

**SALEM CITY CORPORATION
MUNICIPAL CODES**

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SALEM CITY MUNICIPAL CODE
(Ordinance No. 10-11-94)

TITLE ONE - GENERAL PROVISIONS

CHAPTER 1 - MUNICIPAL ORDINANCES

1-1-010. Adoption.

Pursuant to the provisions of Utah Code Annotated §10-3-701 et seq. there is hereby adopted the "Salem City Municipal Code".

1-1-020. Title-Reference.

This code shall be known as the "Salem City Municipal Code" and it is sufficient to refer to said code as the Salem City Municipal Code in any prosecution for the violation of any provision thereof or any proceeding at law or equity. It is sufficient to designate any ordinance adding to, amending, correcting or repealing all or any part or portion thereof as an addition, amendment to, correction or repeal of the Salem City Municipal Code. Further reference may be had to the titles, chapters, sections and subsections of the Salem City Municipal Code and such references shall apply to that number, title, chapter, section and subsection as it appears in the code.

1-1-030. References Applies to all Amendments.

Whenever reference is made to this code as the Salem City Municipal Code or to any portion thereof, or to any ordinance of the City of Salem, Utah, the reference shall apply to all amendments, corrections and additions heretofore, now, or hereafter made.

1-1-040. Headings.

The captions in this code immediately preceding each section are intended as mere captions to indicate the content of the section and shall not be deemed or taken to be part of the sections.

1-1-050. References to Specific Ordinances or Statutes.

Any reference or citation to any statute shall not be interpreted or construed to include, incorporate or make the citation or statute part of this code unless the provisions of this code specifically include, incorporate or make the citation or statute part of this code by reference or incorporation, and any such reference or citation not specifically included or incorporated may be changed, amended, or deleted without publication by an order of the governing body.

1-1-060. Applicability to Prior Offenses and Obligations.

Neither the adoption of this code nor the repeal or amendments hereby of any ordinance or part or portion of any ordinance of the city shall in any manner effect the prosecution or violations of ordinances, which violations were committed prior to the effective date hereof, nor be construed as a waiver of any license, fee or penalty at said effective date due and unpaid under such ordinances, nor be construed as effecting the

provisions of such ordinances relating to the collection of any such license, fee, or penalty, or the penal provisions applicable to any violation thereof, nor to effect the validity of any bond or cash deposit in lieu thereof required to be posted, filed, or deposited pursuant to any ordinance and all rights and obligations thereunder appertaining shall continue in full force and effect.

1-1-070. Severability.

If any section, subsection, sentence, clause or phrase of this code is for any reason held to be invalid or unconstitutional, such decision shall not effect the validity of the remaining portions of this code. The council declares that it would have passed this code, and each section, subsection, sentence, clause and phrase thereof, irrespective of the fact that any one or more sections, subsections, sentences, clauses or phrases had been declared invalid or unconstitutional, and if for any reason this code should be declared invalid or unconstitutional, then the original ordinance or ordinances shall be in full force and effect.

1-1-080. Numbering.

- A. The city recorder shall, insofar as possible, assign all ordinances of a general nature adopted after these revised ordinances a number which shall conform to the numbering system used in this code.
- B. The city recorder shall keep all ordinances of a local, private or temporary nature, including franchises, grants, dedications, bond issues and tax levies in a separate book of "Special Ordinances" properly indexed and organized according to date adopted.
- C. Failure to comply with this section shall not effect or render invalid any ordinance of the city.

1-1-090. Effective Date.

This code shall become effective on the date the ordinance adopting this code as the Salem City Municipal Code shall become effective.

CHAPTER 2 - GENERAL

1-2-010. Definitions.

The following words and phrases shall have the meanings assigned to them:

- A. **"City"** as used herein means Salem City.
- B. **"Knowingly"** imparts only a knowledge that the facts exist which bring the act or omission within the provisions of this code. It does not require any knowledge of the unlawfulness of such act or omission.
- C. **"Land, Real Estate, and Real Property"** includes lands, tenements, hereditament, water rights, possessory rights and claims.
- D. **"Malice and Maliciously"** impart a wish to vex, annoy or injure another person or intend to do a wrongful act, established either by proof or by presumption of law.
- E. **"Business"** includes any trade, profession, calling, activity, operation or enterprise for which a license is required by any ordinance of this municipality.
- F. **"License"** includes any certificate or permit issued by this municipality.
- G. **"Highway or Road"** include public bridges, and may be equivalent to the words county way, county road, common road and state road.
- H. **"Street"** includes alleys, lanes, courts, boulevards, public ways, public squares, public places, sidewalks, gutters and culverts, crosswalks, and intersections.
- I. **"A Person"** includes all individuals both male and female, any the governmental agency, corporation, partnership, association, company, and every other form of organization whether formed voluntarily or involuntarily.
- J. **"Property"** includes both real and personal property.
- K. **"Owner"**, as applied to a building or land shall include any part owner, joint owner, tenant in common, joint tenant or lessee of a whole or part of such building or land.
- L. **"Tenant or Occupant"**, applied to a building or land shall apply to any person who occupies all or any part of such building or land either alone or with others.
- M. **"Reasonable Time"** shall mean such time as may be necessary for the expeditious performance of such duty or compliance with such notice.

- N. **"Municipality"** as used in this code means Salem City.
- O. **"Governing Body"** as used throughout this code means the Salem City Council.
- P. **"A Week"** shall be construed to mean any seven day period.
- Q. **"Location."** Whenever any act, conduct or offense is prohibited or required and no reference is made to location, unless the context specifically indicates otherwise, the act, conduct, or offense prohibited or required shall be within the boundaries of Salem City.
- R. **"Offense"** means any act, action, or conduct prohibited by this code or the failure to perform any acts required in this code.
- S. **"Officials"** as used in this code means any elected or appointed person employed by the municipality unless the context clearly indicates otherwise.
- T. **"Recorder."** The term recorder means the individual appointed to act as the city recorder.
- U. **"Month"** means calendar month unless otherwise expressed, and the word year or the abbreviation a.d. is equivalent to the expression year of our Lord.
- V. **"Neglect, Negligence and Negligently"** impart a want of such attention to the nature or probable consequences of the act or omission as a prudent man ordinarily bestows in actions of his own concern.
- W. **"Oath"** includes affirmation and the word swear includes the word affirm. Every mode of oral statement under oath or affirmation is embraced in the term testify and every written one in the term depose.
- X. **"Officers"** includes officers and boards in charge of departments and the members of such boards. It may mean police officers if the context so requires.
- Y. **"Personal Property"** includes every description of money, goods, chattels, effects, evidences or rights in action, and all written instruments by which any pecuniary obligation, rights to title to property is created, acknowledged, transferred, increased, defeated, discharged or diminished and every right or interest therein.
- Z. **"Signature"** includes any name, mark or sign written with the intent to authenticate any instrument or writing.
- AA. **"Willfully"**, when applied to the intent with which an act is done or omitted, implies simply a purpose or a willingness to commit the act or make the omission referred to. It does not require any intent to violate or to injure another or to acquire

any advantage.

BB. **"Writing"** includes printing, handwriting and typewriting.

1-2-020. Construction.

In the construction of this code and all ordinances amendatory thereof, the following rules shall be observed, unless such construction would be inconsistent with the manifest intent of the legislative body or repugnant to the context of the ordinances:

- A. The singular includes the plural and vice-versa.
- B. Words using the masculine gender comprehend as well the feminine and neuter.
- C. Words used in the present tense include the future.
- D. When any time is specified in the code, it shall mean mountain standard time or mountain daylight time as distinguished from solar time.
- E. Words prohibiting anything being done, except in accordance with a license or permit or authority from a board or officer shall be construed as giving such board or officer the power to license or permit to authorize such things to be done.
- F. All words and phrases shall be construed and understood according to the common use and understanding of the language, the technical words and phrases and such other words and phrases as may have acquired a particular meaning in law shall be construed and understood according to such particular meaning.
- G. The time within which an act is to be done as provided in any ordinance or in any resolution and order of this municipality, when expressed in days, shall be determined by excluding the first day and including the last day, except if the last day be a Sunday or a holiday, then the last day shall be the day next following such Sunday or holiday which is not a Sunday or a holiday. When time is expressed in hours, Sunday and all holidays shall be excluded.

1-2-030. Liability of Employers and Agents.

When the provisions of an ordinance prohibit the commission or omission of an act, not only the person actually doing the prohibited thing or omitting the direct act, but also the employer and all other persons concerned or aiding or abetting therein shall be guilty of the offense described and liable to the penalty prescribed for the offense.

1-2-040. Ordinances-Effective Date.

All ordinances, before taking effect, shall be deposited in the office of the city recorder and posted in three public places within the city. It shall be sufficient if the document posted is a notice that an ordinance has been passed, indicating the general

context of the ordinance and further indicating that copies are available for inspection in the office of the city recorder. Ordinances shall not go into effect until the 20th day after they are posted, nor until the 30th day after their final passage; but shall go into effect at the expiration of such 20th day after posting or such 30th day after final passage, whichever of said days is the most remote from the final passage of such ordinance. Ordinances, if so provided therein, may take effect at a later date. Measures necessary for the immediate preservation of the peace, health or safety of the municipality may, if so provided in the ordinance, take effect at an earlier date. The city recorder shall record all resolutions and ordinances in a book kept for that purpose, together with the affidavit of posting and said book or certified copy of the ordinances and affidavit of posting, under seal of the city, shall be received as evidence in all courts and places without further proof or if printed in book or pamphlet form by authority over the city council, they shall be so received.

1-2-050. Conflict With State or Federal Law.

Whenever anything contained in this code becomes in conflict with any provision or provisions of the laws of the State of Utah or of the laws of the United States of America, the duly enacted laws of the State of Utah or of the United States of America shall take precedence over the Salem City Ordinances.

1-2-060. Right of Entry for Inspection.

Whenever necessary to make an inspection to enforce any ordinance or resolution, or whenever there is a reasonable cause to believe there exists an ordinance or resolution violation in any building or upon the premises within the jurisdiction of this city, any authorized official of the city may, upon presentation of proper credentials, enter such building or premises at all reasonable times to inspect the same or to perform any duty imposed upon him/her by ordinance; provided, that except in emergency situations or when consent of the owner and/or occupant to the inspection has been otherwise obtained, he shall give the owner and/or occupant, if they can be located after reasonable effort, 24 hours written notice of the authorized official's intention to inspect. The note which is transmitted to the owner and/or occupant shall state that the property owner and/or occupant has the right to refuse entry and that in that event, inspection may be made only upon issuance of a search warrant by a duly authorized magistrate or judge.

1-2-070. The City Seal.

The corporate seal of the city is hereby authorized and shall be used to authenticate any ordinance, resolution, contract or writing of the city, involving the city, or requiring authorization.

1-2-080. Penalties.

- A. Whenever no other penalty is prescribed, a violation of any provision or ordinance duly enacted by the city council shall be punished as a Class B Misdemeanor.
- B. Whenever the penalty prescribed for a violation of any ordinance is set forth herein as an infraction, a Class C Misdemeanor, a Class B Misdemeanor or a Class A Misdemeanor, the penalty attaching to such designation shall be the same as that set forth by Utah state law.

TITLE TWO - MUNICIPAL GOVERNMENT

CHAPTER 1 - GENERAL

2-1-010. Officers Generally.

The municipal government of the city is vested in a mayor and city council. The council shall be composed of five members, elected at large.

2-1-020. Legislative and Governing Body.

The mayor and city council are and shall be the legislative and governing body of the city and as such, shall have, exercise, and discharge all of the rights, powers, privileges, and authority conferred by law upon the city and shall perform all duties required of them by law or ordinance and shall perform such other acts and take such other measures not inconsistent with the law as may be necessary for the efficient government of the city.

2-1-030. Officers - Eligibility.

All elective officers shall be chosen by qualified voters of the city. No person shall be eligible for any elective office who is not a qualified voter of the city. Any elective officer who moves their domicile outside the city during their term of office, shall forfeit the office.

2-1-040. Oaths and Bonds.

All officers, whether elected or appointed, shall, before they enter upon the duties of their respective office, take, subscribe and file the constitutional oath of office, and every such officer shall, before entering upon the duties of his or her office, execute a bond with good and sufficient sureties, payable to the city, in such penal sum as made by resolution or ordinance be directed, and conditioned for the faithful performance of the duties of his or her office and the payment of all monies received by such officer according to law and the ordinances or resolutions of the city; provided, that the treasurer's bond shall be fixed at a sum of not less than the minimum amount set by the State Money Management Council. The bonds of the council members shall be approved by the mayor and the bonds of all officers shall be approved by the city council. The premium charge by corporate surety for any official bond shall be paid by the city.

2-1-050. Compensation of Officers.

- A. The elective and statutory officers shall receive such compensation for their services as the city council may fix.
- B. The compensation schedules for all elected, statutory, and appointed offices shall be submitted as part of the budget each year and approved as part of the budgeting process after a public hearing.
- C. The council shall comply with Utah Code Annotated §10-3-818 in setting compensation for elected and statutory officers.

2-1-060. Terms.

Except as otherwise provided by law or ordinance, the term of office of all appointive officers shall be until the municipal mayoral election next following their appointment and until their respective successors are chosen and qualified, unless they are sooner removed by the mayor, or by a majority of the members of the city council with the concurrence of the mayor.

2-1-070. Conflict of Interest.

No officer or employee of the city shall be directly or indirectly interested in any contract, work, project, business, or in the sale of any item involving the city without first disclosing this interest to the mayor and council. All officers and employees of the city shall comply with and be bound by the "Municipal Officers and Employees Ethics Act" [Utah Code Annotated §10-3-1301 et seq.] and the "Utah Public Officers and Employees Ethics Act" [Utah Code Annotated §67-16-1 et seq.].

2-1-080. Nepotism.

All officers and employees of the city with the responsibility for making appointments or hiring must comply with and be bound by state law prohibiting the employment of relatives as set forth in Utah Code Annotated §52-3-1 et seq.

2-1-090. Successor in Office.

If any person having been an officer, employee, or other official of the city shall not, within five days after notification and request, deliver to his or her successor in office all property, papers, and effects of every description in his or her actual or constructive possession belonging to the city or appertaining to the office or position he or she held, such person shall be guilty of a Class B Misdemeanor.

CHAPTER 2 - CITY COUNCIL

2-2-010. Powers and Duties.

The city council shall perform all duties as are or may be prescribed by the statutes of this state or by the city ordinances and shall perform such other acts and take such other measures not inconsistent with the law as may be necessary for the efficient government of the city.

2-2-020. Regulation of Offices and Departments.

The city council shall have power to formulate and adopt by ordinance or resolution all necessary rules and regulations prescribing the duties and conduct of the other officers of the city, including the management and administration of the respective offices, not in conflict with this code or with the laws of the State of Utah, and for this purpose, may divide the work of the city into departments with each council member having responsibility for the particular department or departments assigned to him or her.

2-2-030. Council Meetings.

The City Council shall conduct two regular meetings per month, except December, which meeting shall be held on the 1st and 3rd Wednesdays at 7:00 p.m., which meeting shall be located at the Salem City Offices, 30 West 100 South, Salem, Utah. In December, one monthly meeting shall be held on the second Wednesday at the same location and time. Any regular meeting may be preceded by a work session. If the meeting date is on a legal holiday, then the meeting may be held at the place described in this section at a date and a time established by the Council. The Council may also cancel such a meeting. The Council shall conform to the state open meeting law in rescheduling any meeting in conflict with a legal holiday. The Council may also change the starting time of any meeting by complying with the open meeting law. (Ord. No. 12-9-97-B) (Ord. No. 3-01-06)

2-2-040. Voting.

The yeas and nays shall be taken upon the passage of all ordinances and all propositions to create any liability against the city and in all other cases at the request of any member of the city council, which shall be entered upon the journal of its proceedings. Concurrence of a majority of the members present shall be necessary to the passage of any such ordinances or proposition.

2-2-050. Special Meetings.

The mayor, or any two members of the council, may call a special meeting of the city council by giving notice of it to each of the members of the council, served personally, or left at their usual place of abode. No vote of the city council shall be reconsidered or rescinded at a special meeting, unless at such special meeting there is present as large a number of members as were present when such vote was taken.

2-2-060. Quorum.

Three members of the city council constitute a quorum to do business, but a smaller number may adjourn from time to time and are in power to compel the attendance of

an absent member and may, when necessary, direct the chief of police or any police officer of the city to bring in such member or members under arrest. Should any member of the council be absent when notified by the chief of police or the proper authority that his or her presence is necessary to form a quorum, unless he or she presents an excuse satisfactory to the council at its next regular meeting, or should any member leave the council when in session without the consent of the council when said leaving would break the quorum, he or she may be fined a sum not exceeding \$50.00.

2-2-070. Rules - Expulsion.

The city council shall determine its own rules of proceedings, may punish its members for disorderly conduct and with a concurrence of the members, may expel a member for cause. Cause shall include, but not necessarily be limited to, conviction of a felony, or conviction of any crime involving moral turpitude.

2-2-080. Members - Appointments to other Offices.

No member of the city council shall hold or be appointed to any office which shall have been created during the term for which he or she was elected.

2-2-090. Audits - Report.

The city council shall require an annual audit of the accounts of all officers of the city having the care, management, collection, or disbursement of money belonging to the city or appropriated by law or otherwise for the use and benefit of the city. The annual audit shall be performed by or under the direction of a competent public accountant, not an officer of the city, and shall be prepared within 180 days following the close of the fiscal year. Copies of all audit reports made pursuant to this section shall be filed in the office of the city recorder and with the state auditor's office, and may be used in addition to or in lieu of the annual report of the city recorder as may be required by the city council.

2-2-100. Vacancies.

If a vacancy occurs in the office of a council member, the vacancy shall be filled for the unexpired term by appointment by the mayor with the consent of the council.

2-2-110. Budget.

The city shall prepare a budget for each fiscal year in conformance with the "Utah Municipal Fiscal Procedures Act".

2-2-120. Fiscal Year.

The fiscal year shall begin July 1 and end June 30 of the following year.

2-2-130. Claims Approval.

All liability claims properly presented to the City shall be referred to Utah Local Governments Trust for review. Any claims referred back to the city by ULGT shall be reviewed pursuant to the liability policy of the city. (Ord. No. 2-2-05)

2-2-140. Election Judges - Voting Places.

In all municipal elections, the city council shall appoint judges of election

and designate the places of voting. All elections must be conducted according to the general laws of this state, and all notices and lists of names required to be posted by registry agents prior to any general election shall also be posted by the registry agents prior to any municipal election, the necessary changes being made as to time of posting the same.

2-2-150. Canvas of Election Results.

On or before the Monday following any municipal election, the city council must convene and publicly canvas the result and issue certificates of election to each person elected by a plurality of votes. When two or more persons have received an equal and highest number of votes for any one of the offices voted for, the tie shall be decided by law in the presence of the mayor and city reporter upon a day designated by the mayor.

CHAPTER 3 - MAYOR

2-3-010. Powers and Duties.

- A. The mayor shall preside at all meetings of the city council, but shall not vote except in case of a tie, when he or she shall cast the deciding vote.
- B. The mayor shall have such powers and duties as granted by state law or local ordinance and shall perform all duties prescribed by law, ordinance, or resolution.
- C. The mayor shall faithfully execute and enforce all applicable laws, ordinances, rules and regulations of the city, and see that all franchises, leases, permits, contracts, licenses, and privileges granted by the city are observed.
- D. The mayor shall exercise authority, supervision, and direction over all heads of departments and direct officers and employees of the city through the designated department heads. The mayor may delegate responsibility over departments to members of the city council.
- E. The mayor shall appoint, remove, promote, and demote any and all officers and employees of the city, subject to all applicable personnel ordinances, rules and regulations, except for those offices whose appointment and/or removal is governed by state law or existing city ordinances.
- F. The mayor shall establish and administer standards, rules, and procedures for the city personnel system.
- G. The mayor shall prepare, or have prepared, the annual budget, and be responsible for the administration of the budget upon adoption.
- H. The mayor shall submit plans and programs related to the development and needs of the city, and annual and special reports concerning the financial, administrative, and operational activities of the city office and city departments, together with his or her evaluation and recommendation relating to them.

2-3-020. Mayor Pro tempore.

Every two years, the mayor may recommend a mayor pro tempore to act in the absence or disability of the mayor. Such a recommendation must be approved by the council. In the event the mayor has failed to recommend a mayor pro tempore, or when both the mayor and the mayor pro tempore are absent or disabled, the council may elect a member from the council to preside over the meeting as mayor pro tempore, who shall have all of the powers and duties of the mayor during the mayor's absence or disability. The election of a mayor pro tempore shall be entered in the minutes of the meeting.

2-3-030. No Veto.

The mayor of the city shall have no power to veto any act of the governing body unless otherwise specifically authorized by state statute.

2-3-040. Vacancy.

Whenever a vacancy in the office of the mayor occurs, the city council shall elect a mayor who shall serve until the next municipal election and until his or her successor is elected and qualified.

CHAPTER 4 - FINANCE DIRECTOR - RECORDER

2-4-010. Appointment.

On or before the first Monday in February following a municipal election, there shall be appointed by the Mayor, with the advice and consent of at least three members of the City Council, a City Finance Director/Recorder, who shall perform the duties required of him or her by law, the ordinances of the City and State of Utah, and such other duties as the City Council may require. The City Finance Director/Recorder is required to be a resident of Salem City. (Ord. No. 6-07-06)

2-4-020. Record Keeping.

The finance director/recorder shall keep a record of the proceedings of the city council, whose meetings it shall be his or her duty to attend. He or she shall accurately record all ordinances and resolutions passed by the city council in a book kept for that purpose. He or she shall certify to the posting of all ordinances and make affidavits of posting in three public places. He or she shall attest all papers signed by the mayor officially. He or she shall also keep, in a book provided for that purpose, the names of the persons elected or appointed to any office, commission, board, or committee within the city, together with the dates on which they entered upon the duties of their respective offices or positions and the date of their termination, resignation, or removal therefrom.

2-4-030. Countersigning Contracts.

The city finance director/recorder shall countersign all contracts made on behalf of the city. Every contract made on behalf of the city or to which the city is a party shall be void unless signed by the finance director/recorder. He or she shall maintain a record of all contracts, properly indexed, which record shall be open to the inspection of all interested persons.

2-4-040. Accounts and Payments of Claims.

A. The city recorder shall maintain or cause to be maintained the general books for each fund of the city and all subsidiary and detailed records relating thereto, including a list of the outstanding bonds, for what purpose, when and where payable, and the rate of interest they respectively bear, together with the amount outstanding.

B. He or she shall keep accounts with all receiving and disbursing officers of the city, shall audit all claims and demands against the city before they are allowed by the city council, and shall prepare checks and payment thereof to be drawn on the appropriate bank accounts of the city. He or she shall certify on the voucher copy of said check or other supporting record that he or she has audited said claim and found it to be true and correct, and that said claim has been approved by the city council and he or she shall state the date of such approval.

2-4-050. Payment of Monies.

The city recorder shall pay into the city treasury all money belonging to the city coming into his or her hands by virtue of his or her office, and shall take a receipt for the same, which receipt shall be filed with other papers in the recorder's office. He or she

shall keep a list of all property coming into his or her possession from his or her predecessor and office and by purchasing during his or her term and deliver said list, together with the property, to his or her successor in office.

2-4-060. Ex officio Auditor.

The city recorder shall be the ex officio auditor of the city and shall perform the duties of such office without extra compensation.

2-4-070. Financial Statements.

The city recorder or other delegated person shall prepare and present to the city council the following financial statements:

- A. As of the end of each month, a summary of cash receipts and disbursements by funds or appropriate groups of funds, showing in total the beginning cash and invested balances, the receipts and a disbursement separately for the period and cash and invested balances in each fund or groups of funds at the end of the period;
- B. As of the end of such periods as the city council may direct, but not less often than once each quarter, a statement of revenues and expenditures in comparison with the budget of the general funds;
- C. The statement of income and expense of each utility fund, reflecting operation to the date in the current year and a comparison thereof with the budget for each utility fund;
- D. As of the end of such periods as the city council may require, a condensed statement of receipts and of disbursements and comparison with the cash budget of each utility fund;
- E. Such statements of operations and other special funds or reports on financial condition at such times as the city council may require.

2-4-080. Annual Report.

Within 180 days after the close of each fiscal year, the city recorder or other delegated person shall prepare, in accordance with the system of uniform accounting, statements of revenues and expenditures and comparisons with budgets for those funds for which budgets are required, statements of revenues and expenditures or of income and expense, as the case may be, of all other operating funds; a balance sheet of each fund and combined balance sheet of all funds as of the close of the fiscal year, together with such other financial and statistical data as the city council may require; provided, that this requirement may be satisfied by the report of the independent auditor on the results of operation for the year and financial condition at the close of the year, if the same is currently prepared and presented to the city council. Copies of the annual report shall be filed as a public document in the office of the city recorder.

2-4-090. Publication of Annual Statement of Financial Condition.

The city recorder shall prepare and publish twice within 180 days after the close of the fiscal year, in a newspaper having general circulation in the city, a summary statement of the financial condition of all operating funds of the city and of all the revenues and expenditures in said funds of the previous fiscal year.

2-4-100. Fiscal Procedures.

The city recorder shall act in conformance with and comply with the Uniform Fiscal Procedures Act for Utah cities.

2-4-110. General.

The city recorder shall perform such other duties as may be required by city ordinance or state law.

CHAPTER 5 - TREASURER

2-5-010. Appointment.

On or before the first Monday in February following a municipal election, there shall be appointed by the Mayor, with the advice and consent of at least three members of the City Council, a City Treasurer, who shall perform the duties of him or her by law, the ordinances of the City, and State of Utah, and such other duties as the City Council may require. The City Treasurer is required to be a resident of Salem City. (Ord. No. 6-07-06)

2-5-020. Duties.

The treasurer shall perform the following duties:

- A. Be the custodian of all money, bonds, or other securities of the city;
- B. Determine the cash requirements of the city and provide for the investments of all idle cash;
- C. Receive all public funds and monies payable to the city, including all taxes, licenses, finance, and/or governmental revenue, and keep an accurate detailed account thereof in the manner provided in the Uniform Fiscal Procedures Act for Utah cities, and as the city council may by ordinance or resolution, from time to time direct.
- D. Collect all special taxes and assessments as provided by law and ordinance.

2-5-030. Fiscal Procedures.

The city treasurer shall act in conformance with and comply with the procedures set forth in the Uniform Fiscal Procedures Act for Utah cities.

CHAPTER 6 - CHIEF OF POLICE

2-6-010. Appointment.

There shall be appointed by the Mayor, with the advice and consent of at least three members of the City Council, a Chief of Police, who shall perform the duties required of him or her by law, enforce the ordinances of the City, and the laws of the State of Utah, and perform such other duties as the city Council may require. The Chief of Police shall serve until removed by the Mayor with the advice and consent of at least three members of the City Council. The Chief of Police is required to be a resident of Salem City.

(Ord. No. 6-07-06)

2-6-020. Duties.

The chief of police shall, when required, attend meetings of the city council, and execute all orders of the mayor and city council. He or she shall preserve the peace and good order of the city, quell riots, arrests, and bring all disorderly persons before the applicable judge or magistrate, make arrests or issue citations to enforce those ordinances of the city or the laws of the State of Utah, and see that all orders and judgments of the applicable court are carried into effect. He or she shall take such measures and shall secure the peace and good order of all public meetings and of the city generally.

2-6-030. Unclaimed Property.

All unclaimed property coming into the possession of the chief of police or any police officer or law enforcement agency associated with the city shall be administered and disposed of pursuant to Utah Code Annotated §77-24a-1 et seq.

CHAPTER 6A - PUBLIC SAFETY DIRECTOR

2-6A-010. Appointment.

On or before the 1st Monday in February following the municipal mayoral election, there shall be appointed by the mayor, with the advice and consent of at least three members of the City Council, a public safety director who shall perform the duties required of him or her by law, and enforce the ordinances of the City, and the laws of the State of Utah, and perform such other duties as the mayor or City Council may require. The public safety director will act under the direction of the mayor and may, but need not, hold another appointed position concurrently with the appointment as public safety director. In the event a need for the public safety director ceases, the mayor has the discretion to fail to appoint a public safety director.

2-6A-020. Emergency management Committee.

There is hereby created an Emergency Management Committee to consist of the Mayor, who shall act as chair of the committee, a City Council member, appointed by the Mayor, who shall be chair in the Mayor's absence, the Public Safety Director, the Chief of Police, the Fire chief, and the Ambulance Captain. Additional community representatives may be appointed as necessary. The Emergency Management Committee shall be an advisory body to the City Council and shall make recommendations concerning City policies or programs to the City Council. (Ord. No. 6-07-06)

2-6A-030. Duties.

The public safety director shall attend meetings of the City Council; shall implement safety policies or programs of the City; shall oversee the police, fire, ambulance, and emergency planning departments; shall see that all employees and volunteers within the public safety department are properly trained and qualified; and shall inspect equipment and inventory for adequate supplies of both quantity and quality and to insure that they are in proper working order; shall oversee the budgets of each department under his/her supervision; shall oversee all equipment, inventory, and storage in the public safety building, maintain said building in a neat and orderly manner for the safety and efficiency of the personnel; shall report to the City Council concerning the departments within the public safety department, and shall perform such other responsibilities as may be assigned by the mayor.

CHAPTER 7 - FIRE CHIEF

2-7-010. Appointment.

On or before the first Monday in February following a municipal mayoral election, there shall be appointed by the mayor, with the advice and consent of at least three members of the city council, a city fire chief who shall perform the duties required of him or her by law, and shall perform such other duties as the city council may require.

2-7-020. Duties.

The duty of extinguishing fires and of protecting life and property within the city is entrusted to the chief of the fire department. He or she may make suitable regulations under which the officers and the members of the department shall be required to wear an appropriate uniform or badge by which, in case of fire and at other times, their authority and position in the fire department may be known. The chief shall have sole and entire command over all officers and members of the department at fires. He or she shall have full charge at all times of all apparatus and appurtenances belonging to the department, and he or she shall adopt such measures as deemed expedient for the extinguishment of fire, protection of property, observance of the laws of the state, and duties required of him or her by law and the ordinances of the city. It shall be the duty of the chief of the department to examine the condition of all buildings and to inspect engines, hoses, and hoods, and ladder equipment of the city fire department. It shall further be the duty of the fire chief to see that at all times the provisions of the ordinances relating to the protection and regulation of the property are strictly enforced, and to enforce all ordinances concerning the prevention and protection against fires.

CHAPTER 8 - AMBULANCE CAPTAIN

2-8-010. Appointment.

On or before the first Monday in February following the municipal mayoral election, there shall be appointed by the mayor, with the advice and consent of at least three members of the city council, an ambulance captain who shall perform the duties required of him or her by law and shall perform such other duties as the city council may require.

2-8-020. Duties.

The duty of providing ambulance service with trained paramedics, EMT's, or other appropriate medical personnel within the city is entrusted to the ambulance captain. It shall be the further duty of the ambulance captain to examine the condition of all ambulances and equipment used therein, including medical supplies; to provide adequate training for personnel operating the ambulances, and to ensure that all state laws are adhered to in order to obtain quality emergency medical services.

CHAPTER 9 - ENGINEER

2-9-010. Appointment.

On or before the first Monday in February following the municipal mayoral election, there shall be appointed by the mayor, with the advice and consent of at least three members of the city council, a city engineer who shall perform the duties required of him or her by law, the ordinances of the city, and the State of Utah, and such other duties as the city council may require.

2-9-020. Duties.

It shall be the duty of the city engineer to locate the lines and grades of all streets and sidewalks, alleys, avenues or other public ways, and to determine the position, size, and construction of all sewers, water works, irrigation or drainage canals, reservoirs, culverts, aqueducts, bridges, viaducts, or other public works or appurtenances, and to prepare plans, maps, or profiles of the same, and to make estimates and furnish specifications for any of the said work, whenever required to do so by the city council, and have general charge, supervision, and inspection of all public improvements and public work undertaken by or on behalf of the city by contract or otherwise, and shall see that the same are performed in a workmanlike manner, and in accordance with the authorized plans and with the terms and specifications of the contract.

2-9-030. Records.

A. The city engineer shall keep in his or her office, certified copies of all the field notes, maps, or profiles which relate to city surveys, waterworks, sewers, irrigation systems, streets or sidewalks, and all other engineering works; and he or she shall arrange and index them in such a manner as will enable a ready reference thereto, and all shall be the property of the city.

B. The engineer's office shall be an office of record for all maps, plans, plats, profiles, drawings, final estimates, specifications and contracts, which in any way relate to public improvements and engineering affairs of the city. The city engineer shall be custodian of and must keep all drawings and documents mentioned in this subsection on file and of record.

C. The city engineer shall record and file all drawings and documents pertaining to public lands and improvements of the city. Those made in his or her office shall be placed on record as soon as completed and shall be open for public inspection, and any person copying the same or taking notes therefrom may do so in pencil only. He or she shall keep the records and files in good condition and turn the same over to his or her successor in office. He or she shall allow no alteration, mutilation, or changes to be made in any manner of record, and shall be held strictly accountable for the same.

2-9-040. Seal.

The city engineer shall be provided with a seal by the city for his or her use

containing the words; "Salem City, Utah. Engineering Department." Such seal shall be affixed to every certification which has been approved.

2-9-050. Fees.

The city engineer shall not record any drawings or instruments, or file any papers or notices, or furnish any copies, or render any service connected with his or her office until the fees for the same are paid or are tendered as prescribed by law or ordinance.

2-9-060. Further Regulations.

The city council may, by resolution, make further rules and regulations relative to the duties of the city engineer, and, where fees are to be charged for certain services, shall make and adopt fee schedules.

2-9-070. Private Work.

A part-time city engineer is expressly prohibited from doing any private engineering services on properties located within the corporate limits of this city, where he/she would later be required to review such work on behalf of the city. Nothing contained herein shall be construed to prohibit the engineer from maintaining a separate engineering business except as may be specifically prohibited herein. A full-time city engineer is prohibited from doing any private engineering work within the city.

CHAPTER 10 - ATTORNEY

2-10-010. Appointment.

On or before the first Monday in February following a municipal mayoral election, there shall be appointed by the mayor, with the advice and consent of at least three members of the city council, a city attorney, who shall perform the duties required of him or her by law and such other duties that the city council may require.

2-10-020. Duties.

The city attorney shall prosecute violations of the city ordinances with the same powers as are exercised by the county attorney in respect to violations of state law, including, but not limited to, granting immunity to witnesses for violations of city ordinances for misdemeanor violations occurring within the city. The city attorney shall, when required, attend meetings of the city council and provide such advice as may be requested. He or she shall review all contracts to be entered into by the city, shall direct or assist in defending or prosecuting actions against or on behalf of the city, and shall be the legal advisor for the city. Nothing contained herein shall be construed to prohibit the attorney from maintaining a separate law practice.

CHAPTER 11 - ELECTIONS

2-11-010. When Held - Terms of Office.

Municipal elections shall be held on the Tuesday following the first Monday in November in odd numbered years. The municipal offices to be elected are a mayor and five council members. These offices shall be elected in groups consisting of groups consisting of a mayor and two council members and in alternating elections, three council members. Elected officials of the city shall serve four-year terms.

The officer so elected shall enter upon their duties at 12:00 noon on the first Monday in January next succeeding their election.

2-11-020. Nominations.

A. Any person who is a registered voter may be a candidate and hold office, if the person has resided within the city for a period of 12 consecutive months immediately preceding the date of the election. In the event of an annexation, any person who has resided within the territory annexed for the prescribed 12-month period is deemed to meet the residency requirements for candidacy.

B. To become a candidate for elective office at a November election of the City, a declaration of candidacy or nomination petition shall be filed with the City Recorder between July 15th and August 15th at 5:00 p.m. In the event that August 15th falls on a weekend or a holiday, that deadline shall be extended to the next business day at 5:00 p.m. The declaration of candidacies shall comply with the form set forth in Utah Code Ann. §20-A-9-203(3)(1953 as amended). (Ord. No. 9-97-A)

C. Any registered voter may also be nominated for a municipal office by a petition signed by twenty-five (25) residents of the city who are eighteen (18) years of age or older. Such a petition shall substantially conform with the form set forth in Utah Code Annotated §20A-9-203(4).

D. Immediately after expiration of the period for filing a declaration of candidacy, the city recorder shall cause the names of the candidates as they will appear on the ballot to be published in at least two (2) successive publications of a newspaper with general circulation in the city.

2-11-030. Certificate of Nomination - Preservation.

The city recorder shall cause to be preserved in his or her office for one (1) year all certificates of nomination filed therein under the provisions of this chapter. All such certificates shall be open to public inspection under proper regulations to be made by the officers with whom the same are filed.

2-11-040. Objections to Declaration of Candidacy.

A Declaration of Candidacy filed in conformity with §2-11-020(B) is valid unless written objection thereto is made within three (3) days after the declaration is filed. If an objection is made, notice of the objection shall be mailed or personally delivered to the affected candidate immediately. All objections shall be decided within forty-eight (48)

hours after they are filed with the city recorder. If the objection is sustained by the city recorder, it may be cured by an amendment whereby filing a new declaration within three (3) days after the objection is sustained but in no event later than eighteen (18) days before the day of the election. The city recorder's decision upon objections to form is final. The city recorder's decision upon substantive matters is reviewable by a District Court if prompt application is made to the court pursuant to state law.

2-11-050. Withdrawal of Candidacy.

Any person who has filed a declaration of candidacy or who has been otherwise nominated, may at any time up to twenty-three (23) days before the election withdraw the nomination by written affidavit filed with the city recorder.

2-11-060. Primary Election.

A primary election shall be held on the Tuesday following the first Monday in October preceding the November municipal election to determine the candidates for elective office at the municipal election. If the number of candidates for a particular office, however, does not exceed twice the number of offices to be filled at the election, no primary election for that office shall be held and the candidate is deemed nominated for the final election.

2-11-070. Posting of Notice of Election.

A. The city recorder, at least five days before the municipal election, shall give written or printed notice of the date of the election, the hours during which polls will be open, the polling places in each district, and the qualifications for persons to vote in the election. A copy of the notice and a sample ballot shall be posted in each voting district in at least five places by the registration agent. One such notice may be posted in a well-used public location in a nearby or adjacent district.

B. The city recorder, in lieu of, or in addition to posting, may immediately before the election publish the notice and sample ballot in one or more newspapers with general circulation in the city.

2-11-080. Form of Ballots.

The city recorder shall provide ballots to the various voting districts and in so doing shall comply with the provisions of Utah Code Annotated §20A-6-401 and 402.

2-11-090. Duties of Election Officer.

In preparing for all municipal elections, the city recorder shall be responsible to see that the city complies with the provisions of Utah Code Annotated §20A-5-401 et seq.

2-11-100. Conduct of Elections.

The city, conducting its elections, shall comply in all respects with the provisions of Utah Code Annotated, Title 20A, chapter 3.

2-11-110. Election Returns and Contests.

In canvassing the results of the election, the city shall comply in all respects

with the provisions of Utah Code Annotated, Title 20A, chapter 4.

2-11-120. Election Offenses.

Violation by any person of any of the provisions of this chapter, or any person who violates the provisions of Utah Code Annotated Title 20A shall be punished as set forth by state law.

CHAPTER 12 - OTHER OFFICES

2-12-010. Appointment.

The mayor, with the advice and the consent of the city council, may appoint such other officers as may be necessary for the order and well being of the city as may be provided for by law or ordinance, define their duties, fix their compensation, and require them to take and subscribe an oath and give bond as required by resolution or ordinance.

CHAPTER 13 - GOVERNMENT RECORDS AND ACCESS MANAGEMENT ACT

2-13-010. Short Title.

The Ordinance is known as the "Salem City Government Records Access and Management Act".

2-13-020. Purpose and Intent.

1. In enacting this act, the city recognizes two fundamental constitutional rights:
 - a. The right of privacy in relation to personal data gathered by the city;
and,
 - b. The public's right of access to information concerning the conduct of the public's business.
2. It is the intent of the city to:
 - a. Establish fair information practices to prevent abuse of personal information by the city while protecting the public's right of easy and reasonable access to unrestricted public records;
 - b. Provide guidelines of openness to government information and privacy of personal information consistent with nationwide standards.
 - c. Establish and maintain an active, continuing program for the economical and efficient management of the city's records as provided in this ordinance.

2-13-030. Definitions.

1. "Audit" means:
 - a. a systematic examination of financial, management, program, and related records for the purpose of statements, adequacy of internal controls, or compliance with laws and regulations; or
 - b. a systematic examination of program procedures and operations for the purpose of determining their effectiveness, economy, efficiency, and compliance with statutes and regulations.
2. "Chronological Logs" means the regular and customary summary records of law enforcement agencies and other public safety agencies that show the time and general nature of police, fire, and paramedic calls made to the agency and any arrests or jail bookings made by the agency.
3. "Classification", "Classify", and their derivative forms mean determining

whether a record series, record, or information within a record is public, private, controlled, or protected, or exempt from disclosure under Utah Code Annotated §63-2-201(3)(b).

4. **"Computer Program"** means:

- a. a series of instructions or statements that permit the functioning of a computer system in a manner designed to provide storage, retrieval, and manipulation of data from the computer system, and any associated documentation and source material that explain how to operate the computer program
- b. "Computer Program" does not mean (i) the original data, including numbers, text, voice, graphics, and images; (ii) analysis, compilation, and other manipulated forms of the original data produced by use of the program; or (iii) the mathematical or statistical formulas (excluding the underlying mathematical algorithms contained in the program) that would be used if the manipulated forms of the original data were to be produced manually.

5. **"Controlled Record"** means a record containing data on individuals that is controlled as provided by §110.

6. **"Contractor"** means:

- a. (i) any person who contracts with the city to provide goods or services directly to the city; or (ii) any private, nonprofit organization that receives funds from the city.
- b. "Contractor" does not mean a private provider.

7. **"Gross Compensation"** means every form of remuneration payable for a given period to an individual for services provided including salaries, commissions, vacation pay, severance pay, bonuses, and any board, rent, housing, lodging, payments in kind, and any similar benefit received from the individual's employer.

8. **"Designation", "Designate"** and their derivative forms means indicating, based on the city's familiarity with a record series or based on the city's review of a reasonable sample of a record series, the primary classification that a majority of records in a record series would be given if classified and the classification that other records typically present in the record series would be given if classified.

9. **"Initial Contact Report"** means:

- a. an initial written or recorded report, however titled, prepared by peace officers engaged in public patrol or response duties describing official actions initially taken in response to either a public complaint about or the discovery of an apparent violation of law, which report

may describe: (i) the date, time, location, and nature of the complaint, the incident, or offense; (ii) names of victims; (iii) the nature or general scope of the agency's initial actions taken in response to the incident; (iv) the name, address, and other identifying information about any person arrested or charged in connection with the incident; and (vi) the identity of the public safety personnel (except undercover personnel) or prosecuting attorney involved in responding to the initial incident.

- b. "Initial Contact Reports" do not include follow-up or investigative reports prepared after the initial contact report. However, if the information specified in Subsection (a) appears in follow-up or investigative reports, it may only be treated confidentially if it is private, controlled, protected, or exempt from disclosure under Utah Code Annotated §63-2-201(3)(b).

10. **"Individual"** means a human being.

11. **"Person"** means any individual, nonprofit or profit corporation, partnership, sole proprietorship, or other type of business organization.

12. **"Private Record"** means a record containing data on individuals that is classified private as provided by §100.

13. **"Private Provider"** means any person who contracts with the city to provide services directly to the public.

14. **"Protected Record"** means a record that is classified protected as provided by §120.

15. **"Protected Record"** means a record that has not been appropriately classified private, controlled, or protected as provided in §§100, 110, and 120 of this ordinance.

16. **"Record"** means:

- a. all books, letters, documents, papers, maps, plans, photographs, films, cards, tapes, recording, or other documentary materials, and electronic data regardless of physical form or characteristics, prepared, owned, used, received, or retained by the city;
- b. "Record" does not mean: (i) temporary drafts or similar materials prepared for the originator's personal use or prepared by the originator for the personal use of an individual for whom he is working; (ii) materials that are legally owned by an individual in his private capacity; (ii) materials to which access is limited by the laws of copyright or patent unless the copyright or patent is owned by the

city; (iv) proprietary software; (v) junk mail or commercial publications received by the city or an official or employee of the city; (vi) books and other materials that are catalogued, indexed, or inventoried and contained in the collections of libraries open to the public, regardless of physical form or characteristics of the material; (vii) daily calendars and other personal notes prepared by the originator for the originator's personal use or for the personal use of an individual for whom he is working; or (viii) computer programs as defined that are developed or purchased by or for the city for its own use; (ix) notes or internal memoranda prepared as part of the deliberative process by a member of the judiciary, an administrative law judge, or a member of any other body charged by law with performing a quasi-judicial function.

17. **"Record Series"** means a group of records that may be treated as a unit for purposes of designation, description, management, or disposition.

18. **"Records Officer"** means the city recorder unless another individual is appointed by the City Manager to work in the care, maintenance, scheduling, designation, classification, disposal, and preservation of records.

19. **"Summary Data"** means statistical records and compilations that contain data derived from private, controlled, or protected information but that do not disclose private, controlled, or protected information.

20. **"UCA"** means Utah Code Annotated.

2-13-040. Right of Public Access.

1. Every person has the right to inspect a public record free of charge and the right to take a copy of a public record during normal working hours, subject to the payment of costs and fees pursuant to §060 of this ordinance.

2. All records are public unless otherwise expressly provided by this ordinance or State or Federal law or regulation.

3. The following records are not public:

- a. records that are appropriately classified private, controlled, or protected as allowed by §§100, 110, and 120 of this ordinance; and,
- b. records to which access is restricted pursuant to court rule, another state statute, federal statute, or federal regulation, including records for which access is governed or restricted as a condition of participation in a state or federal program or for receiving state or federal funds.

4. Only those records specified in §§100, 110, and 120 may be classified private, controlled, or protected.
5.
 - a. The city may not disclose a record that is private, controlled, or protected to any person except as provided in Subsection (5)(b) or §050.
 - b. The city may, at its discretion, disclose records that are private under Subsection 100.2 or protected under §120 to persons other than those specified in §050 if the city council, or a designee, determines that there is no interest in restricting access to the record, or that the interests favoring access outweigh the interest favoring restriction of access.
6.
 - a. The disclosure of records to which access is governed or limited pursuant to court rule, another state statute, federal statute, or federal regulation, including records for which access is governed or limited as a condition of participation in a state or federal program or for receiving state or federal funds, is governed by the specific provisions of that statute, rule or regulation.
 - b. This chapter applied to records described in Subsection (a) insofar as this chapter is not inconsistent with the statute, rule, or regulation.
7. The city shall provide a person with a certificated copy of a record if:
 - a. the person requesting the record has a right to inspect it;
 - b. has identified the record with reasonable specificity; and,
 - c. pays the lawful fees.
8.
 - a. The city is not required to create a record in response to a request.
 - b. Nothing in this ordinance requires the city to fulfill a person's records request if the request unreasonably duplicates prior records requests from that person.
9. If a person requests copied of more than 50 (fifty) pages of records, and if the records are contained in files that do not contain records that are exempt from disclosure, the city may:
 - a. provide the requester with the facilities for copying the requested records and require that the requester make the copies him/herself; or
 - b. allow the requester to provide his/her own copying facilities and

personnel to make the copies at the city offices, and waive the fees for copying the records.

10.
 - a. If the city owns an intellectual property right and offers the intellectual property right for sale or license, the city may control by ordinance or policy the duplication, and distribution of the material based on terms the city considers to be in the public interest.
 - b. Nothing in this ordinance shall be construed to limit or repair the rights or protections granted to the city under federal copyright or patent law as a result of its ownership of the intellectual property right.
11. The City may not use the physical form, electronic or otherwise, in which a record is stored to deny, or unreasonably hinder the rights of persons to inspect and receive copies of a record under this ordinance.

2-13-050. Access to Non-Public Records.

