-13-15, 8-13-2002, eff. 9-13-2002; amd. 2003 Code)

B. Duties:

1. The inspector shall inspect properties to see if they conform to the city's nuisance ordinance on direction of the city council or the mayor. The nuisance inspector shall be granted the discretion to determine if a "nuisance", as defined in this chapter, exists. In making this decision, the inspector can request the assistance of the fire chief, council member over health, safety and welfare and/or employee over the same.

2. If a nuisance is determined by the inspector to exist, the inspector shall serve notice to abate the nuisance as provided below.

C. Immunity: The inspector and those who assist the inspector (attorney, fire chief, other appointed city employees, etc.) and the city, shall be immune from any liability by reason of the city's removal of any nuisance identified herein, after following the procedures set forth above and found in Utah Code Annotated section 10-11-1. (Ord. 02-8-13-15, 8-13-2002, eff. 9-13-2002)

4-2-3: NUISANCES ON PROPERTY; BUILDERS:

A. Placement Of Refuse; Bond Required: All builders are required to use a dumpster, trash trailer or fenced area in which to place all refuse. Said containment must be on site at the beginning of the framing process. The containment must be of such a nature as to preclude the rubbish, debris, trash or garbage from blowing onto adjacent property. The contractor is to post a bond, in such amount as established by resolution of the city council, with the city at the time of obtaining a building permit. All refuse is to be cleaned up prior to final inspection being performed. If a contractor does not clean up the refuse prior to final inspection, the deposit will be used for this purpose and any additional costs will be billed to the contractor. If the cleanup is performed satisfactory to the building inspector, the bond funds will be released after the final inspection. (Ord. 94-7-26-5, 7-26-1994; amd. 2003 Code)

B. Containers; Accumulation Prohibited: No lot shall be used or maintained as a dumping ground for rubbish, debris, trash or garbage. Trash, garbage or other waste shall not be kept except in sanitary containers. All containers used for the storage or disposal of such materials shall be kept in a clean and sanitary condition. During construction, excess building materials and debris shall not be permitted to accumulate beyond the capacity of the containment.

C. Storage Of Building Materials: No building material of any kind or character shall be placed or stored upon any lot until the owner thereof is ready to commence improvements and then the material shall be placed within the property lines of the plot upon which the improvements are to be erected. Storage of equipment, soils or construction materials on a public right of way or easement is expressly prohibited. (Ord. 94-7-26-5, 7-26-1994)

4-2-4: DISTURBING THE PEACE:

A. Prohibited: It shall be unlawful for any person to maliciously or wilfully disturb the peace or quiet of another by loud or unusual noise or by tumultuous conduct or by threatening or yelling in a manner likely to incite another to violence.

B. Public Disturbance Prohibited: It shall be unlawful for any person to cause noise that constitutes a public disturbance after once being requested to stop making the noise. It shall also be unlawful for any person in possession of real property to allow to originate from the property noise that constitutes a public disturbance after once being requested to stop permitting the noise. For purposes of this section, "public disturbance" shall be any sound which unreasonably disturbs or interferes with the peace, comfort or repose of owners or possessors of real property and which emanates from any of the following sound sources:

1. Music, stereo or sound systems.

2. Loud arguing or boisterous conduct.

3. Construction work in or adjacent to a residential zone between the hours of ten thirty o'clock (10:30) P.M. and six thirty o'clock (6:30) A.M.

4. Sports or other entertainment activities in or adjacent to a residential zone between the hours of ten thirty o'clock (10:30) P.M. and seven o'clock (7:00) A.M., Sunday through Thursday and eleven thirty o'clock (11:30) P.M. Friday and Saturday nights through seven o'clock (7:00) A.M. Saturday and Sunday mornings.

5. The use of machinery or motorized or power tools and equipment in or adjacent to a residential zone between the hours of ten thirty o'clock (10:30) P.M. and six thirty o'clock (6:30) A.M., except for specialized equipment used for seasonal and periodic snow removal, agricultural, business and all emergency equipment.

6. The repetitive or continuous starting, testing or operation of a motor vehicle, including motorcycles and recreational vehicles. (Ord. 94-7-26-5, 7-26-1994)

C. Penalty: Disturbing the peace is a class C misdemeanor if the offense continues after a request by a person to desist. Otherwise, it is an infraction. Class C misdemeanors and infractions shall be punishable as set forth in section 1-4-1 of this code. (Ord. 94-7-26-5, 7-26-1994; amd. 2003 Code)

4-2-5: ABATEMENT PROCEDURE:

A. Purpose; Declaration Of Nuisance: It is the purpose of this section to establish a means whereby the municipality may remove or abate, or cause the removal or abatement, of injurious and noxious weeds, and of garbage, refuse or unsightly and deleterious objects or structures pursuant to the powers granted to it by Utah Code Annotated title 10, chapter 11, as amended, and pursuant to its general power to abate nuisances as defined in this chapter.

B. Notice To Property Owners: It shall be the duty of the nuisance inspector (and/or fire chief if the inspector requests assistance) to make careful examination and investigation of the growth and spread of such injurious and noxious weeds, and of garbage, refuse or unsightly or deleterious objects or structures. And it shall be the inspector's duty to ascertain the names of the owners and descriptions of the premises where such weeds, garbage, refuse, objects or structures exist and to serve notice to abate to the offender by delivering a copy of the notice to abate to the offender by personal service in the manner described for service of process in the Utah rules of civil procedure, or by mailing a copy of the notice to abate to the offending party by certified U.S. mail, return receipt requested. The notice to abate shall reasonably describe the subject nuisance and the steps necessary to abate the same and shall require abatement to be completed in not more than thirty (30) days from the date of service of such notice. The notice shall also state that the owner can request a hearing as described in subsection C of this section. One notice shall be deemed sufficient on any lot or parcel of property for a calendar year from the date of notice. The inspector shall file an amended notice and proof of service of notice with the city recorder.

C. Hearing:

1. Any owner, occupant or other person having an interest in property which receives a notice pursuant to subsection B

of this section, may request a hearing with the city council. The request for hearing shall be in writing and shall be within thirty (30) days of receipt of said notice. Upon receipt of a request for hearing, the city council shall conduct a hearing and make a determination whether the required action pursuant to the notice is within the purview of this chapter. The person requesting the hearing may present evidence at the hearing and has the burden of proving that the condition of his/her property does not constitute a "nuisance", as defined in this chapter. The inspector or other interested parties may also present evidence at the hearing. The city council shall issue a written decision within twenty (20) days following the hearing, a copy of which shall be mailed to the person requesting the hearing.

2. In the event the decision of the city council upholds the determination of the inspector, the notice originally given by the inspector as above provided shall be deemed to be sufficient to require the owner or occupant to remove or abate the objectionable objects or conditions, and the owner or occupant shall have up to thirty (30) days from the date of notice of the decision within which to conform thereto.

3. In the event the decision of the city council either overrules or modifies the determination of the inspector, the written decision of the city council shall inform the owner or occupant of that fact and set forth the details and extent to which the owner or occupant must make removal or other abatement of the objectionable objects or conditions, if any. The owner or occupant shall be required to conform to the decision of the city council within thirty (30) days after mailing of a copy of the decision. (Ord. 02-8-13-15, 8-13-2002, eff. 9-13-2002; amd. 2003 Code)

D. Failure To Comply:

1. If any owner or occupant of lands described in such notice shall fail or neglect to eradicate, or destroy and remove such nuisances as outlined in this chapter, it shall be the duty of the inspector, at the expense of the city, to either employ necessary assistance and cause such nuisances to be removed or destroyed, or refer the matter to the city attorney for criminal or civil charges. If the city cleans up the property, an itemized statement of all expenses incurred in the removal and destruction of the same shall be mailed thereof to the owner demanding payment within twenty (20) days of the date of mailing. Said statement shall be deemed delivered when mailed by registered mail addressed to the property owner's last known address. In the event the owner fails to make payment of the amount set forth in said statement to the city treasurer within said twenty (20) days, the city attorney, on behalf of the city, may cause suit to be brought in appropriate court of law or may refer the matter to the county treasurer as hereinafter provided. In the event collection of said costs are pursued through the courts, the city may sue for and receive judgment upon all of said costs of removal and destruction, together with reasonable attorney fees, interest and court costs. The municipality may execute on such judgment in the manner provided by law. In the event that the inspector or city attorney elects to refer the matter to the county treasurer for inclusion in the tax notice of the property owner, an itemized statement (in triplicate) shall be made of all expenses incurred in the removal and destruction of the same and delivered (3 copies of said statement) to the county treasurer within (10) days after the completion of the work to remove or abate the nuisance. (Ord. 02-8-13-15, 8-13-2002, eff. 9-13-2002)

2. Any owner, occupant, "author of the nuisance" (as defined herein), or person having an interest in the property subject to this chapter, who shall fail to comply with the notice or order given to abate a nuisance pursuant to this chapter, shall be guilty of a class C misdemeanor, subject to penalty as provided in section 1-4-1 of this code for each offense, and further sum of ten dollars ($10.00) for each and every day such failure to comply continues beyond the date fixed for compliance. (Ord. 02-8-13-15, 8-13-2002, eff. 9-13-2002; amd. 2003 Code)

4-2-6: CIVIL ACTION:

A civil action to abate or enjoin a nuisance, or for damages for causing or maintaining a nuisance (including the cost, if any, of cleaning the subject property), may be brought by the city or by any private person directly affected. (Ord. 02-8-13-15, 8-13-2002, eff. 9-13-2002)

New Code
Article 1 Nuisances Defined

Sections:

4-2-1-10 What Does This Section Do
The purpose of this ordinance is to provide a means for the city and individuals to identify nuisances within the city and to provide a means for correcting or abating the nuisances. The city needs the ability to abate nuisances in order to protect the health and safety of the public, to foster neighborhood stability, to preserve the appearance, character, and beauty of neighborhoods, to encourage community pride, to preserve the value of property, and to protect the general welfare of the city and its citizens, businesses and visitors. This ordinance provides for progressive enforcement measures to abate nuisances; the most aggressive forms of enforcement are generally reserved for the most recalcitrant violators of the ordinance.

4-2-1-20 Nuisance Defined
This section defines nuisance by providing 4 general definitions of what constitutes a nuisance and then providing specific examples in 4-2-1-30 of situations, conduct or activities that constitute nuisances. The purpose of the general definitions is to allow the city to classify an offending situation, conduct, or activity as a nuisance, even though the situation, conduct, or activity may not be listed as a nuisance in the specific examples. The first 3 general definitions are taken directly from Utah state law. The purpose of listing the specific examples is to identify some of the specific situations, conduct and activities that the city intends to abate as nuisances. Any activity that meets any 1 or more of the 4 definitions set forth below shall constitute a nuisance if it occurs within the city of Elk Ridge:

- Anything which is injurious to health, indecent, offensive to the senses, or an obstruction to the free use of property, so as to interfere with the comfortable enjoyment of life or property.