1. Upon request the city shall disclose a private record to:
 - a. the subject of the record;
 - b. the parent or legal guardian of an unemancipated minor who is the subject of the record;
 - c. the legal guardian of a legally incapacitated individual who is the subject of the record;
 - d. any other individual who:
 - (i) has a power of attorney from the subject of the record; or (ii) submits a notarized release from the subject of the record of his/her legal representative dated no later than ninety (90) days before the date the request is made; or
 - e. any person to whom the record must be provided pursuant to court order.
2. Upon request, the city shall disclose a controlled record to:
 - a.
 - (i) a physician, psychologist, or certified social worker upon submission of a notarized release from the subject of the record that is dated no more than ninety (90) days prior to the date the request is made and a signed acknowledgement of the terms of disclosure of controlled information as provided by Subsection b; and,

- (ii) any person to whom a record must be disclosed pursuant to court order.
 - b. A person who receives a record from the city in accordance with Subsection 050.2.a. (i) may not disclose controlled information from that record to any person, including the subject of the record.
3. If there is more than one subject of a private or controlled record, the portion of the record that pertains to another subject shall be segregated from the portion that the requester is entitled to inspect.
4. Upon request the city shall disclose a protected record to:
- a. the person who submitted the information in the record;
 - b. any other individual who (i) has a power of attorney from all persons, governmental entities, or political subdivisions whose interests were sought to be protected by the protected classification; or (ii) submits a notarized release from their legal representatives dated no more than ninety (90) days prior to the date the request is made; or
 - c. any person to whom a record must be provided pursuant to a court order.
5. The city may disclose a record classified private, controlled, or protected to another governmental entity, city, another state, the United States, or a foreign government only as provided by Utah Code Annotated §63-2-206.
6. Before releasing a private, controlled, or protected record, the city shall obtain evidence of the requester's identity.
7. The city shall disclose a record pursuant to the terms of a court order signed by a judge from a court of competent jurisdiction, provided that:
- a. the record deals with a matter in controversy over which the court has jurisdiction.
 - b. the court has considered the merits of the request for access to the record; and,
 - c. the court has considered and, where appropriate, limited the requester's use and further disclosure of the record in order to protect privacy interests in the case of private or controlled records, business confidentiality interests in the case of records protected under Utah Code Ann. Subsections 63-2-304(1) and (2), and privacy interests or the public interest in the case of other protected records;

- d. to the extent the record is properly classified private, controlled, or protected, the interests favoring access, considering limitations thereon, outweigh the interests favoring restriction of access; and,
 - e. where access is restricted by a rule, statute, or regulation referred to in Subsection 2.13.040(3)(b) the court has authority independent of this ordinance to order disclosure.
8. The city may disclose or authorize disclosure of private or controlled records for research purposes if the city:
- a.
 - (i) determines that the research purpose cannot reasonably be accomplished without use of disclosure of the information to the researcher in individually identifiable form;
 - (ii) determines that the proposed research is bona fide, and that the value of the research outweighs the infringement upon personal privacy;
 - (iii) requires the researcher to assure the integrity, confidentiality, and security of the records and requires the removal or destruction of the individual identifiers associated with the records as soon as the purpose of the research project has been accomplished;
 - (iv) prohibits the researcher from disclosing the record in individually identifiable form except as provided in Subsection (b), or from using the record for purposes other than the research approved by the city; and,
 - (v) secures from the researcher a written statement of his understanding of and agreement to conditions of this subsection and his understanding that violation of the terms of this subsection may subject him to criminal prosecution under Utah Code Annotated §63-2-801.
 - b. A researcher may disclose a record in individually identifiable form if the record is disclosed for the purpose of auditing or evaluating the research program and no subsequent use or disclosure of the record in individually identifiable form will be made by the auditor or evaluator except as provided by this section.
 - c. The city may require indemnification as a condition of permitting research under this subsection.

9. Under Subsections 2.13.040(5)(b) and 2.13.160(4) the city may disclose records that are private under §100, or protected under §120 to persons other than those specified in this section.

- a. Under §160 the city council may require the disclosure of records that are private under §100, controlled under §110, or protected under §120 to persons other than those specified in this section.
- b. Under Utah Code Annotated §63-2-404(8) the court may require the disclosure of records that are private under §100, controlled under §110, or protected under §120 to persons other than those specified in this section.

2-13-060. Fees.

1. The city may charge a reasonable fee to cover the city's cost of duplicating a record or compiling a record in a form other than that maintained by the city. The fees may be set by Resolution. The initial fee, until changed by Resolution, is as set forth in Exhibit "A" hereto.

- a. A city may fulfill a record request without charge when it determines that (i) releasing the record primarily benefits the public rather than a person; (ii) the individual requesting the record is the subject of the record; and (iii) the requester's legal rights are directly implicated by the information in the record, and the requester is impecunious.
- b. A city may not charge a fee for (i) reviewing a record to determine whether it is subject to disclosure; or (ii) inspecting a record.

2-13-070. Procedures for Access.

1. A person making a request for a record shall furnish the city with a written request containing his/her name, mailing address, daytime telephone number if available, and a description of the records requested that identifies the record with reasonable specificity.

2. As soon as reasonably possible, but no later than ten business days after receiving a written request, or five business days after receiving a written request if the requester demonstrates that expedited response to the record request benefits the public rather than the person, the city shall respond to the request by: (i) approving the request and providing the record; (ii) denying the request; (iii) notifying the requester that it does not maintain the record and providing, if known, the name and address of where the record can be found; or (iv) notifying the requester that because of one of the extraordinary circumstances listed in Subsection 4, it, cannot immediately approve or deny the request. The notice shall describe the circumstances relied upon and specify the earliest time and date when the records will be available.

3. Any person who requests a record to obtain information for a story or a report for publication or broadcast to the general public is presumed to be acting to benefit the public rather than a person.

4. The following circumstances constitute "extraordinary circumstances" that allow the city to delay approval or denial by an additional period of time as specified in Subsection 5 if the city determines that due to the extraordinary circumstances it cannot respond within the time limits provided in subsection 2:

- a. another governmental entity is using the record, in which case the city shall promptly request that the governmental entity currently in possession to return the record;
- b. another governmental entity is using the record as part of an audit and returning the record before the completion of the audit would impair the conduct of the audit;
- c. the request is for a voluminous quantity of records;
- d. the city is currently processing a large number of record requests;
- e. the request requires the city to review a large number of records to locate the records requested;
- f. the decision to release a record involves legal issues that require the city to seek legal counsel for the analysis of statutes, rules, ordinances, regulations, or case law;
- g. segregating information that the requester is entitled to inspect from information that the requester is not entitled to inspect requires computer programming.

5. If one of the extraordinary circumstances listed in Subsection 4, precludes approval or denial within the time specified in Subsection 2, the following time limits apply to the extraordinary circumstances:

- a. for claims under Subsection 4(a), the governmental entity currently in possession of the record shall return the record to the originating entity within five business days of the request for the return unless returning the record would impair the holder's work.
- b. for claims under Subsection 4(b), the originating city shall notify the requester when the record is available for inspection and copying;
- c. for claims under Subsection 4(c), 4(d), and 4(e), the city shall:

- (i) disclose the records that it has located which the requester is entitled to inspect.
 - (ii) provide the requester with an estimate of the amount of time it will take to finish the work required to respond to the request; and
 - (iii) complete the work and disclose those records that requester is entitled to inspect as soon as reasonably possible;
 - d. for delays under Subsection 4(f), the city shall either approve or deny the request within five business days after the response time specified for the original request has expired;
 - e. for delays under Subsection 4(g), the city shall fulfill the request within 15 business days from the date of the original request; or
 - f. for delays under Subsection 4(h), the city shall complete its programming and disclose the requested records as soon as reasonably possible.
6. If the city fails to provide the requested records or issue a denial within the specified time period, that failure is considered the equivalent of a determination denying access to the records.

2-13-080. Denials.

- 1. If the city denies the request in whole or part, it shall provide a notice of denial to the requester either in person or by sending the notice to the requester's address.
- 2. The notice of denial shall contain the following information:
 - a. a description of the record or portions of the record to which access was denied, provided that the description does not disclose private, controlled, or protected information or records to which access is restricted pursuant to court rule, another state statute, federal statute, or federal regulation, including records for which access is governed or restricted as a condition of participation in a state or federal program or for receiving state or federal funds.
 - b. citations to the provisions of this ordinance, another state statute, federal statute, court rule or order or federal regulation that exempt the record or portions of the record from disclosure, provided that the citations do not disclose private, controlled or protected information;
 - c. a statement that the requester has the right to appeal the denial to the

city council; and,

- d. a brief summary of the appeals process, and the time limits for filing an appeal.

3. Unless otherwise required by a court or agency of competent jurisdiction, the city may not destroy or give up custody of any record to which access was denied until the period for an appeal has expired or the end of the appeals process, including judicial appeal.

2-13-090. Public Records.

1. The following records are public:

- a. laws and ordinances;
- b. names, gender, gross compensation, job titles, job descriptions, business addresses, business telephone numbers, number of hours worked per pay period, dates of employment, and relevant education, previous employment, and relevant education, previous employment, and similar job qualification of the city's former and present employees and officers excluding undercover law enforcement personnel or investigative personnel if disclosure could reasonably be expected to impair the effectiveness of investigations or endanger any individual's safety;
- c. final opinions, including concurring and dissenting opinions, and orders that are made by the city in an administrative, adjudicative, or judicial proceeding except that if the proceedings were properly closed to the public, the opinion and order may be withheld to the extent that they obtain information that is private, protected, or controlled;
- d. final interpretation of statutes or rules by the city unless classified as protected as provided in §§120 (15), (16) and (17);
- e. information contained in or compiled from a transcript, minutes, or report of the open portion of a meeting of the city;
- f. judicial records unless a court orders the records to be restricted under the rules of civil or criminal procedure or unless the records are private under this ordinance;
- g. data on individuals that would otherwise be private under this ordinance if the individuals that would otherwise be private under this ordinance if the individual who is the subject of the record has given the city written permission to make the records available to the

public;

- h. documentation of the compensation that the city pays to a contractor or private provider; and,
- i. summary data.

2. The following records are normally public, but to the extent that a record is expressly exempt from disclosure, access may be restricted under Subsection 3(b) or §100, 110 or 120:

- a. administrative staff manuals, instructions to staff, and statements of policy;
- b. records documenting a contractor's or private provider's compliance with the terms of a contract with the city;
- c. records documenting the services provided by a contractor or a private provider to the extent the records would be public if prepared by the city;
- d. contracts entered into by the city;
- e. any account, voucher, or contract that deals with the receipt or expenditure of funds by the city;
- f. records relating to governmental assistance or incentives publicly disclosed, contracted for, or given by the city, encouraging a person to expand or relocate a business in Utah, except as provided in §63-2-304(34);
- g. chronological logs and initial contact reports;
- h. correspondence by and with the city in which the city determines or states an opinion upon the rights of the state, a political subdivision, the public, or any person;
- i. empirical data contained in drafts if:
 - (i) the empirical data is not reasonably available to the requester elsewhere in similar form; and,
 - (ii) the city is given a reasonable opportunity to correct any errors or make nonsubstantive changes before release;
- j. drafts that are circulated to anyone other than the city, state or to

anyone other than a federal agency if the city, state or federal agency are jointly responsible for implementation of a program or project that has been legislatively approved; and,

- k. drafts that have never been finalized but were relied upon by the city in carrying out action or policy;
- l. original data in a computer program if the city chooses not to disclose the program;
- m. arrest warrants after issuance, except that, for good cause, a court may order restricted access to arrest warrants prior to service;
- n. search warrants after execution and filing of the return, except that a court, for good cause, may order restricted access to search warrants prior to trial;
- o. records that would disclose information relating to formal charges or disciplinary actions against a past or present city employee if:
 - (i) the disciplinary action has been completed and all time periods for administrative appeal have expired; and,
 - (ii) the formal charges were sustained;
- p. final audit reports;
- q. occupational and professional licenses;
- r. business licenses; and,
- s. a notice of violation, a notice of agency action under Utah Code Annotated § 63-46b-3, or similar records used to initiate proceedings for discipline or sanctions against persons regulated by the city, but not including records that initiate employee discipline.

3. The list of public records in this section is not exhaustive and should not be used to limit access to records.

2-13-100. Private Records.

- 1. The following records are private:
 - a. records concerning an individual's eligibility for unemployment insurance benefits, social services, welfare benefits, or the determination of benefit levels;

- b. records containing data on individuals describing medical history, diagnosis, condition, treatment, evaluation, or similar medical data;
- c. records of publicly funded libraries that, when examined alone or with other records, identify a patron;
- d. records concerning a current or former employee of, or applicant for employment with the city, that would disclose that individual's home address, home telephone number, social security number, insurance coverage, marital status, or payroll deductions.

2. The following records are private if properly classified by the city:

- a. records concerning a current or former employee of, or applicant for employment with the city, including performance evaluations and personal status information such as race, religion, or disabilities, but not including records that are public under §2.13.090(b),(2)(0) or private under §2.13.100(1)(d);
- b. records describing an individual's finances, except that the following are public:
 - (i) records described in 2.13.090(1).
 - (ii) information provided to the city for the purpose of complying with a financial assurance requirement; or
 - (iii) records that must be disclosed in accordance with another
- c. records of independent state agencies if the disclosure of those records would conflict with the fiduciary obligations of the agency;
- d. other records containing data on individuals, the disclosure of which constitutes a clearly unwarranted invasion of personal privacy;
- e. records provided by the United States or by a governmental entity outside the state that are given with the requirement that the records be managed as private records, if the providing entity states in writing that the record would not be subject to public disclosure if retained by it.

statute;

2-13-110. Controlled Records.

A record is controlled if:

- 1. The record contains medical, psychiatric, or psychological data about an

individual.

2. The city reasonably believes that:
 - a. releasing the information in the record to the subject of the record would be detrimental to the subject's mental health or to the safety of any individual; or
 - b. releasing the information would constitute a violation of normal professional practice and medical ethics; and,
 - c. the city has properly classified the record.

2-13-120. Protected Records.

The following records are protected:

1. Trade secrets as defined in Utah Code Annotated § 13-24-2, if the person submitting the trade secret has provided the city with the information specified in § 63-2-308.
2. Commercial information or nonindividual financial information obtained from a person if:
 - a. disclosure of the information could reasonably be expected to result in unfair competitive injury to the person submitting the information or would impair that ability of the city to obtain necessary information in the future;
 - b. the person submitting the information has a greater interest in prohibiting access than the public in obtaining access; and
 - c. the person submitting the information has provided the city with the information specified in Utah Code Annotated § 63-2-308.
3. Commercial or financial information acquired or prepared by the city to the extent that a disclosure would lead to financial speculations in currencies, securities, or commodities that will interfere with a planned transaction by the city or cause substantial financial injury to the city or state economy.
4. Test questions and answers to be used in future license, certifications, registration, employment, or academic examinations.
5. Records, the disclosure of which would impair governmental procurement or give an unfair advantage to any person proposing to enter into a contract or agreement with the city, except that this subsection does not restrict the right

of a person to see bids submitted to or by the city after bidding has closed.

6. Records that would identify real property or the appraisal or estimated value of real or personal property, including intellectual property, under consideration for public acquisition before any rights to the property are acquired unless:
 - a. public interest in obtaining access to the information outweighs the city's need to acquire the property on the best terms possible;
 - b. the information has already been disclosed to persons not employed by or under a duty of confidentiality to the entity;
 - c. on the case of records that would identify property, potential sellers of the property described have already learned of the city's plans to acquire the property;
 - d. on the case of records that would identify the appraisal or estimated value of property, the potential sellers have already learned of the city's estimated value of the property.
7. Records prepared in contemplation of sale, exchange, lease, rental, or other compensated transaction of real or personal property including intellectual property, which, if disclosed prior to completion of the transaction, would reveal the appraisal or estimated value of the subject property, unless:
 - a. the public interest in access outweighs the interests in restricting access, including the city's interest in maximizing the financial benefit of the transaction; or
 - b. when prepared by or on behalf of the city, appraisals or estimates of the value of the subject property have already been disclosed to persons not employed by or under a duty of confidentiality to the city.
8. Records created or maintained for civil, criminal, or administrative enforcement purposes, or for discipline, licensing, certification, or registration purposes if release of the records:
 - a. reasonably could be expected to interfere with investigations undertaken or for enforcement, discipline, licensing, certification, or registration purposes;
 - b. reasonably could be expected to interfere with audits, disciplinary, or enforcement proceedings;

- c. would create a danger of depriving a person of a right to a fair trial or impartial hearing;
 - d. reasonably could be expected to disclose the identity of a source who is not generally known outside of government and, in the case of a record compiled in the course of an investigation, disclose information furnished by a source not generally known outside of government if disclosure would compromise the source; or,
 - e. reasonably could be expected to disclose investigative or audit techniques, procedures, policies, or orders not generally known outside of government if disclosure would interfere with enforcement or audit efforts.
9. Records, the disclosure of which would jeopardize the life or safety of an individual.
 10. Records, the disclosure of which would jeopardize the security of governmental property, governmental record keeping systems from damage, theft, or other appropriation or use contrary to law or public policy.
 11. Records that, if disclosed, would jeopardize the security or safety of a correctional facility or records relating to incarceration, treatment, probation or parole.
 12. Records that, if disclosed, would reveal recommendations made to the Board of Pardons.
 13. Records of a governmental audit agency relating to an ongoing or planned audit until the final audit is released.
 14. Records prepared by or on behalf of the city solely in anticipation of litigation that are not available under the rules of discovery.
 15. Records disclosing an attorney's work product, including the mental impressions or legal theories of an attorney or other representative of the city concerning litigation.
 16. Records of communications between the city and an attorney representing, retained or employed by the city if the communications would be privileged as provided in UCA §78-24-8.
 17. Drafts, unless otherwise classified as public.
 18. Records concerning the city's strategy about collective bargaining or pending litigation.

19. Records of investigations of loss occurrences and analyses of loss occurrences.
20. Records, other than personnel evaluations, that contain a personal recommendation concerning an individual if disclosure would constitute a clearly unwarranted invasion of personal privacy, or disclosure is not in the public interest.
21. Records that reveal the location of historic, prehistoric, paleontological, or biological resources that if known would jeopardize the security of those resources or of valuable historic, scientific, educational, or cultural information.
22. Records provided by the United States or by a government entity outside the state that are given to the city with a requirement that they be managed as protected records if the providing entity certifies that the record would not be subject to public disclosure if retained by it.
23. Transcripts, minutes, or reports of the closed portion of a meeting of a public body except as provided in UCA §52-4-7.
24. Records that would reveal the contents of settlement negotiations but not including final settlements or empirical data to the extent that they are not otherwise exempt from disclosure.
25. Memoranda prepared by staff and used in the decision-making process by an administrative law judge, or a member of any other body charged by law with performing quasi-judicial function.
26. Records that would reveal negotiations regarding assistance or incentives offered by or requested from the city for the purpose of encouraging a person to expand or locate a business in Utah, but only if disclosure would result in actual economic harm to the person or place the city at a competitive disadvantage, but this section may not be used to restrict access to a record evidencing a final contract.
27. Materials to which access must be limited for purposes of securing or maintaining the city's proprietary protection of intellectual property rights including patents, copyrights, and trade secrets.

2-13-130. Records Classification.

1. The city shall:
 - a. evaluate all record series that it uses or creates;

- b. designate those record series as provided by this Ordinance;
 - c. report the designation of its record services to the state archives.
- 2. The city may classify a particular record, record or series or information within a record at any time, but is not required to classify a particular record, record series, or information until access to the record is requested.
- 3. The city may redesignate a record series or reclassify a record or record series, or information within a record at any time.

2-13-140. Records Retention.

The city shall use the retention schedule as established by state archives.

2-13-150. Segregation of Records.

Notwithstanding any other provision in this Ordinance, if the city receives a request for access to a record that contains both information that the requester is entitled to inspect and information that the requester is not entitled to inspect under this Ordinance, and, if the information the requester is entitled to inspect is intelligible, the city:

- 1. shall allow access to information in the record that the requester is entitled to inspect under this Ordinance; and,
- 2. may deny access to information in the record if the information is exempt from disclosure to the requester, issuing a notice of denial.

2-13-160. Appeals.

- 1.
 - a. Any person aggrieved by the city's access determination under this Ordinance, may appeal the determination as set forth herein.
 - b. If the city claims extraordinary circumstances and specifies the date when the records will be available and, if the requester believes the extraordinary circumstances do not exist or that the time specified is unreasonable, the requester may appeal the city's claim of extraordinary circumstances or date for compliance within 30 days after notification of a claim of extraordinary circumstances by the city, despite the lack of "determination" or its equivalent.
- 2.
 - a. If the appeal involves a record that is the subject of a business confidentiality claim under UCA §63-2-308, the city recorder shall:
 - (i) send notice of the requester's appeal to the business confidentiality claimant within three business days after receiving notice, except that if notice under this section must be given to more than 35 persons, it shall be given as soon as reasonably possible;

- (ii) send notice of the business confidentiality claim and the schedule for the city recorder's determination to the requester within three business days after receiving notice of the requester's appeal.
- b. The claimant shall have seven business days after notice is sent by the City Recorder to submit further support for the claim of business confidentiality.
- 3. The City may, upon consideration and weighing of the various interests and public policies pertinent to the classification and disclosure or nondisclosure, order the disclosure of information properly classified as private under §100.2 or protected under §120 if the interests favoring access outweigh the interest favoring restriction of access.
- 4. The notice of appeal to the City Council must be filed with the City Recorder no later than 30 days after the City's denial.
- 5. The notice of appeal shall contain the following information:
 - a. the petitioner's name, mailing address, and daytime telephone number; and
 - b. the relief sought.
- 6. The petitioner may file a short statement of facts, reasons, and legal authority in support of the appeal.
- 7. No later than three days after receiving a notice of appeal, the recorder shall:
 - a. Schedule a hearing for the city council to discuss the appeal which shall be held no sooner than 15 days and no later than 30 days from the date of the filing of the appeal.
 - b. At the hearing, the city council shall allow the parties to testify, present evidence, and comment on the issues. The city council may allow other interested persons to comment on the issues.
 - c. No later than three business days after the hearing, the city council shall issue a signed order either granting the petition in whole or in part or upholding the determination of the city manager in whole or in part.
 - d. The order of the city shall include:

- (i) a statement of reasons for the decision, including citations to this Ordinance or federal regulation that governs disclosure of the record provided that the citations do not disclose private, controlled, or protected information;
 - (ii) a description of the record or portions of the record to which access was ordered or denied, provided that the description does not disclose private, controlled, or protected information;
 - (iii) a statement that any party to the appeal may appeal the city's decision to the district court of Utah County; and,
 - (iv) a brief summary of the appeal, and a notice that in order to protect its rights on appeal, the party may wish to seek advice from an attorney.
8. A person aggrieved by the city's classification or designation determination under this chapter, may appeal that determination using the procedures provided in this section.

2-13-170. Judicial Review.

- 1. Any party to proceeding before the city council may petition for judicial review by the district court of Utah County of the city council's order. The petition shall be filed no later than 30 days after the date of the city council's order.

2-13-180. Confidential Treatment of Records for which No Exemption Applies.

- 1. A court may, on appeal or in a declaratory or other action, order the confidential treatment of records for which no exemption from disclosure applies if:
 - a. there are compelling interests favoring restriction of access to the record; and,
 - b. the interests favoring restriction of access outweigh the interests favoring access.
- 2. This section does not apply to records that are specifically required to be public under 2.13.090 of this Ordinance or UCA §63-2-301 of the Utah Code, except as provided in Subsection 3.
- 3.
 - a. Access to drafts may be limited under this section, but the court may consider, in its evaluation of interests favoring restriction of access, only those interest that relate to the underlying information, and not to the deliberative nature of the record.

- b. Access to original data in a computer program may be limited under this section, but the court may consider, in its evaluation of interests favoring restriction of access, only those interests that relate to the underlying information, and not to the status of that data as part of a computer program.

2-13-190. Request to Amend a Record.

- 1.
 - a. Subject to Subsection 7, an individual may contest the accuracy or completeness of any public, private, or protected record concerning him by requesting the city to amend the record. However, this section does not affect the right of access to private or protected records.
 - b. The request shall contain the following information:
 - (i) the requester's name, mailing address, and daytime telephone number; and,
 - (ii) a brief statement explaining why the city should amend the record.
- 2. The city shall issue an order either approving or denying the request to amend no later than 30 days after receipt of the request.
- 3. If the city approves the request, it shall correct all of its records that contain the same incorrect information as soon as practical. A city may not disclose the record until it has amended it.
- 4. If the city denies the request it shall:
 - a. inform the requestor in writing; and,
 - b. provide a brief statement giving its reasons for denying the request.
- 5.
 - a. If the city denies a request to amend a record, the requester may submit a written statement contesting the information in the record.
 - b. The city shall:
 - (i) file the requester's statement with the disputed record if the record is in a form such that the statement can accompany the recorder make the statement accessible if the record is no in a form such that the statement can accompany the record; and,
 - (ii) disclose the requester's statement along with the information in the record whenever the city discloses the disputed

information.

6. The requester may appeal the denial of the request to amend a record pursuant to §2.13.160.
7. This section does not apply to records relating to title to real or personal property, medical records, judicial case files, or any other records that the city determines must be maintained in their original form to protect the public interest and to preserve the integrity of the record system.

2-13-200. Criminal Penalties.

1.
 - a. A public employee or other person who has lawful access to any private, controlled, or protected record under this chapter, and who intentionally discloses or provides a copy of a private, controlled or protected record to any person knowing that such disclosure is prohibited, is guilty of a class B misdemeanor.
 - b. It is a defense to prosecution under Subsection (1) (a) that the actor released private, controlled or protected information in the reasonable belief that the disclosure of the information was necessary to expose a violation of law involving government corruption, abuse of office, or misappropriation of public funds or property.
 - c. It is a defense to prosecution under Subsection (1) (a) that the record could have lawfully been released to the recipient if it had been properly classified.
2.
 - a. A person who by false pretenses, bribery, or theft, gains access to or obtains a copy of any private, controlled, or protected record to which he is not legally entitled is guilty of a class B misdemeanor.
 - b. No person shall be guilty under Subsection (2) (a) who receives the record, information, or copy after the fact and without prior knowledge of or participation in the false pretenses, bribery, or theft.
3. A public employee who intentionally refuses to release a record the disclosure of which the employee knows is required by law or by final unappealed order from a city, or a court, is guilty of a class B misdemeanor.

EXHIBIT "A"

**SCHEDULE A
FEES**

COPIES PER PAGE	<u>\$.50</u>
CERTIFIED COPIES PER PAGE	<u>\$2.00</u>
COMPILATION TIME PER HOUR	<u>\$17.00</u>

SCHEDULE B
RETENTION SCHEDULE

The retention schedule of this municipality is the schedule promulgated by the Utah Division of Archives and Record Service for local governments with the following amendments:

None

CHAPTER 14 - PROCEDURE FOR THE REVIEW OF ACTIONS BY SALEM CITY THAT MAY HAVE CONSTITUTIONAL TAKING ISSUES

2-14-010. Policy Considerations.

There is an underlying policy in Salem City strongly favoring the careful consideration of matters involving constitutional taking claims, in fairness to the owner of private property bringing the claim and in view of the uncertainty and expense involved in defending law suits alleging such issues. At the same time, the legitimate role of government in lawfully regulating real property must be preserved and the public's right to require the dedication or exaction of property consistent with the constitution. Consistent with this policy, it is desired that a procedure be established for the review of actions that may involve the issue of a constitutional taking. These provisions are to assist governments in considering decisions that may involve constitutional takings. It is intended that a procedure for such a review be provided, as well as guidelines for such considerations. This ordinance is further intended and shall be construed to objectively and fairly review claims by citizens that a specific government action should require payment of just compensation, yet preserve the ability of Salem City to lawfully regulate real property and fulfill its other duties and functions.

2-14-020. Definitions.

- A. "Constitutional Taking" means actions by Salem City involving the physical taking or exaction of private real property that might require compensation to private real property owners because of:
1. The Fifth or Fourteenth Amendment to the Constitution of the United States;
 2. Article I, Section 22, of the Utah Constitution;
 3. Any court ruling governing the physical taking or exaction of private real property by a government entity;
- B. Actions by Salem City involving the physical taking or exaction of private real property is not a constitutional taking if the physical taking or exaction:
1. Bears an essential nexus to legitimate governmental interests; and
 2. Is roughly proportionate and reasonably related, on an individualized property basis, both in nature and extent, to the impact of the proposed development on the legitimate government interest.

2-14-030. Guidelines Advisory.

The guidelines adopted and decisions rendered pursuant to the provisions of this section are advisory, and shall not be construed to expand or limit the scope of the City's liability for a constitutional taking. The reviewing body or person, shall not be required to

make any determination under this ordinance except pursuant to Section 2-14-040.

2-14-040. Review of Decision.

Any owner of private real property who claims there has been a constitutional taking of their private real property shall request a review of the final decision of any officer, employee, board, commission, or council. The following are specific procedures established for such a review:

- A. The person requesting a review must have obtained a final and authoritative determination, internally, within the City, relative to the decision from which they are requesting review.
- B. Within thirty (30) days from the date of the final decision that gives rise to the concern that a constitutional taking has occurred, the person requesting the review shall file in writing, in the office of the City Recorder a request for review of that decision.
- C. The City Council, or such individual or body designated by the City Council, shall immediately set a time to review the decision that gave rise to the constitutional taking claim.
- D. In addition to the written request for review, the applicant must submit, prior to the date of the review, the following:
 - 1. The name of the applicant requesting review.
 - 2. The name and business address or current owner of the property, form of ownership, whether sole proprietorship, corporation, not-for-profit corporation, partnership, joint venture or other, and if owned by a corporation, partnership, or joint venture, the name and address of all principal shareholders or partners.
 - 3. A detailed description of the grounds for the claim that there has been a constitutional taking.
 - 4. A detailed description of the property taken.
 - 5. Evidence and documentation as to the value of the property taken, including the date and cost at the date the property was acquired. This should include any evidence of the value of that same property before and after the alleged constitutional taking, the name of the party from whom purchased, including the relationship, if any, between the person requesting a review and the part from whom the property was acquired.
 - 6. The nature of the protectable interest claimed to be affected, such as, but not limited to, fee simple ownership, leasehold interest, etc..

7. The terms (including sale price) of any previous purchase or sale of a full or partial interest in the property in the three years prior to the date of application.
 8. All appraisals of the property prepared for any purpose, including financing, offering for sale, or ad valorem taxation, within the three years prior to the date of application.
 9. The assessed value of and ad valorem taxes on the property for the previous three years.
 10. All information concerning current mortgages or other loans secured by the property, including name of the mortgagee or lender, current interest rate, remaining loan balance and term of the loan and other significant provisions, including but not limited to, the right of purchasers to assume the loan.
 11. All listings of the property for sale or rent, the price asked therefore, any offers received, all within the previous three years.
 12. All studies commissioned by the petitioner or agents of the petitioner within the previous three years concerning the feasibility of development or utilization of the property.
 13. For income producing property, itemized income and expense statements from the property for the previous three years.
 14. Information from a title policy or other source showing all recorded liens or encumbrances affecting the property.
 15. Such other information as may be requested by the City Council which is reasonably necessary, in its opinion, to arrive at a conclusion concerning whether there has been a constitutional taking.
- E. An application shall not be deemed to be "complete" or "submitted" until the reviewing body or official certifies to the applicant, that all the materials and information required have been received by the City. The reviewing body or official shall promptly notify the applicant of any incomplete application.
- F. The City Council or individual or body designated by them, shall hear all the evidence related to and submitted by the applicant, the City, or any other interested party.
- G. A final decision on the review shall be rendered within fourteen (14) days from the date the complete application for review has been received by the City Recorder. The decision of the City Council, or its designee, regarding the results of the review

shall be given in writing to the applicant and the officer, employee, board, commission or council that rendered the final decision that gave rise to the constitutional takings claim.

- H. If the City Council fails to hear and decide the review within fourteen (14) days, the decision appealed from shall be presumed to be approved.

2-14-050. Reviewing Guidelines.

The City Council shall review the facts and information presented by the applicant to determine whether or not the action by the City constitutes a constitutional taking as defined in this chapter. In doing so, they shall consider:

- A. Whether the physical taking or exaction of the private real property bears an essential nexus to a legitimate governmental interest.
- B. Whether a legitimate governmental interest exists for the action taken by the City.
- C. Is the property and exaction taken, roughly proportionate and reasonably related, on an individual property basis, both in nature and extent, to the impact caused by the activities that are the subject of the decision being reviewed.

2-14-060. Results of Review.

After completing the review, the reviewing body or person shall make a determination regarding the above issues and where determined to be necessary and appropriate, shall make a recommendation to the City Council, which recommendation is not binding on the Council, nor admissible in court, as to whether or not there has been a constitutional taking.

CHAPTER 15 – DEVELOPMENT REVIEW COMMITTEE

2-15-010. Creation.

There is hereby created a Development Review Committee which will have the following functions:

To review preliminary plats to ensure compliance with City Ordinances, laws, regulations, and standards, and to make recommendations to the Planning and Zoning Commission and City Council concerning the adoption of the same.

To review and approve site plans and final plans.

To review conceptual plans and give recommendations to the developer or property owner for the preparation of preliminary plats or site plans.

To review zone change and annexation petitions and to make recommendations to the Planning and Zoning Commission.

To perform such other functions as may be assigned by the City Council.

2-15-020. Membership.

The Development Review Committee shall consist of the City Public Works Director, the City Engineer, the Building Official, the Electric Department Supervisor, the Public Safety Director, the City Attorney, and the Mayor or designee from the Council. If the department head designated cannot be present, he/she may send another person from the department to act in his/her stead. Non-voting members of the Development Review Committee shall include representatives from Questar, Us. West Communications, United State Postal Service, and Salem Canal Company. Non-voting members shall be entitled to participate in any discussion, but shall not be allowed a vote.

2-15-030. Quorum.

A quorum of the Development Review Committee necessary before any business can be transacted shall consist of four voting members.

A majority vote of a quorum of the Development Review Committee shall be necessary in order to approve any item or to recommend approval of any item to the Planning and Zoning commission or City Council.

2-15-040. Chairperson.

The Chairperson of the Development Review Committee shall be the Public Works Director, who shall retain the right to cast a vote while acting as Chairperson.

CHAPTER 16 – CHAMPAIGN FINANCE DISCLOSURE

2-16-010. General.

All candidates for elective municipal office shall comply with the campaign finance disclosure requirements set forth in this chapter.

2-16-020. Definitions.

The following definitions shall be applicable to this chapter:

“Candidate” shall mean any person who files a declaration of candidacy for an elective office of the City or is nominated by a committee, party, or petition; or received contributions or made expenditures or consents to another person receiving contributions or making expenditures with a view to bringing about such person’s nomination or election to such office; or causes on his/her behalf, any written material or advertisement to be printed, published, broadcast, distributed or disseminated which indicated an intention to seek such office.

“Contribution” shall mean monetary and non-monetary contributions such as in-kind contributions and contributions of tangible things but shall not include personal services provided without compensation by individuals volunteering their time on behalf of a candidate.

“Election” shall mean both primary and final elections.

“Expenditure” shall mean a purchase, payment distribution, loan, advance, deposit or gift of money or anything of value made for the purpose of influencing the nomination or election of any candidate.

2-16-030. Filing of Campaign Finance disclosure Statements.

Each candidate for elective office who either receives more than \$500.00 in campaign contributions or spends more than \$500.00 in campaign expenses shall file with the City Recorder a dated and signed financial disclosure statement which complies with this chapter. Forms shall be made available by the City. Other forms in substantially the same format are also acceptable. (Ord. No. 8-3-05)

2-16-040. Time of Filing.

Each candidate for elective office who is not eliminated in a primary election shall file with the City Recorder a campaign finance disclosure statement not later than 7 days prior to the general election and not later than 30 days after the general election.

Each candidate for elective office who is eliminated in a primary election shall file with the City Recorder the campaign finance disclosure statement not later than 30 days after the primary election. (Ord. No. 8-3-05)

2-16-050. Contents of Statement.

A. The statements filed seven (7) days before the election shall include:

- (1) A list of each contribution of more than \$50.00 received by the candidate, and the name of the donor,
 - (2) An aggregate total of all contributions of \$50.00 or less received by the candidate; and
 - (3) A list of each expenditure for political purposes made during the campaign period as of ten (10) days before the date of the election, and the recipient of each expense.
- B. The statements filed thirty (30) days after the elections shall include:
- (1) A list of each contribution of more than \$50.00 received after the cutoff date for the statement filed seven (7) days before the election, and the name of the donor;
 - (2) A total of all contributions of \$50.00 or less received by the candidate after the cutoff date for the statement filed seven (7) days before the election;
 - (3) A list of all expenditures for political purposes made by the candidate after the cutoff date for the statement filed seven (7) days before the election, and the recipient of each expense.
- C. All contributions and expenditures related to the candidate's candidacy should be accounted for between the pre-election and post-election statement

2-16-060. Public Information.

The statements required by this chapter shall be public documents and shall be available for public inspection and copying during regular business hours. Appropriate costs may be assessed pursuant to the provisions of Government Records Access and Management Act.

2-16-070. Penalty for Noncompliance.

Any candidate who fails to comply with the provisions of this chapter is guilty of an infraction.

TITLE THREE - FINANCE AND TAXATION

CHAPTER 1 - UNIFORM LOCAL SALES AND USE TAX

3-1-010. Name.

This chapter shall be known as the "Uniform Local Sales and Use Tax Ordinance of Salem City."

3-1-020. Purpose.

The 48th session of the Utah Legislature of Utah has authorized the counties and municipalities of the State of Utah to enact sales and use tax ordinances imposing a one percent (1%) tax.

It is the purpose of this ordinance to conform the sales and use tax of the municipality to the requirements of the Sales and Utah Tax Act, as set forth in the Utah code.

3-1-030. Effective Date.

This ordinance shall become effective as of 12:01 a.m. on the 1st day of January, 1990.

3-1-040. Sales and Use Tax.

- A.
 - 1. From and after the effective date of this ordinance, there is levied and there shall collected and paid a tax upon every retail sale of tangible personal property, services, and meals made within this municipality at the rate of one percent (1%).
 - 2. An excise tax is hereby imposed on the storage, use, or other consumption in this municipality of tangible personal property from any retailer on or after the operative date of this ordinance at the rate of one percent (1%) of the sale price of the property.
 - 3. For the purpose of this ordinance, all retail sales shall be presumed to have been consummated at the place of business delivered by the retailer or his or her agent to an out of state destination or to a common carrier for delivery to an out of state destination. In the event that a retailer has no permanent place of business, the place or places at which the retail sales are consummated shall be as determined under the rules and regulations prescribed by and adopted by the Utah State Tax Commission. Public utilities as defined by Title 54 of Utah Code Annotated, shall not be obligated to determine the place or places within any county or municipality where public utility services are rendered, but the place of sale or the sales tax revenue arising from such service allocable to the city shall be as determined by the state tax commission pursuant to an appropriate formula and other rules and regulations to be prescribed and adopted by it.
- B.
 - 1. Except as hereinafter provided, and except insofar as they are inconsistent

with the provisions of the Sales and Use Tax Act, all the provisions of Title 59, Chapter 12, Utah Code Annotated, in force and effect on the effective date of this ordinance, insofar as they relate to sales taxes, excepting Sections 59-12-101 and 59-12-119 thereof, are hereby adopted and made a part of the ordinances as though fully set forth herein.

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

3-1-050. Mayor Authorized to Execute Documents.

The mayor is authorized to execute whatever documents are necessary to distribute sales and use tax revenues on the combination of point of sale and population factors as set forth in Utah Code Annotated § 11-9-5.

3-1-060. Contract with State.

Heretofore, this municipality has entered into an agreement with the State Tax Commission to perform all functions instant to the administration or operation of the sales and uses tax ordinance of the municipality. That contract is confirmed and the mayor is authorized to enter into such supplementary agreement with the State Tax Commission as may be necessary to the continued administration and operation of the local sales and use

tax ordinance of the municipality as re-enacted by this chapter.

CHAPTER 2 - COLLECTION OF SPECIAL IMPROVEMENT TAXES

3-2-010. Purpose.

It is the purpose of this chapter to provide for the summary sale of property assessed under Utah law after delinquency shall have occurred in the payment of any assessment or any part or installment of it, pursuant to Utah Code Annotated § 10-16-23.

3-2-020. Delinquency - Acceleration of Unpaid Balance.

- A. When an assessment is made pursuant to the Utah Municipal Improvement District Act, which assessment is payable in installments, and a default occurs in the payment of any installment when due, the city council, by resolution, may declare the amount to be delinquent, immediately due, and subject to collection as provided in this chapter. In addition, the resolution may accelerate payment of the total unpaid balance of the assessment and declare the whole of the unpaid principal and the interest then due to be immediately due and payable. Interest shall continue to accrue at the specified rate plus two percent (2%) per annum. Costs of collection as approved by the city council or required by law shall be charged and paid on all amounts declared to be delinquent or accelerated and shall be immediately due and payable.
- B. Notwithstanding the provisions of subparagraph (A) of this section, if prior to the final date that payment may be legally made under final sale or foreclosure of the property to collect delinquent assessment installments, the owner pays the amount of all unpaid installments which are past due and delinquent, with interest at the rate determined by the city council to the date of payment, plus all approved or required costs, the owner shall then be restored to the right to pay installment in the same manner as if default had not occurred.

3-2-030. Sale of Property.

Following acceleration of the balance due on the special improvement levy or upon resolution of the city improvement obligations, the lien of the city upon real property to guarantee the payments of special improvement bond assessments shall be foreclosed in the same manner as a deed of trust as set forth in Utah Code Annotated § 57-1-19 et seq. The city attorney is hereby designated trustee and shall be authorized to file a notice of default with Utah County Recorder and proceed in accordance with the provisions of Utah law.

3-2-040. Minimum Sale Price.

In no case shall lands advertised for sale for delinquent or special taxes be sold for less than the amount of such special taxes, interest, the costs of advertising, and expenses of sale.

3-2-050. Sale to Municipality.

Where no bid at least equal to the amount of the tax, interest, costs of

advertising, and expenses of sale on each separate parcel is received as each separate parcel is offered for sale, Salem City shall be deemed to have bid for such property and the property shall be sold to the municipality for the amount of the tax, interest, costs of advertising, and expenses of sale. The sale shall have the same effect as if made to an individual. The city recorder or treasurer shall draw a check or warrant on the special improvement guarantee fund for which a special tax was levied in the amount necessary.

3-2-060. General Taxes on Delinquent Property.

- A. Between the 15th day of November and the 15th day of December in each year, the city recorder shall ascertain, by examination of the county records, which, if any, of the property sold to this municipality is delinquent and about to be sold for general taxes, and report the property and the amount of taxes in each instance to the governing body, with a request that the amount thereof be appropriated to the county.
- B. It shall be the duty of the governing body to appropriate the amount recommended by the city recorder. The treasurer shall thereon draw a warrant in favor of the county for the total sum of such delinquent taxes, and the city recorder shall deliver the warrant to the county treasurer, taking duplicate receipts therefore for each separate piece or parcel of property upon which the general taxes are thus paid. The city recorder shall thereon deliver one of each such receipts to the treasurer and file and attach the other to the corresponding certificate of sale in his office.
- C. On receiving such receipt, the city treasurer shall make entry on his tax sale record, opposite the corresponding property, the date and amount of taxes paid. Such taxes shall thereafter draw interest at the rate of ten percent (10%) per annum and shall be included in the amount required to be paid for redemption of such property.

3-2-070. Redemption.

Real estate sold for special taxes may be redeemed by any person interested therein, at any time within three years after the date of the sale thereof, by such person paying to the city treasurer, for the use the purchaser or his legal representative, the amount paid by such a purchaser and all costs and expenses, including the cost of the certificate of sale, together with the sum of \$10.00 for the redemption certificate, and all special taxes that have been accrued thereon and which have been paid by the purchaser after his purchase to the time of redemption, together with interest at the rate of one percent (1%) per month on the whole from the date of payment to the date of redemption, provided that:

- A. In all cases where property has been sold to the municipality, and general taxes thereon have been paid thereafter by the municipality, it shall be necessary for redemption or to pay the amount of such general taxes, so paid as aforesaid, with interest thereon from the date of payment to the date of redemption at the rate of ten percent (10%) per annum; and
- B. When two or more parties are interested in a piece of property which has been sold for taxes, either party may redeem the property in which he is interested, upon

payment of that proportion of the taxes, interest, and costs which this property bears to whole property sold, together with the sum \$10.00 for a redemption certificate.

CHAPTER 3 - SPECIAL IMPROVEMENT GUARANTY FUND

3-3-010. Creation.

There is created a special fund to be known as the "Special Improvement Guaranty Fund." Said fund shall be used for the purpose of guaranteeing to the extent of said fund the payment of special improvement bonds or special improvement warrants and interest thereon heretofore or hereafter issued against the local improvement districts for the payment of local improvement therein and for the purchase of property sold to the city at tax sales or under foreclosure for delinquent special improvement taxes.

3-3-020. Maintenance.

The city council shall create and maintain said special improvement guaranty fund by appropriations from the general fund or by the levy of a tax not to exceed one mill in any one year or by the issuance of general obligation bonds whereby appropriation from other sources as maybe determined by the city council to provide the money necessary for that purpose. Said fund shall be held by the city treasurer and shall be kept by him or her separate and apart from all other funds held by him or her. Payments out of said fund shall be made only by checks or warrants drawn by the city recorder.

3-3-030. Interest and Penalties.

All excess charges and penalties collected by the city treasurer for the benefit or credit of any special improvement fund and remaining on hand after all the bonds or warrants, together with interest thereon, drawn against said special improvement fund have been fully paid and canceled, shall be transferred by the city recorder to the said special improvement guaranty fund.

3-3-040. Payment of Bonds or Warrants.

When any bond, warrant, or coupon drawn against any special improvement fund is presented to the city treasurer for payment and there is not a sufficient amount in said special improvement fund against which it is drawn to pay the same, unless otherwise requested by the holder, payment therefore shall be made by warrant drawn upon the city recorder against the special improvement guaranty fund.

3-3-050. Replenishment of Fund.

Whenever there is not a sufficient amount of cash in any special improvement guaranty fund at any time to make any and all purchases of property bid in by the city at sales of property for delinquent special improvement taxes, the city council shall replenish said special improvement guarantee fund by transfer or appropriation from the general fund or other available sources as may be determined by the city council.

3-3-060. Recorder to Issue Warrants.

Warrants drawing interest at a rate not to exceed eight percent (8%) per annum may be issued by the city recorder against said fund to meet any financial liabilities accruing against it; but at the time of making its annual tax levy, the city council shall provide for the levy of a sum sufficient with the other resources of the fund to pay warrants so issued and outstanding, the tax for this purpose not to exceed one mill in any one year.

3-3-070. Subrogation of City.

Whenever the city has paid under its guarantee any sum on account of principal or interest on the bonds or the warrants or warrants of any district, it shall be subrogated to the rights of the holders of such bonds or warrants or interest coupons so paid, and such bonds or warrants or coupons and the proceeds thereof shall become a part of the guaranty fund.

CHAPTER 4 - PURCHASING

3-4-010. System established.

Pursuant to Utah Code Annotated § 10-6-122, § 10-7-20(2), (3), (4), § 10-8-1, § 10-8-2, and other pertinent provisions of the laws of the state of Utah, there is adopted and established a purchasing system for Salem City Corporation which shall be based on the following principals.

3-4-020. Definitions.

- A. **"Supplies, materials and equipment"** are defined as any and all articles or things which shall be furnished to or used by any city department.
- B. **"Contractual services"** shall mean public works projects and other professional services such as auditing, architecture, engineering, or other consulting services.
- C. **"Bidding"** is a procedure used to solicit quotations on price and delivery from various prospective suppliers of supplies, equipment and contractual services.
- D. **"Responsible bid"** shall mean an offer, submitted by a responsible bidder, to furnish supplies, equipment or contractual services in conformity with the specifications, delivery terms and conditions, and other requirements included in the invitation to bid.
- E. **"Responsible bidder" or "Offeror"** means a person who has the capability in all respects to perform fully the contract requirements and who has the integrity and reliability which will assure good faith performance.
- F. **"Local bidder"** shall mean a firm or individual who regularly maintains a place of business in, or maintains an inventory of merchandise for sale in, or is licensed by or pays business taxes to the city of Salem.
- G. **"Estimates of requirements"** means forecasts of future requirements for supplies, equipment, or contractual services submitted by city departments upon request of the purchasing agent or his designee.
- H. **"Requisitions"** are standard forms used by departments providing detailed information as to quantity, descriptions, estimated price, recommended supplier, and signature authorization of requested purchases.
- I. **"Purchase orders"** shall mean official documents used in committing city funds toward the purchase of supplies, equipment and contractual services.
- J. **"Adequate appropriation balance"** means a sufficient fund balance which must exist in the line item appropriation of the account number against which the purchase order is to be charged.

- K. **"Public property"** is defined as any item of real or personal property owned by the city of Salem.

3-4-030. Administration - Purchasing Agent.

The city council may designate a purchasing agent to act on behalf of the city. If the council takes no such action, the city recorder is to act as the purchasing agent. The purchasing agent or his or her designee shall administer the purchasing system provided in this chapter by the statutes referred to hereinabove and by other applicable laws. He or she is authorized:

- A. To make all requests for prices or services, and to make all purchases for the city of Salem.
- B. To request or give permission to other departments of the city to receive salesmen.
- C. To recommend to the city such new or revised purchasing rules and regulations as are deemed desirable and in conformance with other statutory requirements, and to interpret the provisions of this chapter and applicable statutes.
- D. To negotiate and recommend execution of contracts for the purchase of supplies, equipment and contractual services.
- E. To seek to obtain as full and open completion as possible on all purchases.
- F. To keep informed of current developments in the field of purchasing, i.e., prices, market conditions, new products, etc.
- G. To prescribe and maintain such forms as are reasonably necessary to the operation of this chapter and other rules and regulations.
- H. To supervise the inspection of all supplies and equipment to assure conformance with specifications. This may be delegated to department heads.
- I. To transfer surplus or unused supplies and equipment between departments as needed.
- J. To maintain a bidders' list, vendors' catalog file, and other records needed for the efficient operation of the purchasing system.
- K. To observe and enforce the procedures as outlined in the manual.
- L. To purchase or contract for the purchase of all supplies and contractual services required by the city.

3-4-040. Competitive Bidding.

Except as hereinafter provided, purchases of supplies, equipment and letting

of contracts shall follow one of the following procedures:

- A. Formal Contract Procedure. Except as otherwise provided herein, purchases of supplies, equipment or contractual services of an estimated value greater than five thousand dollars (\$5,000.00) shall be by written contract with the lowest responsible bidder, pursuant to the procedure hereinafter prescribed.
 - 1. Notice Inviting Bids. Invitation for bids shall include a general description of the articles to be purchased, all contractual terms and conditions, locations where bid blanks and specifications may be secured, and the time and place for opening bids.
 - a. Published Notice. Notices inviting bids shall be published at least ten (10) days before the date of the opening of the bids. Notices shall be published at least once in a newspaper of general circulation in the city.
 - b. Published Notice (Improvements Paid For Out of General Fund Over Eight Thousand Dollars). Notices inviting bids for public improvements of estimated costs over eight thousand dollars (\$8,000.00) paid for out of the general fund shall be published at least twice in a newspaper of general circulation in the city.
 - c. Bidders' List. Sealed bids shall be solicited from all known responsible prospective suppliers including those whose names are on the bidders' list or who have made written request that their names be added thereto.
 - d. Bulletin Board. Notices inviting bids shall also be posted on a public bulletin board in the city office at least ten (10) days before the opening of bids.
 - 2. Bid Opening Procedure. Sealed bids shall be "submitted" as designated in the notice with the statement "Bid for (item)" on the envelope. Bids shall be opened in public at the time and place stated in the public notice. A tabulation of all bids received shall be open for public inspection during regular business hours for a period of not less than thirty (30) days after the bid opening.
 - 3. Evaluation of Bids. Bids submitted to the city shall be evaluated on the basis of compliance with specifications and other relevant criteria as set forth in the invitation to bid.
 - 4. Correction or Withdrawal of Erroneous Bids. Correction or withdrawal of inadvertently erroneous bids before or after award, or cancellation of awards or contracts based on such bid mistakes shall be permitted in accordance

with rules and regulations. After the bid opening, no changes in bid prices or other provisions of bids prejudicial to the interest of the city or fair competition shall be permitted. Except as otherwise provided by rules and regulations, all decisions to permit the correction or withdrawal of bids or to cancel awards or contracts based on bid mistakes shall be supported by a written determination made by the city council or his or her designee.

5. Rejection of Bids. In its discretion, the city council may reject without cause any and all bids presented, and readvertise for bids pursuant to the procedure hereinabove described.
6. Award of Contracts. Subject to the criteria and consideration set forth therein, contracts shall be awarded by the city council.
7. Tie Bids. If two (2) or more bids received are for the same total amount or unit price, quality and service being equal, and if the public interest will not permit the delay of readvertising for bids, the city council shall accept the lowest bid made by and after negotiation with the tie bidders.
8. Single Bids. In the event a single bid is received, a price or cost analysis may be required. The bidder will be required to furnish a detailed cost proposal for audit and the bid award shall be subject to subsequent negotiations following written determination by the city council or his or her designee that there is only one source for the required supply, service or construction item.
9. Performance Bonds. Before entering into a construction contract, the city council shall require a performance bond in an amount equal to one hundred percent of the price specified in the contract. The form and amount of said bonds shall be described in the notice inviting bids.

B. Competitive Sealed Proposal in Lieu of Bids Procedure.

1. Competitive sealed proposals may be used when the city council determines that the use of competitive sealed bidding is either impracticable or not advantageous to the city.
2. Proposals shall be solicited through a request for proposals. Public notice of the request for proposal shall be given.
3. Proposals shall be opened so as to avoid disclosure of contents to competing offerors during the process of negotiation. A register of proposals shall be prepared by the city and shall be open for public inspection after the contract award.
4. The request for proposal shall state the relative importance of price and other

evaluating factors.

5. As provided in the request for proposals, discussions may be conducted with responsible offerors who submit proposals determined to be reasonably susceptible of being selected for award for the purpose of assuring full understanding of, and responsiveness to, the solicitation requirements. Offerors shall be accorded fair and equal treatment with respect to any opportunity for discussion and revision of proposals, and revision may be permitted after submissions prior to award for the purpose of obtaining best and final offers. In conducting discussions, there shall be no disclosure of any information derived from proposals submitted by competing offerors.
 6. Award shall be made to the responsible offeror whose proposal is determined in writing to be the most advantageous to the city, taking into consideration the price and the evaluation criteria set forth in the request for proposals.
- C. Open Market Procedure. Purchases of supplies, equipment or contractual services of an estimated value in the amount of five thousand dollars (\$5,000.00) or less may be made in the open market pursuant to the procedure hereinafter prescribed, and without observing the procedure described in subparagraph (A) of this section; provided, however, all bidding may be dispensed with for purchases of supplies, equipment or contractual services having a total estimated value of less than five hundred dollars (\$500.00).
1. Minimum Number of Bids. Open market purchases shall, whenever possible, be based on at least three (3) price quotations and shall be awarded to the lowest responsible bidder.
 2. Solicitation of Bids. Price quotations shall be solicited from prospective vendors by written or telephone requests.
- D. Professional Service Contracts procedure. Contracts for professional services shall be awarded at the discretion of the city council to include, but not be limited to, the following services: Auditing, banking, insurance, engineering, architecture, etc.
1. Award of Contracts. Contracts shall be awarded at the discretion of the city council based on the evaluation of professional qualifications, service ability, cost of service, and other criteria deemed applicable by the city council.

3-4-050. Exemptions.

- A. Contracts for supplies, materials or services which may only be purchased from a single source following a written determination of that fact by the purchasing agent or his or her designee, shall not be subject to the competitive bidding requirement of the chapter.

3-4-060. Interlocal Agreements.

The city shall have the power to enter into joint purchase agreements with any or all other public agencies within the state for the purchase of any commodity or service, whenever it is determined by the city council to be in the best interest of the city.

3-4-070. Disposal or Lease of Public Property.

All disposals, leases and/or subleases of public property of the city shall be made, as nearly as possible, under the same conditions and limitations as required by this chapter in the purchase of public property, but the city council may also authorize, at its discretion:

- A. The sale of any such property at public auction if it deems such a sale desirable and in the best interest of the city; or
- B. The lease or sublease of any such property as a properly advertised public hearing under such terms and conditions as it may deem are desirable, fair and appropriate, considering intended land use and equivalent property tax value, and in the best interest of the city.

3-4-080. Prohibited Conduct.

- A. Collusion Among Bidders. Any agreement or collusion among bidders or prospective bidders, in restraint of freedom of competition, by agreement to bid a fixed price, or otherwise, shall render the bids of all such bidders void.
- B. Advance Disclosures. Any disclosure in advance of the opening of bids, whether in response to advertising or an informal request for bids, made or permitted by a member of the city council or a city employee shall render void the advertisement or request for bids.

3-4-090. Personal Purchases.

- A. Purchase of supplies or equivalent for personal use of an official or employee of the city shall be made only when the item or items are required parts of a workers equipment and are necessary to the successful performance of the duties of such city official or employee. Other personal purchases shall not be permitted and will be the cause of disciplinary action.
- B. Acceptance of gifts, other than that of advertising novelties, or other acceptance of elaborate entertainment by city employees is prohibited. Employees must not become obligated to any supplier and shall not conduct any city transaction from which they may personally benefit.

3-4-100. Violation - Penalties.

- A. A violation of this section by a city employee shall be cause for removal or other disciplinary action. A violation of this section by an elected official shall be malfeasance in office.

- B. A violation of this chapter by a vendor or bidder constitutes a class B misdemeanor.

CHAPTER 5 - CLAIMS AGAINST THE CITY

3-5-010.

Every person asserting a claim against the city shall be required to comply in all respects with the provisions of the Utah Governmental Immunity Act, Utah Code Annotated § 63-30-1 et seq. Any such claim received by the city shall be submitted to Utah Risk Management Mutual Association for review and handling. Any claimant shall be required to provide such additional information as may be requested by URMMA. Any claim referred back to the city by URMMA, on the basis that the city lacks coverage for that particular claim, shall be referred to the city council for review and disposal. The city council shall have full authority to settle and/or litigate any such claim.

CHAPTER 6

REPEALED

(Ordinance No. 1-17-01 and Ordinance No. 6-16-04-A)

CHAPTER 7 – MUNICIPAL ENERGY SALES AND USE TAX

3-7-010. Energy Sales and Use Tax

- A.
 - 1. From and after the effective date of this ordinance, there is levied and there shall be collected and paid a tax upon every delivery of taxable energy, as defined by Utah law, which is delivered to a customer within Salem City. The amount of the Municipal Energy Sales and use Tax shall be six percent (6%) of the value of the delivered energy to the customer.
 - 2. For purposes of determining that tax and the value of delivered energy, regulations as promulgated by the Utah State Tax Commission shall be applicable and are adopted herein, by this reference.
- B.
 - 1. The Definitions set forth in U.C.A. §10-1-303 are adopted and made a part of this ordinance as though fully set forth herein.
 - 2. This ordinance does not affect any contractual franchise fee, which shall continue to be collected.
- C. Three shall be excluded from the purchase price paid or charged by which the tax is measured.
 - 1. The sales and use of aviation fuel, motor fuel, or special fuel subject to taxation under the Utah Motor and Special Fuel Tax Act;
 - 2. The sales and use of taxable energy that the municipality is prohibited from taxing under federal law or the Constitution of the United States or the Constitution of the State of Utah;
 - 3. The sales and use of taxable energy purchased or stored in the state for resale;
 - 4. The sales or use of taxable energy to a person if the primary use is for use for compounding or producing taxable energy or fuel subject to taxation under the Utah Motor and Special Fuel Tax Act;
 - 5. The taxable energy brought into the state by a nonresident for the nonresident's own personal use or enjoyment while within the state, except a taxable energy purchased for use in the state by a nonresident living or working in the state at the time of purchase;
 - 6. The sales or use of taxable energy for any purpose other than use as fuel energy; and
 - 7. The sale of taxable energy for use outside of the municipality.

- D. An additional license to collect the tax is not required if one has been issued under U.C.A. §59-12-206.

3-7-020. Mayor Authorized to Execute Documents.

The Mayor is authorized to execute whatever documents are necessary to distribute the energy sales and use tax revenues in compliance with the municipal Energy Sales and Use Tax Act.

3-7-030. Collection of Taxes

- A. In those instances when the energy supplier is a municipality, the municipality shall be obligated to collect the tax from its customers and to pay the same directly to Salem City.
- B. In those instances when the energy supplier estimates that the municipal energy sales and use tax collected annually from its Utah customers equals one million dollars or more, the energy supplier shall collect the tax and remit it directly to Salem City.
- C. In those instances when the energy supplier does not estimate that the municipal energy sales and use tax collected annually from its Utah customers equals one million dollars or more, the energy supplier shall collect the tax and shall remit the same to Utah State Tax commission for disbursement to Salem City, or may disburse directly to Salem City if authorized by the Utah State Tax Commission.
- D. In those instances when the energy supplier is paying the tax to Salem City directly under this part, the energy supplier may retain the percentage of the tax authorized under U.C.A. §59-12-208(3) for its costs of collecting and remitting the tax.

3-7-040. Remittance.

The energy supplier incurring an energy sales or use tax under this chapter shall submit a report to the City within forty-five days after the end of each calendar month. The report shall indicate the gross revenues received from the delivery of taxable energy within Salem City during the applicable month. Together with the report, payment of the six percent (6%) energy sales and use tax shall be remitted to Salem City except those sums authorized to be retained by U.C.A. §59-12-208(3).

3-7-050. Inspection.

Salem City shall have the right, after giving reasonable notice, to inspect the books and records of any energy supplier delivering energy within the City to determine the accuracy of the monthly reports submitted to the City. The inspection shall be limited to books and records pertaining to the customers receiving taxable energy within the City boundaries.

3-7-060. Condition of Service.

Compliance with all the requirements of this chapter is a condition precedent to providing or delivering taxable energy within Salem City.

3-7-070. Effective Date.

The municipal energy sales and use tax, as imposed herein, shall commence as of the 1st day of July, 2003. (Ord. No. 6-4-03)

CHAPTER 7
ESTABLISHING A TAX RATE ON THE GROSS RECEIPTS OF
TELECOMMUNICATIONS SERVICE PROVIDERS

3-8-010. Definitions.

As used in this chapter, the following terms shall be defined as follows:

- (1) “Commission” means the State Tax Commission.
- (2) (a) Subject to Subsections (2)(b) and (c), “customer” means the person who is obligated under a contract with a telecommunications provider to pay for telecommunications service received under the contract.
- (b) For purposes of this chapter, “customer” means:
 - (i) the person who is obligated under a contract with a telecommunications service received under the contract, or
 - (ii) if the end user is not the person described in Subsection (2)(b)(i), the end user of telecommunications service.
- (c) “Customer” does not include a reseller:
 - (i) of telecommunications service, or
 - (ii) for mobile telecommunications service, of a serving carrier under an agreement to serve the customer outside the telecommunications provider’s licensed service area.
- (3) (a) “End user” means the person who uses a telecommunications service.
- (b) For purposes of telecommunications service provided to a person who is not an individual, “end user” means the individual who uses the telecommunications service on behalf of the person who is provided the telecommunications service.
- (4) “Gross receipts attributed to the municipality” means those gross receipts from a transaction for telecommunications services that is located within the municipality for the purposes of sales and use tax under Utah Code Title 59, Chapter 12, Sales and Use Tax Act and determined in accordance with Utah Code Section 59-12-207.
- (5) “Gross receipts from telecommunications service” means the revenue that a telecommunications provider receives for telecommunications service rendered except for the amounts collected or paid as:
 - (a) a tax, fee, or charge;
 - (i) imposed by a governmental entity;

- (ii) separately identified as a tax, fee, or charge in the transaction with the customer for the telecommunications service; and
 - (iii) imposed only on a telecommunications provider.
 - (b) sales and use taxes collected by the telecommunications provider from a customer under Title 59, Chapter 12, Sales and use Tax Act, or
 - (c) interest, a fee, or a charge that is charged by a telecommunications provider on a customer for failure to pay for telecommunications service when payment is due.
- (6) “Mobile telecommunications service” is as defined in the Mobile Telecommunications Sourcing Act, 4 U.S.C. Sec. 124.
- (7) “Municipality” means Salem City.
- (8) “Place of primary use”:
- (a) for telecommunications service other than mobile telecommunications service, means the street address representative of where the customer’s use of the telecommunications service primarily occurs, which shall be:
 - (i) the residential street address of the customer; or
 - (ii) the primary business street address of the customer; or
 - (b) for mobile telecommunications service, as defined in the Mobile Telecommunications Sourcing Act, 4 U.S.C. Sec. 124.
- (9) Notwithstanding where a telephone call is billed or paid, “service address” means:
- (a) if the location described in the Subsection (9)(a) is not known, the location of the telecommunications equipment:
 - (i) to which a call is charged, and
 - (ii) from which the call originates or terminates;
 - (b) if the location described in Subsection (9)(a) is not known but the location described in this Subsection (9)(b) is known, the location of the origination point of the signal of the telecommunications service first identified by:
 - (i) the telecommunications system of the telecommunications provider; or
 - (ii) if the system used to transport the signal is not a system of the telecommunications provider, information received by the telecommunications provider from its service provider, or

- (c) if the locations described in Subsection (9)(a) or (b) are not known, the location of a customer's place of primary use.
- (10) (a) Subject to Subsections (10)(b) and (10)(c), "telecommunications provider" means a person that:
 - (i) owns, controls, operates, or manages a telecommunications service, or
 - (ii) engages in an activity described in Subsection (10)(a)(i) for the shared use with or resale to any person of the telecommunications service.
- (b) a person described in Subsection (10)(a) is a telecommunications provider whether or not the Public Service Commission of Utah regulates:
 - (i) that person; or
 - (ii) the telecommunications service that the person owns, controls, operates, or manages.
- (c) "Telecommunications provider" does not include an aggregator as defined in Utah Code Ann. §54-8b-2.
- (11) "Telecommunications service" means:
 - (a) telephone service, as defined in Utah Code Ann. §59-12-102, other than mobile telecommunications service, that originates and terminates within the boundaries of this state and
 - (b) mobile telecommunications service, as defined in Utah code Ann. §59-12-102:
 - (i) that originates and terminates within the boundaries of one state; and
 - (ii) only to the extent permitted by the Mobile Telecommunications Sourcing Act, 4 U.S.C. §116 et seq.

3-8-020. Levy of Tax.

There is hereby levied a municipal telecommunications license tax on the gross receipts from telecommunications service attributed to this municipality.

3-8-030. Rate.

The rate of the tax levy shall be four percent (4.0%) of the telecommunication provider's gross receipts from telecommunications service that are attributed to the municipality. If the location of transaction is determined to be other than this municipality then the rate imposed on the gross receipts for telecommunications services shall be determined pursuant to the provisions of Utah Code Ann. §10-1-407. (Ord. No. 6-20-05A)

3-8-040. Rate Limitation and Exemption Therefrom.

This rate of this levy shall not exceed four percent (4%) of the telecommunication provider's gross receipts from telecommunication service attributed to the municipality unless a higher rate is approved by a majority vote of the voters in the municipality that vote in:

- (a) a municipal general election;
- (b) a regular general election; or
- (c) a local special election.

3-8-050. Changes I Rate or Repeal of the Tax.

This ordinance is subject to the requirements of Utah Code Ann. §10-1-403. If the tax rate is changed or the tax is repealed, then the appropriate notice shall be given as provided I said section.

3-8-060. Procedures for Taxes Erroneously Recovered form Customers.

Pursuant to the provisions of Utah Code Ann. §10-1-408, a customer may not bring a cause of action against a telecommunications provider on the basis that the telecommunications provider erroneously recovered from the customer the municipal telecommunication license tax, except as provided in §10-1-408. (Ord. No. 6-16-04A)

TITLE FOUR - MUNICIPAL PROPERTY

CHAPTER 1 - MUNICIPAL PROPERTY IN GENERAL

4-1-010. Buildings.

The city may erect and maintain such buildings and facilities as may be necessary to meet the needs of the city.

4-1-020. Other Property.

The city may own and maintain such other property, real, and personal, in order to provide services to its residents, or to provide for their health, safety, and/or welfare. The city may exercise any power set forth in Utah Code Ann. §10-8-1 et seq.

4-1-030. Unlawful Use.

Unless authorized by permit or ordinance, it shall be a Class B Misdemeanor for any person to:

- A. Gain entry or attempt to gain entry to any public property after closing hours, provided any state law stating a more serious criminal penalty shall take precedence over this section;
- B. Intentionally use or perform acts on property of the municipality which materially impairs, alters, or damages the property.

CHAPTER 2 - CEMETERIES

4-2-010. Cemeteries in General.

Salem City will own and maintain a cemetery for the interment of deceased human bodies. The cemetery will operate pursuant to cemetery policies, rules, and regulations as established from time to time by the city council.

4-2-020. Intermit to be in Cemeteries.

No dead human body shall be interred within the limits of the city, except in the cemetery operated by the city or otherwise established in accordance with the law.

4-2-030. Records.

The city recorder shall keep a record of all sales of cemetery lots and burial rights therein, showing the number of the lot and block and burial place sold, the date of sale, the person to whom sold, and the amount received for the same. The recorder shall further keep record of all transfers of cemetery lots and burial places which are properly made and filed in his or her office. The recorder shall further keep and maintain permanent records of the name, date of death, and location of all persons buried in the city's cemeteries.

4-2-040. Fees.

The city may charge a reasonable fee for the right to be buried in a cemetery lot, which sum shall be fixed by the city council. The charge for burial rights shall include the necessary costs for future perpetual care and maintenance for such lot or burial place. In addition, reasonable charges for the digging of graves, inspections, and other services performed may be imposed. All fees shall be paid to the city treasurer and shall be prepaid prior to the receiving of any services.

4-2-050. Forfeiture.

The city shall have the right to reclaim, by forfeiture, any cemetery lot which has remained unused. In claiming any such forfeiture, the city shall comply with the provisions of Utah Code Ann. §8-5-1 et seq. as it may from time to time be amended.

4-2-060. Sell/Registration.

- A. The city recorder, or such other person as the city council may designate, is hereby authorized to sell only the right to be buried in the city cemetery, and to collect all sums arising from the sale.
- B. The right to burial may be granted by deed and shall be exempt from execution, taxation, or assessment for care and maintenance from and after full payment of the purchase price. Payments made shall not be construed to be in payment for cemetery services other than perpetual care or prepaid maintenance.
- C. Perpetual care of prepaid continued maintenance shall be deemed to include the filling of the grave and the placing of top soil upon the grave, planting or sodding the grave with grass, and watering and cutting the grass. No other services are included.

- D. Before any deceased person may be buried in a municipal cemetery, the relatives or person having charge of the deceased shall provide the recorder or the designated person with a written statement which shall be filed by the recorder, which statement shall contain information about the deceased regarding his or her name, when and where born, the date and cause of death, the name of the attending physician, the date of burial, and the description and location of the grave.

4-2-070. Control and Maintenance.

The superintendent of buildings and grounds, or such other officer as may be assigned to perform the duties herein set forth, under the direction of the city council, shall have the care and control of the maintenance and operation of the city's cemeteries. All markers, plantings, improvements, or other work of any nature or description must be done under the direction and control of the superintendent of buildings and grounds or such other designated person. No person owning a right of burial in the city's cemetery shall plant, grate, or do any other work in such cemetery except by written authority first had and obtained from the city council. The city council shall, by resolution, designate the type of markers, grade of ground, plantings, and other improvements which may be permitted in the city's cemetery.

4-2-080. Vehicular Traffic.

- A. It is unlawful for any person to drive any motor vehicle upon any cemetery lot, back over any grave, cut corners, or drive any vehicle upon any part of the cemetery which is not an established roadway. This provision shall not apply to the city employees in the discharge of their duties.
- B. It is unlawful for any person to drive a motor vehicle in the city cemeteries at a speed greater than is reasonable and prudent under the conditions and having regard to the actual and potential hazards then existing. Where speed limits are posted, it is unlawful for any person to drive a motor vehicle in excess of the posted speed limit.
- C. Whenever signs have been installed by the city directing traffic to proceed in one direction only upon any street in the city cemetery, it is unlawful for any person to disobey such signs and drive a motor vehicle in the opposite direction.

4-2-090. Defacing or Removing Shrubs or Markers.

No person shall injure, deface, take, or carry away from any grave or lot, any monument, marker, tree, shrub, flower, ground, or any other property or ornament in the city cemetery, except with written permission of the superintendent of buildings and grounds.

4-2-100. Animals.

It is unlawful for the owner, agent, caretaker, custodian, or other person or persons in charge of any animal to allow or negligently permit animals to run at large or trespass on cemetery grounds.

4-2-110. Landscaping.

Except as provided by the rules and regulations of the city council, it shall be

unlawful for any person to erect or maintain any marker or monument, any fence, cornerpost, coping, or boundary of any kind, to plant any vegetation upon any lot or lots, street, alley, or walk in the cemetery or degrade the ground or land thereof. The cemetery superintendent shall, whenever requested, furnish the true lines of any lots according to the official survey, and shall prevent and prohibit any markings of the same except by official landmarks, and shall prevent or prohibit any grading thereof that might destroy or interfere with the general slope of the land. Permission to erect any such marker or landscaping may be granted by written resolution of the city council.

4-2-120. Penalty.

Any person violating any provision of this chapter is guilty of a Class C Misdemeanor.

CHAPTER 3 - PARKS AND RECREATIONAL FACILITIES

4-3-010. Parks and Recreational Facilities in General.

The city may establish parks and other recreational facilities for the enjoyment and benefit of its residents. The city council may establish rules and regulations concerning the use of such facilities, including reasonable charges for the use, at the discretion of the council.

4-3-020. Alcohol Prohibited.

The possession, sale, or consumption of alcoholic beverages is prohibited on the premises of any park or other recreational facility.

4-3-030. Traffic Control.

- A. It is unlawful for any person to drive a motor vehicle within the city's parks or recreational facilities at a speed greater than is reasonable and prudent under the conditions and having regard to the actual and potential hazards then existing. Where speed limits are posted, it is unlawful for any person to drive a motor vehicle in excess of the posted speed limit.
- B. Whenever signs have been installed by the city directing traffic to proceed in one direction only upon any street in the city's parks or recreational facilities, it is unlawful for any person to disobey such signs and drive a motor vehicle in the opposite direction.
- C. It shall be unlawful to park or stop a vehicle in a park or recreational facility except in areas which have been designated for vehicular parking by signage, striping, or otherwise.

4-3-040. Hours.

All parks and recreational facilities shall close no later than 12:00 midnight. The council, by resolution, may establish earlier closing times for specific parks or facilities.

4-3-050. Reservations.

The city council may allow reservations for the use of recreational facilities and pavilions. The charges for reservations may be set by the council. The council may appoint a member of the office staff to keep and coordinate reservations. The council may enact such other rules and regulations pertaining to reservations as it deems advisable.

Parks, other than pavilions, may not be reserved, but are to remain open to the public during permitted hours of usage.

4-3-060. Violations - Penalties.

- A. Any person violating any provision of this chapter is guilty of a class C misdemeanor.
- B. Any person or group violating any provision of this chapter, shall, in addition to the

penalties of subparagraph (A), be prohibited from the use of the parks or recreational facilities for a period of one year.

TITLE FIVE - EMPLOYEE PERSONNEL SYSTEM

CHAPTER 1 - PERSONNEL IN GENERAL

5-01-010. Definitions.

(Repealed = Ord. No. 12-8-04)

5-01-020. Established - Provisions.

Pursuant to Utah Code Annotated § 10-3-1101 et seq., and other pertinent provisions of the laws of the state of Utah, there is adopted and established an employee personnel system for Salem City Corporation which shall be based on the following principles and provide for:

1. A system free from political and personal considerations;
2. Equitable employment without discrimination;
3. Incentives and conditions of employment;
4. Positions classified and compensated on justifiable and uniform bases.
5. Establishment of merit principles;
6. Just and fair administration of policies, rules, and regulations;
7. A formal plan of adopted policies, rules, and regulations.

5-01-030. Classified and Exempt Service.

All officers and positions of the city shall be divided into either the classified service or the exempt service.

- A. Exempt service employees are all officers, officials, employees, and/or volunteers who work or perform services for the City on an at-will basis, subject to being relieved of their responsibilities at any time with or without cause. The exempt service shall include the following full time positions:

The City Finance Director/City Recorder, City Treasurer. City Engineer, Public Works Director, Police Chief, and City Attorney; (Ord. No. 6-07-06)

- B. The classified service shall include all full-time employees not specifically placed in the exempt status of the city.
- C. Classified employees of Salem City shall hold employment without limitation of

time. Discharge (termination), involuntary transfer to a position with less remuneration (demotion), or suspension of over two days without pay may occur only for cause and in compliance with state law and in accordance with the procedures set forth in the Salem City Personnel Policy Manual. All other grievance and/or disciplinary matters shall be handled as set forth in the Personnel Policy Manual. (Ord. No. 12-8-04)

5-01-040. Administration - Powers and Duties.

- A. The city mayor or his/her designee shall administer the personnel system provided by this chapter and by the rules and regulations it authorizes and by other applicable law.
- B. The city mayor shall perform the duties and have the powers concerning personnel matters as follows:
 - 1. Administer and maintain the personnel system and other pertinent rules and regulations established by this chapter and by its authority;
 - 2. Develop, maintain and apply procedures for the recruitment, compensation, promotion, training, discipline related aspects of personnel management for all personnel under his/her jurisdiction, subject to the provisions of ordinances, council policies, and personnel rules and regulations stated in this chapter or adopted pursuant to this chapter;
 - 3. Issue other supplemental personnel directives as are necessary for the effective implementation of this chapter, council policies, and rules and regulations stated in this chapter or adopted pursuant to this chapter;
 - 4. Recommend and submit to the council for approval or modification such new or revised personnel rules and regulations to include:
 - a. The classification of all city positions, based on duties, authority, responsibility, working conditions, know-how, and accountability of each position whenever warranted by changed circumstances,
 - b. A pay plan for all positions,
 - c. Methods for determining the merit and fitness of candidates for appointment or promotion,
 - d. Policies and procedures regulating reduction in force, demotions, transfers, and removal, separation, or discharge of employees,
 - e. Hours of work, standards of conduct, probationary period requirement, attendance regulations, and provisions for sick and vacation leave.

- f. Policies and procedures governing persons holding provisional appointments,
 - g. Policies and procedures governing employee-management relationships,
 - h. Policies regarding all aspects of training and education programs,
 - i. Other practices and procedures necessary to the administration of the personnel system;
5. Recommend to the council contractual arrangements with any qualified person or agency for the performance of such technical services as may be desired in the establishment and operation of the personnel system.

5-01-050. Compliance with Federal and State Law – Liabilities - Legality.

- A. Nothing in this chapter, or in the rules and regulations developed under this chapter, shall in any way conflict with any federal or state law, rules, regulation or requirement which is or may become binding on the city because of either the statutory existence of such laws and regulations or contracts into which the city has entered or may enter with other units of government.
- B. All officers and employees of the city, whether elected, appointed or employed, shall not be held personally liable for any decisions made under this chapter where such decisions and the results thereof are determined to be in conflict with state, federal or other statutory requirements, except where such decision is an intentional violation of state, federal, or other statutory requirement.
- C. Should any part of this chapter be subsequently declared illegal, the council declares that all other provisions and remaining parts of the chapter, notwithstanding such illegality of a part, shall remain in effect.

5-01-060. Appeal Board

- A. There is hereby created an Appeal Board, which shall consist of the City Council and which will be chaired by the Mayor *Pro Tempore*.
- B. Any employee afforded merit protection under the law (Utah Code Ann. §10-3-1105) shall be entitled to appeal discharge (termination), involuntary transfer to another position with less remuneration (demotion), or suspension without pay for more than two days, to the Appeal Board. The procedures for an appeal shall be set forth in the Salem City Personnel Policy Manual. Exhaustion of all appeal procedures set forth in the Personnel Policy Manual shall be a prerequisite to filing an appeal with the Appeal Board, including meeting all time deadlines. (Ord. No. 12-8-04)

TITLE SIX - BUSINESS REGULATIONS

CHAPTER 1 - BUSINESS LICENSES

6-1-010. Definitions.

The following definitions shall be applicable to this title:

- A. **"Business"** means and includes all activities engaged with in this municipality carried on for the purpose of gain or economic profit, except that the acts of employees rendering service to employers shall not be included in the term business unless otherwise specifically provided.
- B. **"Engaging in business"** includes, but is not limited to, the sale of tangible personal property at retail or wholesale, the manufacturing of goods or property and the rendering of personal services for others for a consideration by persons engaged in any profession, trade, craft, business, occupation or other calling, except the rendering of personal services by an employee to his employer under any contract of personal employment.
- C. **"Place of business"** means each separate location maintained or operated by the licensee within this municipality from which business activity is conducted or transacted.
- D. **"Employee"** means the operator, owner or manager of a place of business and any persons employed by such person in the operation of said place of business in any capacity and also any salesman, agent or independent contractor engaged in the operation of the place of business in any capacity.
- E. The term **"wholesaler"** means a person doing a regularly organized wholesale or jobbing business and selling to retail merchants, jobbers, dealers or other wholesalers, for the purpose of resale.
- F. The term **"wholesale"** means a sale of tangible personal property by wholesalers to retail merchants, jobbers, dealers or other wholesalers for resale, and does not include a sale by wholesalers or retailers to users or consumers not for resale, except as otherwise specified.
- G. **"Each separate place of business"** shall mean each separate establishment or place of operation, whether or not operating under the same name, within the municipality, including a home or other place of lodging if the same is held out by advertisements, listings or otherwise as the establishment or place of operation of a person engaging in the business of selling tangible, personal property at either retail or wholesale, or both, in the municipality, or where personal or professional services are rendered.
- H. **"Canvasser," "solicitor," "peddler," "Hawker," or "huckster"** means any individual whether or not a resident of the municipality, traveling either by foot,

wagon, motor vehicle, or other type of conveyance, from place to place, from house to house, or from street to street, taking or attempting to take orders for the sale of goods, wares and merchandise, personal property of any nature whatsoever, or carrying, conveying, or transporting meats, fish, vegetables, fruits, garden truck, farm products or provisions, whether or not payment and delivery are made simultaneously or whether payment is taken for future delivery, or for services to be furnished or performed in the future, whether or not such individual has, carries, or exposes for sale a sample of the subject of such sale, or whether he is collecting advance payments on such sales, provided that such definition shall include any person who, for himself, or for another person, firm or corporation, hires, leases, uses or occupies any building, structure, tent, railroad boxcar, hotel or motel room, lodging house, apartment, shop or any other place within the municipality for the sole purpose of exhibiting samples and taking orders for future delivery.

- I. **"Transient merchant," "itinerant merchant," or "itinerant vendor"** is defined as any person, firm or corporation, whether as owner, agent, consignee or employee, whether or not a resident of the municipality, who engages in a temporary business of selling and delivering goods, wares and merchandise within the municipality, and who, in furtherance of such purpose, does not conduct the activity substantially within a permanent building or structure but who does in furtherance of such purpose hire, lease, use or occupy a nonpermanent building or structure, motor vehicle, tent, railroad boxcar, public room in any hotel, motel, lodging house, apartment, shop or any street, alley or other place within the municipality, other than within a permanent building or structure, for the exhibition and sale of such goods, wares and merchandise, either privately or at public auction. The person, firm or corporation so engaged shall not be relieved from complying with the provisions of this chapter merely by reason of associating temporarily with any local dealer, trader, merchant or auctioneer, or by conducting such transient business in connection with, as a part of, or in the name of any local dealer, trader, merchant or auctioneer.

6-1-020. License Required.

It is a Class B Misdemeanor for any person to engage in or carry on any business, trade, profession, or calling within the city without first obtaining a license as required by this chapter.

6-1-030. Branch Establishments.

A separate license must be obtained for each separate place of business in the city. Each license shall authorize a licensee to engage in only the business licensed thereby at the location or in the manner designated in such license, provided, that warehouses and distributing places used in connection with or incident to a business license under this part shall not be deemed to be a separate place of business or branch establishment.

6-1-040. License Assessor and Collector.

The city recorder/finance director is designated and appointed as ex-officio assessor of license fees for the city. On receipt of any application for a license, the city

recorder/finance director shall assess the amount due thereon and shall collect all the license fees set by ordinance. He or she shall enforce all provisions of this title, shall cause violations to be processed and treated as any other criminal violation by report and referral to the appropriate prosecuting office.

6-1-050. Payment Dates.

- A. All licenses shall be payable before each calendar year, in advance, and shall commence from the first day of January of each year and shall expire on the 31st day of December of each year.
- B. All license fees shall be due the first day of each calendar year and shall become delinquent if not paid by February 1 of each year. The proceeds of all licenses shall be remitted by the city recorder/finance director to the city treasurer.
- C. If any license fee is not paid within thirty (30) days of the due date, a penalty of 10% of the amount of such license fee shall be added to the original amount thereof. No license shall be issued until all penalties legally assessed have been paid in full.

6-1-060. Applications.

- A. All applications for business licenses for businesses which shall be permanently located and conducted within Salem City on a long term basis shall specify:
 - 1. The name of the person desiring a license;
 - 2. The kind of license desired, stating the business, calling, trade or profession to be performed, practiced or carried on;
 - 3. The place where such business, calling, trade or profession is to be carried on, giving the street number where the business, calling, trade or profession is to be carried on or in any building or enclosure having such number;
 - 4. The application shall state such other matter or things required by ordinance or statute.
- B. Applicants for licenses to conduct business as itinerant merchants shall provide the following information to the city recorder/finance director.
 - 1. The name and address of the applicant, and if the applicant is an employee or agent of a corporation, the name and address of the corporation;
 - 2. A brief description of the nature of the business and the goods to be sold and from whom or where the applicant obtains the goods to be sold;
 - 3. If the applicant is employed by or is an agent of another person, the name and permanent address of such other person or persons;

4. The length of time for which the applicant desires to engage in business within the municipality;
5. The place or places within the municipality where the applicant proposes to carry on his or her business;
6. A list of the other municipalities in which the applicant has engaged in business within the six-month period preceding the date of the application;
7. If the applicant is employed by another person, firm or corporation, documents showing that the person, firm or corporation for which the applicant proposes to do business is authorized to do business within the State of Utah.
8. A current and active sales tax number, having been issued by the State of Utah to the applicant to do business within the State of Utah, if applicable.
9. Any person or entity selling foods or food items must comply in all respects with the rules and regulations of the Utah State Board of Health and/or the Utah County Health Department.

6-1-070. Certificate.

All certificates of license shall be signed by the mayor, attested by the recorder/finance director and shall contain the following information:

- A. The name of the person to whom such certificate has been issued;
- B. The amount paid;
- C. The type of license and the class of such license if licenses are divided into classes;
- D. The term of the license showing the date of its expiration;
- E. The place where such business, calling, trade, or profession is to be conducted.

6-1-080. Display.

Every certificate of license issued under this title shall be posted by the licensee in a conspicuous place upon the wall of the building, room or office of the place of business so that the same may be easily seen. When such certificate of license has expired, it shall be removed by the licensee from such place in which it has been posted, and no certificate of license which is not in force and effect shall be permitted to remain posted upon the wall or any part of any room within the place of business. If the licensee's business is such that the license cannot be displayed due to the transient or mobile nature of the business, then the licensee shall carry the license on his person to be shown on request to an officer or citizen during all such time or times while the licensee is engaged in or pursuing the business for which a license is granted.

6-1-090. Non Transferable.

No license granted or issued under this chapter shall be in any manner assignable or transferable. It shall not be deemed to authorize any person other than the person or entity named therein to do business or to authorize any other business, calling, trade, or profession than is therein named unless by permission of the city council.

6-1-100. Revocation.

Licenses issued under the provisions of this chapter may be revoked by action of the city council because of failure on the part of the licensee to comply with the conditions and requirements of said license or because of illegal activities thereunder.

6-1-110. Fee Schedule. (Ord. No. 12-9-97-A)

- A. Each business, location, trade, calling, profession, itinerant merchant, solicitor, or canvasser for each person or other entity engaged in business in Salem City shall pay an annual license fee of \$25.00.
- B. Those businesses which sell tobacco products, and which have employees who have violated any provision of law with respect to the sale of tobacco products, shall have their business license fee increased during the next calendar year by the sum of \$100.00 for each such violation.

6-1-120. Exemption.

No license fee shall be imposed under this chapter for any person engaged in business for solely religious, charitable, eleemosynary or other types of strictly non-profit purpose which is tax exempt in such activities under the laws of the United States and the state of Utah, nor shall any license fee be imposed on any person engaged in a business specifically exempted from municipal taxation and fees by the laws of the United States or the state of Utah; nor shall any license fee be imposed upon any person not maintaining a place of business within this municipality who has paid a like or similar license tax or fee to some other taxing unit within the state of Utah and which taxing unit exempts from its license tax or fee, by reciprocal agreement or otherwise, businesses domiciled in this municipality and doing business in such taxing unit.

6-1-130. Multiple licenses.

Any person, business, corporation, or other entity carrying on business within the city which is required to have any other type of license by local, state, or federal law shall be required to obtain a business license in addition to the other required license(s), including beer or alcohol license, federal firearm license, or other similar licenses.

6-1-140. Site Improvements. (Ord. No. 3-17-99-B – Section 6-1-140)

All businesses constructing new buildings in Salem City must comply with the construction and development standards of the City prior to receiving a business license.

All businesses remodeling a building shall be required to comply with Salem

City Municipal Code Section 10-3-010(B) prior to receiving a business license.

CHAPTER 2 - ALCOHOLIC BEVERAGES

6-2-010. Definitions.

The words and phrases used in this chapter shall have the meanings specified in the Utah Alcoholic Beverage Control Act unless a different meaning is clearly evident. Said definitions are adopted and incorporated herein by reference. The provisions of the Alcoholic Beverage Control Act [Title 32A of the Utah Code] shall govern the selling and dispensing of alcoholic beverages within the city, except where otherwise allowed by said act and set forth herein.

6-2-020. Permit Required.

- A. It shall be unlawful for any person to sell, offer to sell, or provide to the public any type of alcoholic beverages without first obtaining a permit to do so from the city. An applicant need not have a permit issued by the Department of Alcoholic Beverage Control, but shall be qualified in all respects to obtain a state license from the Department. All licensees shall comply with the Alcoholic Beverage Control Act, Utah Code Annotated §32-A-1-101 et.seq., as it may from time to time be amended, and the rules and regulations promulgated thereunder by the Department of Alcoholic Beverage Control. An alcoholic beverage permit shall be in addition to the business license required under Title 6 of the Salem City Ordinances. The permit granted hereunder shall expire on the 31st day of December of each year. A new permit is required each year. A new permit must be obtained within thirty (30) days of the expiration of any prior permit.

Applications shall be made available at the city offices and permits may be issued by the city recorder's office upon a showing of meeting all of the requirements set forth herein and in the Alcoholic Beverage Control Act.

- B. The application for a license shall be referred to the Chief of Police for inspection and report. After investigation the Chief of Police shall make a recommendation to the council as to the granting or denial of the license. The city council shall act upon the recommendation as it deems just, fair, and proper.
- C. A permittee holding a Class A Permit (as defined in the next section) for off-premise consumption shall require any and all employees involved in the transaction of retail beer sales to obtain a Beer handler's Permit from the Utah County Health Department, complying with all the ordinances, rules, and regulations promulgated by the Health Department for issuance of such permits. All employees of a permittee involved in the transaction of retail beer sales will be required to possess and wear a Beer handler's Permit while on duty. This permit shall be worn in a conspicuous place such that the permit shall be clearly visible to any person.

New employees of a permittee shall obtain a Beer handler's Permit within thirty (30) days of hire. During this thirty (30) day period, the employee may sell alcoholic beverages in accordance with the Utah Alcoholic Beverage Control Act, the regulations of the Alcoholic Beverage Control Commission, and the provisions of

this Chapter.

The permittee is required to inform the Utah County Health Department of any employee possessing a Beer Handler's Permit whose employment is terminated for conduct that would be punishable under the statutes or ordinances regulating alcoholic beverages. Permittees shall permit law enforcement officers and Utah County Health Department employees to conduct random Beer handler's Permit compliance checks on permittee's premises.

An employee possessing a Beer Handler's Permit who is convicted of any law involving the sale of an alcoholic beverage is not only subject to the penalties in section 6-1-200 of this chapter, but shall also incur a suspension of the employee's Beer Handler's Permit in accordance with the ordinances, rules, and regulations adopted by the Utah County Health Department applicable to such permit. (Ord. No. 6-

16-04)

6-2-030. Categories of Permits.

Permits shall be issued as follows:

- A. "Class A" permits shall entitle the holder thereof to sell beer, light beer, malt liquor, or malted beverages for consumption off the premises in accordance with the Alcoholic Beverage Control Act.

All other sales of beer, light beer, malt liquor, malted beverage, or other alcoholic beverages are prohibited within Salem City.

The city shall have the discretion to grant or deny such a permit, taking into account the type of event, the type of persons expected to attend such event, the location of the event, the time of the event, the proximity to residential areas, public areas, schools, and churches. (Ord. No. 2-25-97-A)

6-2-040. Non-Transferable.

Permits issued pursuant to this chapter shall be non-transferable.

6-2-050. Fees.

Prior to the issuance of any permit, the applicant shall pay a fee therefore as follows:

For a Class A permit, \$500.00;
For a Class B permit, \$2,500.00;
For a Class C permit, \$2,500.00.

(Ord. No. 12-9-97)

6-2-060. Revocation.

Any permit issued hereunder may be revoked following notice and a hearing before the city council. Grounds for revocation shall be for violation of this chapter, for violations of any of the provisions of the Alcoholic Beverage Control Act, or upon losing a

state issued license or permit, or for any other factor identified in this chapter. Notice shall be deemed received when mailed by United States Postal Service, first class mail, postage prepaid, to the address provided in the application.

In any revocation hearing, the City Council shall follow the following criteria:

- a. Upon a first violation of this chapter, the permittee shall be issued a warning.
- b. Upon any violation of this chapter which occurs within two years of a prior violation, the permittee shall pay a civil penalty of \$250.00.
- c. Upon any violation of this chapter which occurs within two years of two prior violations, the permittee shall pay a civil penalty of \$500.00 and the permittee shall have its license to sell beer suspended for a period of three consecutive days, on a Thursday through Saturday.
- d. Upon any violation of this chapter which occurs within two years of three prior violations, the permittee shall pay a civil penalty of \$500.00 and the permittee shall have its license to sell beer suspended for a period of 30 consecutive days. Additionally, the permittee shall be placed on probation for a period of one year. Any violation of this chapter during the period of probation shall result in the revocation of the permittee's permit to sell beer. The permittee shall not be eligible to reapply for a new license for at least six months from the date of revocation.

Failure to pay any of the penalties assessed herein is grounds for revocation of the permittee's permit to sell beer. (Ord. No. 6-16-04)

6-2-070. Duties.

Each person or entity granted a permit under this chapter shall abide by the following:

- A. A Class A permit holder:
 1. Shall comply with all applicable provisions of the Alcoholic Beverage Control Act.
 2. It shall not permit beer, light beer, malt liquor, or malted beverages to be sold during the hours of 12:00 midnight until 6:00 a.m., nor on Sundays. (Ord. No. 8-4-99)
 3. Shall not permit beer, light beer, malt liqueur, or malted beverages to be sold from drive-up windows.
 4. Shall not permit any person under the age of 21 years to sell or handle alcoholic beverages in or about the premises or facilities.

B. A Class B permit holder:

1. Shall comply with all applicable provisions of the Alcoholic Beverage Control Act;
2. Shall not permit beer, light beer, malt liquor, or malted beverages to be sold between the hours of 12 midnight and 8:00 a.m., nor on Sundays.
3. Shall not permit any person under the age of 21 years to sell or handle alcoholic beverages in or about the restaurant premises or facilities.

C. A Class C permit holder:

1. Shall comply with all applicable provisions of the Alcoholic Beverage Control Act;
2. Shall comply with all of the restrictions imposed by his or her single event permit as granted by the city.

6-2-080. Possession in Public Facilities Prohibited.

It is a class B misdemeanor for any person to consume or possess any alcoholic beverage within any public park, recreation facility, building, or property under the ownership or control of the city.

6-2-090. Inspections.

All permittees under this chapter shall allow access, at reasonable hours, to the premises and business records to verify compliance with this chapter and/or with the Alcoholic Beverage Control Act. Such access shall be allowed to any police officer of the city. Failure to allow an inspection when requested shall result in revocation of the permit in addition to any sanctions authorized by the Alcoholic Beverage Control Act.

6-2-100. Violations.

Unless otherwise set forth in the Alcoholic Beverage Control Act, each violation of this chapter is a Class B Misdemeanor.

CHAPTER 3 - FRANCHISES AND SPECIAL PRIVILEGES

6-3-010. Requirement of Franchise.

It shall be unlawful to install, construct, or maintain any wires, cables, fibers, poles, pipes, or other equipment for the provision of public utility service or telecommunications in, on, under, or over any street, alley, sidewalk, parkway, or other public place within the municipal limits of Salem City without having first obtained a franchise for use of the public way from Salem City.

6-3-020. Application Copies.