- Any item, thing, manner, or condition whatsoever that is dangerous to human life or health or renders soil, air, water, or food impure or unwholesome.

- Unlawfully doing any act or omitting to perform any duty, which act or omission annoys, injures, or endangers the comfort, repose, health, or safety of 3 or more persons; or offends public decency; or unlawfully interferes with, obstructs, or tends to obstruct; or renders dangerous for passage, any lake, stream, canal, or basin, or any public park, square, street, or highway; or in any way renders 3 or more persons insecure in life or the use of property. An act which affects 3 or more persons in any of the ways specified in this subsection is still a nuisance regardless of the extent to which the annoyance or damage inflicted on individuals is unequal.

- A condition which; wrongfully annoys, injures, or endangers the comfort, repose, health or safety of others; or unlawfully interferes with, obstructs or tends to obstruct, or render dangerous for passage, any public park, square, street or highway, or any other public place; or in any way renders other persons insecure in life, or in the use of property, and which affects the rights of an entire community or neighborhood, although the extent of the damage may be unequal.

4-2-1-30 Specific Nuisances
Every situation, conduct, or activity listed below in the subsection of 4-2-1-30 constitutes a nuisance and may be abated pursuant to this ordinance. The listed examples are not all inclusive; a situation, conduct or activity not listed below, but coming within one of the general definitions of nuisance defined in 4-2-1-20, shall also constitute a nuisance.

4-2-1-30-1 Accessory Apartments - Illegal
Any violation of the city's accessory apartment ordinance.

4-2-1-30-2 Alcohol
Every property or premises not licensed under applicable state law or city ordinance where any intoxicating liquors or alcohol are kept for unlawful use, sale, or distribution.

4-2-1-30-3 Animals
Any animal that is dangerous, vicious, creates excessive noise, creates odors that can be smelled from adjacent property, or is kept against the city zoning ordinance.

4-2-1-30-4 Attractive Nuisances
Any attractive nuisance dangerous to children and other persons including, but not limited to, abandoned, broken, or neglected household appliances, equipment and machinery, abandoned foundations or excavations, or improperly maintained or secured pools.

4-2-1-30-5 Buildings - Illegal or Abandoned
Any building or structure set up, erected, constructed, altered, enlarged, converted, moved or maintained contrary to the provisions of city ordinances, or any use of land, buildings or premises in violation of city ordinances or buildings which are abandoned, partially destroyed, or left in an unreasonable state of partial construction for a period of 6 months or longer. An unreasonable state of partial construction is defined as any unfinished building or structure where the appearance or condition of the building or structure does not meet the requirements for finished buildings or structures as required by applicable city ordinances or building codes. Buildings or conditions that violate any building, electrical, plumbing, fire, housing, or other code adopted by the city. The building or structure shall not be considered to be a nuisance if it is under active construction.

4-2-1-30-6 Buildings - Maintenance and Upkeep
Maintenance of buildings and/or structures in such condition as to be deemed defective or in a condition of deterioration or disrepair including which is unfit for human habitation, or which is an unreasonable hazard to the health of people residing in the vicinity thereof, or which presents an unreasonable fire hazard in the vicinity where it is located. Buildings having dry rot, warping, termite infestation, decay, excessive cracking, peeling, or chalking, as to render the building unsightly and/or in a state of disrepair. Buildings with missing doors and/or windows containing broken glass and/or no glass at all where the window is of a type which normally contains glass, building exteriors, walls, fences, gates, driveways, sidewalks, walkways, signs or ornamentation, or alleys maintained in such condition as to render them unsightly and/or in a state of disrepair.

4-2-1-30-7 City Code Nuisances
Any violation of an Elk Ridge city Code section that expressly declares a specific situation, conduct, or activity to be a nuisance.

4-2-1-30-8 Construction Equipment
Construction equipment or machinery of any type or description parked or stored on property when it is readily visible from a public street, alley or adjoining property, except while excavation, construction or demolition operations covered by an active building permit are in progress on the subject property or an adjoining property, or where the property is zoned for the storage of construction equipment and/or machinery. Any construction equipment stored in a public right-of-way, overnight.

4-2-1-30-9 Dangerous Conditions
Any fence, wall, shed, deck, house, garage, building, structure or any part of any of the aforesaid; or any tree, pole, smokestack; or any excavation, hole, pit, basement, cellar, sidewalk, subspace, dock, or loading dock; or any lot, land, yard, premises or location which in its entirety, or in any part thereof, by reason of the condition in which the same is found or permitted to be or remain, shall or may endanger the health, safety, life, limb or property, or cause any hurt, harm, inconvenience, discomfort, damage or injury to any 1 or more individuals in the city, in any 1 or more of the following particulars: by reason of being a menace, threat and/or hazard to the general health and safety of the community; or by reason of being a fire hazard; or by reason of being unsafe for occupancy, or use on, in, upon, about or around the aforesaid property; or by reason of lack of sufficient or adequate maintenance of the property, and/or being vacant, any of which depreciates the enjoyment and use of the property in the immediate vicinity to such an extent that it is harmful to the community in which such property is situated or such condition exists.

4-2-1-30-10 Debris Accumulation
Accumulation of soil, litter, debris, plant trimmings, or trash, visible from the street or an adjoining property.