Whenever application is made to the city council for a franchise or grant of special privilege, or for an extension or renewal of any existing franchise or grant of special privilege, the applicant shall furnish to the city manager for the use of the city council, ten copies of the proposed ordinance or ordinances and pay into the city treasury a fee as established from time to time by resolution of the city council.

6-3-030. Criteria for Grant of a Franchise.

1. No person, corporation, or other entity may receive a franchise to construct, maintain, or operate facilities to be used to provide any public utility, service, or telecommunications within the limits of the city unless the city council has determined that granting such franchise is in the public interest, as determined by:
 - A. The franchise is consistent with the safety and health and will promote the prosperity, comfort, and convenience of the city and its residents; and
 - B. It is consistent with the protection of property in the city.
2. No person, corporation, or other entity may receive a franchise to construct, maintain, or operate facilities used or to be used to provide any public utility, service, or telecommunications within the limits of the city to an area where such service is provided from the city, or an area where the city has incurred expenses in providing such service, until satisfactory provision has been made, on terms and conditions approved by the city council, for payment by the prospective franchisee to the city of the fair market value of those facilities dedicated to provide said service to the area being franchised. In the event the city and the prospective franchisee cannot agree upon the fair market value of said facilities, the franchise may not be granted until the agreement is reached.

6-3-040. Franchise Agreements.

1. Salem City may, by written agreement, grant one or more non-exclusive franchises for use of public streets, public easements, and public right-of-ways. Said agreements should take the form of both contract and uncodedified municipal ordinance.
2. Unless the city council shall otherwise consent by resolution, each agreement and granting of franchise shall include, but not be limited to, provisions related to the following items:
 - A. The term of the franchise;

- B. The amount of any franchise fee or other fees to be paid for use of the public streets, easements, or right-of-ways;
 - C. The rights and limitations on the use by the franchisee of city-owned or controlled streets, easements, poles, or other publicly-owned property;
 - D. Public or governmental use, if any, of the franchised system;
 - E. A description of the area or customers who are to be served by the franchisee, including obligations to expand service.
3. No franchise contract shall take effect until it has been approved by the city council.
 4. Any franchise granted pursuant to this section shall remain subject to the right of the city council to adopt ordinances or other laws regulating the same, including but not limited to, the following:
 - A. The commencement, interruption, or discontinuation of customer service;
 - B. The quality of service received by customers;
 - C. Customer billing practices;
 - D. The handling of customer complaints.

6-3-050. Non-Assignable - Exception.

All franchises and grants of special privilege shall be deemed to be non-assignable, without the express permission of the city council, whether or not such limitation is set forth in the body of the franchise or grant.

Any attempt at assignment or transfer of a franchise or a special privilege not made in accordance with the provisions of this section shall operate as a forfeiture of all the rights and grants therein given.

6-3-060. Revocation of Grant.

The grant of any franchise may be revoked by the city upon the violation of any provision of this chapter or any condition of the franchise agreement or ordinance. Notice of any violation shall be given to the franchisee at least fifteen (15) days prior to any action being taken to revoke the franchise. If the violation is not corrected within the fifteen (15) days, the city council may schedule a hearing to take evidence concerning the violation. If a violation is found, the council may impose sanctions, including fines, probation, revocation of the grant of franchise, or such other remedy that satisfies the demands of justice.

(Ordinance No. 10-10-95)

CHAPTER 4 - PAWN BROKERS

6-4-010. Pawnbroker Defined.

"Pawnbroker" means any person who loans money or deals in the purchase or exchange of personal property, on condition of selling the same back again to the pledgor or depositor; or who loans or advances money on personal property by taking a chattel mortgage or security thereon, and takes or receives such personal property or other indicia of title into his possession; or any person who sells unredeemed pledges with or without the contemporary sale of new merchandise to facilitate the sale of merchandise.

6-4-020. License Required.

- A. It is unlawful for any person to be in the business of a pawnbroker in the city, without having previously obtained a license to operate as a pawnbroker in accordance with the provisions of this title.
- B. The license fee for a pawnbroker shall be as set forth in §6-1-110, and each license shall expire on December 31st of each year. The license shall be displayed prominently in the place of business, and a copy of all ordinances pertaining to the conduct or transaction of pawnbroker business shall be posted in a conspicuous place in the place of business in such a way that it can be easily perused by all who do business with the pawnbroker.

6-4-030. Display of Merchandise.

All merchandise displayed by a pawnbroker to be held for sale by a pawnbroker shall be held and displayed within an enclosed structure.

6-4-040. Firearms.

Any pawnbroker accepting and reselling firearms must have a federal firearms permit. Any pawnbroker violating this provision shall have his license revoked. Any pawnbroker accepting or reselling firearms is required to produce the federal firearms permit upon request of any law enforcement officer of the city.

6-4-050. Resale of Pawned Property.

Any pawnbroker receiving the sum of twenty dollars or greater for the sale of any merchandise held by it for resale is required to obtain the name and address of the buyer, together with birth date and to verify the same by picture identification. The pawnbroker shall produce said information on request to any authorized agent of Salem City including any law enforcement officer. Any person violating this provision is guilty of a Class B Misdemeanor.

6-4-060. Bond Required.

Before any license shall be issued to a pawnbroker, under the provisions of this chapter, the applicant for the license shall execute and deliver to the city a bond in the principal amount of one thousand dollars executed by a corporate surety authorized to so business in the state, and conditioned upon the faithful performance of the licensee of all requirements under this chapter.

6-4-070. Disclosure Provisions.

- A. All pawnbrokers shall keep a complete ledger-type record containing an account of each and every transaction concerning the buying selling, pawning and redemption of articles, which record shall be written in the English language in legible printing at the time of the receipt, loan, purchase, sale or redemption, and shall set forth the following information:
1. The date and time;
 2. The name, date of birth, and full description of the pledgor or seller, with his street address, city and state of residence. The name, date of birth and description of the seller or pledgor shall be taken from an identification card containing his or her photograph. The type of identification card used for this purpose shall be noted on the form. If the property is jointly owned, both owners must be designated as above.
 3. An accurate description of the goods, articles or things pawned or purchased, including the serial number, model number, name of the manufacturer, and dimensional description (e.g. Zenith color TV, 23-inch, Model Number _____, Serial Number _____; or Colt pistol, 6-inch barrel, Model Number _____, Serial Number _____);
 4. The amount of money loaned or advanced thereon or paid therefor;
 5. The date and hour of the transaction, and in the case of items pawned, the period of time within which the pledge must be honored;
 6. The residence address of the pawnbroker;
 7. The number of the pawn ticket;
 8. Each ticket shall have the name of the business and shall be signed by the seller or pledgor and agent of the business.
- B. The pawnbroker shall make out, in connection with each article pawned, purchased or received pursuant to a transaction of any nature, a serially numbered pawn ticket.
- C. Each pawn ticket shall be issued in multiple copies so that one copy can be retained by the pawnbroker, one copy referred to the person delivering the article, one copy at the close of each business day mailed by the pawnbroker to the sheriff of the county, and the fourth copy delivered to the police department of the city at no greater interval than one week. It shall be a misdemeanor for the pawnbroker to issue any pawn ticket which is not serially numbered in sequence as shown in the ledger book in subsection A above, or to intentionally falsify any information on either the ledger or the four-part ticket. The copies delivered to the county sheriff

and to the city police department shall be clear, legible, and shall contain all signatures. It is unlawful for any pawnbroker, whether acting for himself or acting by and through any agent or employee, to transact any business with respect to a pawn, redemption, purchase, sale, consignment, or any other transaction or gift, other than in conformance with the requirements set forth in this chapter.

6-4-080. Right to Redeem Pawned Articles.

It is unlawful, in all cases in which an article pledged has been forfeited, for a sale or other disposition thereof to be made by the pawnbroker within a period of two months from the date of the pledge; provided, that if the pledgor makes payment to the pawnbroker equal to the interest for a particular month, the redemption period shall be extended an addition thirty (30) days.

6-4-090. Dealing with Proscribed Persons.

It is unlawful for any pawnbroker to receive any goods, articles or things in pawn, in pledge or to loan or allow to be redeemed any article by any person who at the time of the transaction is intoxicated or who is known to be a habitual drunkard, or any person who is known to be a thief, insane or incompetent, or to any person under the age of eighteen years.

6-4-100. Protection of Minors.

It is unlawful for any pawnbroker to sell or trade any gun, or knife with a blade in excess of four inches long to any person under the age of eighteen years, unless the person is accompanied by their legal guardian or parent.

6-4-110. Hours.

It is unlawful for any pawnbroker to receive any goods by way of pawn or pledge, or to keep his place of business open before the hour of seven a.m. or after seven p.m.; provided, however, that on Saturday of each week and on days preceding legal holidays, and the last fifteen days of December of each year, it is lawful for the pawnbroker to keep his place of business open until eleven p.m.

6-4-120. Ownership of Pawned Property.

- A. It is unlawful for any pawnbroker to accept goods or articles in pawn from other than the lawful owner thereof, except with written permission of the owner. Any articles pawned by other than the owner, taken by a pawnbroker, shall be surrendered to the owner thereof upon presentation of proof of ownership of the pawned article by the owner, and failure of a pawnbroker to surrender such materials forthwith upon demand by the true owner, and after exhibition of proof of ownership, shall be a Class B Misdemeanor.
- B. This provision shall apply to outright purchase and all other applicable transactions of any nature.

6-4-130. Unlawful Acts.

- A. A pawnbroker shall be required to adhere to the requirements of Utah Code

Annotated §76-6-408 in addition to any requirement of this chapter.

- B. Every pawnbroker or person who has or operates a business dealing in or collecting used or personal property shall require the seller or person delivering the property to certify, in writing, that he has the legal rights to sell the property. The pawnbroker or person shall also require the seller or person delivering the property to obtain a legible print, preferably the right thumb, at the bottom of the certificate next to his signature, or any other positive form of identification.
- C. Every pawnbroker or person who has or operates a business dealing in or collecting used or personal property and every agent, employee or representative of the pawnbroker or person who buys merchandise or property shall retain that property for a period of thirty days before selling or otherwise disposing of the property or merchandise.

6-4-140. Separate Rooms.

It is unlawful for any pawnbroker to contain his pawnbroking business in the same room or in the same building with interconnecting rooms with any business dealing in alcoholic beverages.

6-4-150. Liability of Principal.

The holder of a pawnbrokers license is liable for any and all acts of his employees in violation of this chapter.

6-4-160. Violation.

Any person violating any of the provisions of this chapter is guilty of a Class B Misdemeanor.

CHAPTER 5 - SECONDHAND, JUNK, AND ANTIQUE DEALERS

6-5-010. Secondhand, Junk and Antique Dealers Defined.

- A. **Antique Dealer.** Any person who engages in the buying, selling, bartering and exchanging of old furniture, coins, currency or other materials bought or sold as having antique value in hereby declared to be an "antique dealer."
- B. **Junk Dealer.** Any person engaged in buying and selling, bartering and exchanging old metal, glass, rags, rubber, paper or other junk is hereby declared to be a "junk dealer."
- C. **Secondhand Dealer.** Any person who keeps a store, office or place of business or who travels through the community for the purpose of purchasing, bartering, exchanging or selling secondhand goods, (including, but not limited to, used clothing or garments of any kind, books, musical instruments, coins, wares or merchandise), or who engages in the business of dealing in secondhand goods is hereby declared to be a "secondhand dealer."
 - 1. An otherwise licensed business which sells new appliances or musical instruments or automobiles is exempted from the above when the used article is used as a trade-in for a new item of the same or similar description.

6-5-020. License Required - Fee.

- A. It is unlawful for any person to do business as a secondhand dealer, a junk dealer or an antique dealer in the city, without having previously obtained a license for that purpose in accordance with the provisions of this chapter and chapter one of this title.
- B. The license fee for a secondhand, junk or antique dealer shall be as set forth in §6-1-110. Each license shall expire on December 31st of each year. The license, after being issued, shall be displayed prominently in the place of business.

6-5-030. Display of Merchandise.

All merchandise displayed by a secondhand, junk, or antique dealer to be held for sale by such dealer shall be held and displayed within an enclosed structure.

6-5-040. Disclosure Provisions.

- A. All licensees under this chapter shall keep a complete written record containing an account of each and every transaction concerning any goods taken into the business either by purchase or by trade, which record shall be written in the English language in legible printing at the time of the purchase or trade, and shall set forth the following information:
 - 1. The date and time;
 - 2. The name, date of birth, and address of the customer. (If the property is

jointly owned, each owner's information must be given in full.) If the property sold or traded by other than the legal owner, both names must be included.

3. An accurate description of the goods, articles or things sold or traded, including the serial number of the article, the name of the manufacturer, if available, and a factual description of the item (e.g. Zenith color TV, 23-inch, Model Number _____, Serial Number _____);
 4. The amount of money paid for the item with each item listed separately with a value ascribed to each or in the event of an exchange, the value ascribed on the exchange;
 5. The day, time of day, month and year that the transaction occurred;
 6. The number of the sales ticket;
- B. The licensee shall make out, in connection with each article purchased or traded for, a serially numbered sales ticket.
- C. Each sales ticket shall be issued in multiple copies so that one copy can be retained by the licensee, one copy given to the customer and one copy at the close of each business week shall be mailed or delivered to the police department of the city. It is a Class B Misdemeanor for the licensee to take any property by either sale or trade into his business without issuing a sales ticket or to use a sales ticket which is not serially numbered in sequence as shown in the ledger book referred to in subsection A above, or to intentionally falsify any information on either the ledger or the ticket. It is unlawful for any licensee, whether acting for himself or acting by and through any agent or employee, to transact any business with respect to which a sales ticket is required in this chapter other than in conformance with the requirements set forth in this chapter.

6-5-050. Dealing with Proscribed Persons.

- A. It is unlawful for any licensee hereunder to receive any goods subject to this chapter from any person who, at the time of the transaction, is intoxicated or who is known to be a habitual drunkard, or who is known to be a thief, is insane or incompetent, or any person under the age of eighteen years.
- B. Any licensee hereunder who accepts property which he knows to have been stolen is guilty of a Class B Misdemeanor.

6-5-060. Ownership of Property.

It is unlawful for any licensee hereunder to accept materials, by either purchase or trade, from other than the lawful owner thereof except with the written permission of the owner. Any article accepted from other than the owner, taken by a

licensee hereunder, shall be surrendered to the real owner thereof upon presentation of proof of ownership of the article by the real owner. Failure of the licensee to surrender such materials forthwith upon demand by the true owner and after exhibition of proof of ownership shall be a misdemeanor.

6-5-070. Unlawful Acts.

- A. A licensee hereunder shall be required to adhere to the requirements of Utah Code Annotated §76-6-408 in addition to any requirements of this chapter.
- B. Every licensee hereunder and every agent, employee or representative of the licensee, who buys, receives or obtains property pursuant to a license issued under this chapter shall require the seller or person delivering the property to certify, in writing, that he has the legal right to sell the property. The licensee or his agent shall also require the seller or person delivering the property to affix a legible print, preferably the right thumb, at the bottom of the certificate next to his signature, or to provide another positive form of identification. Such alternative identification must be the type of identification having a photograph of the customers (i.e. a driver's license with photograph attached), and if used in lieu of the thumbprint, the licensee shall affix the proper numbers from the driver's license or other identification and adequately identify the identification.

6-5-080. Liability of Principal.

The holder of a license hereunder is liable for any and all acts of his employees in violation of this chapter.

6-5-090. Exemption.

Purchases of recyclable cans and bottles are exempt from this chapter.

6-5-100. Resale of Property.

Any secondhand, junk or antique dealer, receiving the sum of twenty dollars or greater for the sale of any merchandise held by it for resale is required to obtain the name and address of the buyer, together with birth date and to verify the same by picture identification. The secondhand, junk or antique dealer shall produce said information on request to any authorized agent of Salem City including any law enforcement officer. Any person violating this provision is guilty of a Class B Misdemeanor.

CHAPTER 6 – CABLE TELEVISION FRANCHISES

6-6-010. Legislative Intent.

The city finds that the continuation and development of cable television and communications system has great benefit and impact upon the residents of Salem City. Because of the complex and rapidly changing technology associated with cable television, the city further finds that the public convenience, safety and general welfare can best be served by establishing regulatory powers which should be vested in the city or such persons as the city shall designate. It is the City's intent to insure that city residents receive a high quality cable television and communications service comparable to the best offered in any community in Utah County; that any inconvenience to residents in the development, operation, and maintenance of a cable system or systems be minimized; and that the city is properly compensated for the administration of cable television and communication franchises and the use of the public facilities permitted by this Chapter. It is the intent of this Chapter to provide for the means to attain the best possible public interest in these matters, and any franchise issued pursuant to this Chapter shall be deemed to include this finding as an integral part thereof.

6-6-020. Definitions.

- A. **"Basic Cable"** is the lowest priced tier of service that includes the retransmission of local broadcast television signals.
- B. **"Cable Act"** collectively means the Cable Communications Policy Act of 1984 (Public Law No. 98-549, 47 USC 5221 (Supp.)) as amended, and the Cable Television Consumer Protection and Competition Act of 1992, as amended.
- C. **"Cable Communications System", "System", or "Systems"**, also referred to as **Cable Television System", "Cable System", "CATV System", or "Community Antenna TV System"**, shall have the meaning specified for "Cable Communication System" in the Cable Act. Unless otherwise specified it shall in this document refer to the cable communications system constructed and operated in the city under this ordinance.
- D. **"City"** means the City of Salem.
- E. **"FEE"** means Federal Communications Commission, or successor governmental entity thereto.
- F. **"Franchise"** means the non-exclusive, revocable right granted to the Grantee by which the city authorizes the Grantee to erect, construct, reconstruct, operate, dismantle, test, use and maintain a Cable Communications System in the city.
- G. **"Franchising Authority"** means the City of Salem, Utah.
- H. **"Grantee"** means any cable television or other telecommunications company licensed to transact business within the State of Utah, which has been authorized to

provide services within Salem City.

- I. **"Grantor"** means the City of Salem, Utah.
- J. **"Gross Revenues"** means all cash, credits, property of any kind or nature or other consideration received directly or indirectly by the Grantee, arising from or attributable to the operation of the Cable Television System in the city.
- K. **"Person"** means an individual, corporation, partnership, association, joint venture or organization of any kind and the lawful trustee, successor, assignee, transferee, joint stock company, trust, corporation, governmental entity, or personal representative thereof.
- L. **"Public Way" or "Street"** shall mean the surface of, and the space above and below, any public street, highway, freeway, bridge, land path, alley, court, boulevard, sidewalk, parkway, way, lane, public way, drive, circle, or other public right-of-way, including, but not limited to, public utility easements, dedicated utility strips, or rights-of-way dedicated for compatible uses and any temporary or permanent fixtures or improvements located thereon now or hereafter held by the Franchising Authority in the Service Area which shall entitle the Franchising Authority and the Grantee to the use thereof for the purpose of installing, operating, repairing, and maintaining the System. Public Way shall also mean any easement now or hereafter held by the Franchising Authority within the Service Area for the purpose of public travel, or for utility or public service use dedicated for compatible uses, and shall include other easements or rights-of-way as shall within their proper use and meaning entitle the Franchising Authority and the Grantee to the use thereof for the purposes of installing and operating the Grantee's System over poles, wires, cables, conductors, ducts, conduits, vaults, manholes, amplifiers, appliances, attachments, and other property as may be ordinarily necessary and pertinent to the System.
- M. **"Service Area"** means the present municipal boundaries of the Franchising Authority, and shall include any additions thereto by annexation or other legal means.
- N. **"Subscriber"** means a person or user of the System who lawfully receives communications and other services therefrom with the Grantee's express permission.

6-6-030. Unlawful Activity.

- 1. It is unlawful to operate a Cable Communications System within the city without first obtaining from the city a Franchise to do so.
- 2. No Cable Communications System shall be allowed to occupy or use the streets of the city without a franchise.
- 3. In addition to the criminal and civil remedies provided by the Federal and State law, it is a class B misdemeanor for any person, firm or corporation to create or make use of any unauthorized connection, whether physically, electrically, acoustically,

inductively, or otherwise, with any part of the System without the express consent of the Grantee. It is a misdemeanor for any person to tamper with, remove, or injure any property, equipment, or part of the System or any means of receiving services provided thereto, without the express consent of the Grantee.

6-6-040. Grant of Franchise.

1. Subject to the requirements of this ordinance, the city may grant to any Grantee a nonexclusive, revocable Franchise to construct, operate, maintain, and reconstruct a Cable Communications System within part or all of the city. The Franchise shall constitute both a right and an obligation to provide the services of a Cable Communications System as required by the provisions of this ordinance.
2. The term of any new or Renewal Franchise and all rights, privileges, obligations, and restrictions pertaining thereto shall remain in effect for a period of fifteen years, unless terminated sooner as hereinafter provided.
3. The material provisions of any franchises granted pursuant to this ordinance shall be comparable, in order that one operator not be granted an unfair competitive advantage over another, and to provide all parties equal protection under the law. The Franchising Authority shall not authorize or permit a System to operate within the Franchise area on terms or conditions more favorable or less burdensome to any one operator.

6-6-050. Required Extensions of Service.

1. Grantee is hereby authorized to extend the Cable System as necessary, as desirable, or as required pursuant to the franchise agreement.
2. No Subscriber shall be refused service arbitrarily.

6-6-060. Two-Way Capability.

1. The Grantee shall design and construct the system in such a manner as to provide return response capability and so as to permit the introduction of return video and two way data signals as production technology allows and as the demand requires.
2. Should Grantee become a provider of, and should the City elect to purchase data or other telecommunication services other than traditional Cable services from the Grantee in the service area, the City shall pay no more than an amount based on the lowest competitor's price in the service area for like services. The Grantee may offer to provide such services to the City at the lowest competitor's price less a competitive differential.
3.
 - a. No provision contained herein shall require the Grantee to provide or prohibit the Grantee from providing telecommunication services to the City which will classify the Grantee as a common carrier or public utility, or otherwise subject it to regulatory authority outside of that for the traditional Cable services currently provided by the Grantee in the service area. To this end:
 - i. The Grantee may (i) refuse telecommunication service including but not limited to data, voice or other non-traditional Cable service to the

City, or (ii) control, monitor and/or maintain any portion of the system including but not limited to the optical path and the optical/electronic interface required to provide such services.

- ii. The City shall fully disclose the type(s) of services it will transmit and receive on the Grantee's system.
- b. All applications of the system by the City under this section are intended solely for their use, and are not for resale or commercial use.
- c. Should the Grantee become a provider of such services to the City, the Grantee's liability for any malfunction or failure of transmission under this section shall be limited to repair of the malfunctioning facility and restoration of transmission capability. Grantee shall have no liability for special or consequential damages of lost data or economic loss resulting for the City/County's inability to transmit signals over said facilities except to the extent the loss or damages are the consequence of Grantee's willful misconduct.

6-6-070. Procedure for Remedying Franchise Violations.

1. In the event that city believes that Grantee has violated any provision of the Franchise, city may make a written demand on Grantee that it remedy such violation. From delivery of such notice the Grantee shall (a) within 14 days, respond to the Franchising Authority, contesting the assertion of noncompliance, or (b) have thirty (30) days to cure such default, or (c) in the event that, by the nature of default, such default cannot be cured within the three (3) day period, initiate reasonably steps to remedy such default and notify the Franchising Authority of the steps being taken and the projected date that they will be completed.

If the Grantee fails to comply with §6-6-070 or the City believes the Grantee to still be not in compliance, and the alleged violation is of a significant material provision of the franchise, a meeting with the city mayor shall be held to review the alleged violation. If this meeting does not result in a satisfactory resolution, and/or Grantee requests a hearing, then a hearing shall be held, and Grantee shall be provided with an opportunity to be heard upon thirty (30) days written notice to Grantee of the time and the place of the hearing and the allegation of Franchise violations.

- (a) Any hearing will be conducted by the City Council.
- (b) The costs incurred by the parties for attorney's fees, expert witness fees and other expenses shall be borne solely by the party incurring the costs.
- (c) All witnesses testifying at any hearing held pursuant to this section shall be sworn witnesses and shall be subject to direct and cross-examination. However, formal rules of evidence applicable to the trial of civil and criminal proceedings in the trial courts of the State of Utah shall not be applicable to the hearing. The provisions of the Administrative Procedures

Act, commencing at Utah Code Ann. Section 63-46b-1, et. seq. (1953 as amended) or any such hearing. The hearing may be continued from time to time.

The city council shall upon conclusion of the hearing prepare findings of fact and conclusions. The decision shall be made, filed and mailed to the Grantee not later than thirty (30) calendar days after the conclusion of the hearing.

2. If, after the hearing, the city council determines that a non-compliance occurred or still exists, then Grantor may impose a remedy including, without limitation:
 - (a) making the correction itself, and charging the cost to the Grantee;
 - (b) commencing an action at law for monetary damages, or seeking other equitable relief;
 - (c) requiring the filing of a financial performance instrument by the Grantee to insure future performance; or
 - (d) in the case of a substantial default of a material provision of the Franchise, declaring the Franchise terminated.
3. If the decision by the city council is that there are grounds for termination of the Franchise and that the Franchise shall be terminated, the city council shall adopt a resolution which terminates the Franchise and includes its findings and conclusions. A copy of the resolution shall be mailed to the Grantee.
4. The Grantee shall not be held in default or non-compliance with the provision of the Franchise, nor suffer any enforcement or penalty relating thereto, for such non-compliance or alleged defaults are caused by strikes, acts of God, power outages, or other event reasonably beyond its ability to control.

6-6-080. Alternative Remedies.

No provision of this ordinance shall be deemed to bar the right of the city to seek or obtain judicial relief from a violation of any provisions of the Franchise or any rule, regulation, requirement or directive promulgated thereunder. Neither the existence of other remedies identified in this ordinance nor the exercise thereof shall be deemed to bar or otherwise limit the right of the City to recover monetary damages for such violation by the Grantee, or judicial enforcement of the Grantee's obligations by means of specific performance, injunction relief or mandate, or any other judicial remedy at law or in equity.

No provision of this ordinance shall be deemed to bar any rights the Grantee may have under law and the right to review of any decision by the city council by a court of competent jurisdiction.

6-6-090. Franchise Fee.

1. For the use of the streets and for the purposes of providing revenue with which to

defray the costs or regulation arising out of the granting of this Franchise under this ordinance, Grantee shall pay a Franchise Fee.

2. During the term of the Franchise, Grantee shall pay to the City an amount equal to five percent (5%) per year of the Grantee's annual Gross Revenue received.
3. The Franchise Fee shall be paid quarterly forty-five (45) days after the end of each quarter. Each payment shall be accompanied by a report from a representative of the Grantee showing the basis for the computation.
4. No acceptance of any payment shall be construed as an accord that the amount paid is, in fact, the correct amount, nor shall such acceptance of payment be construed as a release of any claim which the city may have for further or additional sums payable under the provisions of this Section.
5. Any Franchise Fees which remain unpaid after the dates specified in Section 6-6-090(3) shall be delinquent and shall thereafter accrue interest at the maximum legal rate until paid.

6-6-100. Application.

1. No initial license franchise shall be issued except upon written application to the City. Such forms shall contain such information as the City Council may prescribe as to the:
 - (a) Citizenship and character of the applicant.
 - (b) The financial, technical and other qualifications of the applicant to operate the system.
 - (c) Complete information as to its principals and ultimate beneficial owners, including in the case of corporations, all stockholders both nominal and beneficial owning 1% or more of the issued and outstanding stock, and in the case of incorporated associations, all members and ultimate beneficial owners however designated.
 - (d) Description in detail of the equipment or facilities proposed to be constructed, installed and maintained.
 - (e) A statement or schedule setting forth the number of channels and all of the television or radio stations proposed to be received, transmitted, conducted, relayed or otherwise conveyed over its system.
 - (f) Such other information as the city may deem appropriate or necessary. Such application shall be signed by the applicant or a duly authorized representative.
2. The city council, after the last date fixed for the receipt of the application, shall cause

to be published in a newspaper of general circulation within the city, a notice of a public hearing, giving the time, date, place of such hearing, and listing the names of the applicants and inviting public examination of the applicants and qualification of said applicants.

3. A public hearing shall be conducted in accordance with the standards of due process fairness to applicants and the public and in accordance with the FCC rules and regulations and orders and policies pertinent to such hearing. Each applicant shall be notified of the time location of his/her application to be considered.
4. At the option of the city and upon application of the Grantee, any franchise granted under this chapter may be renewable in the same manner as required herein for obtaining an original franchise except those provisions which are by their terms expressly inapplicable. The city council may, at its option, waive compliance with any or all of the requirements of this section. Any proceedings undertaken by the Franchising Authority that relate to the renewal of the Grantee's Franchise shall be governed by and comply with the provision of the Cable Act, as amended, unless the procedures and substantive protections set forth therein shall be deemed to be preempted and superseded by the provisions of any subsequent provision of Federal or State law.

6-6-110. Application Fee.

Each initial application shall be accompanied by a non-refundable filing fee in the amount of one thousand dollars (\$1,000.00), which shall be payable to the City Recorder.

(Ordinance No. 4-11-05)

CHAPTER 7 – OFF PREMISE SIGNS

6-7-010. Definitions.

The following words or phrases shall have these meanings as used in this chapter:

- A. **“Back-to-Back Sign”**: an off premises sign consisting of two sign facings oriented in opposite directions.
- B. **“Double-Faced Sign”**: an off premise sign with two adjacent faces oriented in the same direction, both of which are attached to the same support structure.
- C. **“Facing”**: that portion of an off premise sign to which advertising is affixed or painted and visible in one direction at one time.
- D. **“Off Premise Sign”**: a sign, including the supporting sign structure, which is visible from a street or highway and advertises good or services not usually located on the premises and/or property on which the sign is located. An off premise signs is also generically known as a billboard. The following shall not be considered off premise signs for purposes of this ordinance:
 - 1. Directional or official signs authorized by law;
 - 2. Real estate signs;
 - 3. On premise signs.
- E. **“On Premise Signs”**: a sign which advertises the primary goods or services sold or taking place upon the premises on which the sign is located.

6-7-020. General Provisions.

- A. No off premise sign shall be constructed that resembles any official sign or marker erected by a governmental entity, or which by reason of position, shape, or color would conflict with the proper function of any official traffic control device.
- B. Off premise signs shall be constructed in accordance with local and state building codes. A structural engineering plan shall accompany a sign permit application and should be subject to wind speed requirements as set forth in the latest addition of the Uniform Building code.
- C. Off premise signs shall be regularly maintained in a good and safe structural condition. Off premise signs shall further maintain their visual appearance. The City Building Official or Inspector is authorized, within his or her sole discretion, to determine the structural and visual conditions of each sign.

1. In the event that an off premise sign becomes structurally unsafe or which appearance becomes unsightly due to weathering, ripping or tearing, or any other cause, the City shall notify the owner of the sign to make the appropriate repairs with 30 days. If said repairs are not adequately completed, the City may dismantle the sign, and assess the cost thereof to the sign owner.
 2. Notwithstanding any civil remedies the City may have, the individual, partner, or corporate officer, responsible for the unsafe, or unsightly condition shall be guilty of an infraction. Each day of that continued violation shall be considered a separate offense.
- D. No off premise sign shall be located on property without the consent of the property owner.
- E. The general area and vicinity of any free standing sign on undeveloped property shall be kept free and clear of all materials, weed, debris, trash, and/or refuse.

6-7-030. On Premise Signs.

On Premise signs shall be governed and regulated by Chapter 8 of this Title. (Ord. No. 01-19-00-A)

6-7-040. Permitted Zones.

- A. Off premise signs are limited to use in the following zones:
1. The C-1 Commercial Zone, with the exception of SR-198 from 600 North to 600 West, where no off premise signs are allowed.
 2. The Industrial Zones.

6-7-050. Nonconforming Signs.

Off premise signs erected and in existence on the effective date of this ordinance which are legal signs as of the effective date of this ordinance, which do not meet the requirements of this ordinance may be maintained as a matter of right as a nonconforming sign, with the exception of being required to meet the maintenance requirements of section 6-7-020 and the permit requirements of section 6-7-090. In the event that a nonconforming sign is destroyed or otherwise removed, it may not be rebuilt without coming into conformity with the requirements of this ordinance.

6-7-060. Size, Type, and Height of Off Premise Signs.

- A. The maximum size of an off premise sign is limited to 72 square feet, excluding the support structure.
- B. Back-to-Back off premise signs are allowed on the same support structure, each face of which may contain 72 square feet.
- C. Double faced off premise signs are not allowed.

- D. The minimum height of an off premise sign shall be 12 feet from the crown of the road to the bottom of the sign.
- E. The maximum height of an off premise sign shall be 25 feet from the crown of the road to the top of the sign.

6-7-070. Spacing and Set Back Requirements for Off Premise Signs.

- A. All off premise signs must be located a minimum of 500 feet from each other on the same side of a road or highway.
- B. All off premise signs may not be located within 100 feet of any residential zone, which is located on the same side of the road or highway.
- C. All off premise signs must be set back from the street or road right-of-way a minimum distance of 10 feet to the edge of the sign.

6-7-080. Lighting of Off Premise Signs.

Lighting or illuminating of off premise signs is prohibited.

6-7-090. Permits.

- A. No off premise sign shall be erected without securing a permit from Salem City and paying a fee therefore. The sign permit is good from January 1st to December 31st of each year and must be renewed on each subsequent year. A permit obtained during the course of the year, shall be valid until December 31st of that year.
- B. Before any sign permit is issued, an inspection shall determine that any off premise sign complies with the provisions of this ordinance, including safety, maintenance, and appearance.
- C. The fee to be charged for the sign permit shall be an annual fee to be established from time to time by resolution of the City Council. Until such time as the Council adopts a resolution, the fee shall be the same as the minimum charge for a business license.
- D. In the event that an off premise sign permit is not renewed, the City may require the owner or proprietor of said sign to remove it at the owner or proprietor's expense. If the owner or proprietor fails to do so, the City may remove said sign and charge the owner or proprietor the cost thereof. Notwithstanding this civil remedy, the individual, partner or corporate officer responsible for the removal of the sign, who fails to remove said sign, shall be guilty of a class C misdemeanor. Each day of violation shall constitute a separate offense.

(Ordinance No. 1-28-97)

CHAPTER 8 – ON-PREMISE SIGNS

6-8-010. Title.

This Chapter is known as the Salem City On-Premise Sign Ordinance.

6-8-020. Definitions

As used in this Chapter, the following words and phrases have the following meanings, unless the context clearly indicates that a contrary meaning is intended.

- A. **"Alteration."** Changing or rearranging any structural part, sign face, enclosure, lighting, coloring, copy (except on reader signs), graphics, component, or location of a sign.
- B. **"Area."** The portion of a sign used for display purposes. Only one side of a double faced sign (covering the same subject) shall be used for purposes of computing the sign area when the signs are parallel (no greater than 2 feet apart) or diverge from a common edge by an angle not greater than 30 degrees. For signs which do not have defined display areas, sign area shall be the area of the smallest rectangle or square which will frame the display.
- C. **"Back Lighting."** Illumination caused by a lighting device positioned inside or behind a sign face, the source of which is not itself visible to the observer. This includes illumination from a lighting device positioned behind raised letters or awnings, or inside a sign cabinet.
- D. **"Berm."** A berm is a combination of a raised earth mound and closely spaced plantings which form a complete visual barrier that is up to five (5) feet above grade. A berm shall be at least six (six) feet wide and at least two (two) vertical feet of land form.
- E. **"Building Facade."** Any exterior wall of a building including windows, doors, and mansard, but not including a pitched roof.
- F. **"Clearance."** The height of the lower edge of the face of a freestanding sign from the finished grade.
- G. **"Clear Vision Zone."** The areas at intersecting streets and driveways in which unobstructed vision of motor vehicle operators is maintained. The clear vision zone shall be the triangular area formed by the street property lines connected by an imaginary diagonal line commencing at points 20 feet from the street property line of an intersecting street or driveways
- H. **"Construction."** The materials, architecture, assembly, and installation of a sign.
- I. **"Density."** The concentration of signs in a given area, frontage, district, or lot.

Density, as used in this chapter, will generally be defined in terms of numbers of signs per lot or frontage.

- J. **"Design."** The form, features, colors and overall appearance of a sign structure.
- K. **"Frontage."** Any side of the property that runs parallel to any public street. Limited access highway frontage shall not be considered "frontage" for purposes of this chapter.
- L. **"Height."** The vertical measurement from the top back of curb or crown of roadway where no curb exists (at the nearest point of the sign) to the highest point of the sign structure.
- M. **"Illumination, External."** Lighting from a device which is mounted so as to illuminate a sign from a remote position from outside the sign structure. External illumination may not be directed in such a manner as to interfere with adjacent property owners or with automobile traffic.
- N. **"Location."** The position of a property where a sign is to be placed. The location of any sign must comply with requirements of this chapter and with an approved site plan.
- O. **"Low Maintenance."** Sign materials which do not require frequent replacement, painting, or refurbishing as a result of exposure to the elements.
- P. **"Perimeter Building Pad."** A separate building location (usually along the street frontage) which is generally developed or designated in connection with a larger commercial site.
- Q. **"Separation."** The horizontal distance between signs measured parallel to the street or curb.
- R. **"Setback."** The shortest horizontal distance between a property line and the closest edge of the sign structure.
- S. **"Sign."** Every advertising message, announcement, declaration, warning, statement, demonstration, illustration, insignia, surface, space, or object erected or maintained in view of the observer for the purpose of identifying, promoting, advertising, directing, or warning for the benefit of any person, product, company, entity, or service. "Sign" shall also include the sign structure, supports, lighting system, attachments, and other features of a sign. "Sign" does not mean flags, badges, or ensigns of any government or governmental agency used for purposes of identification.
- A.A. **"A" Frame Sign."** A freestanding, temporary and/or movable sign device usually constructed of two separate wood or metal sign faces attached at the top.

- BB. **"Abandoned Sign."** A sign which remains on a property which has been vacated or which remains unused for a period of time exceeding four months.
- CC. **"Advertising Bench Sign."** A bench for public use which is painted or otherwise covered with advertisement, or to which any sign is attached.
- DD. **"Animated Sign."** A sign with parts or sections which revolve or move or which has flashing or intermittent lights, but not including "time and temperature" signs or signs otherwise described as "electronic message centers."
- EE. **"Awning Sign."** A sign constructed of a framework which is mounted to a building or canopy. The framework of such a sign is usually covered with a light fabric which may be translucent. The awning cover may contain advertising or identifying copy, graphics or design and may be illuminated by back lighting. Awnings used strictly as protective structures for windows and doors and having no sign copy or design are not signs and may display the building address only.
- FF. **"Business Sign."** A sign which identifies a business or use conducted or service performed upon the premises on which the business or use is located.
- GG. **"Changeable Copy Sign."** A sign on which the text or copy is changed manually or electrically, exclusive of "time and temperature" and "electronic message center" type signs.
- HH. **"Conforming Sign."** A sign which meets all provisions of this Chapter.
- II. **"Construction Sign."** A sign, on-premise or off-premise, which directs to, identifies, or describes the development or construction of a use, building or buildings which is or are planned or currently underway.
- JJ. **"Electronic Message Sign."** A display consisting of an array of light sources, panels or disks which are electronically activated.
- KK. **"Freestanding Sign."** A sign which is self-supported by poles, pylons or other structural supports mounted in the ground.
- LL. **"Identification Sign."** A on-premise sign which indicates the identity of the owner or occupant of a parcel, structure or use.
- MM. **"Illuminated or Lighted Sign."** A sign equipped with artificial lighting devices for the purpose of improving the sign's visibility.
- NN. **"Inflated Sign."** Any advertising device which is supported by heated or forced air or lighter-than-air gases.

- OO. **"Monument Sign."** A freestanding business sign which is incorporated into the landscape and which is supported by a base having width greater than two feet which is mounted permanently in the ground.
- PP. **"Non-conforming Sign."** A sign or sign structure which lawfully existed at the time a sign ordinance became effective but which does not presently conform to all the requirements of these regulations.
- QQ. **"Off-Premises Sign."** A sign, advertising a business, development, building, product, commodity, or the availability of goods or services at a location other than the location of the sign.
- RR. **"On-Premise Sign."** A sign located on the property which it serves.
- SS. **"Pedestal Sign."** A moveable sign supported by a column or columns and a base.
- TT. **"Pole Sign."** A freestanding identification or business sign which is supported by a pole, poles or base not less than 8 feet in height and having a combined width of two feet or less which is mounted permanently in the ground.
- UU. **"Portable Reader Sign."** A reader sign which is mounted on a portable framework and intended for temporary use.
- VV. **"Poster Sign."** A flat building sign on which temporary signs made of paper, plastic or other material are mounted.
- WW. **"Projecting Sign."** A sign which is attached to and projects from a building, pole or other support.
- XX. **"Reader Sign."** A display on which the **copy** or text may be changed manually or electronically.
- YY. **"Roof Sign."** A sign which is supported wholly or in part by and which projects over a roof.
- ZZ. **"Sculpture Sign."** A free-form or three-dimensional sign which has depth greater than 2 feet.
- AAA. **"Temporary Sign."** Any identification, advertising, directional, or promotional device which is not permanently constructed or attached to the ground or any structure and which must be removed according to the provisions of this Chapter.
- BBB. **"Time or Temperature Sign."** An electronic message sign displaying only the current time and temperature.
- CCC. **"Wall Mounted Sign."** An identification or business sign which is mounted to

any vertical portion of a building which it identifies.

DDD. **"Promotional Signage."** Temporary devices such as banners, streamers, flags, balloons, pennants, trailer signs and inflated signs.

6-8-030. General Provisions

- A. Minimum Setback. Signs shall be set back at least five feet from any property line. This setback requirement shall be determined by measuring the distance from the edge of the sign closest to the nearest property line.
- B. Maintenance. Signs, sign structures, and the areas around sign bases shall be maintained in a safe and attractive condition. Sign maintenance may not be performed in such a way that the maintenance alters the sign from its approved form.
- C. Repair of Building Facade. Any building facade from which a sign is removed or on which a sign is repaired, changed, or replaced shall be repaired, if damaged, within 30 days of the date of damage.
- D. Approved Construction. All sign construction and uses shall comply with the Uniform Building Code and National Electrical Safety Code requirements. The sign must comply with all federal, state, city and utility company regulations on power line and other utility clearance.
- E. Removal of Certain Signs. In the event that a business ceases operation for a period of time in excess of sixty (60) days, the sign owner or lessee, or property owner, shall immediately remove any sign identifying or advertising said business.

6-8-040. On-Premises Sign Regulations

The following regulations apply to on-premises signs:

- A. Government entities are allowed one pole sign per site in order to provide information to the public. The size of such sign shall not exceed 40 square feet. The minimum height of such sign shall be 12 feet and the maximum height 25 feet from the crown of the road to the bottom of the sign. The location of such sign, sign materials, and required landscaping shall be determined by the Development and Review Committee (DRC). Any entity dissatisfied with the DRC determination may appeal, within 7 days of the DRC decision, to the City Council. The Council may affirm or modify the decision of DRC, which decision shall be final and non-appealable. (Ord. No. 9-5-01)
- B. The height of all signs shall be no more than four (4) feet, except that if placed on a two (2) foot berm, or brick/concrete foundation, the height may be six (6) feet.
- C. Maximum sign area for planned commercial or industrial centers up to two acres shall be 32 square feet. One monument sign will be permitted on a pad in a planned center. For centers with more acreage, the Development Review Committee may

extend the maximum size, the number of signs, and their spacing.

- D. Wall signs may occupy 15% of the wall area where the main entrance is located. Wall signs may be located on one additional wall, not exceeding five percent (5%) of the wall surface.
- E. Wall mounted and awning signs shall be designed to be harmonious with other signs and the structures to which they are attached.
- F. Construction. Wall mounted signs shall be constructed of low maintenance materials using flush mounted cabinets, individual pan channel letters, or raised or flush mounted metal or plastic cut-out letters. Wall mounted signs shall be mounted parallel to, and shall not extend more than 24 inches from, the wall. There shall be no visible support structure. Awnings shall be constructed of low maintenance materials and flush mounted against the wall.
- G. Illumination Requirements. For the protection of community appearance and to minimize light pollution and traffic hazards caused by glare, illuminated signs shall be subject to the following conditions:
 - 1. Any external light source used for the illumination of a sign shall be shielded so that the beams or rays of light will not shine directly onto surrounding areas.
 - 2. Neither the direct nor the reflected light from any light source shall create a traffic hazard, distraction to operators of motor vehicles on public thoroughfares, or create a nuisance to surrounding properties.
 - 3. Signs illuminated from an external light source:
 - i. No un-frosted light source, fluorescent light source or light source in excess of twenty-five (25) watts shall be directly visible to any motor vehicle or pedestrian located in a public right-of-way or street or from any residential area within a distance of three hundred (300) feet measured from the light source;
 - ii. No portion of the sign, including any frame, bracing or support structure shall be constructed of a reflective surface.
 - 4. Signs illuminated from an internal light source:
 - i. The light source shall not be visible from the exterior of the sign;
 - ii. The wattage shall not exceed the following requirements:
 - (A) Fluorescent lights not to exceed five (5) watts per square foot

of sign area.

(B) Incandescent light not to exceed twenty-five (25) watts per square foot of sign area.

5. One (1) internally illuminated sign which is displayed in a window shall be permitted in all areas where internally illuminated signs are permitted. Such a sign shall not exceed four (4) square feet and it will not be counted towards the aggregate sign area for the use to which it is attached.

6-8-050. Menu Boards for Drive-In Restaurants

The following requirements apply to menu boards used by drive-in restaurants:

- A. No more than two freestanding or wall mounted menu boards shall be allowed per business and shall be located not less than 45 feet from the street property line.
- B. Maximum sign area shall not exceed 16 square feet per sign
- C. Maximum sign height shall not exceed 6 feet.
- D. A landscaped area shall be provided at the base of the freestanding menu sign having an area of at least one square foot for every two square feet of sign area.

6-8-060. Price Signs for Service Stations

The following requirements apply to signs advertising prices for service stations.

- A. The number of price signs shall not exceed one sign per service station for each type of fuel offered for sale.
- B. The total area of all price signs shall not exceed 18 square feet per service station.
- C. Price signs shall be incorporated as part of the design of the monument sign.

6-8-070. Prohibited

Signs not specifically authorized are prohibited, including, but not limited to the following:

- A. Signs in a public right-of-way or on public property or buildings. Political signs that pose a visibility hazard to pedestrians or motor vehicle traffic along streets, sidewalks, or street corners.
- B. Signs announcing the proposed development of property prior to preliminary site plan approval or after issuance of certificates of occupancy.

- C. Signs mounted, attached or painted on trailers, boats, or motor vehicles when used as advertising signs on or near the premises.
- D. Signs placed or painted on any rock or tree.
- E. Roof-mounted signs, or signs that project above the highest point of the roof line or parapet of the building.
- F. Off-premises signs except as specifically permitted in these regulations.
- G. Any sign with intermittent or flashing illumination, animated, or moving parts.
- H. Flag-mounted signs, or signs that project from the roof or wall of a building perpendicular to the wall surface.
- I. Signs that emit sound.
- J. Movable or portable signs and signs not permanently installed in the ground or on a pole or building such as "A-Frame," pedestal or similar sign devices, except as otherwise permitted.
- K. Signs located on public property or attached to any structure or appurtenance on public property except public necessity signs. These signs may be removed by the City or other public agencies owning the public property.
- L. Signs which create a nuisance or hazard to the public safety.
- M. Obsolete or abandoned signs or messages which identify services no longer provided on the premises.
- N. Signs which are mounted on a telephone pole, power pole, or other utility pole.
- O. Inflated sign displays, balloons and other devices supported by the pressure of forced or heated air or of lighter-than-air gasses and attached to the ground or a structure except by permitted use.
- P. Temporary promotional business signage, including but not limited to banners, pennants, streamers, flags, beacons, searchlights and portable reader signs except by permitted use.
- Q. Strings of lights not permanently mounted to a rigid background.

6-8-80. Non-Conforming Signs

- A. As used in this section, a lawful nonconforming sign is any sign which does not comply with the requirements of this chapter but which was in compliance with the

requirements of the sign ordinance in effect immediately prior to the adoption of this Chapter, or was characterized as a lawful non-conforming sign which does not comply with the requirements of the sign ordinance in effect immediately prior to the adoption of this Chapter, or was not characterized as a lawful non-conforming sign under such previous ordinance.

- B. A lawful non-conforming sign may be maintained and repaired, even though such repair will not bring the sign into compliance with this Chapter. If a lawful non-conforming sign is damaged or allowed to deteriorate in an amount in excess of 50% of its then replacement costs, the sign shall not be repaired except as to bring the sign in compliance with this Chapter. Repairs and/or restoration of a lawful nonconforming sign requires the obtaining of a sign permit and the payment of the requisite fee therefore; the permit shall not be denied nor shall special procedural requirements be invoked merely because of the non-conforming status of the sign. The foregoing provision shall not be deemed to restrict the changing of copy on lawful non-conforming signs which have changeable copy.
- C. Signs not lawfully existing upon the date the ordinance adopting this Chapter becomes effective are not thus rendered lawful by the adoption of the provisions of this Chapter and the corresponding repeal of previous provisions, unless the express provision of this chapter such previously nonconforming sign is permitted under this Chapter.

6-8-090. Appeals

- A. Any person aggrieved by the decision of the City Public Works Director or his/her designee may appeal that decision by filing a written notice of appeal within 30 days with the Planning and Zoning Commission. The appeal shall be reviewed by the Planning and Zoning Commission and forward a recommendation to the City Council. The City Council shall make a final decision on the appeal.
- B. The written notice of appeal shall set forth all facts and circumstances which the aggrieved person feels justify the appeal and the relief request.
- C. The filing of the notices of appeal defined herein is effective upon delivering the original and two copies of the notice to the office of the City Recorder.

6-8-100. Enforcement

- A. The City Public Works Director or his/her designee shall be empowered to institute any appropriate action or proceeding in any case where any sign is erected, constructed, reconstructed, altered, repaired, converted, or maintained in violation of any City ordinance, to accomplish the following purpose:
 - 1. To prevent such unlawful erection, construction, reconstruction, alteration, repair, conversion, maintenance or use;

2. To restrain, to correct or abate such violation;
 3. To abate and remove unsafe, dangerous, or other signs not in compliance with these regulations. If an unsafe or dangerous sign is not repaired or made safe within ten days after notice as provided in subsection (b) of this section, the City Public Works Director may at once cause the abatement and removal of said sign, and any person having charge, control or benefit of any such sign shall pay to the City all costs incurred in such removal within thirty calendar days after written notice of the costs is mailed to such person. If any other sign not in compliance with these regulation is not removed within 10 days after notice as provided in subsection (b) of this section, the City Public Works Director may at once cause the abatement and removal of said sign, and any person having charge, control or benefit of any such sign shall pay to the City all costs incurred in such removal within thirty calendar days after written notice of the costs is mailed to such person.
- B Notice by the City shall mean written notice sent by certified mail to persons having charge or control or benefit of any sign found by the City Public Works Director to be unsafe.

(Ordinance No. 01-19-00-A)

CHAPTER 9
TELECOMMUNICATIONS RIGHTS-OF-WAY

**SECTION I -- DECLARATION OF FINDINGS AND INTENT;
SCOPE OF ORDINANCE**

6-9-110. Findings Regarding Rights-of-Way.

Salem City finds that the Rights-of-Way within the City:

- (a) are critical to the travel and transport of persons and property in the business and social life of the City;
- (b) are intended for public uses and must be managed and controlled consistent with that intent;
- (c) can be partially occupied by the facilities of utilities and other public service entities delivering utility and public services rendered for profit, to the enhancement of the health, welfare, and general economic well-being of the City and its citizens; and
- (d) are a unique and physically limited resource requiring proper management to maximize the efficiency and to minimize the costs to the taxpayers of the foregoing uses and to minimize the inconvenience to and negative effects upon the public from such facilities' construction, placement, relocation, and maintenance in the Rights-of-Way.

6-9-120. Finding Regarding Compensation.

The City finds that the City should receive fair and reasonable compensation for use of the Rights-of-Way.

6-9-130. Finding Regarding Local Concern.

The City finds that while Telecommunications Systems are in part an extension of interstate commerce, their operations also involve Rights-of-Way, municipal franchising, and vital business and community service, which are of local concern.

6-9-140. Finding Regarding Promotion of Telecommunications Services.

The City finds that it is in the best interests of its taxpayers and citizens to promote the rapid development of Telecommunications Services, on a nondiscrimination basis, responsive to community and public interest, and to assure availability for municipal, educational and community services.

6-9-150. Findings Regarding Franchise Standards.

The City finds that it is in the interests of the public to Franchise and to establish standards for franchising Providers in a manner that:

- (a) fairly and reasonably compensates the City on a competitively neutral and non-discriminatory basis as provided herein;
- (b) encourages competition by establishing terms and conditions under which Providers may use the Rights-of-Way to serve the public;
- (c) fully protects the public interests and the City from any harm that may flow from such commercial use of Rights-of-Way;
- (d) protects the police powers and Rights-of-Way management authority of the City, in

- a manner consistent with federal and state law;
- (e) otherwise protects the public interests in the development and use of the City infrastructure;
- (f) protects the public's investment in improvements in the Rights-of-Way; and
- (g) ensures that no barriers to entry of Telecommunications Providers are created and that such franchising is accomplished in a manner that does not prohibit or have the effect of prohibiting Telecommunication Services, within the meaning of the Telecommunications Act of 1996 [P.L. No. 104-104].

6-9-160. Power to Manage Rights-of-Way.

The City adopts this Telecommunications Ordinance pursuant to its power to manage the Rights-of-Way, pursuant to common law, the Utah Constitution and statutory authority, and receive fair and reasonable, compensation for the use of Rights-of-Way by Providers as expressly set forth by Section 253 of the Act.

6-9-170. Scope of Ordinance.

This Ordinance shall provide the basic local scheme for Providers of Telecommunications Services and Systems that require the use of the Rights-of-Way, including Providers of both the System and Service, those Providers of the System only, and those Providers who do not build the System but who only provide Services. This Ordinance shall apply to all future Providers and to all Providers in the City prior to the effective date of this Ordinance, whether operating with or without a Franchise as set forth in Section 6-7-1220.

6-9-180. Excluded Activity.

- A. This Ordinance shall not apply to cable television operators otherwise regulated by Chapter 5.18 of the Salem City Municipal Code (the "Cable Television Ordinance").
- B. This Ordinance shall not apply to Personal Wireless Service Facilities.
- C. Providers excused by other law that prohibits the City from requiring a Franchise shall not be required to obtain a Franchise, but all of the requirements imposed by this Ordinance through the exercise of the City's police power and not preempted by other law shall be applicable.

SECTION 2 - DEFINED TERMS

6-9-210. Definitions.

For purposes of this Ordinance, the following terms, phrases, words, and their derivatives shall have the meanings set forth in this Section, unless the context clearly indicates that another meaning is intended. Words used in the present tense include the future tense, words in the single number include the plural number, words in the plural number include the singular. The word "shall" and "will" are mandatory, and "may" is permissive. Words not defined shall be given their common and ordinary meaning.

- A. **"Application"** means the process by which a Provider submits a request and indicates a desire to be granted a Franchise to utilize the Rights-of-Way of all, or a part, of the City. An Application includes all written documentation, verbal statements and representations, in whatever form or forum, made by a Provider to the City concerning: the construction of a Telecommunications System over, under, on or through the Rights-of-Way; the Telecommunications Services proposed to be
- B. **"City"** means Salem City, Utah.
- C. **"Completion Date"** means the date that a Provider begins providing Services to customers in the City.
- D. **"Construction Costs"** means all costs of constructing a System, including make ready costs, other than engineering fees, attorneys or accountants fees, or other consulting fees.
- E. **"Control" or "Controlling Interest"** means actual working control in whatever manner exercised, including, without limitation, working control through ownership, management, debt instruments or negative control, as the case may be, of the System or of a Provider. A rebuttable presumption of the existence of Control or a Controlling Interest shall arise from the beneficial ownership, directly or indirectly, by any Person, or group of Persons acting in concert, of more than twenty-five percent (25%) of any Provider (which Person or group of Persons is hereinafter referred to as "Controlling Person"). "Control" or "Controlling Interest" as used herein may be held simultaneously by more than one Person or group of Persons.
- F. **"FCC"** means the Federal Communications Commission, or any successor thereto.
- G. **"Franchise"** means the rights and obligation extended by the City to a Provider to own, lease, construct, maintain, use or operate a System in the Rights-of-Way within the boundaries of the City. Any such authorization, in whatever form granted, shall not mean or include:
 - (i) any other permit or authorization required for the privilege of transacting and carrying on a business within the City required by the ordinances and laws of the City;
 - (ii) any other pen-nit, agreement or authorization required in connection with

operations on Rights-of-Way or public property including, without limitation, permits and agreements for placing devices on or in poles, conduits or other structures, whether owned by the City or a private entity, or for excavating or performing other work in or along the Rights-of-Way.

- H. **"Franchise Agreement"** means a contract entered into in accordance with the provisions of this Ordinance between the City and a Franchisee that sets forth, subject to this Ordinance, the terms and conditions under which a Franchise will be exercised.
- I. **"Gross Revenue"** includes all revenues of a Provider that may be included as gross revenue within the meaning of Chapter 26, Title I I Utah Code annotated, 1953, as amended.
- J. **"Infrastructure Provider"** means a Person providing to another, for the purpose of providing Telecommunication Services to customers, all or part of the necessary System which uses the Rights-Of-Way.
- K. **"Open Video Service"** means any video programming services provided to any Person through the use of Rights-of-Way, by a Provider that is certified by the FCC to operate an Open Video System pursuant to sections 65 1, et seq., of the Telecommunications Act (to be codified at 47 U.S.C. Title VI, Part V), regardless of the System used.
- L. **"Open Video System"** means the system of cables, wires, lines, towers, wave guides, optic fiber, microwave, laser beams, and any associated converters, equipment, or facilities designed and constructed for the purpose of producing, receiving, amplifying or distributing Open Video Services to or from subscribers or locations within the City.
- M. **"Operator"** means any Person who provides Service over a Telecommunications System and directly or through one or more Persons owns a Controlling Interest in such System, or who otherwise controls or is responsible for the operation of such a System.
- N. **"Ordinance" or "Telecommunications Ordinance"** means this Telecommunications Ordinance concerning the granting of Franchises in and by the City for the construction, ownership, operation, use or maintenance of a Telecommunications System.
- O. **"Person"** includes any individual, corporation, partnership, association, joint stock company, trust, or any other legal entity, but not the City.
- P. **"Personal Wireless Services Facilities"** has the same meaning as provided in Section 704 of the Act (47 U.S.C. 332(c)(7)(c)), which includes what is commonly known as cellular and PSC Services that do not install any System or portion of a

System in the Rights-of-Way.

- Q. **"Provider"** means an Operator, Infrastructure Provider, Resaler, or System Lessee.
- R. **"PSC"** means the Public Service Commission, or any successor thereto.
- S. **"Resaler"** refers to any Person that provides local exchange service over a System for which a separate charge is made, where that Person does not own or lease the underlying System used for the transmission.
- T. **"Rights-of-Way"** means the surface of and the space above and below any public street, sidewalk, alley, or other public way of any type whatsoever, now or hereafter existing as such within the City.
- U. **"Signal"** means any transmission or reception of electronic, electrical, light or laser or radio frequency energy or optical information in either analog or digital format.
- V. **"System Lessee"** refers to any Person that leases a System or a specific portion of a System to provide Services.
- W. **"Telecommunications"** means the transmission, between or among points specified by the user, of information of the user's choosing (e.g., data, video, and voice), without change in the form or content of the information sent and received.
- X. **"Telecommunications System" or "System"** means all conduits, manholes, poles, antennas, transceivers, amplifiers and all other electronic devices, equipment, wire and appurtenances owned, leased, or used by a Provider, located in the Rights-of-Way and utilized in the provision of Services, including fully digital or analog, voice, data and video imaging and other enhanced Telecommunications Services. Telecommunications System or Systems also includes an Open Video System.
- Y. **"Telecommunications Service(s)" or "Services"** means any telecommunications services provided by a Provider within the City that the Provider is authorized to provide under federal, state and local law, and any equipment and/or facilities required for and integrated with the Services provided within the City, except that these terms do not include "cable service" as defined in the Cable Communications Policy Act of 1984, as amended by the Cable Television Consumer Protection and Competition Act of 1992 (47 U.S.C. §521, et seq.), and the Telecommunications Act of 1996. Telecommunications System or Systems also includes an Open Video System.
- Z. **"Wire"** means fiber optic Telecommunications cable, wire, coaxial cable, or other transmission medium that may be used in lieu thereof for similar purposes.

SECTION 3 - FRANCHISE REQUIRED

6-9-310. Non-Exclusive Franchise.

The City is empowered and authorized to issue non-exclusive Franchises governing the installation, construction, and maintenance of Systems in the City's Rights-of-Way, in accordance with the provisions of this Ordinance. The Franchise is granted through a Franchise Agreement entered into between the City and Provider.

6-9-320. Every Provider Must Obtain.

Except to the extent preempted by federal or state law, as ultimately interpreted by a court of competent jurisdiction, including any appeals, every Provider must obtain a Franchise prior to constructing a Telecommunications System or providing Telecommunications Services using the Rights-of-Way, and every Provider must obtain a Franchise before constructing an Open Video System or providing Open Video Services via an Open Video System. Any Open Video System or Service shall be subject to the customer service and consumer protection provisions applicable to the Cable TV companies to the extent the City is not preempted or permitted as ultimately interpreted by a court of competent jurisdiction, including any appeals. The fact that particular Telecommunications Systems may be used for multiple purposes does not obviate the need to obtain a Franchise for other purposes. By way of illustration and not limitation, a cable operator of a cable system must obtain a cable franchise, and, should it intend to provide Telecommunications Services over the same System, must also obtain a Telecommunications Franchise.

6-9-330. Nature of Grant.

A Franchise shall not convey title, equitable or legal, in the Rights-of-Way. A Franchise is only the right to occupy Rights-of-Way on a non-exclusive basis for the limited purposes and for the limited period stated in the Franchise; the right may not be subdivided, assigned, or subleased. A Franchise does not excuse a Provider from obtaining appropriate access or pole attachment agreements before collocating its System on the property of others, including the City's property.

This section shall not be construed to prohibit a Provider from leasing conduit to another Provider, so long as the Lessee has obtained a Franchise.

6-9-340. Current Providers.

Except to the extent exempted by federal or state law, any Provider acting without a Franchise on the effective date of this Ordinance shall request issuance of a Franchise from the City within 90 days of the effective date of this Ordinance. If such request is made, the Provider may continue providing service during the course of negotiations. If a timely request is not made, or if negotiations cease and a Franchise is not granted, the Provider shall comply with the provisions of Section 6-9-940.

6-9-350. Nature of Franchise.

The Franchise granted by the City under the provisions of this Ordinance shall be a nonexclusive Franchise providing the right and consent to install, repair, maintain, remove and replace its System on, over and under the Rights-of-Way in order to provide Services.

6-9-360. Regulatory Approval Needed.

Before offering or providing any Services pursuant to the Franchise, a Provider shall obtain any and all regulatory approvals, permits, authorizations or licenses for the offering or provision of such Services from the appropriate federal, state and local authorities, if required, and shall submit to the City upon the written request of the City evidence of all such approvals, permits, authorizations or licenses.

6-9-370. Term.

No Franchise issued pursuant to this Ordinance shall have a term of less than five (5) years or greater than fifteen (1 5) years. Each Franchise shall be granted in a nondiscriminatory manner.

SECTION 4 - COMPENSATION AND OTHER PAYMENTS

6-9-410. Compensation.

As fair and reasonable compensation for any Franchise granted pursuant to this Ordinance, a Provider shall have the following obligations:

- A. Application Fee. In order to offset the cost to the City to review an Application for a Franchise and in addition to all other fees, permits or charges, a Provider shall pay to the City, at the time of Application, \$500 as a non-refundable Application fee.
- B. Franchise Fees. The Franchise fee, if any, shall be set forth in the Franchise Agreement. The obligation to pay a Franchise fee shall commence on the Completion Date. The Franchise fee is offset by any business license fee or business license tax enacted by the City.
- C. Excavation Permits. The Provider shall also pay the required fees for an excavation permit as provided for by the ordinances, resolutions, policies, or standards of the City.

6-9-420. Timing.

Unless otherwise agreed to in the Franchise Agreement, all Franchise Fees shall be paid on a monthly basis within forty-five (45) days of the close of each calendar month.

6-9-430. Fee Statement and Certification.

Unless a Franchise Agreement provides otherwise, each fee payment shall be accompanied by a statement showing the manner in which the fee was calculated and shall be certified as to its accuracy.

6-9-440. Future Costs.

A Provider shall pay to the City or to third parties, at the direction of the City, an amount equal to the reasonable costs and reasonable expenses that the City incurs for the services of third parties (including but not limited to attorneys and other consultants) in connection with any renewal or Provider-initiated renegotiation, or amendment of this Ordinance or a Franchise, provided, however, that the parties shall agree upon a reasonable financial cap at the outset of negotiations. In the event the parties are unable to agree, either party may submit the issue to binding arbitration in accordance with the rules and procedures of the American Arbitration Association. Any costs associated with any work to be done by the Power and Public Works Department to provide space on City owned poles shall be borne by the Provider.

6-9-450. Taxes and Assessments.

To the extent taxes or other assessments are imposed by taxing authorities, other than the City on the use of the City property as a result of a Provider's use or occupation of the Rights-of-Way, the Provider shall be responsible for payment of its pro rata share of such taxes, payable annually unless otherwise required by the taxing authority.

Such payments shall be in addition to any other fees payable pursuant to this Ordinance.

6-9-460. Interest on Late Payments.

In the event that any payment is not actually received by the City on or before the applicable date fixed in the Franchise, interest thereon shall accrue from such date until received at the rate charged for delinquent state taxes.

6-9-470. No Accord and Satisfaction.

No acceptance by the Salem City any fee shall be construed as an accord that the amount paid is in fact the correct amount, nor shall such acceptance of such fee payment be construed as a release of any claim the City may have for additional sums payable.

6-9-480. Not in Lieu of Other Taxes or Fees.

The fee payment is not a payment in lieu of any tax, fee or other assessment except as specifically provided in this Ordinance, or as required by applicable law. By way of example, and not limitation, excavation permit fees and fees to obtain space on the City owned poles are not waived and remain applicable.

6-9-490. Continuing Obligation and Holdover.

In the event a Provider continues to operate all or any part of the System after the Term of the Franchise, such operator shall continue to comply with all applicable provisions of this Ordinance and the Franchise, including, without limitation, all compensation and other payment provisions throughout the period of such continued operation, provided that any such continued operation shall in no way be construed as a renewal or other extension of the Franchise, nor as a limitation on the remedies, if any, available to the City as a result of such continued operation after the term, including, but not limited to, damages and restitution.

6-9-495. Costs of Publication.

A Provider shall assume any publication costs associated with its Franchise that may be required by law.

SECTION 5 -- FRANCHISE APPLICATIONS

6-9-510. Franchise Application.

To obtain a Franchise to construct, own, maintain or provide Services through any System within the City, to obtain a renewal of a Franchise granted pursuant to this Ordinance, or to obtain the City approval of a transfer of a Franchise, as provided in subsection 6-7-71 0 (B), granted pursuant to this Ordinance, an Application must be filed with City on the form attached to this Ordinance as Exhibit A, which is hereby incorporated by reference. The Application form may be changed by the Mayor so long as such changes request information that is consistent with this Ordinance. Such Application form, as amended, is incorporated by reference.

6-9-520. Application Criteria.

In making a determination as to an Application filed pursuant to this Ordinance, the City may, but shall not be limited to, request the following from the Provider:

- A. A copy of the order from the PSC granting a Certificate of Convenience and Necessity.
- B. Certification of the Provider's financial ability to compensate the City for Provider's intrusion, maintenance and use of the Rights-of-Way during the Franchise term proposed by the Provider;
- C. Provider's agreement to comply with the requirements of Section 6 of this Ordinance.
- D. Prior to making any attachments to poles, the willingness to enter into a pole attachment agreement with the City.

6-9-530. Franchise Determination.

The City, in its discretion, shall determine the award of any Franchise on the basis of these and other considerations relevant to the use of the Rights-of-Way, without competitive bidding.

SECTION 6 -- CONSTRUCTION AND TECHNICAL REQUIREMENTS

6-9-610. General Requirement.

No Provider shall receive a Franchise unless it agrees to comply with each of the terms set forth in this Section governing construction and technical requirements for its System, in addition to any other reasonable requirements or procedures specified by the City or the Franchise, including requirements regarding locating and sharing in the cost of locating portions of the System with other Systems or with City utilities. A Provider shall obtain an excavation permit, pursuant to the excavation ordinance, before commencing any work in the Rights-of-Way.

6-9-620. Quality.

All work involved in the construction, maintenance, repair, upgrade and removal of the System shall be performed in a safe, thorough and reliable manner using materials of good and durable quality. If, at any time, it is determined by the FCC or any other agency granted authority by federal law or the FCC to make such determination, that any part of the System, including, without limitation, any means used to distribute Signals over or within the System, is harmful to the public health, safety or welfare, or quality of service or reliability, then a Provider shall, at its own cost and expense, promptly correct all such conditions.

6-9-630. Licenses and Permits.

A Provider shall have the sole responsibility for diligently obtaining, at its own cost and expense, all permits, licenses or other forms of approval or authorization necessary to construct, maintain, upgrade or repair the System, including but not limited to any necessary approvals from Persons and/or the City to use private property, easements, poles and conduits. A Provider shall obtain any required pen-nit, license, approval or authorization, including but not limited to excavation permits, pole attachment agreements, etc., prior to the commencement of the activity for which the permit, license, approval or authorization is required.

6-9-640. Relocation of the System.

The system may only be relocated if the following criteria are met:

- A. New Grades or Lines. If the grades or lines of any Rights-of-Way are changed at any time in a manner affecting the System, then a Provider shall comply with the requirements of the excavation requirements.
- B. The City Authority to Move System in case of an Emergency. The City may, at any time, in case of fire, disaster or other emergency, as determined by the City in its reasonable discretion, cut or move any parts of the System and appurtenances on, over or under the Rights-of-Way of the City, in which event the City shall not be liable therefor to a Provider. The City shall notify a Provider in writing prior to, if practicable, but in any event as soon as possible and in no case later than the next business day following any action taken under this Section. Notice shall be given as

provided in Section 6-7-1140.

- C. A Provider Required to Temporarily Move System for Third Party. A Provider shall, upon prior reasonable written notice by the City or any Person holding a permit to move any structure, and within the time that is reasonable under the circumstances, temporarily move any part of its System to permit the moving of said structure. A Provider may impose a reasonable charge on any Person other than the City for any such movement of its Systems.
- D. Rights-of-Way Change - Obligation to Move System. When the City is changing a Rights-of-Way and makes a written request, a Provider is required to move or remove its System from the Rights-of-Way, without cost to the City, to the extent provided in the excavation requirements. This obligation does not apply to Systems originally located on private property pursuant to a private easement, which property was later incorporated into the Rights-of-Way, if that private easement grants a superior vested right. This obligation exists whether or not the Provider has obtained an excavation permit.

6-9-650. Protect Structures.

In connection with the construction, maintenance, repair, upgrade or removal of the System, a Provider shall, at its own cost and expense, protect any and all existing structures belonging to the City. A Provider shall obtain the prior written consent of the City to alter any water main, power facility, sewerage or drainage system, or any other municipal structure on, over or under the Rights-of-Way of the City required because of the presence of the System. Any such alteration shall be made by the City or its designee on a reimbursable basis. A Provider agrees that it shall be liable for the costs incurred by the City to replace or repair and restore to its prior condition in a manner as may be reasonably specified by the City, any municipal structure or any other Rights-of-Way of the City involved in the construction, maintenance, repair, upgrade or removal of the System that may become disturbed or damaged as a result of any work thereon by or on behalf of a Provider pursuant to the Franchise.

6-9-660. No Obstruction.

In connection with the construction, maintenance, upgrade, repair or removal of the System, a Provider shall not unreasonably obstruct the Rights-of-Way of fixed guide way systems, railways, passenger travel, or other traffic to, from or within the City without the prior consent of the appropriate authorities.

6-9-670. Safety Precautions.

A Provider shall, at its own cost and expense, undertake all necessary and appropriate efforts to prevent accidents at its work sites, including the placing and maintenance of proper guards, fences, barricades, security personnel and suitable and sufficient lighting, and such other requirements prescribed by OSHA and Utah OSHA. A Provider shall comply with all applicable federal, state and local requirements including but not limited to the National Electric Safety Code.

6-9-680. Repair.

After written reasonable notice to the Provider, unless, in the sole determination of the City, an eminent danger exists, any Rights-of-Way within the City which are disturbed or damaged during the construction, maintenance or reconstruction by a Provider of its System may be repaired by the City at the Provider's expense, to a condition as good as that prevailing before such work was commenced. Upon doing so, the City shall submit to such a Provider an itemized statement of the cost for repairing and restoring the Rights-of-Ways intruded upon. The Provider shall, within thirty (30) days after receipt of the statement, pay to the City the entire amount thereof.

6-9-690. System Maintenance.

A Provider shall:

- A. Install and maintain all parts of its System in a non-dangerous condition throughout the entire period of its Franchise.
- B. Install and maintain its System in accordance with standard prudent engineering practices and shall conform, when applicable, with the National Electrical Safety Code and all applicable other federal, state and local laws or regulations.
- C.. At all reasonable times, permit examination by any duly authorized representative of the Salem City the System and its effect on the Rights-of-Way.

6-9-695. Trimming of Trees.

A Provider shall have the authority to trim trees, in accordance with all applicable utility restrictions, ordinance and easement restrictions, upon and hanging over Rights-of-Way so as to prevent the branches of such trees from coming in contact with its System.

SECTION 7 -- FRANCHISE AND LICENSE NON-TRANSFERRABLE

6-9-710. Notification of Sale.

- A. Notification and Election. When a Provider is the subject of a sale, transfer, lease, assignment, sublease or disposed of, in whole or in part, either by forced or involuntary sale, or by ordinary sale, consolidation or otherwise, such that it or its successor entity is obligated to inform or seek the approval of the PSC, the Provider or its successor entity shall promptly notify Salem City of the nature of the transaction. The notification shall include either:
1. The successor entity's certification that the successor entity unequivocally agrees to all of the terms of the original Provider's Franchise Agreement, or
 2. The successor entity's Application in compliance with Sections 6-7-5105 and 520 of this Ordinance.
- B. Transfer of Franchise. Upon receipt of a notification and certification in accordance with subsection (A)(1), the City designee, as provided in section 6-7-9 1 O(A), shall send notice affirming the transfer of the Franchise to the successor entity. If the City has good cause to believe that the successor entity may not comply with this Ordinance or the Franchise Agreement, it may require an Application for the transfer. The Application shall comply with Sections 6-7-510 and 520
- C. If PSC Approval No Longer Required. If the PSC no longer exists, or if its regulations or state law no longer require approval of transactions described in subsection (A), and the City has good cause to believe that the successor entity may not comply with this Ordinance or the Franchise Agreement, it may require an Application. The Application shall comply with Sections 6-7-510 and 520.

6-9-720. Events of Sale.

The following events shall be deemed to be a sale, assignment or other transfer of the Franchise requiring compliance with Section 6-7-710 the sale, assignment or other transfer of all or a majority of a Provider's assets to another Person; (ii) the sale, assignment or other transfer of capital stock or partnership, membership or other equity interests in a Provider by one or more of its existing shareholders, partners, members or other equity owners so as to create a new Controlling Interest in a Provider; (iii) the issuance of additional capital stock or partnership, membership or other equity interest by a Provider so as to create a new Controlling Interest in such a Provider; or (iv) the entry by a Provider into an agreement with respect to the management or operation of such Provider or its System.

SECTION 8 -- OVERSIGHT AND REGULATION

6-9-810. Insurance, Indemnity, and Security.

Prior to the execution of a Franchise, a Provider will deposit with the City an irrevocable, unconditional letter of credit or surety bond as required by the terms of the Franchise, and shall obtain and provide proof of the insurance coverage required by the Franchise. A Provider shall also indemnify the City as set forth in the Franchise.

6-9-820. Oversight.

The City shall have the right to oversee, regulate and inspect periodically the construction, maintenance, and upgrade of the System, and any part thereof, in accordance with the provisions of the Franchise and applicable law. A Provider shall establish and maintain managerial and operational records, standards, procedures and controls to enable a Provider to prove, in reasonable detail, to the satisfaction of the City at all times throughout the Term, that a Provider is in compliance with the Franchise. A Provider shall retain such records for not less than the applicable statute of limitations.

6-9-830. Maintain Records.

A Provider shall at all times maintain:

- A. On file with the City, a full and complete set of plans, records and "as-built" hard copy maps and, to the extent the maps are placed in an electronic format, they shall be made in electronic format compatible with the City's existing GIS system, of all existing and proposed installations and the types of equipment and Systems installed or constructed in the Rights-of-Way, properly identified and described as to the types of equipment and facility by appropriate symbols and marks which shall include annotations of all Rights-of-Ways where work will be undertaken. As used herein, "as-built" maps includes "file construction prints". Maps shall be drawn to scale. "As-built" maps, including the compatible electronic format, as provided above, shall be submitted within 30 days of completion of work or within 30 days after completion of modification and repairs. "As-built" maps are not required of the Provider who is the incumbent local exchange carrier for the existing System to the extent they do not exist.
- B. Throughout the term of the Franchise, a Provider shall maintain complete and accurate books of account and records of the business, ownership, and operations of a Provider with respect to the System in a manner that allows the City at all times to determine whether a Provider is in compliance with the Franchise. Should the City reasonably determine that the records are not being maintained in such a manner, a Provider shall alter the manner in which the books and/or records are maintained so that a Provider comes into compliance with this Section. All financial books and records which are maintained in accordance with the regulations of the FCC and any governmental entity that regulates utilities in the State of Utah, and generally accepted accounting principles shall be deemed to be acceptable under this Section.

6-9-840. Confidentiality.

If the information required to be submitted is proprietary in nature or must be

kept confidential by federal, state or local law, upon proper request by a Provider, such information shall be classified as a Protected Record within the meaning of the Utah Government Records Access and Management Act ("GRAMA"), making it available only to those who must have access to perform their duties on behalf of the City, provided that a Provider notifies Salem City, and clearly labels the information which a Provider deems to be confidential, proprietary information. Such notification and labeling shall be the sole responsibility of the Provider.

6-9-850. Provider's Expense.

All reports and records required under this Ordinance shall be furnished at the sole expense of a Provider, except as otherwise provided in this Ordinance or a Franchise.

6-9-860. Right of Inspection.

For the purpose of verifying the correct amount of the franchise fee, the books and records of the Provider pertaining thereto shall be open to inspection or audit by duly authorized representatives of the City at all reasonable times, upon giving reasonable notice of the intention to inspect or audit the books and records, provided that the City shall not audit the books and records of the Provider more often than annually. The Provider agrees to reimburse the City the reasonable costs of an audit if the audit discloses that the Provider has paid ninety-five percent (95%) or less of the compensation due the City for the period of such audit. In the event the accounting rendered to the City by the Provider herein is found to be incorrect, then payment shall be made on the corrected amount within thirty (30) calendar days of written notice, it being agreed that the City may accept any amount offered by the Provider, but the acceptance thereof by the City shall not be deemed a settlement of such item if the amount is in dispute or is later found to be incorrect.

SECTION 9 -- RIGHTS OF CITY

6-9-910. Enforcement and Remedies.

- A. Enforcement - City Designee. The City is responsible for enforcing and administering this Ordinance, and the City or its designee, as appointed by the Mayor, is authorized to give any notice required by law or under any Franchise Agreement.
- B. Enforcement Provision. Any Franchise granted pursuant to this Ordinance shall contain appropriate provisions for enforcement, compensation, and protection of the public, consistent with the other provisions of this Ordinance, including, but not limited to, defining events of default, procedures for accessing the Bond/Security Fund, and rights of termination or revocation.

6-9-920. Force Majeure.

In the event a Provider's performance of any of the terms, conditions or obligations required by this Ordinance or a Franchise is prevented by a cause or event not within a Provider's control, such inability to perform shall be deemed excused and no penalties or sanctions shall be imposed as a result thereof. For the purpose of this section, causes or events not within the control of a Provider shall include, without limitation, acts of God, strikes, sabotage, riots or civil disturbances, failure or loss of utilities, explosions, acts of public enemies, and natural disasters such as floods, earthquakes, landslides, and fires.

6-9-930. Extended Operation and Continuity of Services.

- A. Continuation After Expiration. Upon either expiration or revocation of a Franchise granted pursuant to this Ordinance, the City shall have discretion to permit a Provider to continue to operate its System or provide Services for an extended period of time not to exceed six (6) months from the date of such expiration or revocation. A Provider shall continue to operate its System under the terms and conditions of this Ordinance and the Franchise granted pursuant to this Ordinance.
- B. Continuation by Incumbent Local Exchange Carrier. If the Provider is the incumbent local exchange carrier, it shall be permitted to continue to operate its System and provide Services without regard to revocation or expiration, but shall be obligated to negotiate a renewal in good faith.

6-9-940. Removal or Abandonment of Franchise Property.

- A. Abandoned System. In the event that (1) the use of any portion of the System is discontinued for a continuous period of twelve (12) months, and thirty (30) days after no response to written notice from the City to the last known address of Provider; (2) any System has been installed in the Rights-of-Way without complying with the requirements of this Ordinance or Franchise; or (3) the provisions of Section 6-7-350 are applicable and no Franchise is granted, a Provider, except the

Provider who is an incumbent local exchange carrier, shall be deemed to have abandoned such System.

- B. **Removal of Abandoned System.** The City, upon such terms as it may impose, may give a Provider written permission to abandon, without removing, any System, or portion thereof, directly constructed, operated or maintained under a Franchise. Unless such permission is granted or unless otherwise provided in this Ordinance, a Provider shall remove within a reasonable time the abandoned System and shall restore, using prudent construction standards, any affected Rights-of-Way to their former state at the time such System was installed, so as not to impair their usefulness. In removing its plant, structures and equipment, a Provider shall refill, at its own expense, any excavation necessarily made by it and shall leave all Rights-of-Way in as good condition as that prevailing prior to such removal without materially interfering with any electrical or telephone cable or other utility wires, poles or attachments. The City shall have the right to inspect and approve the condition of the Rights-of-Way cables, wires, attachments and poles prior to and after removal. The liability, indemnity and insurance provisions of this Ordinance and any security fund provided in a Franchise shall continue in full force and effect during the period of removal and until full compliance by a Provider with the terms and conditions of this Section.

6-9-950. Transfer of Abandoned System to City.

Upon abandonment of any System in place, a Provider, if required by the City, shall submit to the City a written instrument, satisfactory in form to the City, transferring to the City the ownership of the abandoned System.

6-9-960. Removal of Above-Ground System.

At the expiration of the term for which a Franchise is granted, or upon its revocation or earlier expiration, as provided for by this Ordinance, in any such case without renewal, extension or transfer, the City shall have the right to require a Provider to remove, at its expense, all above-ground portions of a System from the Rights-of-Way within a reasonable period of time, which shall not be less than one hundred eighty (180) days. If the Provider is the incumbent local exchange carrier, it shall not be required to remove its System, but shall negotiate a renewal in good faith.

6-9-970. Leaving Underground System.

Notwithstanding anything to the contrary set forth in this Ordinance, a Provider may abandon any underground System in place so long as it does not materially interfere with the use of the Rights-of-Way or with the use thereof by any public utility, cable operator or other Person.

SECTION 10 -- OBLIGATION TO NOTIFY

6-9-1010. Publicizing Work.

Before entering onto any private property, a Provider shall make a good faith attempt to contact the property owners in advance, and describe the work to be performed.

SECTION 11 -- GENERAL PROVISIONS

6-9-1110. Conflicts.

In the event of a conflict between any provision of this Ordinance and a Franchise entered pursuant to it, the provisions of this Ordinance in effect at the time the Franchise is entered into shall control.

6-9-1120. Severability.

If any provision of this Ordinance is held by any federal, state or local court of competent jurisdiction, to be invalid as conflicting with any federal or state statute, or is ordered by a court to be modified in any way in order to conform to the requirements of any such law and all appellate remedies with regard to the validity of the Ordinance provisions in question are exhausted, such provision shall be considered a separate, distinct, and independent part of this Ordinance, and such holding shall not affect the validity and enforceability of all other provisions hereof. In the event that such law is subsequently repealed, rescinded, amended or otherwise changed, so that the provision which had been held invalid or modified is no longer in conflict with such law the provision in question shall return to full force and effect and shall again be binding on the City and the Provider, provided that the City shall give the Provider thirty (30) days, or a longer period of time as may be reasonably required for a Provider to comply with such a rejuvenated provision, written notice of the change before requiring compliance with such provision.

6-9-1130. New Developments.

It shall be the policy of the City to liberally amend this Ordinance, upon Application of a Provider, when necessary to enable the Provider to take advantage of any developments in the field of Telecommunications which will afford the Provider an opportunity to more effectively, efficiently, or economically serve itself or the public.

6-9-1140. Notices.

All notices from a Provider to the City required under this Ordinance or pursuant to a Franchise granted pursuant to this Ordinance shall be directed to the officer as designated by the Mayor. A Provider shall provide in any Application for a Franchise the identity, address and phone number to receive notices from the City. A Provider shall immediately notify Salem City, of any change in its name, address, or telephone number,

6-9-1150. Exercise of Police Power.

To the full extent permitted by applicable law either now or in the future, the City reserves the right to adopt or issue such rules, regulations, orders, or other directives that it finds necessary or appropriate in the lawful exercise of its police powers.

SECTION 12 -- FEDERAL, STATE AND CITY JURISDICTION

6-9-1210. Construction.

This Ordinance shall be construed in a manner consistent with all applicable federal and state statutes.

6-9-1220. Ordinance Applicability.

This Ordinance shall apply to all Franchises granted or renewed after the effective date of this Ordinance. This Ordinance shall further apply, to the extent permitted by applicable federal or state law to all existing Franchises granted prior to the effective date of this Ordinance and to a Provider providing Services, without a Franchise, prior to the effective date of this Ordinance.

6-9-1230. Other Applicable Ordinances.

A Provider's rights are subject to the police powers of the City to adopt and enforce ordinances necessary to the health, safety and welfare of the public. A Provider shall comply with all applicable general laws and ordinances enacted by the City pursuant to its police powers. In particular, all Providers shall comply with the City zoning and other land use requirements.

6-9-1240. City Failure to Enforce.

A Provider shall not be relieved of its obligation to comply with any of the provisions of this Ordinance or any Franchise granted pursuant to this Ordinance by reason of any failure of the City to enforce prompt compliance.

6-9-1250. Construed According to Utah Law.

This Ordinance and any Franchise granted pursuant to this Ordinance shall be construed and enforced in accordance with the substantive laws of the State of Utah.

EXHIBIT A
TELECOMMUNICATIONS FRANCHISE APPLICATION

CITY OF SALEM

TELECOMMUNICATIONS FRANCHISE APPLICATION

(Capitalized terms are defined in the Telecommunications Rights-of-Way Ordinance)

_____ (herein "Provider") a _____
(Name of Applicant) (Corporation, LLC, Partnership,
Individual)
organized under the laws of _____ with its principal headquarters located in _____
State State
does hereby request a Franchise to utilize the Rights-of-Ways of all, or a part of the City of _____
(Name of City)
(herein the "City"), pursuant to the City's Telecommunications Rights-of-Ways Ordinance (herein ROW
Ordinance).

A. Please list all names (d/b/a/s) the Provider will be doing business under in the City:

Name of Contact Person: _____ Telephone Number: _____

Address: _____ City, State, Zip Code _____

B. This Application is a:

- ? New Application
- ? Renewal Application
- ? Transfer of Franchise

C. At the time of this Application, Provider is planning to do the following (mark all that apply):

- ? Construct a System using the Rights-of-way
- ? Directly provide Telecommunications Services to the public
- ? Local dial tone services
- ? Interstate long distance services
- ? Intrastate long distance services
- ? High speed data transmission services
- ? High speed Internet services
- ? Provide the private Telecommunication needs of the Provider
- Lease TO or otherwise allow all or a portion of its System to be used by another Provider. List name(s) of other Provider(s) if known:

? Lease FROM or otherwise use another Provider's System. List name(s) of other Provider(s), if known:

- ? Construct an Open Video System
- ? Provide an Open Video System

- D. The application fee required in the ROW Ordinance accompanies this Application. The Provider understands that this Application will not be considered until the application fee is paid.
- E. As provided in Section 2, 6-7-210.A of the ROW Ordinance, this application includes all written documentation, verbal statements and representations, in whatever form, made by the Provider to the City concerning: the construction of a Telecommunications System over, under, on, or through the Rights-of-Way; the Telecommunications Services proposed to the City by the Provider, and any other matter pertaining to a proposed System or Service.
- F. Except to the extent any Ordinance provision referenced herein is invalidated, the Provider hereby certifies and agrees as follows:
1. All information contained in this Application and all other information presented to the City is true and correct;
 2. The provider is familiar with the ROW Ordinance and will comply with it in all respects if the Franchise is granted;
 3. The Provider has received a Certificate of Convenience and Necessity from the Utah Public Service Commission, if required;
 4. The provider has the financial ability to compensate the City during the Franchise term by paying the franchise fee as required in the ROW Ordinance and the Franchise Agreement;
 5. The Provider will comply with the requirements of Section 6 of the ROW Ordinance which governs construction and technical requirements;
 6. The Provider will obtain excavation permits as required in the ROW Ordinance and the Excavation Ordinance and promptly pay the permit fees;
 7. The Provider will pay the up-front franchise fee required in the Franchise Agreement when it is granted;
 8. The signers of this Application have the authority to make these certifications and agreements on behalf of the Provider;
 9. [OPTIONAL FOR POWER CITIES] Prior to making any attachments to poles owned by the city, the Provider is willing to enter into a pole attachment agreement with the City.

PROVIDER

By: _____

Title: _____

STATE OF UTAH)
)
COUNTY OF _____)

On this _____ day of _____, 20_____, personally appeared before me _____
_____ who being by me duly sworn did say that he/she is the _____
_____ of _____ and that
the foregoing instrument was signed in behalf of said entity by authority of its _____
or its by-laws, and he/she acknowledged to me that said entity executed the same.

NOTARY PUBLIC

REV. 5/99

(Ordinance No. 11-25-97 & Ordinance No. 3-1-00-A)

CHAPTER 10 – SEXUALLY ORIENTED BUSINESS AND EMPLOYEE LICENSING ACT

6-10-010. Title for Citations.

The ordinance codified in this article shall be known, and may be referred to, as the "Sexually Oriented Businesses and Employee Licensing Ordinance."

6-10-020. Purpose.

The purpose and object of this Chapter is to establish reasonable and uniform regulations governing the time, place and manner of the operation of sexually oriented businesses and their employees in the city. This Chapter, by its terms, is designed to prevent crime, protect the city's retail trade, maintain property values, and generally protect and preserve the quality of the City's neighborhoods, commercial districts, and the quality of urban life. The provisions of this Chapter have neither the purpose nor the effect of imposing a limitation or restriction on the content of any communicative material or speech protected by the First Amendment. This Chapter shall be construed to protect the governmental interest recognized by this Chapter in a manner consistent with constitutional provisions provided by the United States and Utah Constitutions

6-10-030. Application.

This chapter imposes regulatory standards and license requirements on certain business activities, which are characterized as "sexually oriented businesses," and certain employees of those businesses characterized as "sexually oriented business employees". Except when the context or specific provisions require, this chapter does not supersede or nullify any other related ordinances.

6-10-040. Definitions.

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

- A. **Adult bookstore or Adult video store** means a commercial establishment:
 - 1. Which excludes minors from more than fifteen percent (15%) of the retail floor or shelf space of the premises; or
 - 2. Which, as one of its principal purposes, offers for sale or rental, for any form of consideration, any one or more of the following: Books, magazines, periodicals or other printed matter, photographs, films, motion pictures, video cassettes or video reproductions, slides or other visual representations, the central theme of which depicts or describes "specified sexual activities," except for legitimate medically recognized contraceptives.
- B. **Adult Business** means an adult motion picture theater, adult bookstore or adult video store.
- C. **Adult motion picture theater** means a commercial establishment which regularly

shows, for any form of consideration, films, motion pictures, video cassettes, slides or similar photographic reproductions which are primarily characterized by the depiction or description of specified sexual activities" or "specified anatomical areas."

- D. **Adult theater** means a theater, concert hall, auditorium, or similar commercial establishment which regularly features person who appear in a state of a "semi-nudity."
- E. **Business license authority** means the City's business license supervisor or designee.
- F. **Customer** means any person who patronizes of any business licensed pursuant to this chapter.
- G. **Employ** means hiring an individual to work for pecuniary or any other form of compensation, whether such person is hired on the payroll of the employer, as an independent contractor, as an agent, or in any other form of employment relationship.
- H. **Escort** means a person who, for pecuniary compensation, dates, socializes, visits, consorts with or accompanies, or offers to date, consort, socialize, visit or accompany another or others to or about social affairs, entertainment or places of amusement, or within any place of public or private resort or any business or commercial establishment or any private quarters or who agrees or offers to privately model lingerie or to privately perform a striptease for another person. Escort shall not be construed to include persons who provide business or personal services such as licensed private nurses, aids for the elderly or handicapped, social secretaries or similar service personnel whose relationship with their patron is characterized by a bonafide contractual relationship having a duration of more than twenty-four (24) hours and who provide a service not principally characterized as dating or socializing. Escort shall also not be construed to include persons providing services such as singing telegrams, birthday greetings or similar activities characterized by appearances in a public place, contracted for by a party other than the person for whom the service is being performed and of a duration not longer than one (1) hour.
- I. **Escort service** means an individual or entity who, for pecuniary compensation, furnishes or offers to furnish escorts, or provides or offers to introduce customers to escorts.
- J. **Escort service runner** means any third person, not an escort, who, for pecuniary compensation, acts in the capacity of an agent or broker for an escort service, escort or customer by contacting or meeting with escort services, escorts or customers at any location within the City, whether or not such third person is employed by such

escort service, escort, customer, or by another business, or is an independent contractor or self-employed.

- K. **Nudity or state of nudity** means the appearance of a human bare buttock, cleft of buttocks, anus, pubic region, male genitals, female genitals, or full female breast.
- L. **Outcall services** means services of a type performed by a sexually oriented business employee outside of the premises of the licensed sexually oriented business, including but not limited to escorts, models, dancers and other similar employees.
- M. **Pecuniary compensation** means any commission, fee, salary, tip, gratuity, hire, profit, reward, or any other form of consideration.
- N. **Person** means any person, unincorporated association, corporation, partnership or other legal entity.
- O. **Semi-nude** means a state of dress in which opaque clothing covers no more than the genitals, pubic region, anus, cleft of the buttocks, the areola and nipple of the female breast as well as portions of the body covered by supporting straps or devices.
- P. **Semi-nude dancing agency** means any person, agency, firm, corporation, partnership, or any other entity or individual which furnishes, books or otherwise engages or offers to furnish, book or otherwise engage the services of a professional dancer, model, or performer licensed pursuant to this chapter for performance or appearance at a business licensed for semi-nude entertainment, or adult theaters.
- O. **Semi-nude dancing bars** means any business which sells or has a license which allows the consumption of any alcoholic beverage on its premises and that permits dancing, modeling, or other performance or appearance however characterized, in a state of semi-nudity.
- R. **Semi-nude entertainment business** means a business, including adult theater, where employees dance, model, perform or appear in the presence of customers of the business in a state of semi-nudity. A business shall also be presumed to be a semi-nude entertainment business if the business holds itself out as such a business.
- S. **Sexually oriented businesses** means semi-nude entertainment businesses, sexually oriented out-call services, adult businesses, semi-nude dancing bars and semi-nude dancing agencies, as defined by this chapter.
- T. **Sexually oriented business employees** means those employees who work on the premises of the sexually oriented business in activities related to the sexually oriented portion of the business. This includes all managing employees, dancers, escorts, models, and other similar employees whether or not hired as employees, agents or independent contractors. Employees shall not include individuals whose work is unrelated to the sexually oriented portion of the business, such as janitors,

bookkeepers, cooks, serving persons, bartenders and similar employees, except when they may be managers or supervisors of the business. All persons making outcall meetings under this chapter, including escorts, models, guards, or escort employees shall be considered sexually oriented business employees.

U. **Specified anatomical areas** means:

1. Acts of masturbation, human sexual intercourse, sexual copulation between a person and a beast, fellatio, cunnilingus, bestiality, pederasty, buggery, or any anal copulation between a human male and other human male, human female or beast;
2. Manipulation, caressing or fondling by any person of the genitals of a human, the pubic area of a human, the uncovered female nipple or areola; or
3. Flagellation or torture by or upon a person clad in undergarment, a mask or bizarre costume, or in the condition of being fettered, bound or otherwise physically restrained on the part of the one so clothed.

6-10-050. Obscenity and Nudity.