4-2-1-30-11 Drug Houses
Every building or premises where the unlawful sale, manufacture, service, storage, distribution, dispensing, or acquisition of any controlled substance, precursor, or analog specified in the Utah Controlled Substances Act occurs.

4-2-1-30-12 Dust
Any premises or activity which causes excessive dust due to lack of landscaping, non-maintenance or other cause. This includes dust from construction sites.

4-2-1-30-13 Family
Keeping or allowing people at a premise in violation of the city's single-family residence requirements.

4-2-1-30-14 Fire Hazard
A fire hazard.

4-2-1-30-15 Gambling
Every building or premises where gambling is permitted to be played, conducted, or dealt upon.

4-2-1-30-16 Gangs
Every building or premises wherein criminal activity is committed in concert with 2 or more persons.

4-2-1-30-17 Garbage Can
The leaving of any garbage can, refuse, or recycle container in the street, other than on collection day, for more than 24 hours before or after the collection day.

4-2-1-30-18 Graffiti
Graffiti which remains on the exterior of any building, fence, sign, or other structure and is visible from a public street.

4-2-1-30-19 Hazardous Conditions
Any wall, sign, fence, gate, hedge, or structure maintained in such condition of deterioration or disrepair as to constitute a hazard to persons or property.

4-2-1-30-20 Inappropriate Conduct
Every property or premises where there exists an environment which causes, encourages or allows individuals or groups of individuals to commit 1 or more of the following acts on the property, premises or adjacent public place.

These acts include but are not limited to illegally using or possessing any controlled substance, precursor, analog or possessing any item of drug paraphernalia; or illegally consuming intoxicating liquor or alcohol; or publicly urinating or defecating; or by physical action, intentionally causing or attempting to cause another person to reasonably fear imminent bodily injury or the commission of a criminal act upon their person or upon property in their immediate possession; or engaging in acts of violence, including fighting amongst themselves; or discharging a firearm or explosive in violation of city ordinance or state law; or creating unreasonable noise which disturbs others; or intentionally obstructing pedestrian or vehicular traffic; or soliciting acts of prostitution.

4-2-1-30-21 Junk Accumulation
Accumulation of used or damaged lumber; junk; salvage materials; abandoned, discarded or unused furniture; stoves, sinks, toilets, cabinets, or other fixtures or equipment stored so as to be visible from a public street, alley, or adjoining property. However, nothing herein shall preclude the placement of stacked firewood for personal non-commercial use on the premises.

4-2-1-30-22 Landscaping - Parking
Parking in an area required to be landscaped by city ordinance. Also, parking in a yard area that previously was a landscaped area, but has not been converted to a parking area with the use of concrete, asphalt, or gravel.

4-2-1-30-23 Landscaping - Required
Failure to install or maintain landscaping required by city ordinance.

4-2-1-30-24 Noise - Public Disturbance
Noise that constitutes a public disturbance after once being requested to stop making the noise. A public disturbance shall be any sound which unreasonably disturbs or interferes with the peace, comfort or repose of owners or possessors of real property and which emanates from any of the following sound sources: music, stereo or sound systems; loud arguing, threatening or yelling in a manner likely to incite violence, boisterous conduct, animals.

4-2-1-30-25 Noise - Construction Work/Machinery
Construction work and the use of machinery or motorized power tools and equipment in or adjacent to a residential area between the hours of 10pm and 7am. Specialized equipment used for seasonal and periodic snow removal, agricultural uses, commercially zoned business, and all emergency equipment shall not be considered a nuisance.

4-2-1-30-26 Noise - Motor Vehicles
The repetitive or continuous starting, testing or operation of a motor vehicle, including motorcycles, all terrain vehicles, and recreational vehicles.

4-2-1-30-27 Noise - Sports/Outdoor Activities
Sports and other outdoor entertainment activities in or adjacent to a residential area between the hours of 10:30pm and 7am. Friday and Saturday nights the time allowed extends to 11:30pm.

4-2-1-30-28 Noxious Emanations
Emanation of noxious or unreasonable odors, fumes, gas, smoke, soot or cinders. These include odors from animals, animal housing, and animal food.

4-2-1-30-29 Noxious Weeds
Noxious weeds located on vacant lots or other property, along public sidewalks or the outer edge of any public street, or weeds in any other location which constitute a fire hazard. Front yards with overgrown weeds. Weeds over 4 inches tall in areas 30 feet from the side of rear of a structure. Weeds over 4 inches tall in areas 10 feet from a road. Weeds in areas where earth has been disturbed for construction or other activities over 12 inches tall. Noxious weeds must be controlled in areas designated for re-vegetation.

4-2-1-30-30 Parking or Storage - Distressed Vehicles
Parking or storage of inoperative, unregistered, abandoned, wrecked or dismantled vehicles, or vehicle parts, outside of an enclosed structure or area on a premises, or in the public right-of-way.

4-2-1-30-31 Parking or Storage - Trailers, Boats, Recreation

Storage or parking of trailers, boats, all terrain vehicles, or recreational vehicles between the front of a residence and a street. Storage or parking of trailers, boats, all terrain vehicles, or recreational vehicles on lots on the interior side yard or rear yard of a structure shall not be considered a nuisance. On corner lots on the side yard facing a street, either 1 trailer, or 1 boat, or 1 all terrain vehicle, or 1 recreational vehicle shall not be considered a nuisance if it is demonstrated by the owner that there is not a reasonable area in the interior side yard or back yard. A reasonable amount of time to load/unload, clean, or repair a trailer, boat, or recreational vehicle in front of a home shall not be considered a nuisance.

4-2-1-30-32 Party Houses
Every building or premises where parties occur frequently which create the conditions of a nuisance. Some of the factors the city may examine in determining whether a party house exists include: an increase in the number of emergency response calls due to parties being held; any pattern of activity that suggests that parties creating a nuisance are taking place; any pattern of activity which diminishes the quiet enjoyment of those buildings and premises around the alleged party house or which cause the immediate neighbors to fear for their safety or the safety of their family members due to the party activity.

4-2-1-30-33 Prostitution
Every building or premises where prostitution or the promotion of prostitution is regularly carried on by 1 or more persons.

4-2-1-30-34 Refuse
Keeping or storing of any refuse or waste matter which interferes with the reasonable enjoyment of nearby property.

4-2-1-30-35 Signs
Improper maintenance of a sign; or signs which advertise a business that is no longer extant on the property. Keeping or allowing banner signs in violation of city ordinance.

4-2-1-30-36 Stagnant Water
Polluted or stagnant water which constitutes an unhealthy or unsafe condition.

4-2-1-30-37 Storage of Materials - General
The keeping, storing, depositing or accumulating on the premises or in the public right-of-way for an unreasonable period of time dirt, sand, gravel, concrete, or other similar materials, or maintenance of such material on public rights-of-way.

4-2-1-30-38 Storage of Materials - New Construction
The keeping, storing, depositing or accumulating on a site construction materials, dirt, sand, gravel, concrete, debris or other similar materials prior to a grading permit, construction bond, or building permit is approved. The keeping, storing, depositing or accumulating on a site construction materials, dirt, sand, gravel, concrete, debris or other similar materials outside of trash bins or located outside the designated storage area identified on an approved site plan. Material stored in the public rights-of-way for an unreasonable period of time. Any construction debris or items allowed to be blown from the construction site. Any debris or construction materials left after construction is complete.

4-2-1-30-39 Tobacco Smoke
Tobacco smoke that drifts into any residential unit, 2 times or more within a 7 day period.

4-2-1-30-40 Unsafe Condition
A condition that unreasonably or unlawfully affects the health or safety of 1 or more persons.

4-2-1-30-41 Vandalism
Any act of vandalism toward public or private property.

4-2-1-30-42 Vegetation
Dead, decayed, diseased, or hazardous trees, weeds, hedges, and overgrown or uncultivated vegetation which is in a hazardous condition, is an obstruction to pedestrian or vehicular traffic, or which is likely to harbor rats, vermin or other pests.

4-2-1-30-43 Weapons
Every building or premises where illegal weapons occur on the premises.

4-2-1-40 Exceptions
No act which is done or maintained under the express authority of an authoritative statute, ordinance, or court ruling shall be declared a nuisance.

Article 2 Nuisance Process

Sections:

4-2-2-10 Abate Defined
Abate means to repair, replace, remove, destroy, correct or otherwise remedy a condition which constitutes a nuisance by such means, in such a manner and to such an extent as the enforcement officer determines is necessary in the interest of the general health, safety, and welfare of the community.

4-2-2-20 Responsible Person for Nuisance
Any person or persons, whether as owner, agent, or occupant, who creates, aids in creating, or contributes to a nuisance, or who supports, continues, or retains a nuisance, is responsible for the nuisance and is therefore a responsible person pursuant to this ordinance. Every successive owner or tenant of a property or premises who fails to abate a continuing nuisance upon or in the use of such property or premises caused by a former owner or tenant is responsible therefore in the same manner as the one who first created it.

4-2-2-30 Affected Party Action
An action may be brought by any person whose property is injuriously affected, or whose personal enjoyment is lessened by the nuisance.

4-2-2-40 Enforcement Officer
This ordinance shall be administered and enforced by the Zoning Enforcement Officer or other city staff that the Zoning Enforcement Officer assigns. In case of nuisances involving dangerous buildings, this ordinance shall be administered and enforced by the Building Inspector or other city staff that the Build Inspector assigns.

4-2-2-50 Finding of Nuisance
If the enforcement officer finds that a nuisance exists, the officer shall attempt to have the responsible person abate the nuisance. Although the officer's first step in correcting or abating the nuisance will always be to obtain voluntary compliance, the officer may pursue any remedy or combination of remedies available pursuant to this ordinance, state law, or common law in order to abate the nuisance. Nothing in this section shall be interpreted to prohibit the city from engaging in its standard prosecution practices. Therefore, the city may prosecute violators of city ordinances or state laws without first having to comply with the provisions of this ordinance, even though the activity or conduct prosecuted may also constitute a nuisance under this ordinance. Nothing in this ordinance shall be interpreted to prevent the city from enforcing applicable city ordinances, building codes, or the abatement of dangerous buildings code without first treating the offending conduct, situation, or activity as a nuisance pursuant to this ordinance.

4-2-2-50-1 Finding of Nuisance Form
The officer shall fill out the Finding of Nuisance Form and shall clearly site what portion of the code has been violated. Photos, citizen accounts, and other evidence of the nuisance should be collected to document the nuisance. Citizen accounts can be anonymous. The form shall also state a time frame for abatement of the nuisance, penalties for non-compliance, and the availability of a Voluntary Correction Agreement as set forth in 4-2-2-60.