Notwithstanding anything contained in this chapter, nothing in this chapter shall be deemed to permit or allow the showing or display of any matter which is contrary to the provisions of the Salem City Code, or other applicable federal or state statute prohibiting obscenity or nudity.

6-10-060. Location and zoning restrictions.

It is unlawful for any sexually oriented business to do business at any location within the City not zoned for such business. Sexually oriented businesses licensed under this chapter shall only be allowed in areas zoned for their use pursuant to §14-12-020(23) of the Salem City Municipal Code. (Ord. No. 10-6-04)

6-10-070. Business license required.

It is unlawful for any person to operate a sexually oriented business without first obtaining a sexually oriented business license. The license shall specify the type of business for which it is obtained.

6-10-080. Exemptions from license requirements.

The provisions of this chapter shall not apply to any sex therapist or similar individual licensed to provide counseling, licensed medical practitioner, licensed nurse, psychiatrist, psychologist, nor shall it apply to any educator licensed by the State for activities in the classroom.

6-10-090. Legitimate artistic modeling.

- A. The City does not intend to unreasonably or improperly prohibit legitimate modeling which may occur in a state of nudity for purposes protected by the first amendment or similar State protection. The City does intend to prohibit prostitution and related offenses occurring under the guise of nude modeling.

B. In the event that a contract for nude modeling or appearance is signed more than forty eight (48) hours in advance of the modeling or appearance, the individual to appear nude shall not be required to obtain a license pursuant to this chapter. During such unlicensed nude appearance, it is unlawful to:

1. Appear nude or semi-nude in the presence of persons under the age of eighteen (18);
2. Allow, offer or agree to any touching of the contracting party or other person by the individual appearing nude;
3. Allow, offer or agree to commit prostitution, solicitation of prostitution, solicitation of a minor, or commit activities harmful to a minor;
4. Allow, offer, commit or agree to any sex act as validly defined by City ordinances or State statute;
5. Allow, offer or agree for the individual appearing nude to be within five (5) feet of any other person while performing or while nude or semi-nude.

6-10-100. Business categories- Number of licenses.

A. It is unlawful for any business premises to operate or be licensed for more than one category of sexually oriented business.

B. The categories of licensed sexually oriented businesses are:

1. Adult businesses;
2. Semi-nude entertainment businesses;
3. Adult theater
4. Semi-nude dancing agency.

C. Any sexually oriented business not listed in paragraph (B) is expressly prohibited, including, but not limited to, out call services, escort services, semi-nude dancing bars or similar businesses not specifically permitted.

6-10-110. Employee licenses.

It is unlawful for any sexually oriented business to employ, or for any individual to be employed by a sexually oriented business in the capacity of a sexually oriented business employee, unless that employee first obtains a sexually oriented business employee license.

6-10-120. License application-Disclosures required.

Before any applicant may be licensed to operate a sexually oriented business or as a sexually oriented business employee pursuant to this chapter, the applicant shall submit, on a form to be supplied by the business license authority, the following:

- A. The correct legal name of each applicant, corporation, partnership, limited partnership or entity doing business under an assumed name;
- B. If the applicant is a corporation, partnership or limited partnership, or individual or entity doing business under an assumed name, the information required below for individual applicants shall be submitted for each partner and each principal of the applicant, and for each officer, director and any shareholder (corporate or personal) holding more than ten percent (10%) of the stock of any applicant. Any holding company, or any entity holding more than ten percent (10%) of an applicant, shall be considered an applicant for purposes of disclosure under this Chapter;
- C. All corporations, partnerships or noncorporate entities included on the application shall also identify each individual authorized by the corporation, partnership or noncorporate entity to sign the checks for such corporation, partnership or noncorporate entity;
- D. For all applicants or individuals, the application must also state:
 - 1. Any other names or aliases used by the individual;
 - 2. The age, date, and place of birth
 - 3. Height, weight, and color of hair and eyes;
 - 4. Present business address and telephone number;
 - 5. Proposed business address and telephone number;
 - 6. Present residence address and telephone number;
 - 7. State drivers license or identification number; and
 - 8. Social security number;
- E. Acceptable written proof that the individual is at least eighteen (18) years of age or, in the case of employees to be employed in a business where a different age is required, proof of the required age;
- F. Attached to the form as provided above, two (2) color photographs of the applicant clearly showing the individual's face, and the individual's fingerprints on a form provided by the City Police Department. For persons not residing in the City, the photographs and finger prints may be on a form from the law enforcement jurisdiction where the person resides. Any fees for the photographs and fingerprints shall be paid by the applicant.
- G. A statement describing the business, occupation or employment history of the

applicant for three (3) years immediately preceding the date of the filing of the application;

- H. A statement detailing the license or permit history of the applicant for the five (5) years immediately preceding the date of the filing of the application, including whether such applicant previously operated or sought to operate, in this or any other county, city, state or country has ever had a license, permit or authorization to do business denied, revoked or suspended, or had any professional or vocational license or permit denied, revoked or suspended. In the event of any such denial, revocation or suspension, state the date, the name of the issuing or denying Jurisdiction, and describe in full the reasons for the denial, revocation or suspension. A copy of any order of denial, revocation or suspension shall be attached to the application;
- I. List all criminal convictions and the disposition of all arrests of the applicant, individual or other entity subject to disclosure under this chapter, for five (5) years prior to the date of the application. This disclosure shall include identification of all ordinance violations, except minor traffic offenses (any traffic offense designated as a felony, Class A or Class B misdemeanor shall not be construed as a minor traffic offense), stating the date, place, nature of each conviction, and sentence of each conviction or other disposition; identifying the convicting jurisdiction and sentencing court and providing court identifying case numbers or docket numbers. Applications for a sexually oriented business or employee license shall constitute a waiver of disclosure or any criminal conviction or plea of nolo contendere for the purposes of any proceeding involving the business or employee license;
- J. In the event the applicant is not the owner of record of the real property upon which the business or proposed business is located, the application must be accompanied by a notarized statement from the legal or equitable owner of the possessory interest in the property specifically acknowledging the type of business for which the applicant seeks a license for the property. In addition the notarized statement, the applicant shall furnish the name, address and phone number of the owner of record of the property, as well a copy of the lease or rental agreement pertaining to the premises in which the service is or will be located;
- K. A description of the services to be provided by the business, with sufficient detail to allow reviewing authorities to determine what business will be transacted on the premises, together with a schedule of usual fees to be charged by the licensee, and any rules, regulations or employment guidelines under or by which the business intends to operate. This description shall also include:
 - 1. The hours that the business or service will be open to the public, and the methods of promoting the health and safety of the employees and customers and preventing them from engaging in illegal activity;
 - 2. The methods of supervision preventing the employees from engaging in acts of prostitution or other related criminal activities;

3. The methods of supervising employees and customers from charging or receiving fees for services or acts prohibited by this chapter or other statutes or ordinances;
4. The methods of supervising employees and customers in order to promote the health and safety of employees and customers and prevent the transmission of disease, and prevent the commission of acts of prostitution or other criminal activity.

6-10-130. License - Fees.

- A. Each applicant for a sexually oriented business or employee license shall be required to pay regulatory license fees pursuant to the following schedule:
 1. Yearly business regulatory license fees;
 - a. Adult business one hundred dollars (\$100);
 - b. Semi-nude dancing agencies and semi-nude entertainment businesses, one hundred fifty dollars (\$150)
 2. For each business applicant, an initial investigation fee of one hundred dollars (\$ 1 00) is required for each applicant directed to submit a separate disclosure application;
 3. Yearly sexually oriented business employee license fees;
 - a. Adult business employees, semi-nude entertainment business employees requiring a license but not individually providing semi-nude entertainment services to customers, and employees of semi-nude dancing agencies requiring licenses but who are not performers, fifty dollars(\$50);
 - b. Employees of semi-nude entertainment business personally providing semi-nude entertainment to patrons, one hundred fifty dollars (\$150);
 - c. Professional dancers performing in semi-nude entertainment businesses, dancing bars, one hundred dollars (\$100).
- B. Any individual applying for more than one license at the same time shall pay the higher of any applicable fee, plus an additional twenty dollars (\$20) for each additional license requested.
- C. These fees shall be in addition to the other licenses and fees required to do business in the City.

6-10-140. License-Bond.

Each application for sexually oriented business license shall post with the City Recorder a cash bond in the amount of two thousand dollars(\$2000). Any fines assessed against the business, officers or managers for violations of City Ordinances shall be taken from this bond if not paid in cash within ten days after notice of the fine, unless an appeal is filed as provided by this chapter. In the event the funds are drawn against the cash bond to pay such fines the bond shall be replenished to two thousand dollars (\$2000) within fifteen days of the date of notice of any draw against it. In the event the bond is not replenished within the fifteen days, the license granted by this chapter shall automatically be suspended until such time as the bond is replenished.

6-10-150. License-premises location and name,

- A. It is unlawful to conduct a business under a license issued pursuant to this chapter at any location to which telephone calls are automatically forwarded and such business shall require a separate license.
- B. It is unlawful for any sexually oriented business to do business in the city under any name other than the name specified in the application.

6-10-160. License-Issuance conditions.

The City business license official shall approve the issuance of licenses to the applicant within sixty (60) days after receipt of the application, unless the official finds one or more of the following:

- A. The applicant is under eighteen (18) years of age or any higher age if the license sought requires a higher age;
- B. The applicant is overdue in payment to the city of taxes, fees, fines or penalties assessed against the applicant or imposed on the applicant in relation to a sexually oriented business;
- C. The applicant has falsely answered a material question or request for information as authorized by this chapter;
- D. The applicant has been convicted of a violation of a provision of this chapter within two (2) years immediately proceeding the application. The fact that a conviction is being appealed shall have no effect on the denial;
- E. The premises to be used for the business has been disapproved by the County Health Department, the City Department of Public Safety, the City Building Official or the City Zoning Official as not being in compliance with applicable laws and ordinances of the City. If any of the foregoing reviewing agencies cannot complete their review within the sixty (60) day approval or denial period the agency or department may obtain from the City business license official an extension of time for their review of no more than fifteen (15) days. The total time for the City to approve or deny a license shall not exceed seventy-five (75) days from receipt of an application. Businesses located outside the corporate boundaries of the City, but requiring a license under this chapter, may be denied a license pursuant to this chapter if the business does not have a valid business license to conduct business at the business

location from the appropriate jurisdiction for that location;

1. Upon receipt of an application all departments required to review the application shall determine within ten (10) days whether or not the application is complete with all items necessary for processing. Incomplete applications shall be returned to the applicant with specification of the items which are incomplete.
 2. The time for processing applications specified in this section shall begin to run from the receipt of a complete application.
 3. In the event that a license has not been disapproved within sixty (60) days, or the seventy-five (75) days allowed after an extension, the City shall issue the license.
 4. Any license issued pursuant to subsection (3) above may be revoked by the city pursuant to the revocation procedures of section 6-7-370 through 390 if the completed review determines that the license should have been denied.
- F. The license fees required by this chapter or by other ordinances have not been paid;
- G. All applicable sales and use taxes have not been paid;
- H. An applicant for the proposed business is in violation of, or not in compliance with this chapter;
- I. An applicant has been convicted of a crime involving prostitution; exploitation of prostitution; aggravated promotion of prostitution; aggravated exploitation of prostitution; solicitation of sex acts; sex acts-for-hire compelling prostitution; aiding prostitution; sale, distribution or display of material harmful to minors; sexual performance by minors; possession of child pornography; lewdness; public indecency; or crimes involving sexual abuse or exploitation of a minor, sexual assault or aggravated sexual assault; rape; rape of a child; object rape; object rape of a child; sodomy; sodomy on a child; sexual abuse of a child; aggravated sexual abuse of a child; forcible sodomy; forcible sexual abuse; incest; harboring a runaway child; criminal contempt, conspiracy or solicitation to commit any of the foregoing offenses or offenses involving similar elements from any jurisdiction regardless of the exact title of the offense, for which:
1. Less than two (2) years have elapsed from the date of conviction if the conviction is of a misdemeanor offense, or less than five (5) years if the convictions are of two or more misdemeanors within five (5) years, or less than five (5) years has elapsed from the date of the conviction if the offense was a felony;
 2. The fact that a conviction is being appealed does not prevent someone from

being denied a business license for that conviction.

6-10-170. License-Term

Sexually oriented business and employee licenses issued pursuant to this chapter shall be valid from the date of issuance through December 31st of that year. The license fees required under Section 6-10-130 above shall not be prorated for any portion of a year, but shall be paid in full for whatever portion of the year the license is applied for.

6-10-180. License-Notice of change of information

Any change in the information required to be submitted under this chapter for either
a
sexually oriented business license or sexually oriented business employee license shall be given, in writing, to the business license authority and the police department within fourteen (14) days after such change.

6-10-190. License-transfer limitations.

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

6-10-200. License-Display.

It is unlawful for any sexually oriented business located within the boundaries of the City to fail to display the license granted pursuant to this chapter in a prominent location within the business premises. It is unlawful for any individual licensed pursuant of this chapter to fail, at all times while engaged in licensed activities within the corporate boundaries of the City, to carry their employee license on their person. If the individual is nude or semi-nude, such license shall be visibly displayed within the same room where the employee is performing. When requested by the police, city licensing or other enforcement personnel or health official, it is unlawful to fail to show the appropriate licenses while engaged in licensed activities within the corporate boundaries of the City.

6-10-210. License-Statement in advertisements.

It is unlawful for any advertisement by the sexually oriented business or employee to fail to state that the business or employee is licensed by the City, and shall include the City license number.

6-10-220. Regulations and unlawful activities.

It is unlawful for any sexually oriented business or sexually oriented business employee to:

- A. Allow persons under the age of eighteen (18) years, on the licensed premises, except that in adult businesses which exclude minors from less than all of the

business premises, minors shall not be permitted in excluded areas;

- B. Allow, offer or agree to conduct any out call business with persons under the age of eighteen (18) years;
- C. To allow, offer or agree to allow any alcohol being stored, used or consumed on or in the licensed premises;
- D. Allow the outside entry to the premises to be locked while any customer is in the premises;
- E. Allow, offer or agree to gambling on the licensed premises;
- F. Allow, offer or agree to any sexually oriented business employee touching any customer;
- G. Allow, offer or agree to illegal possession, use, sale or distribution of controlled substances on the licensed premises;
- H. Allow sexually oriented business employees to possess, use, sell or distribute controlled substances while engaged in the activities of the business;
- I. Allow, offer or agree to commit prostitution, solicitation of prostitution, solicitation of minor or committing activities harmful to a minor to occur on the licensed premises;
- J. Allow, offer, commit or agree to any sex act as validly defined by City ordinances or State statute in the presence of any customer;
- K. Allow, offer or agree to allow a customer to masturbate in the presence of the sexually oriented business employee or on the premises of a sexually oriented business.

6-10-230. Outcall services-Prohibited.

It is unlawful for any business or employee to offer or to provide outcall services in the City of Salem.

6-10-240. Adult business-design of premises.

- A. In addition to the general requirements of disclosure for sexually oriented businesses, any applicant for a license as an adult business shall also submit a diagram, drawn to scale, of the premises of the license. The design and construction, prior to granting a license or opening or business, shall conform to the following:
 - 1. The interior of the premises shall be configured in such a manner that there is an unobstructed view from a manager's station of every area of the

premises to which any patron is permitted access for any purpose, excluding restrooms.

2. Restrooms may not contain any video reproduction equipment or any of the business merchandise. Signs shall be posted requiring only one person being allowed in the restroom per stall, and only one person in any stall at a time, and requiring that customers shall not be allowed access to manager's station areas.
 3. For businesses which exclude minors from the entire premises, all windows, doors and other apertures to the premises shall be darkened or otherwise constructed to prevent anyone outside the premises from seeing the inside of the premises. Businesses which exclude minors from less than all of the premises shall be designed and constructed so that minors may not see into the area from which they are excluded.
 4. The diagram must show marked internal dimensions, all overhead lighting fixtures, and lighting for illumination capacity.
- B. It shall be the duty of the licensee and the licensee's employees to insure that the views from the manager's station in subsection A of this section remain unobstructed by any doors, walls, merchandise, display racks or any other materials at all times when any customer is present on the premises, and to insure that no customer is permitted access to any area of the premises which has been designated as an area in which customers will not be permitted.
- C. The premises shall at all times be equipped and operated with overhead lighting fixtures of sufficient intensity to illuminate every place to which customers are permitted access at an illumination of not less than one foot candle, measured at floor level. It shall be the duty of the licensee and the licensee's employees present on the premises to insure that the illumination described above is maintained at all **times when any customer is present in the premises.**

6-10-250. Semi-nude entertainment business-Design of premises.

- A .It is unlawful for business premises licensed for semi-nude entertainment to:
1. Permit a bed, sofa, mattress or similar item in any room on the premises, except that a sofa may be placed in a reception room open to the public or in any office to which customers are not admitted, and except that in an adult theater such items may be on the stage as part of a performance;
 2. Allow any door on any room used for business, except for the door to an office to which customers shall not be admitted, outside doors and restroom doors, to be lockable from the inside;

3. Provide any room in which the employee or employees and the customer or customers are alone together without separation by a solid physical barrier at least three feet high and six inches wide. The customer or customers shall remain on one side of the barrier and the employee or employees shall remain on the other side of the barrier.
- B. Adult theaters shall also require that the performance area shall be separated from the customers by a minimum of three feet, which separation shall be delineated by a physical barrier at least three feet high.

6-10-260. Semi-nude entertainment business-Location restrictions.

It is unlawful for any business licensed for semi-nude entertainment to be located within six hundred feet (600) of a different business which is licensed for the sale or consumption of alcohol.

6-10-270. Semi-nude dancing bar prohibited.

It is unlawful for any business licensed for the sale or consumption of alcohol pursuant to City ordinances or State law to allow any person on the premises to dance, model, or perform in a state of semi-nudity.

6-10-280. Semi-nude dancing performer restriction.

It is unlawful for any person to perform or appear in a state of semi-nudity as a professional dancer, model, performer or otherwise on the premises of a business licensed for semi-nude dancing, either gratuitously or for compensation, unless that person is licensed as a sexually oriented business employee.

6-10-290. Semi-nude dancing agencies.

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

6-10-300. Performers-Prohibited activities.

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

- A. To touch in any manner any customer;
- B. To throw any object or clothing off the stage area;

- C. To accept any money, drink or any other object directly from any person; or
- D. To allow another person to touch such performer or to place any money or object on the performer or within the costume or person of the performer; or
- E. For the performer to place anything within the costume or adjust or move the costume while performing so as to render the performer in a state of nudity.

6-10-310. Performers-costume requirements.

It is unlawful for Performers in semi-nude entertainment business to fail to comply with the following costume requirements;

- A. Performers shall at all times be costumed during performances in a manner not to violate any City Ordinance concerning disorderly conduct or lewdness, and such Performers shall not perform or conduct themselves in such a manner as to violate the provisions of any City Ordinance. No performer shall appear in any business, licensed as a semi-nude entertainment business, during a performance or appearance with less than opaque clothing which meets the definition of semi-nude, and in the case of a female performer, cover the areola and nipple of such performer in a shape and color other than the natural shape and color of the nipple and areola.
- B. While on the portion of a business licensed as a semi-nude entertainment business used by customers, performers shall be dressed in an opaque clothing covering the performer's cleft of buttocks and pubic area and, in the case of female, the nipple and areola of the breast.

6-10-320. Stage requirements.

It is unlawful for any performer in a business licensed as a semi-nude entertainment business to appear in costume other than on a stage which shall be at least three feet from the portion of the premises on which customers are allowed, and which shall be separated from the customers by a solid barrier or railing, the top of which shall be at least two feet from the floor.

6-10-330. Customers-Prohibited activities.

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

6-10-340. Nudity-Defenses to prosecution.

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

- A. By a proprietary school licensed by the State, or a college, junior college or university supported entirely or partly by taxation;

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

6-10-350. Existing Business-Compliance time limits.

- A. The provisions of this chapter shall be applicable to all persons and businesses described herein, whether the herein-described activities were established before or after the effective date of the ordinance codified in this chapter, and regardless of whether such person and businesses are currently licensed to do business in the City.
 - 1. All semi-nude entertainment business and employees thereof requiring licenses and semi-nude dancing agency licenses shall have seventy-five (75) days from the effective date of the ordinance codified in this chapter, or until their licenses must be renewed, whichever is first, to comply with the provisions of this chapter.
 - 2. All adult businesses shall have one hundred thirty-five (I 35) days from the effective date of the ordinance codified in this chapter, or until their current license must be renewed, whichever is first in time, to comply with the provisions of this chapter.
- B. For the year 1997, all businesses required by this chapter to be licensed as sexually oriented businesses shall be credited against the fees required by this chapter with the regulatory license fees paid for the current 1997 license.

6-10-360. Violation-Injunction when.

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

6-10-370. Violation-License suspension or revocation.

- A. The city may issue a notice suspending or revoking a sexually oriented business or employee license granted under this chapter if a licensee, or an employee of the licensee has:
 - 1. Violated or is not in compliance with this chapter;
 - 2. Has refused to allow any inspection of the premises of the sexually oriented business specifically authorized by this chapter, or by any other statute or ordinance;

3. Has failed to replenish the cost bond as provided in this chapter; such suspension shall extend until the bond has been replenished;
 4. A licensee or employee gave materially false or misleading information in obtaining the license;
 5. A licensee or an employee knowingly operated the sexually oriented business or worked under the employee license during the period when the business licensee or employee licensee's license was suspended;
 6. A licensee has committed an offense which would be grounds for denial of a license for which the time period required has not elapsed;
 7. On two or more occasions within a twelve-month period, a person or persons committed in or on, or solicited for on the licensed premises, an offense which would be grounds for denial of a license for which a conviction has been obtained, and the person or persons were employees, whether or not licensed, of the sexually oriented business at the time the offenses were committed;
 8. A licensee is delinquent in payment to the City for ad valorem taxes, or sales taxes related to the sexually oriented business.
- B. Suspension or revocation shall take effect within ten days of the issuance of notice, unless an appeal is filed with the City as provided by this chapter. The revocation or suspension is stayed pending the outcome of the appeal with the City.
- C. The fact that a criminal conviction is being appealed shall have no effect on the revocation of a license.

6-10-380. Effect of license revocation.

When a license issued pursuant to this chapter is revoked, the revocation shall continue indefinitely, and the licensee shall not be issued a sexually oriented business or employee license for at least one year from the date of such revocation.

6-10-390. Appeal procedures.

- A. If the license is denied or approved with qualifications, or if a notice of suspension, revocation or citation or a civil fine is imposed, the applicant or licensee may file an appeal with the City Recorder.
- B. Filing of an appeal must be within ten (10) days of the date of service of the notice of any denial, qualified approval, suspension, revocation or civil fine. Upon receiving the notice of such appeal, the City Recorder shall schedule a hearing before the City manager within twenty (20) days from the date of the appeal unless such time shall be

extended for good cause.

- C. The City Manager shall hold a public hearing on the record, and take such facts and evidence as necessary to determine whether the denial, qualified approval, suspension, revocation or civil fine was proper under the law.
- D. The burden of proof shall be on the City.
- E. After the hearing, the City Manager shall have seven (7) working days, unless extended for good cause, in which to render findings of fact, conclusions of law, and make a recommendation for the City Mayor.
- F. Either party may object to the recommendation of the hearing officer by filing the party's objection and-reason, in writing, to the City Mayor within seven days following the recommendation. In the event the City Manager recommends upholding a suspension or revocation, the license shall be immediately suspended, and shall remain suspended until any subsequent appeal is decided. If no objections are received within the seven days, the City Mayor may immediately adopt the recommendation of the City Manager.
- G. If objections are received, the City Mayor shall have ten (IO) working days to consider such objections before issuing the final decision. The City Mayor may, in the Mayor's discretion, take additional evidence or require written memorandum on issues of fact or law. The standard by which the City Mayor shall review the decision of the hearing officer is whether substantial evidence exists in the record to support the hearing officer's recommendation.
- H. An applicant aggrieved by the City Mayor decision shall have judicial review of such decision pursuant to Rule 65 (B), Utah Rules of Civil Procedure, or any other applicable ordinance, statute or rule providing for such review.

6-10-400. Violation-Penalty.

In addition to revocation or suspension of a license, as provided in this chapter, each violation of this chapter shall, upon citation by the City Recorder, require the licensee to pay a civil penalty in the amount of five hundred dollars (\$500). Such fines shall be deducted from the cost bond posted pursuant to this chapter, unless paid within ten (IO) days of notice of the fine or the final determination after any appeal. In addition to the civil fines provided in this chapter, the violation of any provision of this chapter shall be a Class B. Misdemeanor. Each day of violation shall be considered a separate offense.

6-10-410. Severability.

In the event that any provision of this chapter is declared invalid for any reason, the remaining provisions shall remain in effect.

TITLE SEVEN - CRIMINAL CODE

CHAPTER 1 - STATE CRIMINAL CODE

7-1-010. Adoption of State Criminal Code.

- A. Titles 58, 76 and 77 of Utah Code Annotated, as that from time to time may be amended, is adopted by reference and is made a part of the ordinances of Salem City as fully as if set out in the body of the municipal code and shall take effect and be controlling within the limits of the city; provided, however, this chapter is not intended to and does not purport to grant to the city any power or jurisdiction not specifically or by implication granted by law.
- B. Any crimes specified within Title 76 and 58 which are designated felonies are specifically excluded from inclusion in this chapter.
- C. When ever a conflict in language or penalty between this chapter and an ordinance previously passed shall arise, the provision of this chapter shall govern.

7-1-020. Failure to Appear.

Any person who willfully fails to appear before the court pursuant to a citation issued by Salem City under the provisions of Utah Code Annotated §77-7-18 is guilty of a class B misdemeanor, regardless of the disposition of the charge upon which he or she was originally cited.

(Ordinance No. 6-22-93 A)

CHAPTER 2 - DISTURBANCE OF THE PEACE

7-2-010. Loud Speakers.

- A. It is an infraction for any person to maintain, operate, connect or suffer or permit to be maintained, operated or connected any calliope or radio apparatus, sound device or any talking machine or loudspeaker attached thereto in such a manner that the loudspeaker or amplifier causes the sound from such radio apparatus or sound device or talking machine to be projected directly therefrom outside of any building, vehicle or out-of-doors, provided that the chief of police may grant a permit to so broadcast any events or happenings of cultural, political, intellectual or religious interest. Every person desiring a permit to so broadcast shall make application, file a statement showing the place where he proposes to broadcast, the times and probable duration, and the nature, topics or titles of said broadcast. Said permit shall not be arbitrarily denied and when an application for a permit is denied, the chief of police shall set forth in writing and with particularity the grounds for so denying the application for a permit.
- B. Nothing herein contained shall be construed to prevent the operation of a radio apparatus, sound device, amplifier or talking machine used in a reasonable manner by any person within any building, vehicle or structure even though the sound therefrom may be heard on the outside of such building, vehicle or structure, provided that the said apparatus, sound device, amplifier or talking machine shall not project the sound therefrom directly outside of any building, vehicle or out-of-doors, and provided further that no such radio apparatus, sound device, amplifier or talking machine is in any way fastened to or connected with any outside wall or window in any building, vehicle or structure so that sound therefrom is projected outside of such walls or window.
- C. It is unlawful within the limits of Salem City for any person to maintain, operate, connect or suffer or permit to be maintained, operated, or connected any speakers, sound device, or radio apparatus that projects sound that can be heard for a distance of 200 feet or greater from the source of the sound, amplification, speakers, sound device or radio apparatus, with the exception that any such device being projected within the boundaries of one's own property, shall not be projected 200 feet or greater beyond the edges of the property boundaries. A violation of this section is punishable as an infraction.

7-2-020. Sale or Use of Fire Works.

The sale or use of fireworks shall be governed in strict accordance with the provisions of Utah Code Annotated §11-3-1 et seq.

7-2-030. Abusive Language.

A person is guilty of an infraction when he or she directs words, phrases, appellation or other language at another person or persons which would be insulting, slanderous, or menacing to a person of ordinary sensitivities and which, by virtue of the said truculent conduct, would arouse such a person or persons so abused to respond with similar truculent conduct or with immediate retaliatory physical violence.

7-2-040. Driving on Sidewalks.

Every person who drives any herd of sheep, horses, cattle or other animals upon any public street of this city without first obtaining a permit from the chief of police to do so is guilty of an infraction. The chief of police has the discretion to impose such regulations as he deems necessary. Regulations may include, but are not limited to, the streets to be affected, the hours to be affected, the number of flag persons required, and such other regulations as may be necessary to protect the health and welfare or the residents of the city and the users of public streets.

7-2-050. Driving on Sidewalks.

Every person who drives or propels any motor vehicle, rides, drives, or leads any horse or other animals upon the sidewalk, except for the purpose of entering or leaving a city lot or over any footbridge, or stops any motor vehicle, team or any other vehicle on a crosswalk so as to impede public travel within the limits of this city is guilty of an infraction.

7-2-060. Obstruction of Sidewalks.

Every person who obstructs any sidewalk or street within the limits of the city, in any manner, so as to obstruct the free travel thereon is guilty of an infraction. Any person or organization desirous of barricading or otherwise obstructing a street or sidewalk for such purposes as sidewalk sales, celebrations, carnivals, and such other activities as may be approved by the city council, may obtain a permit from the chief of police to so obstruct the sidewalk and/or street for a specified period of time in order to engage in the specified activity. Any such person or organizations so obtaining a permit shall be liable to the city for any injury to person or property which may occur as a result of the obstruction and shall hold the city harmless from any such liability. The permit required by this section shall be in addition to any permit required by the State of Utah or any other governmental entity.

7-2-070. Loitering.

Loitering shall mean the congregation of one or more persons upon public streets, highways, or sidewalks of business districts, or residential areas, who are not carrying on legitimate business within the city and who are impeding access to any business or impacting by noise, litter, or vandalism, any residential or business property. It shall also include the congregation of one or more persons in or upon a parked vehicle in or upon a public street or highway in residential or business districts.

A violation of this section shall be an infraction.

7-2-080. Throwing Objects.

Every person who willfully or carelessly throws any stone, stick, snowball, or other object whereby any person is hit or any window broken or other property injured or

destroyed, or in such a manner as to render travel upon public streets and places dangerous, or in such a manner as frighten or annoy any traveler, is guilty of an infraction.

7-2-090. Window Peeping.

It shall be a class C misdemeanor for any person to look, peer, or peep into or be found loitering around or within view of any window within a building occupied as a residence of another with the intent of watching or looking through the window to observe any person or persons or otherwise invading the privacy of the occupant(s).

7-2-100. Privacy Violation.

A. For purposes of this section, the following definition shall apply:

1. Private place means a place where one may reasonably expect to safe from casual or hostile intrusion or surveillance.
2. Eavesdrop means to overhear, record, amplify, or transmit any part of a wire or oral communication of others without the consent of at least one party thereto by means of any electronic, mechanical, or other device.
3. Public includes any professional or social group of which the victim of a defamation is a member.

B. A person is guilty of a privacy violation if, except as authorized by law, he or she:

1. Trespasses on property with intent to subject anyone to eavesdropping or other surveillance in a private place; or
2. Installs in any private place, without the consent of the person or persons entitled to privacy therein, any device for photographic, recording, amplifying, or broadcasting sounds or events in the place or uses any such unauthorized installation; or
3. Installs or uses outside of a private place any device for hearing, recording, amplifying, or broadcasting sounds originating in the place which would not ordinarily be audible or comprehensible outside, without the consent of the person or persons entitled to privacy therein.

C. A privacy violation is a class C misdemeanor.

(Ord. No.9-1-99 – Section 7-2-110) (Ord. No. 11-3-99 – Section7-2-110)

7-2-110. Noise Violations.

A. The noise levels emanating from a business or construction site, as measured from the property line at a point which is at least five feet from any wall and three feet above ground shall not exceed the following levels:

ZONE HOURS	DAYTIME HOURS	NIGHTTIME
	6:00 a.m. to 9:00 p.m.	9:00 p.m. to 6:00 a.m.
Residential	65 decibels	55 decibels
C-1	70 decibels	55 decibels
C-2	65 decibels	55 decibels
Industrial	80 decibels	65 decibels

The noise levels shall be based on continuous noise for two minute intervals or intermittent noise which exceeds the level five or more times every ten minutes.

When a noise source can be identified and its noise measured in more than one land use category, the limits of the most restrictive use shall apply at the boundaries between different land use categories.

It is the intent of the City Council to incorporate reasonable standards, while at the same time preserving common sense and the common law determination of what constitutes a disturbance or public nuisance. Therefore, those sound level measurements, while desirable, shall not be required to demonstrate a violation of this section if other evidence or testimony establishes the creation of a disturbance or public nuisance.

The following exemptions to the noise limitation shall apply:

The sound created by emergency activities or emergency vehicles, or sounds giving warning of emergencies shall be exempt from the provisions of this section;

Sounds created by parades, carnivals, special public social events, or special construction projects may be exempted from the noise provision of this chapter. An exemption is granted by a permit from the mayor, which must be in writing and shall describe:

The special nature of the exempted event;

The decibel limit;

The time period for which the exemption is in force;

The Mayor may impose other reasonable conditions as necessary to protect the public peace and welfare.

An exemptions permit may be withdrawn if any of the provisions thereof are violated.

- F. A violation of any provision of this section is a Class C Misdemeanor.

CHAPTER 3 - MISCELLANEOUS

7-3-010. Grass Carp.

It is a class B misdemeanor for any person to catch or entrap any grass carp from Salem Pond unless such person immediately returns the fish to the waters of Salem Pond.

7-3-020. Jumping From Bridges.

It is a class C misdemeanor for any person to climb on or about, or to jump from any bridge spanning any portion of Salem Pond.

7-3-030. Littering Public Rest Rooms.

It shall be an infraction for any person to mark, deface, disfigure, tamper with, or displace any public rest room and it shall be further unlawful to urinate or defecate in public places except in receptacles placed for such purposes in public rest rooms.

7-3-040. Cleaning Sidewalks.

It is an infraction for any occupant or owner of any property abutting on any street within the limits of this city to neglect or fail to clean and keep clean of all weeds, ice, snow, rubbish, or other obstruction on the sidewalks in front of or adjacent to his or her premises.

7-3-050. Flooding.

Every person who willfully, carelessly, or negligently obstructs, injures or floods any street or sidewalk by the flow or seepage of water, or who willfully, carelessly, or negligently permits water under his or her control to escape in any manner so as to obstruct, injure, or flood any street or sidewalk within the limits of this city is guilty of a class C misdemeanor.

7-3-060. Culverts.

It is an infraction for any person to convey water across any sidewalk within the limits of this city except in a covered culvert or box extending the whole width of the sidewalk; it is likewise an infraction for any person to use or maintain any such culvert or box without keeping the same in good repair.

7-3-070. Signs.

It is a class C misdemeanor for any person to place or cause to be placed any sign, billboard, or display, or places or causes to be placed any object of any kind or character whatever in, over, or across any property belonging to the city, including, but not limited to the following: Rights of way, utility poles, street signs, or other city owned signs or poles, sidewalks, streets, roads, sewers, ditches, culverts, gutters, pipelines and conduits, or other related properties, provided that any such conduct shall not be deemed unlawful if such a person obtains prior written permission for such placement from the city council.

CHAPTER 4 - CURFEW

7-4-010. Definitions.

- A. **"Care and Custody"** means the legal authority of a parent or guardian to supervise or otherwise be responsible for a minor, or the express authority given from such parent or legal guardian of a minor to a responsible adult to supervise or otherwise be responsible for the activities and care of the minor.
- B. **"Emergency Errand"** means any errand or travel undertaken to directly and immediately seek to prevent or reduce the consequences of an illness or injury, criminal or potential criminal activity, or fire or other accident and shall include the seeking of aid and assistance from medical or emergency response personnel or the purchase of medications.
- C. **"Minor"** means any unmarried, unemancipated person who is not a member of the armed forces of the United States and who is under the age of 18 years.
- D. **"Public Places"** means any place open to the public whether privately owned, including but not limited to parking lots and the interiors and exteriors of commercial establishments such restaurants, stores, or places of entertainment.

7-4-020. Curfew Established.

- A. It shall be unlawful for any minor under the age of 16 years to remain or loiter upon any of the sidewalks, streets, alleys, or public places in Salem City between the hours of 11:00 p.m. and 5:00 a.m. the following morning.
- B. It shall be unlawful for any minor under the age of 18 years and over the age 15 years to remain or loiter upon any of the sidewalks, streets, alleys, or public places in Salem City between the hours of 11:00 p.m. and 5 a.m. the following morning on Sunday through Thursday and between the hours of 1:00 a.m. and 5:00 a.m. on Friday and Saturday.

7-4-030. Exceptions.

The provisions of this chapter shall not apply to any circumstance in which the minor is:

- A. Accompanied by parent or legal guardian having care and custody of such minor;
- B. Engaged in a legitimate trade, employment, or occupation which requires the minor's presence in or on the sidewalks, streets, alleys, or public places while working at or traveling to or from such employment;
- C. Engaged on an emergency errand as defined in § 7-4-010.

7-4-040. Responsible Parent.

No person, guardian, or other person having legal charge or custody of any minor shall allow or permit any such minor, while in such legal custody, to go or to be in or upon any of the sidewalks, streets, alleys, or public places within the city in violation of this chapter.

7-4-050. Enforcement.

- A. Any minor is in violation of the provisions of this chapter is subject to arrest and citation.
- B. Upon arrest, the minor shall be returned to the custody of the parent or legal guardian in charge of the care and custody of the minor.
- C. It shall be unlawful for any parent, guardian, or other person charged with the care and custody of a minor, who is in violation of this chapter to knowingly refuse to appear and take custody of said minor after being ordered to do so by a peace officer.

7-4-060. Violation.

Any person found in violation of any of the provisions of this chapter is guilty of a Class B misdemeanor.

(Ordinance No. 1-25-94)

CHAPTER 5 - UNLAWFUL ACTIVITIES NEAR SCHOOLS

7-5-010. Activities Near Schools.

- A. It is unlawful for any person to annoy, disturb, or otherwise prevent or attempt to prevent the orderly conduction of the activities, administration or classes of any elementary, intermediate, or high school in the city.
- B. It is unlawful for any person to annoy, disturb, assault, or molest any student or employee of any elementary, intermediate, or high school within the city while in or at such school or school building or parking lot or on any grounds thereof.
- C. It is unlawful for any person to loiter, idle, wander, stroll, or play in, about, or on any elementary, intermediate, or high school grounds or buildings, either on foot or in or on any vehicle without having some lawful business therein or thereabouts in connection with such school, or school employees within the city during such hours when school is in session.
- D. It is unlawful for any person to conduct himself or herself in an obscene, lurid, wanton, or mischievous manner in speech or behavior in, about, or at any school, or grounds thereof within the city.
- E. It is unlawful for any person to park or move a vehicle in the immediate vicinity of or on the grounds of any elementary, intermediate, or high school in the city for the purpose of annoying or molesting the students or employees thereof, or to induce, entice, or invite students or employees into or on the vehicle or any unlawful purpose.
- F. Any person violating any provision of this section is guilty of an infraction.

CHAPTER 6 - DISCHARGE OF WEAPONS

7-6-010. Unlawful Discharge.

- A. It is unlawful to for any person to discharge any firearm, including air guns and bows and arrows, within the limits of the city, provided that this section shall not apply to peace officers in the pursuit of official duties, persons acting in self defense, or residents residing in the A-1 zone protecting their livestock and poultry from predators such as dogs, coyotes, and skunks, provided that use of such weapon shall be limited to shotguns when such discharge does not endanger persons or damage to buildings or vehicles, or to persons who are members of or are guests at a shooting gallery or rifle club and who discharge their firearms within the safe confines of the said club or gallery, provided that adequate safety measures have been observed in the construction of said club or gallery so as to protect the health and safety of the public. This section shall not apply to persons hunting with shotguns during regularly scheduled hunting seasons provided that any person so hunting must strictly comply with state laws and regulations concerning carrying loaded firearms and concerning distance requirements from roads, vehicles, and buildings. No hunting shall be allowed on any property owned by Salem City.
- B. A violation of this section is a class B misdemeanor.

7-6-020. Minors.

- A. It is unlawful for any parent or guardian or person having the charge of or control of any minor to allow or permit such a minor to use within the city limits any firearm, air gun, or bow and arrow, provided this section shall not apply to the use of such weapons at a licensed club or shooting gallery when minors are supervised by one or more responsible adults.
- B. A person who violates any provision of this section is guilty of an infraction.

CHAPTER 7 - NUISANCES

7-7-010. Declaration of Nuisances

Every act or condition made, permitted, allowed, or continued in violation of this chapter is hereby declared to be a nuisance and may be abated and punished as set forth in this chapter.

7-7-020. Responsible Party

The owner(s), tenant(s), occupant(s), parties in possession, or any of their agents, of any property on which a nuisance exists, shall be responsible for the nuisance and shall be liable for its abatement or other corrective action, as well as any criminal or civil penalties which may be imposed.

7-7-030. Definition of Nuisance

Nuisances include, but are not limited to:

1. Any condition declared to be or made a nuisance by state law;
2. Any condition or use of premises or building exteriors which are deleterious, injurious, noxious, or unsightly;
3. The keeping on, depositing on, or scattering over the premises, lumber, brick, junk, trash, debris, tires, abandoned or unused objects such as equipment, furniture, stoves, refrigerators, appliances, cans, containers, or other items of similar nature. Nothing herein shall preclude the placement of stacked firewood for personal, non-commercial use;
4. Unsheltered storage of old, unused, stripped and junked machinery, implements, equipment or personal property of any kind which is no longer safely usable for the purposes for which it was manufactured, unless stored in a building or behind a vision barrier fence which precludes is being visible from a public street, public right of way, or neighboring properties;
5. More than two inoperable vehicles which are visible from any public street, public right of way, or neighboring property;
6. More than two vehicles, boats, trailers, or other similar property required by the State of Utah to be registered, and which registration has expired by more than three months, unless such property is stored within a building located on the property;
7. Befouling water in any spring, stream, well, or water source supplying water for culinary purposes;
8. Allowing any privy, vault, cesspool or other individual waste water disposal system to become a menace to health or source of odors to air or water;

9. Permitting any refuse container to remain on premises when it has become unclean, odorous, attracts flies, or rodents, or is otherwise offensive;
10. Permitting any condition detrimental to health or creating a nuisance because of excessive odors, or creating a situation where rodents breed and/or are attracted;
11. Discharging or placing any offensive water, liquid waste, or refuse of any kind into any street, alley, sidewalk, gutter, ditch, stream, water course, canal, or any vacant lot or which as the result of continued discharge will render the placed discharge offensive or likely to become so;
12. Keeping or collecting any stale or putrid grease or other offensive matter;
13. Having or permitting upon any premises fly or mosquito producing conditions, except those created by accepted methods of husbandry in the reasonable exercise of lawful animal rights;
14. Failing to furnish any dwelling or building place of employment with an approved waste water disposal system and to maintain the same in a sanitary condition;
15. Neglecting or refusing to maintain or discontinuing the use of any private waste water disposal system;
16. Permitting any hole or excavation to become the repository of stagnant water or any other decaying or offensive substances;
17. Obstructing or intending to obstruct or interfere with or render dangerous for passage any street, sidewalk, other public way, or any public park without first obtaining permission from the governing body.

7-7-040. Duty of Maintenance of Private Property

No person owning, leasing, occupying, or having charge of any premises shall maintain or keep any nuisance thereon, nor shall any such person keep or maintain such premises in a manner causing substantial diminution in the value of the other property in the neighborhood in which such premises are located.

7-7-060. Abatement of Nuisance by Responsible Party

The responsible party of any lot, or other property, within the city in which storage, as defined in this chapter, exists shall be jointly and severally liable to abate such nuisance by its prompt removal. The city shall give thirty (30) days notice of a violation of this chapter, during which time the nuisance shall be abated by the responsible party.

7-7-070. Violation

1. A person found in violation of this chapter is guilty of a Class C Misdemeanor, in addition to other remedies available to the City.
2. In the event the City gives notice of a nuisance which is not abated within thirty (30) days of notice, the City may proceed to enter the property to abate the nuisance and assess the costs thereof, including attorney's fees, against the responsible party or parties. These remedies shall be in addition to the criminal penalties set forth in subparagraph one. (Ord. No. 1-7-04)

CHAPTER 8 - ABATEMENT OF WEEDS, GARBAGE AND REFUSE

7-8-010. Chapter Purpose.

It is the purpose of this chapter to establish a means whereby this 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 Chapter 11 of Title 10, Utah Code Annotated, 1953 as amended, and pursuant to its general power to abate nuisances. It is declared that weeds, objects and structures constitute a nuisance when they create a fire hazard, a source of contamination, or pollution of water, air or property, a danger to health, a breeding place or habitation for insects or rodents or other forms of life deleterious to human habitations or are unsightly or deleterious to their surroundings.

7-8-020. Inspector-Office Created.

The office of inspector is created for the purpose of administering the provisions of this chapter and the powers delegated to this municipality by said statutes subject to such control and review as the city council may from time to time direct. The office of inspector shall be appointed by and act under the direction of the mayor.

7-8-030. Nuisance Abatement.

The public safety department shall comply in all respects with Utah Code Annotated §10-11-1 et seq. in abating the nuisances identified in this chapter.

7-8-040. Discretion of Inspector.

The city inspector shall be granted the discretion to determine whether weeds, garbage or refuse, are unsightly or deleterious objects or whether structures create a fire hazard, source of contamination, or pollution of water, air or property, a danger to health, a breeding place or habitation for insects or rodents or other forms of life deleterious to human habitation or are unsightly or deleterious to their surroundings.

7-8-050. Governmental Immunity.

The department of public safety, the city inspector referred to herein, or any city employee working under the direction of either the city inspector or the public safety department, together with the city shall be immune from any liability by reason of the city's removal of any nuisances identified herein, after following the procedures set forth in Utah Code Annotated §10-11-1 et seq. (1953 as amended).

7-8-060. Violation.

Any person found in violation of this chapter is guilty of a class C misdemeanor, in addition to other remedies available to the city.

CHAPTER 9 - HAZARDOUS MATERIALS

7-9-010. Hazardous Materials; Unlawful Acts.

- A. It shall be unlawful for any person or entity to release, discharge, deposit, or cause to be released, discharged, or deposited any hazardous substance, material or waste upon or into any property or facility within the city or into any of the airways, watercourses, pipelines, or other means of conduit which may flow into the city.
- B.
 - 1. "The city" shall refer to Salem City.
 - 2. "hazardous substance, material or waste" means any material that, because of its quantity, concentration, or physical or chemical characteristics, poses a significant present or potential hazard to human or animal health and safety or to the environment if released into the work place or environment.
 - 3. "hazardous substance, material, or waste" shall also include any substance declared hazardous by the Public Safety Director in an effort to protect the health and safety of the residents of the city.

7-9-020. Hazardous Materials cleanup; Recovery of the Costs.

- A. The city is authorized, but not required, to clean up or abate the effects of any hazardous material, substance, or waste unlawfully released, discharged, or deposited upon or into any property, or facilities within the city, or into any of the airways, watercourses, pipelines or other means of conduit which flow into the city. The following described persons or entities shall be jointly and severally liable to the city for the payment of all costs incurred by the city as a result of such cleanup or abatement activity:
 - 1. The person, persons, entity, or entities whose negligent or willful act or omission proximately caused such release, discharge, or deposit;
 - 2. The person, persons, entity or entities who own or had custody or control of the hazardous material, substance or waste at the time of such release, discharge, or deposit, without regard to fault or proximate cause; and
 - 3. The person, persons, entity or entities, who own or had custody or control of the container which held such hazardous material, substance or waste at the time or immediately prior to such release, discharge, or deposit, without regard to fault or proximate cause.
- B. In the event that any person undertakes, either voluntarily or upon order of a city official, to clean up or abate the effects of any hazardous material, substance, or waste unlawfully released, discharged, or deposited upon or

into property or facilities within the city, or into the airways, watercourses, pipelines, or other means of conduit which flow into the city, the city may take such action as is necessary to supervise or verify the adequacy of the cleanup or abatement. Persons described in subsection (A) of this section shall be liable to the city for all costs incurred as a result of such supervision or verification.

- C. For the purposes of this section, costs incurred by the city shall include, but not necessarily be limited to, the following: actual labor costs of city personnel, including benefits and administrative overhead; costs of the equipment operation; costs of any contract labor and materials; and legal fees in enforcing this chapter.
- D. The remedies provided for by this section shall be in addition to any other remedies provided by law.
- E. The authority to recover costs under this section shall not include actual fire suppression services which are normally or usually provided by the fire department of the city.

7-9-030. Violation.