Before taking other steps to abate the nuisance, the enforcement officer should make a reasonable attempt to secure voluntary correction or abatement of the nuisance by contacting the responsible person, where possible; explaining the nuisance; requesting the responsible person to abate the nuisance; and agreeing to terms with the responsible person to abate the nuisance.

4-2-2-60 Voluntary Correction Agreement
If the enforcement officer and the responsible person agree to terms for abating the nuisance, they may enter into a Voluntary Correction Agreement. The Voluntary Correction Agreement is a contract between the city and the responsible person in which the responsible person agrees to abate the nuisance within a specified time and according to specified conditions. The Voluntary Correction Agreement shall include the following terms:

- The name and address of the responsible person;
- The street address of the nuisance, or a description sufficient to identify the building, structure, premises, or land upon or within which the nuisance is occurring;
- A description of the nuisance;
- The necessary corrective action to be taken, and a date by which correction must be completed;
- An agreement by the responsible person that the city may inspect the premises as may be necessary to determine compliance with the Voluntary Correction Agreement;
- An agreement by the responsible person that the city may abate the nuisance and recover its costs and expenses to abate the nuisance, as well as a monetary fine pursuant to this ordinance from the responsible person, if terms of the Voluntary Correction Agreement are not met;
- An agreement by the responsible person acknowledging that he/she waives the right to appeal the enforcement officer's finding that a nuisance exists and waives the right to appeal the specific corrective action required in the Voluntary Correction Agreement; and
- An agreement by the responsible person that failure to comply with the Voluntary Correction Agreement may be grounds for criminal prosecution.

4-2-2-60-1 Extension
The enforcement officer may grant an extension of the time limit for correcting or abating the nuisance if the responsible person has shown due diligence and/or substantial progress in correcting or abating the nuisance but unforeseen circumstances render abatement under the original conditions unattainable. If the responsible person complies with the terms of the Voluntary Correction Agreement, the city shall take no further action against the responsible person related to the nuisance described in the Voluntary Correction Agreement unless the nuisance recurs.

4-2-2-60-2 Failure to Abide
Failure to abide by the agreement and/or abate the nuisance within the timeframe stated on the Finding of Nuisance Form or the Voluntary Correction Agreement can result in further action being taken, as outlined in this section.

4-2-2-70 No Agreement
If the enforcement officer and the responsible person cannot agree to terms for correcting or abating the nuisance, the officer may still abate the nuisance using 1 or more of the procedures set forth in this ordinance, state law, or common law.

4-2-2-80 Administrative Citation
When the enforcement officer determines that a nuisance exists, and is unable to secure voluntary correction pursuant to this section, the officer may issue an administrative citation to the responsible person. The officer may issue an administrative citation without having attempted to secure voluntary correction if it is found that an emergency exists or when the officer is unable to locate or determine the identity of the responsible person or owner of record.

4-2-2-80-1 Administrative Citation Form
The administrative citation shall include the following:
- The name and address of the responsible person; and
- The street address of the nuisance or a description sufficient for identifying the building, structure, premises, or land upon or within which the nuisance is occurring; and
- A description of the nuisance; and
- The required corrective action; and
- A required completion date and a notice that the city may abate the nuisance and charge the responsible person for all abatement costs if the responsible person does not correct the nuisance before the completion date; and
- The time for appealing the administrative citation to the hearing officer and the procedure for filing an appeal.
- A statement indicating that no monetary fine will be assessed if the enforcement officer approves the completed, required corrective action prior to the required completion date; and
- A statement that the city may abate the nuisance and assess costs and expenses of abatement and a monetary fine against the responsible person if the correction is not completed by the responsible person and approved by the enforcement officer before the required completion date.

4-2-2-80-2 Service of Administrative Citation
The enforcement officer shall serve the administrative citation upon the responsible person, either personally or by mailing, certified with a return receipt requested, a copy of the administrative citation to the responsible person at his/her last known address. If the responsible person cannot, after due diligence, be personally served within Utah County and if an address for mailed service cannot after due diligence be ascertained, notice shall be served by posting a copy of the administrative citation conspicuously on the affected property or structure. Proof of service shall be made by a written declaration under penalty of perjury executed by the person effecting the service, declaring the time and date of service, the manner by which the service was made, and if by posting, the facts showing that due diligence was used in attempting to serve the person personally or by mail.

4-2-2-80-3 No Extension
No extension of the time specified in the administrative citation for correction of the nuisance may be granted, except by order of the hearing officer.

4-2-2-90 Abatement by the City
The city may abate a nuisance when the terms of a Voluntary Correction Agreement have not been met, or the requirements of an administrative citation have not been complied with, or, if the administrative citation is appealed to a hearing officer and the terms of the administrative citation are amended by the hearing officer, the terms of the hearing officer's order have not been complied with. Whenever a nuisance is occurring which constitutes an immediate and emergent threat to the public health, safety, or welfare or to the environment, the city may summarily and without prior notice abate the condition. Notice of such abatement, including the reason for it, shall be given to the responsible person as soon as reasonably possible after the abatement.

4-2-2-90-1 City Removal of Nuisance
Using any lawful means, the city may enter upon the subject property and may remove or correct the condition which is subject to abatement. The city may seek, but is not required to seek, such judicial process as it deems necessary to effect the removal or correction of such condition.

4-2-2-90-2 Property Confiscation
During an abatement proceeding, any personal property constituting a nuisance, as defined by this section, may be confiscated as part of the abatement process. Any property that has been confiscated by the city as part of an abatement will be held pending the resolution of the nuisance. The owner of the abated property may recover the property upon showing that the nuisance has been corrected or that substantial efforts, as determined by the enforcement officer, have been made to correct the nuisance. The property owner shall pay the cost of storage of the property. If, after 90 days of the property being confiscated, the property owner fails to claim the confiscated property, the city shall notice the responsible person noting the item(s) to be disposed. The city may dispose of the property, to include sale at auction, etc. and seek to collect the cost of storage from the property owner and any other remedies as provided by law.

4-2-2-90-3 Abatement Costs
The costs, including incidental expenses, of correcting or abating the violation shall be billed to the responsible person and/or the owner, lessor, tenant or other person entitled to control, use and/or occupy the property and shall become due and payable to the city within 10 days of actual receipt of the bill (within 15 days of the mailing date if the bill is mailed). The term incidental expenses include but are not limited to:

- Personnel costs, both direct and indirect, including attorneys fees and costs;
- Costs incurred in documenting the violation;
- Hauling, storage and disposal expenses;
- Actual expenses and costs for the city in preparing notices, specifications and contracts, and in accomplishing and/or contracting and inspecting the work; and
- The costs of any required printing and mailing.

4-2-2-90-4 Monetary Fine
The responsible person shall pay the city a monetary fine for each day the nuisance continues after the required completion date listed on an Administrated Citation. The nuisance shall be considered to continue until the enforcement officer approves the responsible person's actions to correct or abate the nuisance. The amount of the monetary fine shall be adopted by resolution of the city council and be listed on the city fee schedule. The fine will be changed for each day that the nuisance remains uncorrected or unabated after the required completion date.

4-2-2-90-5 Monetary Fine Cumulative
The monetary fine shall be cumulative and may not be waived by the enforcement officer. Payment of a monetary fine pursuant to this section does not relieve the responsible person from the duty to abate the nuisance as required by the Voluntary Consent Agreement or the administrative citation. The monetary fine constitutes a personal obligation of the responsible person. Any monetary fine assessed must be paid to the city within 10 days of actual receipt of the bill (within 15 days of the mailing date if the bill is mailed).

4-2-2-90-6 Payment of Fines
The city attorney or designee is authorized to take appropriate action to negotiate the amount of the monetary fine, collect the monetary fine, determine the time period in which the fine shall be paid and take any other action necessary to resolve the fine. In determining the time period in which to pay, the city attorney or designee may take into consideration the number of days between the required completion date and the actual completion date, enforcement officer input, the responsible person's cooperation, etc. The city may also seek to collect reasonable attorney's fees and costs incurred in collecting the monetary fine where allowed by law.

4-2-2-90-7 Civil Action
Either the city or any private person directly affected by a nuisance may bring a civil action to abate or enjoin the nuisance, or for damages for causing or maintaining the nuisance (including the cost, if any, of cleaning the subject property). The civil action may be brought pursuant to this ordinance or pursuant to state law.

4-2-2-90-8 Criminal Action
Criminal actions may be initiated by criminal citation from the enforcement officer or by long form Information. Any person who maintains or assists in maintaining a nuisance is guilty of a Class C misdemeanor. No person shall be prosecuted under this subsection unless the enforcement officer first attempted to obtain voluntary correction. If the alleged nuisance is also a

violation of a provision of city code (other than this nuisance ordinance) or state law, the responsible person may be charged under the specific provision of city code or state law, even if the enforcement officer did not first attempt to obtain voluntary correction. Any person who knowingly obstructs, impedes, or interferes with the city or its agents, or with the responsible person, in the performance of duties imposed by this ordinance, or a decision and order issued by the hearing officer, or a Voluntary Correction Agreement, is guilty of a Class B misdemeanor.

4-2-2-90-9 Abatement by Eviction
Whenever there is reason to believe that a nuisance is kept, maintained, or exists in the city, the city attorney or any citizen(s) residing in the city, or any person or entity doing business in the city, in his or their own names, may maintain an action in a court of competent jurisdiction to abate the nuisance and obtain an order for the automatic eviction of the tenant of the property harboring the nuisance. The eviction shall take place as specified in Utah law.

4-2-2-90-10 Non-Exclusive Remedies
The city may take any or all of the above mentioned remedies (administrative, civil, or criminal) to abate a nuisance and/or to punish any person or entity that creates causes or allows a nuisance to exist. The abatement of a nuisance does not prejudice the right of the city or any person to recover damages or penalties for its past existence.

4-2-2-100 Habitual Nuisance
Habitual Nuisance means any premises or property located within the city that generates repeated responses from law enforcement officials or the enforcement officer because of nuisance related activities. Any premises or property that generates 2 or more Voluntary Correction Agreements or Administrative Citations for drug or party house nuisance related activities or 3 or more Voluntary Correction Agreements or Administrative Citations for other nuisances, within an 18 month time period, shall be deemed a habitual nuisance.

Any property determined to a habitual nuisance shall be subject to a fine adopted by resolution by the city council listed in the city fee schedule. The fine will be additional to any fine issued as part of a Administrative Citation. A building or premises may not be declared a habitual nuisance nor may any fine be collected unless notice to the responsible person has been given. Notice that a property may be declared a habitual nuisance shall be stated on the face of an administrative citation or through some other documentation delivered to the responsible person. The notice shall state that future responses to the property may result in the property being declared a habitual nuisance, subject to a fine.