In addition to any other remedies available to the city, a person found in violation of this chapter is guilty of a class B misdemeanor.

CHAPTER 10 - SALEM POND REGULATIONS

7-10-010. General.

Except as made more strict herein, Utah Code Annotated § 73-18-1 et seq. (1953 as amended) and the Utah Boating Rules as adopted by the Utah State Department of Natural Resources, Divisions of Parks and Recreation are adopted herein and made applicable to boating activities on Salem Pond.

7-10-020. Boats - Speed.

All motor powered boats on Salem Pond must proceed at wakeless speed at all times except as modified in Section 7-10-090.

7-10-030. Boats - Time Restrictions.

Motor powered boats are prohibited on Salem Pond on Sundays and Mondays. On Tuesdays through Saturdays, all boats must cease operating on or before 8:00 p.m. No motor powered boats are allowed prior to 10:00 a.m.

7-10-040. Boats - Permits.

A daily use permit is required from the city prior to operating a motor powered boat on Salem Pond. Motor powered boat permits are limited to two per day. Permits may be purchased in advance at the city offices for \$2.00 per day. A second violation of any state or local boating law results in the revocation of all permit privileges for one year.

7-10-050. Personal Water Craft - Time Restrictions.

Motorized personal water craft are prohibited on Salem Pond on Sundays and Mondays. On Tuesdays through Saturdays, all personal water craft must cease operating on or before 8:00 p.m. No motorized personal water craft are allowed prior to 10:00 a.m.

7-10-060. Motorized Personal Water Craft - Permits.

A daily use permit is required from the city prior to operating any motorized personal water craft on Salem Pond. Motorized personal water craft permits are limited to four per day. Permits may be purchased in advance at the city offices for \$2.00 per day. A second violation of any state or local boating law results in a revocation of all permit privileges for one year.

7-10-070. Motor Powered Craft - Limitations.

No motor powered water craft may operate on Salem Pond between October 15, and the following May 1. Motor powered water craft is limited to personal recreational use. All commercial use is prohibited.

7-10-080. Motor Powered Craft - No Towing of Persons.

It is prohibited for any motor powered water craft to tow a water skier or other apparatus containing a person.

7-10-090. Remote Control Water Craft.

All remote control water craft are limited to the area from State Road 6 to the Park View Bridge.

7-10-100. Exceptions - Emergencies and Maintenance.

Notwithstanding any other provision hereof, Salem City may operate a motor powered boat in excess of wakeless speed for the following purposes:

- A. Rescue operations performed under the direction of the police, fire, or public safety departments of the city;
- B. Maintenance operations designed to prevent the growth of algae and other water plants, prevent flooding, or other maintenance deemed appropriate by the city council;
- C. Maintenance operations to prevent the growth of algae shall follow guidelines as set forth herein:
 - (1) No more than once per week, the city may operate a motor powered boat in a manner to break loose growing algae or other water plants.
 - (2) Any citizen desiring to participate may volunteer a motor powered boat, which may be operated under the direction of the city council or designee for the limited purpose set forth herein.
 - (3) Citizen involvement will be on a voluntary basis and rotate among those desirous of participating. No compensation will be paid for any participating owner for use of the boat or for the citizens time.

7-10-110. Violation.

A violation of this chapter is a class C misdemeanor.

(Ordinance No. 7-20-93)

TITLE EIGHT - TRAFFIC AND PARKING

CHAPTER 1 - TRAFFIC REGULATIONS

8-1-010. Adoption of Selected Utah State Traffic Laws.

Titles 41 and 53 of Utah Code Annotated, as they may from time to time be amended, are adopted by reference and are made a part of the ordinances of Salem City as if fully set forth in the body of the municipal code and shall take effect and be controlling with the limits of the city; provided, however, that this chapter is not intended to nor does it purport to grant to the city any powers or jurisdictions not specifically or by implication granted by law. Any section included within titles 41 or 53 of the Utah Code Annotated dealing with administrative or state agencies or other matter not applicable to traffic and motor vehicle control and regulation are hereby excluded from the said ordinances of the city. (Ord. No. 8-10-93)

8-1-020. Violation-Penalties.

Any person violating, causing or permitting a violation of any provision of this chapter or the provisions adopted or incorporated by reference is guilty of a class C misdemeanor unless, within the provisions of the chapter or provisions adopted or incorporated by reference, a greater or lesser penalty is specifically provided.

8-1-030. Improper Lookout.

It is a violation of this chapter for any person to drive any vehicle on the streets of the city without keeping a reasonable and proper lookout for other traffic, objects, fixtures, or property thereon or adjacent thereto.

8-1-040. Private Drives and Parking Lots.

It is a violation of this chapter for any person to drive nonstop through or across any private driveway or parking lot, or to block the access or use of any private driveway or parking lot by those entitled to the access or use thereof.

8-1-050. Transportation of Waste.

It is a violation of this chapter for any person to transport upon the city streets any materials unless the same is contained or covered in such a manner so as to prevent spillage or blowing of the material from the vehicle.

CHAPTER 2 - PARKING

8-2-010. Angle Parking.

Angle parking is permitted within the city only where designated by appropriate markings.

8-2-020. Illegal Parking-General.

1. Towing and impoundment. The following vehicles, together with or in addition to any other vehicles, parked in violation of any provision of this title or the laws of the state, are declared to be nuisances:
 - A. Any unattended vehicle stopped, standing, or parked in violation of any of the provisions of this title;
 - B. A vehicle found upon the streets or alleys of the city with faulty or defective equipment;
 - C. A vehicle left unattended upon any bridge, viaduct, or any overpass or underpass, where such a vehicle constitutes an obstruction to traffic;
 - D. Any vehicle upon a street so disabled as to constitute an obstruction to traffic and the person in charge of the vehicle is by reason of physical injury incapacitated to such an extent as to be unable to provide for its custody or removal;
 - E. Any vehicle left unattended upon a street or alley and so parked illegally as to constitute a hazard or obstruction to the normal movement of traffic;
 - F. Any vehicle left parked in the same place on any street or alley or upon any public property continuously for 48 hours;
 - G. Any vehicle, the driver of which has been taken into custody by the police department under such circumstances as would leave the vehicle unattended in a street, alley or restricted parking area;
 - H. Any vehicle found being driven on the streets not in a proper condition to be driven;
 - I. Any vehicle found so parked as to constitute a fire hazard or an obstruction to fire-fighting apparatus.
2. Any vehicle deemed to be a nuisance by subsection (1) may be summarily abated by removing such vehicle by or under the direction or at the request of a police officer to a place of storage by means of towing or otherwise.

8-2-030. Notice to Owner.

As soon as is reasonable under the circumstances, a written notice that the vehicle has been impounded shall be mailed to the owner of the vehicle and any recorded lien holder thereof at their last known address as shown by the records of the Motor Vehicle Division or the Utah State Tax Commission. If the license plates on the vehicle are from another state, written notice shall be mailed to the department of motor vehicles in that state, requesting the department of motor vehicles in that state to notify the registered owner of that vehicle that the same has been impounded by the police department and that the same shall be sold at public auction as is provided by this chapter, if not claimed by the owner or his or her proper representative.

8-2-040. Procedure for Owner to Claim Vehicle.

Before the owner or his or her agent shall be permitted to remove a vehicle which has been impounded he or she shall;

- A. Furnish satisfactory evidence to the police department of his or her identity and his or her ownership of the vehicle; (10.12.030)
- B. Request and obtain from the police department a written order to the place of storage in which the vehicle is impounded, authorizing the release of the vehicle to the owner or his or her agent upon the payment to the place of storage of towing and storage charges reasonably incurred in the towing and storage of the vehicle from the date of said impounding to the time of presenting the order of release from the police department therefore;
- C. Sign a written receipt for the vehicle and deliver the same to the place of storage upon receiving the impounded vehicle.

8-2-050. Unclaimed Vehicles-Advertisement and Auction.

If, at the expiration of fifteen days after mailing the notice provided for in §8-2-030 such vehicle is not redeemed by the owner or his/her proper representative, the chief of police or his/her authorized agent shall proceed to sell the same at public auction to the highest bidder after first giving at least ten days notice of sale by publishing the notice at least once in a newspaper of general circulation in the city, stating the time and place of the sale. The notice shall also describe the vehicle to be sold with reasonable certainty and shall state to whom, if anyone, the records of the office of the Motor Vehicle Division or the State Tax Commission show the same to belong, and if the name of the owner or recorded lien holder, if any is known, the police department shall send the owner or recorded lien holder a copy of the notice as published immediately after the publication of the same, which notice shall be mailed to their address as shown on the records of the Motor Vehicle Division or the Utah State Tax Commission. A copy of this notice as published shall immediately, after publication, be mailed to the owner of the place of storage. The money received by the chief of police or his/her authorized agent from the sale of any vehicle shall be applied first to the actual cost of towing and storage of the impounded vehicle, then to pay the cost of

advertising the notice of sale, and the balance, if any, shall then be paid into the city treasury to be used as hereinafter provided.

8-2-060. Owner May Receive Proceeds of Sale-Conditions.

If at any time within one year from and after the date of sale, the former owner of the vehicle sold appears and makes a claim, and upon application to the city council and upon presentation of satisfactory proof that he/she was the owner of the vehicle sold, shall be paid the proceeds of the sale less the necessary expenses thereof and less the towing, impounding, and storage charges provided for in §§8-2-020 and 8-2-050.

8-2-070. Not To Prevent Criminal Prosecution.

The impoundment of a vehicle shall not prevent or preclude the institution and prosecution of criminal proceedings against the owner or operator of the impounded vehicle.

8-2-080. Improperly Registered Vehicles.

The police department may immediately impound, in a proper place of storage, all vehicles found that are improperly registered, stolen or bear defaced motor numbers, and shall within 96 hours thereafter notify in writing the Motor Vehicle Division or the Utah State Tax Commission of the impounding, setting forth in the notice the date found, the address where found, the make, registration number, and date and place where stored.

8-2-090. Parking of Cars on Vacant Lots.

It shall be a class C misdemeanor for the owner of a motor vehicle, camper, trailer, boat, or other type of vehicle to park it or allow it to be parked on a vacant lot or parking lot owned by another person for the purpose of displaying it for sale, unless the owner or lessee of the property on which it is parked has a city business license to engage in the business of selling motor vehicles, campers, trailer, boats, or other vehicles at that location. It shall also be a class C misdemeanor for the owner or lessee of such property to allow another person to park a motor vehicle, camper, trailer, boat or other vehicle on the property for the purpose of displaying it for sale unless such owner or lessee has a city business license to engage in the business of selling such merchandise at that location.

8-2-100. Snow Removal From Streets.

(Ord. No. 11-12-96 – Section 8-1-100 (A))

- A. In order to facilitate the speedy and safe removal of snow from city streets, it is illegal for the owner or driver of any vehicle to park or cause or allow to be parked such vehicle upon a city street or right-of-way of a city street, except those streets lacking curb and gutter, in which case a vehicle may not be parked within ten feet of the asphalted portion of the roadway, between the hours of 11:00 p.m. and 6:00 a.m. from November 1, through March 1, of the following year.

- B. "Vehicles" shall be defined to include, but not necessarily limited to automobiles, trucks, trailers, mobile homes, travel trailers, boats, motorcycles, buses, snowmobiles, and other objects used or capable of being used for transportation purposes whether for the transport of humans, animals or freight of any kind.
- C. A violation of this section shall be punishable as an infraction, in addition to any other penalties which may be imposed, including impoundment, pursuant to the provisions of this chapter.

8-2-110. Parking of Trucks.

- A. No truck or truck/trailer with a rated capacity of 2½ tons or more or licensed for more than 24,000 pounds gross, shall be allowed to be parked on public streets in any of the residential areas of the city for a period of time in excess of 2 hours except while actually loading or unloading merchandise. In no event shall it remain parked for longer than 8 hours.
- B. Except while unloading, no truck with a rated capacity of 2½ tons or more or licensed in excess of 24,000 pounds gross weight shall be parked on any public street closer than 30 feet to the entrance or exit or intersection with any private driveway, private street, alley, or public street.
- C. For purposes of this section the truck shall be deemed parked, even though the motor is running, if the vehicle is left standing for any period in excess of three minutes when the same is not attended by a driver lawfully authorized to drive said vehicle.

(Ord. No. 5-6-98-B)

TITLE NINE - ANIMALS

CHAPTER 1 - GENERAL ANIMAL AND LIVESTOCK REGULATIONS

9-1-010. Definitions.

For the purpose of this title, unless it is plainly evident from the context that a different meaning is intended, the following definitions shall apply:

- A. **"Animal"** means any live, vertebrate creature, domestic or wild.
- B. **"Animal at Large"** means any animal whether or not licensed, not under restraint.
- C. **"Animal Control Officer"** means any person designated by the State of Utah, a municipal government or a humane society as a law enforcement officer who is qualified to perform such duties under the laws of this state.
- D. **"Animal Shelter"** means any facility operated by a humane society or political subdivision of the State of Utah, for the purpose of impounding or caring for animals held under the authority of this chapter or state law.
- E. **"Animal Under Restraint"** means an animal on a leash or lead which is held by a person or attached to a stationary object or confined within a vehicle or confined upon the real property of the owner or custodian.
- A. **"Attack"** means any biting or attempted biting or other action by an animal which places a person or another animal in danger of imminent bodily harm. Actual physical contact shall not be required to constitute an attack. Attack may include jumping upon, chasing, nipping, or otherwise threatening.
- G. **"Cat"** means any age feline of the domesticated types.
- H. **"Custodian"** means any person having the charge, care, custody or control of an animal which he/she does not own.
- I. **"Dog"** means any canis familiarize of the domesticated types.
- J. **"Domesticated Animal"** means any animal accustomed to live in or about the habitation of humans, including, but not limited to, cats, dogs, fowl, horses, swine, cattle, sheep and goats.
- K. **"Euthanize"** means humane killing of an animal.
- L. **"Guard Dog"** means a dog used for the purpose of deterring crime.

- M. **"Household Pet"** means any animal or fowl ordinarily permitted in a house and kept for company or pleasure and not for profit, such as: dogs, cats, canaries, fish, hamsters, mice, and other animals associated with human environments. Household pets shall not include wildlife, livestock, poultry, swine, or any animals which are capable of inflicting harm or discomfort or endangering the health, safety or welfare of any person or property.
- N. **"Kennel"** means any premises where more than three dogs or cats are raised, kept, housed, or boarded; or any premises wherein any person engages in the business of boarding, breeding, buying, letting for hire, training for a fee or selling dogs or cats.
- O. **"Leash" or "Lead"** means any chain, rope, or device used to restrain an animal.
- P. **"Owner"** means any person, partnership or corporation owning, keeping or harboring one or more animals. An animal shall be deemed to be harbored if it is fed or sheltered for three consecutive days or more.
- Q. **"Pet Shop"** means any establishment, not part of a kennel, containing cages or exhibition pens wherein dogs, cats, birds, or other pets for sale are kept or displayed.
- R. **"Quarantine"** means the isolation of an animal in a substantial enclosure so that the animal is not subject to contact with other animals or unauthorized persons.
- S. **"Veterinary Clinic"** means any establishment maintained and operated by a licensed veterinarian for surgery, diagnosis, or treatment of diseases and injuries of animals.
- T. **"Vicious Animal"** is an animal 1) with a known propensity, tendency or disposition to attack unprovoked, to cause injury to, or to otherwise endanger the safety of humans or other domestic animals; 2) which attacks a human being or other domestic animal without provocation; or 3) which is trained or used to fight or to attack humans.
- U. **"Wild Animal"** means all animals commonly accepted as being "wild" and includes, but is not limited to, the following, no matter how domesticated they may be:
- (A) Alligators and crocodiles.
 - (B) Bears (ursidae).
 - (C) Cat family (felidae), except the commonly accepted domesticated cats.

- (D) Coyotes, foxes and wolves.
- (E) Porcupine (ercthizontiade)
- (F) Nonhuman primates (hominidae).
- (G) Raccoon (prosynnidae).
- (H) Skunks.
- (I) Venomous snakes or venomous lizards.
- (J) Weasels (mustelidae).
- (K) Ferrets.

9-1-020. Premises Confining Animals and Fowl--Neat and Sanitary Condition Required.

- A. Wherever animals, including fowl and pigeons, may be tethered, corralled, confined and sheltered or fed, the premises shall be maintained in a neat and sanitary condition so that no nuisance due to unsightliness, odor or pest breeding or harborage shall be caused by such animals or premises.
- B. All barns or stables intended for or presently used to shelter livestock which are now erected and maintained or may be erected, constructed, altered or repaired within the city shall conform to the requirements of the applicable zoning ordinance, the building code and all other applicable laws of the city.

9-1-030. Abandoning Sick, Diseased, or Disabled Animals.

It is unlawful for any person to abandon or to turn out at large any sick, diseased or disabled animal, but such animal shall, when rendered worthless by reason of sickness or other disability, be disposed of by the owner thereof in the manner as provided in section 9-1-040.

9-1-040. Disposal of Animals.

It is unlawful for the owner of any animal or fowl that die or are killed within the limits of this city, to fail to remove or bury the carcass of such animal within ten hours after its death; provided that no horse, cow, ox, pig, sheep, goat, ostrich, llama, emu, any wildlife or other similar animal shall be buried within the limits of the city, except in the agricultural zones.

9-1-050. Cruelty to Animals.

- A. Except as authorized by law, it shall be unlawful for any person to willfully or maliciously kill, injure, maim, disfigure, torture, beat, mutilate, bum or

scald, overdrive or otherwise cruelly set upon any animal. Each such act shall constitute a separate violation and shall be guilty of a class B misdemeanor.

- B. It shall be unlawful for any person to hobble livestock in such a way as to cause injury or damage to the animal.
- C. It shall be unlawful for any person to carry or to confine any animals in or upon any vehicle in a cruel or inhumane manner, including, but not limited to, carrying or confining such animal without adequate ventilation.
- D. Every operator of a motor vehicle or self-propelled vehicle within the city shall, immediately upon injuring, striking, maiming or running down any animal, fully comply with all requirements set forth in Utah Code Ann. Section 41-6-30.
- E. Fights. It is unlawful for any person within the limits of the city to, in any manner whatsoever, encourage or urge any animal to fight or urge them on after they commence to fight.

9-1-060. Excessive Noise.

A. It is unlawful to harbor or keep any animal which disturbs the peace by loud noises at any time of the day or night. It shall not be a violation of this section if the excessive noise is caused due to a person trespassing or threatening to trespass upon private property in or upon which the animal is situated.

9-1-070. Animals Running at Large.

It shall be unlawful for any animal to be at large at any time within the corporate limits of the city. The owner or custodian of any animal which is at large shall be in violation of this section, regardless of the precautions taken to prevent the escape of the animal and regardless of lack of knowledge of the offense at the time it occurs.

9-1-080. Impound.

- A. The animal control officer may apprehend and impound any animal found at large within the city. Any person apprehending any animal running at large on his/her property may deliver the same to any city police officer or animal control officer, which animal may then be impounded in the animal shelter. Any animal placed in the animal shelter shall be redeemed or euthanized.
- B. Any animal impounded at an animal shelter shall be held five working days if it has a current year's license tag. After five working days, if the animal is not claimed, it shall be euthanized.

- C. Any animal impounded at an animal shelter shall be held three working days if it has no current year's license tag. After three working days, if the animal is not claimed, it shall be euthanized.
- D. Any animal voluntarily relinquished to the animal control officer or an animal shelter by the owner or custodian thereof for destruction or other disposition need not be kept for the minimum holding period, but shall be euthanized immediately.
- E. The animal control officer or police officer shall have the sole discretion to determine serious injury or disease that will require euthanasia prior to three (3) working days.

Any wild animal placed in the animal shelter may be disposed of immediately.

9-1-090. Keeping Certain Animals Unlawful.

It shall be unlawful for any person to keep or harbor any animal which is prohibited to be kept or harbored by Utah Code Ann. 23-13-4, 23-20-3 or 23-20-4.

9-1-100. Detention of Animals.

It is unlawful for any person to detain or hold the animal of another without notifying the animal control officer or law enforcement agency.

9-1-110. Intraseizure of Animals.

- A. Whenever a police officer or an animal control officer shall have probable cause to believe that an animal has been abandoned, although confined upon private property, that is in violation of any of the provisions of Title 9 of the Salem City Municipal Code, or is a vicious animal, the officer shall be authorized to immediately seize the animal and may impound the same in the animal shelter and such officer shall have the right to enter upon whatever premises the animal may be kept for such purpose.
- B. If an animal is summarily impounded without the knowledge of the owner or custodian, a notice that the animal has been impounded shall be given to the owner or custodian of the animal, if the same is known, by attaching the notice to the door at the residence thereof, or by mailing a notice to the last known address of the owner or custodian.
- C. If no response is received to the notice of summary impoundment within the time frames established by the rules and regulations of the animal shelter, such animal shall be euthanized as an abandoned animal.
- D. An animal summarily impounded as provided in this section may be recovered by the owner complying with the regulations of the animal shelter. If, in a subsequent court proceeding, the animal is determined not to be

abandoned, vicious or a nuisance, the animal shall be released to the owner or custodian without any charge.

9-1-120. Animal Bites.

- B. It shall be unlawful for any animal to bite or attack any person or domestic animal. It is no defense that the animal is chained or confined if the chaining or confining is on public or private property where the public has access to be on such property. The owner or custodian of any animal is in violation of this section regardless of the precautions taken to prevent the bite or attack and regardless of the lack of knowledge of the offense at the time it occurs.
- C. It is unlawful for any person to keep, own, harbor, or have the control of any fierce or dangerous animal. It is prima facia evidence that an animal is a fierce or dangerous animal if it bites or attacks a person or domestic animal. Any police officer or animal control officer may apprehend such animal and may cause it to be impounded at the animal shelter.

9-1-130. Defecation and Urination.

It is unlawful to allow an animal to defecate or urinate upon private property not owned by the person owning or in control of such animal. The owner or custodian of any animal shall be responsible for the removal of any defecation deposited by such animal on public property, recreation areas, or private property not owned by the person owning or in control of such animal.

9-1-140. Enforcement.

In the enforcement of any provision of this chapter, any police officer or animal control officer is authorized to enter the premises of any person to take possession of a fierce, dangerous, or vicious animal or animals running at large, when in fresh pursuit of such animal at the time the animal goes onto the private property.

9-1-150. Interference with Officer.

- B. A It shall be unlawful for any person to interfere with, molest, hinder or prevent any police officer or animal control officer in the discharge of their duties as herein prescribed.
- B. Any person who shall hinder, delay, interfere with or obstruct any police officer or animal control officer while engaged in capturing, securing or taking to the animal shelter any animal or animals liable to be impounded, or who shall break open or in any manner directly or indirectly aid, counsel or advise the breaking open of any animal control vehicle or other vehicle used for the collecting of any such animals shall be deemed guilty of a class B misdemeanor.

9-1-160. Quarantine of Animals.

Whenever any animal attacks or bites a person, the owner of the animal shall immediately notify the police department, which shall cause the animal to be impounded or otherwise quarantined for a period of ten days. At the end of the ten-day quarantine period, the animal may be released from quarantine, upon a veterinarian's examination that such animal is free from rabies. The expenses incurred in the inspection of such animal shall be paid by the owner or person in control of such animal, in addition to any other fines or charges due. Such expenses shall be paid prior to the release of the animal. If the animal dies within the ten-day quarantine period, its brain shall be sent to the State Department of Health for examination for rabies.

9-1-170. Licensing.

Any person owning an animal within the city limits may license such animal by following the provisions of this chapter.

- A. Licensing, Fees, and Registration.
 - 1. All licenses and late fees required by this chapter shall be in amounts established by city council resolution.

It shall be the duty of the City to register any animal on application of the owner or keeper and to issue a registration receipt and metallic registration tag on payment by the owner or keeper. Such registration receipt and metallic registration tag shall be valid and in force from the date issued until the expiration date.
- B. Information Required for Registration. Before receiving a registration receipt and metallic registration tag, each owner must state at the time of application for such a permit, the name and address of the owner and sex, breed, age and color of each animal to be registered. The owner must also present a certificate from a veterinarian stating that the animal has been vaccinated for the prevention of rabies. Such certificate must give the last date of vaccination and the number of the vaccination tag used by the veterinarian at the time of vaccination.

- C. Collar-Tag Attachment. It shall be the duty of the owner or keeper of any animal so registered to provide a suitable collar for such animal to wear and to attach thereto the metallic registration tag having a number corresponding with the certificate of registry inscribed thereon.
- D. Removal of Collar and Registration Tag. It is unlawful for any person other than the owner to remove the collar from any animal to which collar has been attached the metallic registration tag herein required, or to remove said metallic registration tag from the collar to which it has been attached.

9-1-180. Revocation of License -- Animals.

If the owner of any animal is convicted of a violation of this chapter on two or more different occasions during any twelve (12) month period involving the same animal, the license of the animal involved shall be revoked. The animal control officer or other police officer shall be authorized to immediately impound and pick up any animal whose license has been revoked. Any animal impounded following revocation of its license shall be dealt with in accordance with the provisions of city ordinances for impounded animals. Under no conditions shall the animal be allowed to be brought back into the city.

9-1-190. Female Cats in Heat/Season Running at Large.

Females in Heat/Season Running at Large. The owners or custodians of female cats shall cause such cats, when in heat/season, to be penned or enclosed in such a manner as to preclude other cats from attacking such female cat or from being attracted to such female cat. It shall be unlawful for the owner or custodian of any female cat to cause, permit, or allow such cat to be at large, or to enter upon a street or sidewalk while such female cat is in copulating heat/season regardless of lack of knowledge of the offense at the time it occurs. If the female cat cannot be controlled by the owner during the copulating heat/season, such cat may be impounded by the animal control officer.

9-1-200. Threatening Passers-By.

It shall be unlawful for any animal to threaten passersby by nipping, chasing, jumping upon, or attacking any person, bicycle, or motor vehicle. The owner or custodian of such animal shall be guilty of a class C misdemeanor.

9-1-210. Penalties.

Unless otherwise specifically provided, every person whose animal violates any provision of this chapter is guilty of a class C misdemeanor.

CHAPTER 2 – DOGS

9-2-010. Licensing.

Any person owning a dog within the city limits shall license the dog pursuant to the following provisions:

A. Licensing, Fees, and Registration.

Registration--Required--Dogs only. It is unlawful for any person to own, keep or harbor a dog over the age of three months within the limits of this city without making application to the city for that purpose and paying to the city an annual registration fee.

2. A late fee shall be imposed unless a new license is purchased prior to the expiration of the current license. Licenses for the following year may be purchased within ninety (90) days prior to the expiration date.

All licenses and late fees required by this chapter shall be in the amounts established by city council resolution.

4. It shall be the duty of the City to register any dog on application of the owner or keeper and to issue a registration receipt and metallic registration tag on payment by the owner or keeper. Such registration receipt and metallic registration tag shall be valid and in force from the date issued until the expiration date.
5. The provisions of this section shall not apply to dogs whose owners are nonresidents temporarily within the city for thirty (30) days or less, nor to dogs brought into the city for the purpose of participating in any show.

Information Required for Registration.

Before receiving a registration receipt and metallic registration tag, each owner must state at the time of application for such a permit, the name and address of the owner and sex, breed, age and color of each dog to be registered. The owner must also present a certificate from a veterinarian stating that the dog has been vaccinated for the prevention of rabies. Such certificate must give the last date of vaccination and the number of the vaccination tag used by the veterinarian at the time of vaccination. It is unlawful for the owner to misrepresent the age of any dog for the purpose of avoiding the payment of the license required by this chapter.

Collar-Tag Attachment. It shall be the duty of the owner or keeper of any dog so registered to provide a suitable collar for such dog to wear and to attach thereto the metallic registration tag having a number corresponding with the certificate of registry inscribed thereon. All dogs not so registered and

collared as prescribed by this chapter may be impounded by the animal control officer or any police officer or other designated official of the city.

- D. Removal of Collar and Registration Tag. It is unlawful for any person other than the owner to remove the collar from any dog to which collar has been attached the metallic registration tag herein required, or to remove said metallic registration tag from the collar to which it has been attached.
- E. The owner of any dog of registration age shall make application for permit and obtain a permit tag for such dog within ten (10) days after acquisition or age attainment.
- F. Fee Exemptions.
 - . The fees required by the provisions of §9-2-010(A)(1) shall not apply to:
 - a. Seeing eye dogs properly trained to assist blind persons, if such dogs are actually being used by blind persons to assist them in moving from place to place.
 - b. Hearing dogs properly trained to assist deaf persons if such dogs are actually used by deaf persons to aid them in responding to an auditory stimulus.
 - c. Dogs specifically trained to assist officials of governmental agencies in the performance of their duties and which are owned by such agencies.
 - 1. Nothing in this section (F)(1) shall be construed to exempt any dog from having a current rabies vaccination.

9-2-020. Revocation of License -- Dogs.

If the owner of any dog is convicted of a violation of this chapter on two or more different occasions during any twelve (12) month period involving the same dog, the license of the dog involved shall be revoked. The animal control officer or other police officer shall be authorized to immediately impound and pick up any dog whose license has been revoked. Any dog impounded following revocation of its license shall be dealt with in accordance with the provisions of city ordinances for impounded dogs. Under no conditions shall the dog be allowed to be brought back into the city.

9-2-030. Dogs Running at Large.

It shall be unlawful for any dog to be at large at any time within the corporate limits of the city. The owner or custodian of any dog which is at large shall without restraint be in violation of this section, regardless of the precautions taken to prevent the escape of the dog and regardless of lack of knowledge of the offense at the time it occurs.

9-2-040. Female Dogs in Heat/Season Running at Large.

The owners or custodians of female dogs shall cause such dogs, when in heat/season, to be penned or enclosed in such a manner as to preclude other dogs from attacking such female dog or from being attracted to such female dog. It shall be unlawful for the owner or custodian of any female dog to cause, permit, or allow such dog to be at large, or to enter upon a street or sidewalk while such female dog is in copulating heat/season regardless of lack of knowledge of the offense at the time **it** occurs. If the female dog cannot be controlled by the owner during the copulating heat/season, such dog may be impounded by the animal control officer.

9-2-050. Cruelty to Dogs.

- A. Except as authorized by law, it shall be unlawful for any person to willfully or maliciously kill, injure, maim, disfigure, torture, beat, mutilate, bum or scald, overdrive or otherwise cruelly set upon any dog. Each such act shall constitute a separate violation and shall be guilty of a class B misdemeanor.
- B. It shall be unlawful for any person to carry or to confine any dog in or upon any vehicle in a cruel or inhumane manner, including, but not limited to, carrying or confining such dog without adequate ventilation.
- C. Every operator of a motor vehicle or self-propelled vehicle within the city shall, immediately upon injuring, striking, maiming or running down any dog, fully comply with all requirements set forth in UCA Section 41-6-30.
- D. Fights. It is unlawful for any person within the limits of the city to, in any manner whatsoever, encourage or urge any dog or dogs to fight or urge them on after they commence to fight.

9-2-060. Dog Bites.

- A. It shall be unlawful for any dog to bite or attack any person or domestic animal. It is no defense that the dog is chained or confined if the chaining or confining is on public or private property where the public has access to be on such property. The owner or custodian of any dog is in violation of this section regardless of the precautions taken to prevent the bite or attack and regardless of the lack of knowledge of the offense at the time it occurs.
- B. It is unlawful for any person to keep, own, harbor, or have the control of any fierce or dangerous dog. It is prima facie evidence that a dog is a fierce or dangerous dog if it bites or attacks a person or domestic animal. Any police officer or animal control officer may apprehend such dog and may cause it to be impounded at the animal shelter.

9-2-070. Intraseizure of Dogs.

- A. Whenever a police officer or an animal control officer shall have probable cause to believe that a dog has been abandoned, although confined upon private property, that is in violation of any of the provisions of Title 9 of the Salem City Municipal Code, or is a vicious dog, the officer shall be authorized to immediately seize the dog and may impound the same in the animal shelter and such officer shall have the right to enter upon whatever premises the dog may be kept for such purpose.
- B. If a dog is summarily impounded without the knowledge of the owner or custodian, a notice that the dog has been impounded shall be given to the owner or custodian of the dog, if the same is known, by attaching the notice to the door at the residence thereof or by mailing a notice to the last known address of the owner or custodian.
- A. If no response is received to the notice of summary impoundment within the time frames established by the rules and regulations of the animal shelter, such dog shall be euthanized as an abandoned dog.
- D. A dog summarily impounded as provided in this section may be recovered by the owner complying with the regulations of the animal shelter. If, in a subsequent court proceeding, the dog is determined not to be abandoned, vicious or a nuisance, the dog shall be released to the owner or custodian without any charge.

9-2-080. Dog Noise Disturbance.

Excessive Noise. It is unlawful for any person to harbor, keep, or own within the limits of the city any dog which barks, whines, howls, or makes other disturbing noises in an excessive, continuous, or untimely fashion day or night. Any police officer or animal control officer may apprehend such dog and may cause it to be impounded in the animal shelter. A second conviction of this section by the same dog within a twelve month period shall be grounds for removal of the dog from the city, which dog will not be allowed to return.

9-2-090. Defecation and Urination.

It is unlawful to allow a dog to defecate or urinate upon private property not owned by the person owning or in control of such dog. The owner or custodian of any dog shall be responsible for the removal of any defecation deposited by such dog on public property, recreation areas, or private property not owned by the person owning or in control of such dog.

Kennels and Runs. It is unlawful for the owner or occupant of any premises on which a kennel, run, or other structure or area for housing or keeping of dogs is situated, to allow such kennel, run, or other structure or area of the

premises to become unsanitary, unclean, or to emit 2 0 undue stench or odor. The owner or occupant of any premises permitting any such condition to exist that does not abate such condition within 24 hours after notice shall be issued a citation. If such a notice is given, the condition must remain abated on a permanent basis. Additional notices shall not be necessary prior to the issuance of a citation.

9-2-100. Detention of Dogs.

It is unlawful for any person to detain or hold the dog of another without notifying the animal control officer or law enforcement agency.

9-2-110. Abandoning Dogs.

It is unlawful for any person to abandon or to turn out any dog.

9-2-120. Disposal of Dogs.

It is unlawful for the owner of any dog that dies or is killed within the limits of this city, to fail to remove or bury the carcass of such dog within ten hours after its death.

9-2-130. Quarantine of Dogs.

Whenever any dog attacks or bites a person, the owner of the dog shall immediately notify the police department, which shall cause the dog to be impounded or otherwise quarantined for a period of ten days. At the end of the ten-day quarantine period, the dog may be released from quarantine, upon a veterinarian's examination that such dog is free from rabies. The expenses incurred in the inspection of such dog shall be paid by the owner or person in control of such dog, in addition to any other fines or charges due. Such expenses shall be paid prior to the release of the dog. If the dog dies within the ten-day quarantine period, its brain shall be sent to the State Department of Health for examination for rabies.

9-2-140. Enforcement.

In the enforcement of any provision of this chapter, any police officer or animal control officer is authorized to enter the premises of any person to take possession of the registered or unregistered, fierce, dangerous, or vicious dog or dogs running at large, when in fresh pursuit of such dog at the time the dog goes onto the private property.

9-2-150. Interference with Officer.

- A. It shall be unlawful for any person to interfere with, molest, hinder or prevent any police officer or animal control officer in the discharge of their duties as herein prescribed.

- B. Any person who shall hinder, delay, interfere with or obstruct any police officer or animal control officer while engaged in capturing, securing or taking to the animal shelter any dog or dogs liable to be impounded, or who shall break open or in any manner directly or indirectly aid, counsel or advise the breaking open of any animal control vehicle or other vehicle used for the collecting of any such animals shall be deemed guilty of a class B misdemeanor.

9-2-160. Dogs in Prohibited Areas.

- A It shall be unlawful for any person to take or to permit any dog, whether loose or on a leash or in arms, in or about any establishment or place of business where food or food products are sold or displayed, including but not limited to restaurants, grocery stores, meat markets, food or vegetable stores; and it shall be unlawful for any person to allow any dog to enter or be in any place of worship during public services; and it shall be unlawful for any person to allow any dog to enter in or be upon any public park or cemetery.
- B. An exception to this section shall be for any dog trained and used for physically handicapped persons, such as dogs for the blind or hearing impaired.

9-2-170. Allowable Number of Dogs.

Except as otherwise provided in this chapter, no more than three (3) dogs which are three (3) months of age or older shall be kept at any residence or commercial establishment at any time. This provision shall not apply to licensed kennels, grooming parlors, or veterinary clinics.

9-2-180. Impound.

- A. Any dog impounded at an animal shelter shall be held five working days if it has a current year's license tag. After five working days, if the dog is not claimed, it shall be euthanized.
- A. Any dog impounded at an animal shelter shall be held three working days if it has no current year's license tag. After three working days, if the dog is not claimed, it shall be euthanized.
- C. Any dog voluntarily relinquished to the animal control officer or an animal shelter by the owner or custodian thereof for destruction or other disposition need not be kept for the minimum holding period, but shall be euthanized immediately.
- D. The animal control officer or police officer shall have the sole discretion to determine serious injury or disease that will require euthanasia prior to three (3) working days.

9-2-190. Threatening Passers-By.

It shall be unlawful for any dog to threaten passersby by nipping, chasing, jumping upon, attacking, or chasing any person, bicycle, or motor vehicle.

9-2-200. Penalties.

Unless otherwise specifically provided, every person whose dog violates any provision of this chapter is guilty of a class C misdemeanor.

CHAPTER 3 – RABIES CONTROL

9-3-010. Rabies Control.

- A. Report of Bites. All persons bitten and the parents or guardians of minor children bitten by a dog, cat, skunk, fox, bat, coyote, bobcat, or other animal known to constitute a serious threat of rabies shall notify the animal control officer immediately thereafter. Physicians treating such bites and other persons having the knowledge of such bites shall also be required to make such notification.
- B. Report of Suspected Rabid Animals. Any person who observes or has knowledge of an animal which shows symptoms of rabies or which acts in a manner which would lead to a reasonable suspicion that it may have rabies shall notify the animal control officer and comply with appropriate laws and regulations regarding suspected cases of rabies as directed by the state or city-county health departments.
- C. Isolation of Biting or Suspected Rabid Animals. Upon the reasonable order of the animal control or public health officer, a biting or suspected rabid animal shall be isolated, at the owner's expense if owned, in strict confinement under proper care and under the observation of a licensed veterinarian in an animal shelter or veterinary hospital in a manner approved by the animal control officer.
- D. Examination of Head. Any biting or suspected rabid animal may be humanely euthanized immediately, and such animal's undamaged and properly packaged and properly refrigerated head shall be delivered promptly to an approved medical facility having the capability of performing tests to demonstrate the presence of rabies.
- E. Release. Ten (10) days after the day of infliction of a bite by an animal, such animal may be released to its owner after a licensed veterinarian has examined that animal and in his/her opinion found it not to have had rabies in a transmittable stage on the day of infliction of the bite. Non-immunized animals shall be vaccinated for rabies before release.
- F. Animals Possibly Exposed to Rabies. Any animal of a species subject to rabies which has been bitten by a known rabid animal, or which has been in intimate contact with such an animal, shall be isolated, at the owner's expense if owned, in strict confinement in a place and manner approved by the animal control officer and observed by a licensed veterinarian for a period of six (6) months, or euthanized. Notwithstanding the foregoing, the following alternative is permitted in case of dogs and cats. If the dog or cat has been vaccinated against rabies at least thirty (30) days prior to the

suspected exposure with a type of vaccine produced under U.S.D.A. license and within the time period approved by the state veterinarian, the dog or cat may be re-vaccinated and isolated in strict confinement in a place and manner approved by the animal control officer and observed by a licensed veterinarian for a period of thirty (30) days.

9-3-020. Vaccination Required.

Dog and cat owners shall obtain a rabies vaccination for each dog or cat they own, keep, harbor or have custody of, within ten (10) days after it becomes three months of age, or within ten (10) days after obtaining any dog or cat over three months of age. It shall be unlawful for any person or persons to own, keep, harbor or possess or to have in his or her care, charge or custody, any dog or cat three months of age or over unless such dog or cat has a current and valid rabies vaccination administered by any duly qualified and licensed veterinarian, with a rabies vaccine approved by the State Department of Health for use in dogs and cats. Such vaccination shall be repeated at intervals specified by the State Department of Health in order to maintain adequate immunity.

- A. In addition to the current years license, the vaccination tag shall be attached to or otherwise worn by the dog or cat. It shall be unlawful for any person or persons to remove or cause to be removed the vaccination tag from any dog or cat without the consent of the owner, keeper, or harborer thereof. The vaccination tag shall not be transferable from one dog or cat to another.

9-3-030. Penalties.

Unless otherwise specifically provided, every person who violates any provision of this chapter is guilty of a class C misdemeanor.

CHAPTER 4 – KENNELS

9-4-010. Allowable Number of Dogs and Cats.

Except as otherwise provided in this chapter, no more than three (3) dogs or cats which are three (3) months of age or older shall be kept at any residence or commercial establishment at any time. This provision shall not apply to licensed kennels, grooming parlors, or veterinary clinics.

9-4-020. Permit Required.

(1) Permit required. No person shall operate or maintain a kennel without first obtaining a permit.

Application. All applications for permits to operate or maintain a kennel, shall be submitted in writing upon printed forms provided for such purposes by the city. The application shall first be referred to the city animal control officer. Upon approval, the city shall issue the permit upon payment of the fee herein provided.

- (3) Before the permit can be issued the following conditions concerning the location of the kennel must be met.
- a. A kennel may not be located in the R-1, R-2, R-3, R-4 or C-2 zone.
 - b. The location where the dogs or cats are kept, raised, housed, or boarded must be 200 feet away from any neighboring house, and;
 - c. Must be 150 feet from any road.
- (4) The following minimum standards shall be complied with to obtain and maintain a kennel permit.
- a. Enclosure must be provided which shall allow adequate protection against weather extremes. Floors of buildings, runs and walls shall be of an appropriate material as required by the specific breed of animal and also to permit proper cleaning and disinfecting.
 - b. Adequate ventilation shall be maintained and an appropriate temperature provided as required by the specific breed of animal housed therein.
 - c. Each animal shall have sufficient space to stand up, lie down and turn around without touching the sides or tops of cages.
 - d. Runs shall provide an adequate exercise area and protection from the weather.

- e. All animal quarters and runs are to be kept clean, dry and in a sanitary condition.
 - f. The food shall be free of contamination, palatable and of sufficient nutritive value as to meet the normal daily requirements for the condition and size of the animal.
 - g. Fresh water is to be available at all times. Water vessels shall be mounted or secured in a manner that prevents tipping and be of the removable type.
- (5) Holders of existing kennel permits which do not meet the distance requirements required in this chapter shall be exempt from the distance requirements for their existing animals. As animals die, are sold, given away, or are otherwise removed from the property, they may not be replaced unless all of the conditions of this chapter are met.
 - (6) The city shall have the power to revoke the kennel permit in the event that the permit holder is convicted of any other violation of the provisions of this title.

9-4-030. Fees.

Any person conducting, operating or maintaining a kennel shall pay to the city for the privilege of conducting, operating or maintaining such kennel an annual permit fee of twenty-five dollars (\$25.00) for each calendar year, plus the annual amount due per dog.

9-4-040. Violations - Permit Revocation.

Whenever the animal control officer or police officer finds or discovers any violations of any rule or regulation promulgated as herein provided by the city-county health department, it shall, upon receipt of such notice, immediately notify the owner or custodian of such kennel, to appear before the city council at a day and time certain to show cause why the permit should not be revoked for such violation.

9-4-050. Inspection.

It shall be the duty of the animal control officer or police officer to periodically inspect all registered kennels, to see that the provisions of this chapter pertaining to the sanitation and care of such places are being observed.

9-4-060. Definition - Exception for Puppies/Kittens.

- (A) Kennel as defined in §9-1-010 shall be applicable to this chapter.
- (B) This chapter shall not apply to the birth of puppies or kittens in a situation which is not an intentional commercial breeding business so long as the number of dogs or cats is reduced down to three (3) or less within three (3) months from the birth of the puppies or kittens.

9-4-070. Penalties.

Unless otherwise specifically provided, every person who violates any provision of this chapter is guilty of a class C misdemeanor.

TITLE TEN - STREETS AND SIDEWALKS

CHAPTER 1 - IMPROVEMENTS, EXCAVATIONS, ALTERATIONS

10-1-010. Control - Supervision.

All maintenance and upkeep in or on public streets, sidewalks, or other public ways shall be under the supervision and control of the public works director.

10-1-020. Responsibilities.

The public works director shall have the following responsibilities with respect to streets and sidewalks:

- A. Enforce provisions of this chapter and all other ordinances relating to the maintenance and use of streets, culverts, drains, ditches, waterways, curbs, gutters, sidewalks, and other public ways.
- B. Inspect the construction and have charge of maintenance and repair of streets, sidewalks, bridges, curbs, gutters, culverts, drains, waterways, and other public ways.
- C. Keep a record of and promptly investigate all complaints of defective streets, culverts, drains, ditches, sidewalks, and other public ways and, when proper, repair, replace, or take such action as deemed best in order to protect the public from injuries due to such defects, and shall record the action taken on each complaint.

10-1-030. Permits required.

- A. No person, firm, partnership, corporation, or entity of any kind shall open up, break, dig, excavate, construct, reconstruct, repair, alter a grade in or upon any public street, sidewalk, curb, curb cut, driveway, or gutter for any purpose or in any manner commence any construction in or upon any public street or sidewalk without first procuring from the city engineer a permit for the specific construction or other work to be undertaken.
- B. Any person, firm, partnership, corporation, or entity of any kind desiring to obtain a permit to construct, reconstruct, repair, alter, or grade any sidewalk, curb, curb cut, driveway, gutter, or street on the public streets of this city shall meet the following requirements in order to obtain said permit, provided, however, that city crews, engaged in any of the above activities while employed by the city, shall be exempt from the permit required herein:
 - 1. Provide the name and address of the party obtaining the permit;
 - 2. Provide the name and address of the party doing the work;
 - 3. Provide the location of the work area;

4. Attach a plan showing the details of the proposed alteration;
5. Provide the estimated cost of the alteration;
6. (Ord. No. 2-13-96 – Section 10-1-030(B)(6))
Provide a bond in the amount of 125 percent of the City's estimate of the cost of the project;
7. Have the party performing the work pre-qualify, using the forms provided by the city as they may from time to time be changed;
8. Pay a filing fee for the permit to cover the actual expenses incurred by the city in inspecting the work and insuring compliance with the permit, the plans, and any applicable laws, such as the building code, fire code, etc, including compliance with standards to be established by the city in order to insure safe and quality construction;
9. Provide proof of insurance in the minimum amounts set from time to time by the City Council;
10. Contact "Blue Stakes" and comply with their requirements.

- C. It is unlawful for any person having made an excavation in any street or sidewalk, whether by permit or otherwise, to fail, neglect or refuse to restore or replace said street or sidewalk to its normal condition. The replacement of any street or sidewalk must be made to the specification of the city as determined by the public works director or other authorized person. Any restoration or replacement shall be completed within five days of notice from the City to do so.

10-1-040. Barricades.

It is unlawful for any person, by or for whom any excavation, construction, reconstruction, repair, or alteration made in a public street or sidewalk, to fail to cause a barricade, rail or other sufficient fence to be placed so as to enclose such excavation, construction, reconstruction, repair, or alteration made in a public street or sidewalk, together with the dirt, gravel or other material thrown therefrom, and to maintain such barricade during the whole time for which such excavation, construction, reconstruction, repair, or alterations is made in a public street or sidewalk, continues. It is unlawful for any person to fail to have lighted lanterns or some other proper and sufficient lights fixed to parts of such barricade, or in some other proper manner over or near the excavation, construction, reconstruction, repair, or alteration made in a public street or sidewalk, and over and near the dirt, gravel or other material taken therefrom, and so kept from the beginning of twilight through the whole of every night during all time such excavation, construction, reconstruction, repair, or alteration in a public street or sidewalk is ongoing. It is unlawful for any person maliciously or wantonly and without legal cause, to extinguish,

remove or diminish said lights or to tear down or remove any rail, fence or barricade fixed in accordance with the provisions of this section.

10-1-050. Violation - Penalty.

Any person found to be in violation of any of the provisions of this chapter is guilty of a class C misdemeanor.

CHAPTER 2 - OBSTRUCTIONS

10-2-010. Obstructions Unlawful.

It is unlawful for any person to place or allow any obstruction in, on, or near any street or sidewalk, or other public way.

10-2-020. Sign Restrictions.

No sign, advertisement, or similar object is permitted on, in, or overhanging any street, sidewalk, public property or right of way, nor upon any public structure.