4-2-2-110 Appeals
Any person receiving an administrative citation may appeal the administrative citation to the hearing officer. Only the following issues may be appealed to the hearing officer:

- The person charged in the administrative citation as the responsible person, is not the responsible person as defined by this ordinance.
- The condition described as a nuisance in the administrative citation is not a nuisance as defined by this ordinance.
- The method required by the administrative citation to abate the nuisance is inappropriate or is not the most cost-effective method of effectively correcting or abating the nuisance.
- The time period given to abate the nuisance in the administrative citation is unreasonable.
- The enforcement officer refused to approve a corrective action that met the requirements of the administrative citation.
- The responsible person claims that the requirement(s) of the administrative citation violates his/her constitutional rights.

4-2-2-110-1 Filing
A person desiring to appeal an administrative citation must file a notice of appeal at the city within 10 days of being served with the administrative citation or within 15 days of the mailing date if the administrative citation is mailed. A person who has made corrective action in response to an administrative citation, which corrective action the enforcement officer refused to approve, may appeal within 10 days from the completion date. The notice of appeal shall clearly and concisely set forth all the reasons for the appeal. The hearing officer shall examine the notice of appeal to determine whether a valid appeal has been stated. If the appellant has not stated a valid cause for appeal, or if the appellant has failed to show by a preponderance of the evidence, that he/she has an appealable issue, the appeal shall be denied and no hearing shall be held. If the appellant has not shown due diligence and/or substantial progress in correcting the nuisance or has made no attempt to correct the nuisance, the filing of an appeal will not stop the accrual of the fines. If the appellant has filed an appeal, the filing of such appeal will not prevent law enforcement officers from responding to the property on reports of new nuisance violations.

4-2-2-110-2 Hearing
The hearing before the hearing officer shall be informal according to rules and procedures established by the hearing officer. The hearing officer shall be appointed by the city and is the same officer that handles adjustments of land use decisions made by the city council. The appellant may, but is not required to, bring an attorney or other representative to assist him or her. The appellant and the enforcement officer may each call witnesses at the hearing. The hearing officer may, with or without the parties' present, visit the site of the alleged nuisance. If the hearing officer allows the parties at the site visit, both parties must be given the opportunity to be present. The hearing officer shall schedule the hearing within 30 days of when the notice of appeal is filed with the city. The city attorney, or his designee, shall be present for the hearing and act as legal adviser for the hearing officer.

4-2-2-110-3 Burden of Proof
In appellant's notice of appeal, the appellant shall have the initial burden of proof to demonstrate by a preponderance of the evidence that he/she has stated legitimate grounds for an appeal as listed in 4-2-2-110. If the appellant has timely filed his/her appeal and a hearing has been scheduled, the burden then shifts to the city to show by a preponderance of the evidence that a nuisance does exist. The determination of the enforcement officer as to the need for the required corrective action shall be accorded substantial weight by the hearing officer in determining the reasonableness of the corrective action.

4-2-2-110-4 Authority of Hearing Officer
The hearing officer shall have authority to affirm or vacate the administrative citation, or to modify or waive specific provisions of the administrative citation. If the appellant fails to attend the hearing, the hearing officer shall affirm the administrative citation. The hearing officer shall not vacate the administrative citation unless he/she finds that no nuisance exists. The hearing officer shall modify the administrative citation if he/she finds that a nuisance exists, but that 1 or more of the requirements of the administrative citation are improper or inappropriate. A requirement is improper if it is contrary to this ordinance. A requirement is inappropriate if the hearing officer finds that there is a better means of resolving the problem or that the proposed solution is inappropriate given the nature or severity of the problem. When determining whether to waive or modify a requirement of the administrative citation, the hearing officer may also consider:

- Whether the appellant responded to the enforcement officer's attempts to contact the appellant and cooperated with efforts to correct the nuisance;
- Whether the appellant has shown due diligence and/or substantial progress in correcting the nuisance;
- The financial ability of the appellant and the amount, if any, that the appellant has benefitted financially by maintaining the nuisance.
- Any other relevant factors. If the appellant appeals the enforcement officer's refusal to approve appellant's corrective action, the hearing officer shall visit the site and determine if the appellant complied with the requirements of the administrative citation.

4-2-2-110-5 Order
The hearing officer shall issue a written order to the appellant and the city notifying them of his/her decision. The order shall include the hearing officer's findings of fact and ultimate decision. If the hearing officer modifies or waives provisions of the administrative citation, the order shall specify which portions are modified and how they are modified. The hearing officer shall mail a copy of the order to the appellant and the city within 5 working days of the close of the hearing.

4-2-2-110-6 Appeal to District Court
Either the city or the appellant may appeal the hearing officer's order by filing a petition for review of the order. The petition must be filed in the Fourth District Court within 30 calendar days from the date the hearing officer's order was mailed to the appellant. In the petition, the plaintiff may only allege that the hearing officer's order was arbitrary, capricious, or illegal. The hearing officer shall transmit to the reviewing court the record of its proceedings, including any minutes, findings, orders and, if available, a true and correct transcript of its proceedings. If, in the opinion of the court, there is a sufficient record to review the hearing officer's order, the court's review is limited to the record provided by the hearing officer. The court may not accept or consider any evidence outside of the hearing officer's record unless the evidence was offered to the hearing officer and the court determines that it was improperly excluded by the hearing officer. If, in the opinion of the court, there is not a sufficient record to review the hearing officer's order, the court may call witnesses and take evidence. No petition or appeal may be filed in court unless the responsible person first appeals to the hearing officer pursuant to the terms set forth in this ordinance.