10-2-030. Remedies.

If a person violates the provisions of section 10.2.020, the chief of police or any police officer may:

1. Remove such sign, advertisement, or similar object;
2. Require such person to remove the same;
3. Give written notice to such person to remove such sign, advertisement, or similar object by personal service or by mailing notice to such person by certified mail, return receipt requested, to his/her last known address. If such sign, advertisement, or similar object is not removed within ten (10) days after notice is complete, the city may remove the same at the expense of such person and recover in a civil proceeding the cost and expenses of such action, including attorneys fees, which remedy is in addition to any criminal penalties which may be imposed.

10-2-040. Exceptions.

Nothing in this chapter shall be construed to make unlawful the setting out of rubbish, branches, garbage, and light materials at such times, and in such places, and such manners as the City Council may designate pursuant to public interest projects such as cleanup day or city beautification projects; provided that such materials may not be placed or allowed to accumulate or remain on the streets, alleys, sidewalks, public ways, or other public property of the city at any time, in any place or any manner other than as determined by resolution of the City Council.

10-2-050. Violation - Penalty.

The person found in violation of this chapter is guilty of a class C misdemeanor.

CHAPTER 3 - SIDEWALK INSTALLATION

10-3-010. Installation.

- A. In the event of new construction, the contractor shall be responsible to provide curb, gutter, and sidewalk along the full frontage of the property.
- B. In the event of remodeling involving living space where there is no existing curb, gutter, sidewalk or asphalt connecting the curb and gutter to existing asphalt, the contractor or property owner shall be required to provide sidewalk along the full frontage of the property, to a maximum of 150 feet, if the cost of remodeling is \$15,000 or greater. In addition thereto, if the value of the remodeling, as determined on the building permit, is at least \$65,000.00, a minimum of 100 feet of curb and gutter, plus the same footage of asphalt, tied to existing asphalt shall also be required. If the value is at least \$85,000.00, curb and gutter, plus asphalt, tied to existing asphalt, along additional frontage, if any, shall be required. (Ord. No. 8-13-96) (Ord. No. 12-1-99) (Ord. No. 4-18-01)
- C. In the event of a single family residence with more than 200 feet of frontage, the full frontage need not have curb, gutter, and sidewalk if the city council waives that requirement. In the event of a waiver, the council may set the requirements and conditions which must be met.
- D. Corner lots must provide curb, gutter, and sidewalk along the full frontage on both streets, unless the council has granted a waiver pursuant to subparagraph C.

10-3-020. Standards.

Curb, gutter, and sidewalk installation required by this chapter shall be in compliance with the specifications and standards set forth in the Salem City Construction and Development Standards.

10-3-030. Survey.

The contractor is to obtain and pay for a survey for the grade and location of the sidewalk, which grade and location must meet the approval of the city.

10-3-040. Bond.

A performance bond in an amount sufficient to cover the cost of curb, gutter, sidewalk, and asphalt, where those improvements are required by §10-3-010, in an amount to be determined in the sole discretion of the Public Works Director, is to be posted by the contractor or by the property owner. This bond is to be valid for a period of one year. When the curb, gutter, sidewalk and/or asphalt are completed within one year, to the satisfaction of the City, the bond may be released. In the event of inclement weather, the time for completion may be extended by the approval of the Council and with an extension of the bond. Any extension for completion may not exceed three months. (Ord. No. 7-25-95C –

Section 10-3-040) (Ord. No. 8-16-96 – Section 10-3-040) (Ord. no. 12-1-99 – Section 10-3-040)

10-3-050. Violation-Penalty

- A. Any person found to be in violation of any of the provisions in this chapter is guilty of a Class C Misdemeanor.
- B. **In addition to any Police Officer, the City Public Works Director is authorized to issue citations for any violation of this chapter, but not for violation of any other chapter.** (Ord. No. 11-17-04)

CHAPTER 4 – COMMERCIAL LANDSCAPING

10-4-010. Landscaping Required

All commercial establishments shall provide landscaping in accordance with this chapter. For all new buildings, the landscaping shall be installed prior to receiving a certificate of occupancy, unless occupancy is desired between October 1st and April 15th, then a cash bond in the amount of seven cents per square foot of total site area may be posted to guarantee the completion of the landscaping by May 31st following occupancy.

10-04-020. Plans

Landscape plans shall be submitted with a site plan for every commercial establishment. The landscape plan shall be submitted showing natural landscape with low water usage plants, shrubs, grasses, trees, and/or other approved landscape materials. The plans shall be consistent with this chapter. The plan will be approved by the Development Review Committee and the Planning and Zoning Commission. The approved plan shall be followed in order to obtain a certificate of occupancy.

10-04-030. Requirements

- a. The minimum setback requirements for the various zones shall be landscaped. Where overhead electric, communication, or telecommunication distribution lines are existing on public rights of way, appropriate landscape elements shall be chosen to minimize conflict with said lines.
- b. The frontages on arterial streets or state highways shall be planted with trees. Thirty foot intervals are recommended. The approved trees include Shade Master honey Locust, Sunburst Honey Locust, Little Leaf Linden, and Norway Maple. Other trees maybe approved by the Planning and Zoning Commission. All trees shall be one and one half inch caliper measured three feet from the ground. Frontages along SR-198 shall include a sidewalk and six foot minimum planter strip where feasible.
- c. Side yard setback areas that are open to view form public areas or residential properties need not have trees but should provide an aesthetic appearance using natural and low water usage plants, shrubs, and/or other approved landscape materials. Trees, may be used if desired.
- d. All landscaping shall include an automatic sprinkler system timed to provide no more water than what is needed for the type of foliage used in the landscaping.

10-4-040. Parking

No parking is allowed in the setback areas where landscaping is required.

10-4-050. Exceptions

The Planning and Zoning Commission may grant exceptions to the requirements of this chapter for existing structures where the setbacks, or existing sidewalks or other barriers physically make the requirements of this chapter impossible or very difficult. To the extent permitted by the layout, any exceptions should include some landscaping requirements. (Ord. No. 10-1-03)

TITLE ELEVEN - PUBLIC UTILITIES AND SERVICES

CHAPTER 1 - ELECTRIC POWER

11-1-010. Creation.

The power department of Salem City is hereby created. The purpose of the power department is to provide a reliable source of electric power for the benefit of the residents and businesses of the city.

11-1-020. Power Organization.

The city may join with other cities, agencies, or other organizations for the purpose of providing electric power to the city.

11-1-030. Rules and Regulations.

The city council may enact rules and policies for levying, billing, guaranteeing, and collecting charges for electric power services and all other rules necessary for the management and control of the power department.

11-1-040. Rates and Connection Fees.

The electric power rates and connection fees for electricity from the city power department shall be fixed from time to time by the city council. The rates and fees may be established in the annual budget enacted by the council. Any profit created by the rates established shall be available for use in the general fund of the city.

11-1-050. Payment - Delinquency - Discontinuance of Service.

- A. The city recorder shall furnish to each user or mail or leave at his or her place of residence or usual place of business a written or printed statement, written thereon the amount of the power service charge assessed against him or her once each month or such other regular interval as the city council shall direct.
- B. Said statement shall separately specify the amount of the bill for the power service used and the place and payment and date due. If any person fails to pay the power charges within thirty (30) days of the date due, the city recorder shall have the authority to direct that all power service to the premises involved be discontinued.
- C. Before said power service to the said premises shall again be provided, all delinquent power charges must be paid to the city treasurer, together with such extra charge for turning the power on and off as the city council may have established.
- D. The city recorder is authorized and empowered to enforce the payment of all delinquent power service charges by an action at law in the corporate name of the city.

11-1-060. Metering devices.

- A. No person shall be permitted to use any electric power from the city power department for any purpose unless the same is measured through a meter. The city

will provide meters for new construction as part of the connection fee. Meters worn out or obsolete will be replaced by the city. Meters on all new construction shall be installed and maintained outside of the building, not over seven (7) feet from the floor or ground, and as near the lead in wires as practicable.

- B. Any person misusing or abusing a meter which causes it to be broken or obsolete and in need of replacement shall pay for the replacement of the same.
- C. Tampering with the meters in any manner, defacing or damaging the meters is prohibited.
- D. Any person found in violation of this section is guilty of a Class B Misdemeanor.

11-1-070. Turning on Power After Being Turned Off - Prohibited.

It is unlawful for any person, after the power has been turned off from his or her premises for nonpayment of power charges or for other violation of the rules and regulations pertaining to the power department, to turn on or allow the power to be turned on or used without authority. A violation of this section is a Class C Misdemeanor.

11-1-080. Non-liability of City.

The city shall not be held liable for damages to the consumer of light or power by reason of stoppage or interruption of the electric current caused by scarcity of power, accident to the system, by any alteration, additions, extensions, repairs, or from any other unavoidable cause.

CHAPTER 2 - WATER SERVICE

11-2-010. Water Service in General - Rules and Regulations.

The city shall provide culinary water to the residents of the city. The city council may enact rules and policies for levying, billing, guaranteeing, and collecting charges for water services and all other rules necessary for the management and control of the system.

11-2-020. Rates and Connection Fees.

The water rates and connection fees for culinary water from the city water system shall be fixed from time to time by the city council. The rates and fees may be established in the annual budget enacted by the council.

11-2-030. Payment - Delinquent - Discontinuance of Service.

- A. The city recorder shall furnish to each user or mail or leave at his or her place of residence or usual place of business a written or printed statement, written thereon the amount of water service charge assessed against him or her once each month or such other regular interval as the city council shall direct.
- B. Said statement shall separately specify the amount of the bill for the water service used and the place of payment and date due. If any person fails to pay the water charges within thirty (30) days of the date due, the city recorder shall have the authority to direct that all water service to the premises involved be discontinued.
- C. Before said water service to said premises shall again be provided, all delinquent water charges must have been paid to the city treasurer together with such extra charge for turning the water on and off as the city council may have established by resolution.
- D. The city recorder is authorized and empowered to enforce the payment of all delinquent water service charges by an action at law in the corporate name of the city.

11-2-040. Unauthorized Use.

- A. It is unlawful for any person, after the water has been turned off from his or her premises for nonpayment of water charges or other violation of the rules and regulations pertaining to the water supply, to turn on or allow the water to be turned on or used without authority.
- B. It shall be unlawful for any person by himself, family, servants, or agents to utilize the municipal water system without paying therefore, as herein provided or, without authority, to open any fire hydrant, stopcock, valve, or other fixtures attached to the system of water supply unless it is done pursuant to proper application, agreement, or resolution. It shall be unlawful to injure, deface, or impair any part or appurtenance of the water system, or to cast anything into any reservoir or tank belonging to the water system.

- C. It is unlawful for any person to use or obtain water services from the premises of another without the express permission of the other.
- D. A violation of this section is a Class C Misdemeanor.

11-2-050. Metering Devices.

- A. Except as otherwise expressly permitted in this chapter, all structures, dwelling units, establishments, or persons using water from the city water system must have such a number of water meters connected to their water system as are necessary in the judgment of the city to adequately measure the use and determine the water charges to the respective users. Meters will be furnished by the municipality upon application for a connection and upon payment of such connection fees and other costs as has been established by the city council.
- B. No person shall be permitted to use any water from the city water system for any purpose unless the same is measured through a meter. As meters wear out or become obsolete, they will be replaced by the city. Worn out or obsolete meters must be turned into the city for disposal.
- C. Any person misusing or abusing a meter which causes it to be broken or obsolete and in need of replacement shall pay for the replacement of the same.
- D. Meters may be checked, inspected, or adjusted at the discretion of the city, and shall not be adjusted or tampered with by the customer. Meter boxes shall not be opened for the purpose of turning on or off the water except by an authorized representative of the city unless special permission is given by the city to do so.
- E. A violation of this section is a Class B Misdemeanor.

11-2-060. Service Pipes - Maintenance.

- A. All water pipes from the city main to the water meter shall be maintained by the city. Pipes beyond the meter are service pipes and the responsibility of the customer.
 - B. All users of water services shall keep their service pipes and connections and other apparatus in good repair and protected from frost at their own expense. No person, except under the direction of the city engineer, shall be allowed to dig into the street for the purpose of laying, removing, or repairing any service pipe.
 - C. All service and other pipes used in conjunction with the water services of the city shall be of such material, quality, and specifications as the city engineer may from time to time provide, and shall be installed at such distances below ground as specified by the city.
- (Ord. #6-11-96 – Section 11-2-060 (D))
- D. Temporary water service shall be permitted during the construction of any building within the city. The contractor and/or owner shall pay a fee to be established from

time to time by resolution of the City Council for the use of temporary water during construction and until permanent service is provided, which fee shall be paid as a condition of obtaining a building permit.

11-2-070. Connection to Water System - Required.

At such time as the municipal water system becomes available to a property, located within the city, which is served by a private well, a direct connection shall be made to the municipal water system within sixty (60) days in compliance with this chapter. The municipal water system shall be deemed available when the water mains are within 300 feet of a property line, which property contains any buildings serviced by a private well.

11-2-080. Extensions Within the City.

- A. Any person or persons, including any subdivider, desiring to have the water mains extended within the municipality, and being willing to advance the whole expense of such extension and receive the return of an agreed portion thereof, as hereinafter provided, may make application to the city council by petition containing a description of such proposed extension accompanied by a map showing the location thereof, which petition shall also contain an offer to advance the whole expense of making the same as said expense shall be certified by the city engineer. The city council may grant or deny the petition to extend the existing water lines in the city. In the event the extension is granted, the city engineer shall designate the route to be taken.
- B. Upon receipt of such petition and map, and before the petition is granted, the city council shall obtain from the city engineer a certified statement showing the whole cost and expense of making such extension.
- C. If the city council grants said petition, before any work is done on such extension, the petitioner shall provide to the city a bond for one hundred percent (100%) of the anticipated cost of the proposed extension.

11-2-090. Extensions Outside the City.

The municipality may not furnish water service from its water system to persons outside its municipal limits except for those already receiving said service, or those with a legal document with right to receive such service, or those in extreme hardship cases.

Non-residents of the City living in close proximity may be allowed a water connection on a hardship basis if the following conditions are met.

- A. There is information given to City establishing that such residents' source of water, such as the drying up of wells, has taken place and that such resident has no other source of water other than by trucking in the same in containers;
- B. That such residents will pay the entire costs of extending City water lines, including all construction costs, connection fees, impact fees, and water transfer fees set forth in Salem City Municipal Code Section 13-2-110, in order to access the City water;

- C. The size of the line, the distance to be extended, and all specifications concerning the construction shall be established at the sole discretion of the City;
- D. That the City Council will approve the hardship on a case by case basis, and may impose additional requirements such that a petition for annexation be filed or other similar measures.

In the event that the City has a shortage of water and must impose restrictions, non-residents shall be the first to suffer restrictions and/or loss of water privileges. (Ord. No. 8-7-02)

11-2-100. Ownership.

Any such extension shall be deemed the property of the city.

11-2-110. Waste Prohibited.

- A. It is an infraction for any water user to waste water or to allow it to be wasted by imperfect stops, taps, valves, leaky joints or pipes, or to allow tanks or watering troughs to leak or overflow, or to wastefully run water from hydrants, faucets or stops or through basins, water closets, urinals, sinks or other apparatus, or to use the water for purposes other than for those which he or she has paid, or to use the water in violation of the rules and regulations for controlling the water supply.
- B. If, in the judgment of any of the officers of the municipality, a user of city water engages in practices which result in the needless waste of water and continues to do so after reasonable notice to discontinue wastefulness has been given, the matter may be referred to the city council for a decision as set forth in this section.
- C. The city council may thereupon consider terminating the right of the individual to use culinary water. If it elects to consider the matter of termination, it shall give notice to the water user of the intention to terminate his water connection at least five (5) days prior to the meeting of the governing body at which termination of water service is to be considered. The notice shall inform him or her of the time and place of the meeting and the charges which lead to the consideration of the termination.
- D. A water user whose right to utilize municipal water is being reviewed shall have opportunity to appear with or without counsel and present reasons why water service should not be discontinued.
- E. After due hearing, the city council may arrive at a determination. If the determination is to discontinue the wasteful water user's service connection, it shall notify him or her of the decision and of the period during which the service will remain discontinued.

11-2-120. Excessive Use.

- A. It shall be unlawful for any person to use such number of outlets simultaneously or to use such sprinklers or combinations of sprinklers or outlets as will in the opinion

of the governing body materially affect the pressure or supply of water in the municipal water system or any part thereof, and the governing body may from time to time, by resolution, specify combinations or numbers of outlets which may have such effect.

- B. The governing body shall, after determining that such improper use exists, notify the affected water user or the owner of the premises whereon such use occurs of such determination in writing, order such use discontinued and advise that such continued usage constitutes a violation of this part.

11-2-130. Limitations on Use.

In times of scarcity of water, whenever it shall in the judgment of the mayor and the city council be necessary, the mayor shall, by proclamation, limit the use of water for other than domestic purposes to such extent as may be necessary for the public good. It is an infraction for any person, or by his or her family, servants or agents, to violate any proclamation made by the mayor in pursuance of this section.

11-2-140. Water Use for Propelling Motors - Prohibited.

No water shall be supplied from the pipes of the municipal water system for the purpose of driving any motor, siphon, tubing or other wheels, or hydraulic engines, or elevators, or for driving or propelling machinery of any kind whatsoever.

11-2-150. Fire Hydrants.

All public fire hydrants shall be under the control of and shall be kept in repair by the city public works director, and in case of fire, the fire department shall have free access to said hydrants. Every person who opens or operates any fire hydrant or attempts to draw water therefrom without special permission of the city public works director or obstructs the approach thereto is guilty of an infraction.

11-2-160. City Not Liable For Damages.

The municipality shall not be liable for any damage to a water service user by reason of stoppage or interruption of his or her water supply caused by fires, scarcity of water, accidents to the water system or its mains, or which occurs as the result of maintenance and extension operations, or from any other unavoidable cause. This section shall not be construed to extend the liability of the municipality beyond that provided in the Governmental Immunity Act.

11-2-170. Violation - Penalty.

Unless otherwise specifically provided, every person who violates any provision of this chapter is guilty of a Class C Misdemeanor.

CHAPTER 2A – DRINKING WATER SOURCE PROTECTION ORDINANCE

11-2A-010. Short Title and Purpose.

(a) This ordinance shall be known as the “Drinking Water Source Protection Ordinance”.

(b) The purpose of this ordinance is to insure the provision of a safe and sanitary drinking water supply for the City by the establishment of drinking water source protection zones surrounding the wellheads and spring collection areas for all wells and springs which are the supply sources for the City water system and by the designation and regulation of property uses and conditions which may be maintained within such zones.

11-2A-020. Definitions.

When used in this ordinance the following words and phrases shall have the meanings given in this Section:

- (a) **Design Standard** – means a control which is implemented by a potential contamination source to prevent discharges to the ground water. Spill protection is an example of a design standard.
- (b) **Land Management Strategies** – means zoning and non-zoning controls which include, but are not limited to, the following: zoning and subdivision ordinances, site plan reviews, design and operating standards, source prohibitions, purchase of property and development rights, public education programs, ground-water monitoring, household hazardous waste collection programs, water conservation programs, memoranda of understanding, written contracts and agreements, and so forth.
- (c) **Pollution Source** – means point source discharge of contaminants to ground water or potential discharges of the liquid forms of “extremely hazardous substances” which are stored in containers in excess of “applicable threshold planning quantities” as specified in SARA Title III. Examples of possible pollution sources include, but are not limited to, the following: storage facilities that store the liquid forms of extremely hazardous substances, septic tanks, drain fields, class V underground injection wells, landfills, open dumps, land filling of sludge and septage, manure piles, salt piles, pit privies, and animal feeding operations with more than ten animal units. The following clarify the definition of pollution sources:
 - (1) **Animal Feeding Operation** – means a lot or facility where the following conditions are met: animals have been or will be stabled or confined and fed or maintained for a total of 45 days or more in any 12 month period, and crops vegetation forage growth, or post-harvest residues are not sustained in the normal growing season over any portion of the lot or facility. Two or more animal feeding operations under common ownership are considered to be a single feeding operation if they adjoin each other, if they use a common area, or if they use a common system for the disposal of wastes.

- (2) **Animal Unit** – means a unit of measurement for any animal feeding operation calculated by adding the following numbers; the number of slaughter and feeder cattle multiplied by 1.0, plus the number of mature dairy cattle multiplied by 1.4, plus the number of swine weighing over 55 pounds multiplied by 0.4, plus the number of sheep multiplied by 0.1, plus the number of horses multiplied by 2.0.
- (3) **Extremely Hazardous Substances** – means those substances which are identified in the Sec. 302 (EHS) column of the “TITLE III LIST OF LISTS – Consolidated List of Chemicals Subject to Reporting Under SARA Title III,” (EPA 560/4-91-011).
- (d) **Potential Contamination Source** – means any facility or site which employs an activity or procedure which may potentially contaminate ground water. A pollution source is also a potential contamination source.
- (e) **Regulatory Agency** – means any governmental agency with jurisdiction over hazardous waste as defined herein.
- (f) **Sanitary Landfill** – means a disposal site where solid waste, including putrescible wastes, or hazardous wastes, are disposed of on land by placing earth cover thereon.
- (g) **SARA** – means Superfund Amendments and Re-authorization Act.
- (h) **Septic Tank/Drain-field Systems** – means a system which is comprised of a septic tank and a drain-field which accepts domestic wastewater from buildings or facilities for subsurface treatment and disposal. By their design, septic tank/drain-field system discharges cannot be controlled with design standards.
- (i) **Wellhead** – means the upper terminal of a well, including adapters, ports, seals, valves and other attachments.

11-2A-030. Establishment of Drinking Water Source Protection Zones.

There is hereby established use districts to be known as zones one, two, three, and four of the drinking water source protection area, identified and described as follows:

- (a) **Zone One** is the area within a 100-foot radius from the wellhead, or spring collection area.
- (b) **Zone Two** is the area within a 250-day ground-water time of travel to the wellhead or spring collection area, the boundary of the aquifer(s) which supplies water to the ground-water source, or the ground-water divide, whichever is closer.
- (c) **Zone Three** (waiver criteria zone) is the area within a 3-year ground-water time of travel to the wellhead or margin of the spring collection area, the boundary of the

aquifer(s) which supplies water to the ground-water source, or the ground-water divide, whichever is closer.

- (d) **Zone Four** is the area within a 15-year ground-water time of travel to the wellhead, the boundary of the aquifer(s) which supplies water to the ground-water sources, or the ground-water divide, whichever is closer.

11-2A-040. Permitted Uses.

The following uses shall be permitted within drinking water source protection zones:

- (a) Any use permitted within existing agricultural, single family residential, multi-family residential, and commercial districts so long as uses conform to the rules and regulations of the regulatory agencies.
- (b) Any other open land use where any building located on property is incidental and accessory to the primary open land use.

11-2A-050. Prohibited Uses.

The following uses or conditions shall be and are hereby prohibited within drinking water sources protection zones, whether or not such use or condition may otherwise be ordinarily included as a part of a use permitted under Section 11-2A-040 of the ordinance:

- (a) **Zone One** – the location of any pollution source as defined herein.
- (b) **Zone Two** – the location of a pollution source unless its contaminated discharges can be controlled with design standards.
- (c) **Zone Three and Four** – the location of a potential contamination source unless it can be controlled through land management strategies.

11-2A-060. Administration.

The policies and procedures for administration of any source protection zone established under this ordinance, including without limitation those applicable to nonconforming uses, exception, enforcement and penalties, shall be the same as provided in the existing zoning ordinance for Salem City, as the same is presently enacted or may from time to time to be amended.

(Ordinance No. 1-21-98-B)

CHAPTER 2B – PRESSURE IRRIGATION WATER SERVICE

11-2B-010 Pressure Irrigation Water Service.

The City shall provide pressure irrigation water service to its residents and businesses. This water is not treated and is not to be used for any culinary purpose, but is for outdoor watering use only. The City Council may enact policies necessary for the management and control of the system.

11-2B-020 Rates and Fees.

The City Council may establish rates and fees for use of the pressure irrigation system. Impact fees may be established only after following the requirements of state law to establish impact fees. The connection fees and usage rates may be set by resolution of the City Council, or may be set as part of the City's annual budget approval process.

11-2B-030 Billing-Delinquent-Discontinuance of Service.

- A. The City Recorder shall furnish to each user or mail or leave at his or her place of residence or usual place of business a statement, written thereon the amount of pressurized irrigation water service assessed against him or her, once each month, or such other regular interval as the City Council shall direct.
- B. Said statement shall separately specify the amount of the bill for the pressurized irrigation water used and the place of payment and date due. If any person fails to pay the water charges within thirty (30) days of the date due, the City Recorder shall have the authority to direct that all pressurized irrigation water service to the premises involved be discontinued.
- C. Before said pressurized irrigation water service to said premises shall again be provided, all delinquent pressurized irrigation water charges must have been paid to the City Treasurer, together with such extra charge for turning the water on and off and late fees as the City Council may have established by resolution.

11-2B-040 Unauthorized Use.

- A. It is unlawful for any person, after the pressurized irrigation water has been turned off from his or her premises for nonpayment of these charges or other violation of the rules and regulations pertaining to the pressurized irrigation water supply, to turn on or allow the water to be turned on or used without authority.
- B. It shall be unlawful for any person, whether by himself, family, servants, or agents, to utilize the municipal pressurized irrigation water system without paying therefore, as herein provided or, without authority, to open any stopcock, valve, or other fixtures attached to the system of pressurized irrigation water supply unless it is done pursuant to proper applications, agreement or resolution. It shall be unlawful to injure, deface, or impair any part or appurtenance of the pressurized irrigation water system.
- C. It is unlawful for any person to use or obtain pressurized irrigation water services from the premises of another without the expressed permission of the other.

11-2B-050 Service Pipes-Maintenance.

- A. All water pipes from the city main to the pressurized irrigation water valve, located at near property line, shall be maintained by the City. Pipes beyond the valve are service pipes and the responsibility of the customer.
- B. All users of pressurized irrigation water service shall keep their service pipes and connections and other apparatus in good repair and protected from frost at their own expense. No cross-connections with the culinary water system shall be allowed. No person, except under the direction of the City Engineer, shall be allowed to dig into the street for the purpose of laying, removing or repairing any service pipe.
- C. All service and other pipes used in conjunction with the pressurized irrigation water services of the City shall be of such material, quality, and specifications as the City Engineer may from time to time provide, and shall be installed in accordance with the Construction and Development Standards of the City.
- D. Any person cross connecting the pressurized irrigation water service with the culinary water service shall be guilty of a Class B Misdemeanor. In addition to any criminal penalty, such person shall also be subject to termination of all water service (culinary and pressurized irrigation) from the City and shall be responsible for the costs of disinfecting the City's culinary water system, together with all other costs incurred by the City as a result of the cross connection.

11-2B-060 Connection Required.

All outdoor water users in the City, who have access to the pressurized irrigation water system, shall be required to connect to the system, and pay the required fees. The City Engineer may waive this requirement for any lot that has a private well which can be used for outdoor watering. Any such lot which seeks to connect to the system at a future date must pay applicable impact and connection fees in place at the time of application, and prior to connection to the system.

11-2B-070 Waste Prohibited.

- A. No water user may waste water or to allow it to be wasted by imperfect stops, taps, valves, leaky joints or pipes, or to allow tanks or watering troughs to leak or overflow, or to wastefully run water from hydrants, taps, hoses, stops, or other apparatus, or to use the water for purposes other than those which he or she has paid, or to use the water in violation of the rules and regulations for controlling the pressurized irrigation water supply. The pressurized irrigation water system may not be used to water lawns, shrubs, or other landscaping between the hours of 10:00 a.m. and 6:00 p.m.
- B. If, in the judgment of any of the officers of the municipality, a user of the city pressurized irrigation water service engages in practices which result in the needless waste of water and continues to do so after reasonable notice to discontinue the

wastefulness has been given, the matter may be referred to the City Council for a decision as set forth in this section.

- C. The City Council may thereupon consider terminating the right of the individual to use pressurized irrigation water. If it elects to consider the matter of termination, it shall give notice to the water user of the intention to terminate his pressurized irrigation water connection at least five (5) days prior to the meeting of the governing body at which termination of water service is to be considered. The notice shall inform him or her of the time and place of the meeting and the charges which led to the consideration of the termination.
- D. A pressurized irrigation water user whose right to utilize municipal water is being reviewed shall have opportunity to appear with or without counsel and present reasons why water service should not be discontinued.
- E. After due hearing the City Council may determine to continue or discontinue the pressurized irrigation water service. If the determination is to discontinue the wasteful water user's service connection, it shall notify him or her of the decision and of the period during which the service will remain discontinued.

11-2B-080 Excessive Use.

- A. It shall be unlawful for any person to use such number of outlets simultaneously or to use such sprinklers or combinations of sprinklers or outlets as will, in the opinion of the City Engineer, materially affect the pressure or supply of pressurized irrigation water in the municipal pressurized irrigation water in the municipal pressurized irrigation water system or any part thereof.
- B. The City Engineer shall, after determining that such improper use exists, notify the affected pressurized irrigation water user or the owner of the premises whereon such use occurs of such determination in writing, order such use discontinued and advise that such continued usage constitutes a violation of this part.

11-2B-090 Limitations of Use.

In times of scarcity of water, whenever it shall in the judgment of the Mayor and the City Council be necessary, the Mayor shall, by proclamation, limit the use of pressurized irrigation water to such extent as may be necessary for the public good.

11-2B-100 City Not Liable For Damages.

The City shall not be liable for any damage to a water service user by reason of stoppage or interruption of his or her pressurized irrigation water supply caused by scarcity of water, accidents to the water system or its mains, or which occurs as the result of maintenance and extension

operations, or from any other unavoidable cause. This section shall not be construed to extend the liability of the City beyond that provided in the Utah Governmental Immunity Act.

11-2B-110 Violation-Penalty.

Unless otherwise specifically provided, every person who violates any provision of this chapter is guilty of a Class C Misdemeanor. (Ordinance 12-13-06-B)

CHAPTER 3 - SEWER SERVICE

11-3-010. Sewer Service in General - Rules and Regulations.

The city shall provide a sewer system for the benefit of the residents of the city. The city council may enact rules and policies for levying, billing, guaranteeing, and collecting charges for sewer services and all other rules necessary for the management and control of the sewer system.

11-3-020. Rates and Connection Fees.

The sewer rates and connection fees for sewer from the city sewer system shall be fixed from time to time by the city council. The rates and fees may be established in the annual budget enacted by the city council.

11-3-030. Payment - Delinquency - Discontinuance of Service.

- A. The sewer department, or such other person as the city council may designate, shall furnish to each user or mail or leave at his place of residence or usual place of business, a written or printed statement stating the sewer service charges assessed against him or her once each month or at such other regular intervals as the city council shall direct. The statement shall specify the amount of the bill, the place of payment, and the date due.
- B. If any person fails to pay his sewer charges within thirty (30) days of the date due, the recorder shall give the customer notice in writing of the intent to discontinue the service of water to the premises unless the customer pays the bill in full within five (5) days from date of notice.
- C. If the water service is thereafter discontinued for failure to make payment of the sewer service charges, before the water service to the premises shall again be provided, all delinquent sewer charges must have been paid to the municipal treasurer or arrangements made for payment that are satisfactory to the municipality.
- D. In the event water is turned off for nonpayment of sewer charges, before the water service to the premises shall again be provided, the customer shall pay, in addition to all delinquent charges such extra charge for turning the water on and off as the city council may have established by resolution or ordinance.
- E. If any person fails to pay the sewer charges within thirty (30) days of the due date, the recorder is hereby authorized to take all action necessary to enforce collection, including but not limited to the commencement of legal proceedings in a court of proper jurisdiction seeking judgment for the amount of the delinquent fees and service charges and all costs of collection, including court costs and attorney's fees.
- F. Other entities may have the right to discharge into the sewer system. In addition to discontinuance of service, and any other remedies available, any such entity which exceeds its discharge/capacity rights is subject to a civil penalty in a minimum amount of \$5,000.00 per month for each month in which a violation occurs, or such greater amount as is imposed upon Salem City by a state or federal authority having

jurisdiction over any violation caused by such excess discharge. In addition thereto, a penalty equal to double the Salem residential sewer charge shall be imposed for each connection within the offending entity. If court action is required to recover any such penalty, attorney's fees and costs shall also be assessed, which costs shall include engineering/consulting and expert witness fees. (Ord. No. 01-19-05)

11-3-040. The Use of Sewer System Mandatory.

All new buildings constructed within the boundaries of Salem City, whether in residential, commercial, or industrial zones shall be connected to the public sanitary sewer. Existing structures which are not yet connected to the public sewer shall do so at such time as the public sewer becomes available to a property served by a private waste water disposal system. Such connection shall take place within 60 days after the public sewer system becomes available. The public sewer system shall be deemed available when the sewer lines are within 1000 feet of a property line which property contains a building serviced by a private wastewater system. Following connection to a public sewer system, any septic tanks, cesspools, and similar private wastewater disposal facilities shall be cleaned of sludge and filled with suitable material. Exceptions to this Section may be granted by the City Council upon a showing of hardship, which shall not include economic hardship. (Ordinance No. 11-14-95 / Section 11-3-040)

11-3-050. Owner Responsible for Costs.

All costs and expense incidental to the installation and connection of the building sewer shall be borne by the owner(s). The owner(s) shall indemnify the city from any loss or damage that may directly or indirectly be occasioned by the installation of the building sewer.

11-3-060. Standards.

- A. The size, slope, alignment, and materials of construction of all sanitary sewers including building sewers, and the methods to be used in excavating, placing of the pipe, jointing, testing, and backfilling the trench, shall all conform to the requirements of the building and plumbing code or other applicable rules and regulations of the city. In the absence of suitable code provisions or in amplification thereof, the materials and procedures set forth in appropriate specifications of the ASTM and WPCF Manual of Practice No. 9 shall apply.
- B. The connection of the building sewer into the public sewer shall conform to the requirements of the building and plumbing code or other applicable rules and regulations of the city, or the procedures set forth in appropriate specifications of the ASTM and the WPCF Manual of Practice No. 9. All such connections shall be made gastight and watertight and verified by proper testing. Any deviation from the prescribed procedures and material must be approved by the city engineer before installation.
- C. A separate and independent building sewer shall be provided for every building; except where one building stands at the rear of another on an interior lot and no private sewer is available or can be constructed to the rear building through an adjoining alley, court, yard, or driveway, the building sewer from the front building may be extended to the rear building and the whole considered as one building

sewer, but the city does not and will not assume any obligation or responsibility for damage caused by or resulting from any such single connection as designated in this section.

- D. Old building sewers may be used in connection with new buildings only when they are found, on examination and test by the city engineer, to meet all requirements of this chapter.

11-3-070. Permits Required.

No unauthorized person(s) shall uncover, make any connections with or opening into, use, alter, or disturb any public sewer or appurtenance thereof without first obtaining written permit from the city engineer.

11-3-080. Inspections.

The applicant for a building sewer permit shall notify the city engineer when the building sewer is ready for inspection and connection to the public sewer. The connection and testing shall be made under the supervision of the city engineer or representative.

11-3-090. Private Waste Water Systems.

- A. Where the public sewer is not available, the building sewer shall be connected to a private wastewater disposal system complying with the provisions of this section.
- B. Before commencement of construction of a private wastewater disposal system, a percolation test and permit from the Utah County Health Department must be obtained. The owner(s) shall then obtain a written permit signed by the city engineer. The application for such permit shall be made on a form furnished by the city, which the applicant shall supplement by any plans, specifications, and other information as is deemed necessary by the engineer. A permit and inspection fee of twenty-five (25) dollars shall be paid to the city at the time the application is filed.
- C. A permit for a private wastewater disposal system shall not become effective until the installation is completed to the satisfaction of the city engineer. The city shall be allowed to inspect the work at any stage of construction, and, in any event, the applicant for the permit shall notify the engineer when the work is ready for final inspection, and before any underground portions are covered. The inspection shall be made within twenty-four (24) hours of the receipt of notice by the engineer.
- D. The type, capacities, location, and layout of a private wastewater disposal system shall comply with all recommendations of the Utah County Health Department and the Department of Public Health of the State of Utah. No permit shall be issued for any private wastewater disposal system employing subsurface soil absorption facilities where the area of the lot is less than one acre. No septic tank or cesspool shall be permitted to discharge to any natural outlet.
- E. The owner(s) shall operate and maintain the private wastewater disposal facilities in a sanitary manner at all times, at no expense to the city.

- F. No private waste water systems shall be allowed anywhere within Salem City limits which lie east of Woodland Hills Drive and south of the Strawberry-Highline Canal.

(Ord. No. 9-03-03)

11-3-100. Unlawful Deposits.

It is unlawful for any person to place, deposit, or permit to be deposited in any unsanitary manner on public or private property within the city, or in any area under the jurisdiction of said city, any human or animal excrement, garbage, or other objectionable waste.

11-3-110. Unlawful Discharge.

1. It is unlawful to discharge to any natural outlet within the city, or in any area under the jurisdiction of the city, any sewage or other polluted waters, except where suitable treatment has been provided in accordance with the provisions of this chapter.
2. It is unlawful to discharge any material into the waste water treatment system except through and authorized connection. (Ord. No. 1-7-04-A)

11-3-120. Prohibited Uses.

- A. Inflammables. It shall be unlawful for any person to injure, break or remove any part or portion of any sewer appliance or appurtenance, or to discharge into a sewer any inflammable gas, gasoline or oil, any calcium carbide or residue therefrom, or any liquid or other materials or substance which will emit an inflammable gas when in contact with water, sewage or fire. Oil separators installed in any building where volatile fluids are used must not be connected directly or indirectly with a sewer.
- B. Waste pipes from enumerated establishments. The contents of waste pipes from water filters, gas engines, air compressors, vacuum or dry cleaners, garages, wash racks, stores or warehouses containing inflammable substances, car barns, buildings for the stabling or keeping of horses, cows and other animals, or plants using milk or processing milk products, and all similar establishments shall not be disposed of through connection with a sanitary sewer unless such contents are discharged into settling tanks properly trapped and vented. The construction of such tanks must be approved by the municipal engineer, and must be subject to his inspection, approval, or condemnation before cement is poured and at all times thereafter until completion of such construction. Upon condemnation by the municipal engineer, the sewage from the tanks shall not be allowed to flow into the sewer until satisfactory alterations have been made and the construction approved by the municipal engineer.
- C. Obstructive material. It shall be unlawful for any person to empty or discharge into the public sanitary sewer any garbage, refuse or other similar matter or substance likely to obstruct the sewer, or any substance, solid or liquid other than the waste products for which the sewer is provided.

- D. Drainage waters and destructive materials. It shall be unlawful for any person to connect with a public sanitary sewer any drain or pipe which discharges rain water, cellar or surface water, acids, alkalies, lye or other injurious liquids, or the contents of any spring, flowing well, creek, ditch,, or other water courses. No boiler or heating plant shall be directly connected to the sanitary sewer. The overflow from boilers or heating plants, when cooled to a temperature not to exceed 120° fahrenheit, will be allowed to run to a sump, which sump shall be connected to the sewer. The discharge of the contents of waste pipes from water filters, gas engines, air compressors, vacuum or dry cleaners, garages, wash racks, stores or warehouses which contain inflammable substances, buildings for the stabling or keeping of horses, cows and other animals, and all similar establishments, shall not be made into or connected with a sanitary sewer, unless such contents are discharged into settling tanks properly trapped and vented. Settling tanks shall be constructed of a material approved by the city and shall be at all times subject to inspection and approval or condemnation. Upon condemnation, the sewage from said tanks shall not be allowed to flow into the sewer until satisfactory alterations have been made and the construction approved by the city.
- E. It shall be unlawful for any wastewater containing toxic pollutants which either singly or by interaction with other pollutants, causes injury or interference with any wastewater treatment process, constitutes a hazard to humans or animals, creates a toxic effect in the receiving waters of the sewer system, or contaminates the sludge or any sewer system, to be discharged into the sewer system.
- F. It shall be unlawful for any malodorous liquids, gases, or solids which either singly or cumulatively or by interaction with other wastes are sufficient to create a public nuisance or hazard to life or are sufficient to prevent entry into the sewers for their maintenance and repair, to be discharged into the sewer system.
- G. Septic tank, portable toilet, and similar waste is prohibited except for residents dumping waste from a motor home or camp trailer in designated area. (Ord. No. 01-19-05)

11-3-130. Vandalizing Facilities.

No person shall maliciously, willfully, or negligently break, damage, destroy, uncover, deface, or tamper with any structure, appurtenance, or equipment which is a part of the sewer system without the permission of the city. Any person violating this section shall be subject arrest under the charge of vandalism.

11-3-140. Violation - Penalty.

Any person violating any provision of this chapter, unless otherwise indicated, is guilty of a Class C Misdemeanor.

CHAPTER 3A – WASTEWATER PRETREATMENT

11-3A-010 Definitions.

Shall is mandatory, may is permissive or discretionary. The use of the singular shall be construed to include the plural and the plural shall include the singular as indicated by the context of its use. In addition, the following definitions shall be applicable:

- A. **Biochemical Oxygen Demand (BOD).** The quantity of oxygen utilized in the biochemical oxidation of organic matter under standard laboratory procedure, five (5) days at 20° centigrade expressed in terms of mass and concentration [milligrams per liter (mg/l)]. This test must be performed in accordance with approved procedures found in 40 CFR part 136.
- B. **Chemical Oxygen Demand (COD).** “Chemical Oxygen Demand (COD) means the oxygen equivalent of that portion of organic matter in a wastewater sample that is susceptible to oxidation by a strong chemical oxidant. Laboratory determinations shall be made in accordance with methods set forth in 40 CFR 136 or its successors.
- C. **Composite Sample.** The sample resulting from the combination of individual wastewater samples taken at selected intervals based on an increment of either flow or time, to minimize the effect or the variability of the individual samples.
- D. **Grab Sample.** A sample which is taken from a waste stream on a one-time basis, over 15 minutes or less.
- E. **Indirect Discharge (Discharge).** The introduction of pollutants into the POTW from any non-domestic source.
- F. **Instantaneous Maximum Allowable Discharge Limit.** The maximum concentration (or loading) of a pollutant allowed to be discharged at any time, determined from the analysis of any grab or composite sample collected.
- G. **Interference.** A Discharge which, alone or in conjunction with a Discharge or Discharges from other sources both: 1) inhibits or disrupts the POTW and 2) causes a violation of Salem City’s UPDES permit.
- H. **NPDES.** Means the National Pollution Discharge Elimination System or the Utah Pollution Discharge Elimination System.
- I. **pH.** Means the logarithm of the reciprocal of the hydrogen ion concentration. The concentration is the weight of hydrogen ions, in grams, per liter of solution.
- J. **Pass Through.** A discharge which exits the POTW into waters of the State in quantities or concentrations which alone or in conjunction with a discharge or discharges from other sources, is a cause of a violation of any requirement of the UPDES permit (including in the magnitude or duration of a violation).

- K. **Pollutant.** Means the manmade or man-induced alteration of the chemical, physical, biological, and radiological integrity of water, including, but not limited to, any dredged soil, solid waste, incinerator residue, sewage, garbage, sewage sludge, munitions, chemical waste, biological materials, radioactive material, heat, direct or discharge equipment, rocks, sand, dirt, and industrial, municipal, and agricultural waste discharged into water.
- L. **Pretreatment.** The reduction of the amount of Pollutants, the elimination of Pollutants, or the alteration of the nature of Pollutant properties in wastewater prior to or in lieu of introducing such pollutants into the POTW. The reduction or alteration may be obtained by physical, chemical or biological processes, process changes, or any other means, except as prohibited by 40 CFR 403.6(d).
- M. **Publicly Owned Treatment Works (POTW).** The treatment works owned by the City. This definition includes any devices or systems used in the collection, storage, treatment, recycling and reclamation of municipal/domestic sewage or industrial wastes of a liquid nature discharged into the stated system. Also included are any conveyances, such as pipelines, conduits or channels which convey wastewater to a treatment plant. The term also means the municipal entity having jurisdiction over the indirect Discharges to such a system and the discharges from the treatment works.
- N. **Prohibited Discharge Standards or Prohibited Discharges.** Absolute prohibitions against the discharge of certain substances or wastewater characteristics, these prohibitions appear in Section 2.1 of this ordinance.
- O. **Septic Tank Waste.** Any sewage from holding tanks such as vessels, chemical toilets, campers, trailers, and septic tanks.
- P. **Slug Load.** An discharge at a flow rate or concentration which could cause a violation of the Prohibited Discharge Standards or any discharge of a nonroutine, episodic nature, including but not limited to, an accidental spill or a non-customary batch discharge.
- Q. **Total Suspended Solids (TSS).** The total suspended matter that floats on the surface of, or is suspended in, water, wastewater, or other liquid, and which is removable by laboratory filtering.
- R. **Treatment Plant Effluent.** Any discharge from the POTW into waters of the State of Utah.
- S. **Treatment Plant Operator or Operator.** The person designated by Salem City to supervise the operation of the POTW, and who is charged with certain duties and responsibilities by this ordinance or his duly authorized representative.

- T. **Wastewater.** Liquid and water-carried non-domestic wastes, and sewage from residential dwellings, commercial buildings, non-domestic and manufacturing facilities, and institutions, whether treated or untreated which are contributed to the POTW.

11-3A-020. Prohibited Discharge Standards.

No non-domestic user shall introduce or cause to be introduced into the POTW any pollutant or wastewater which causes pass through or interference. Furthermore, no user may contribute the following substances to the POTW.

- A. Pollutants which create a fire or explosive hazard in the POTW system, including but not limited to waste streams with a closed-cup flashpoint of less than 140° F (60° C) using the test methods specified in 40 CFR 261.21.
- B. Any Pollutants which will cause, corrosive structural damage to the POTW or equipment, or endanger Salem City personnel, but in no case discharges with a pH of less than 5.0 or more than 9.0.
- C. Any pollutant, including oxygen demanding pollutants (BOD, etc), released in a discharge at a flow rate and/or pollutant concentration which will cause interference with the POTW.
- D. Any wastewater having a temperature greater than 140° F, or which will inhibit biological activity in the POTW resulting in interference, but in no case heat in such quantity that it causes the temperature at the POTW to exceed 104° F (40° C).
- E. Pollutants which result in the presence of toxic gases, vapors or fumes within the POTW system in a quantity that may cause acute or chronic worker health and safety problems.
- F. Any noxious or malodorous liquids, gases, solids, or other wastewater which, either singly or by interaction with other wastes, are sufficient to create a public nuisance, a hazard to life, or to prevent entry into the sewers for maintenance and repair.
- G. Any wastewater containing any radioactive wastes or isotopes.
- H. Storm water, surface water, ground water, artisan well water, roof runoff, subsurface drainage, swimming pool drainage, condensate, deionized water, noncontact cooling water, and unpolluted industrial wastewater, unless specifically authorized by the Operator.
- I. Any wastes containing detergents, surface active agents, or other substances which may cause excessive foaming in the POTW system.
- J. Any discharge of fats, oils, or greases of animal or vegetable origin is limited to 100 mg/l.

- K. No discharge of petroleum oil is allowed.

11-3A-030. Salem City's Right of Revision.

The Salem City reserves the right to establish, in wastewater discharge permits, more stringent standards or requirements on discharges to the POTW.

11-3A-040. Special Agreement.

Salem City reserves the right to enter into special agreements with non-domestic users setting out special terms under which they may discharge to the POTW.

11-3A-050. Dilution.

No non-domestic user shall increase the use of process water, or in any way attempt to dilute a discharge, as a partial or complete substitute for adequate treatment to achieve compliance with a discharge limitation unless expressly authorized by Salem City.

11-3A-060. Pretreatment Operations.

- A. Non-domestic users shall provide wastewater treatment as needed to comply with this ordinance, and shall achieve compliance with all the prohibitions stated in this Chapter within the time limitations specified by the Operator. Any facilities necessary for compliance shall be provided, operated, and maintained at the non-domestic user's expense, including flow meters when required by the operator. Detailed plans showing the pretreatment facilities and operating procedures shall be submitted to Salem City for review, and shall be acceptable to Salem City before construction of the facility. The review of such plans and operating procedures shall in no way relieve the non-domestic user from the responsibility of modifying the facility as necessary to produce an acceptable discharge to Salem City under the provisions of this ordinance.
- B. Grease, oil and sand interceptors shall be provided when, in the opinion of the Operator, they are necessary for the proper handling of wastewater containing excessive amounts of grease and oil, or sand, except that such interceptors shall not be required for residential users. All interceptor units shall be of type and capacity approved by the Operator and shall be so located to be easily accessible for cleaning and inspection. Such interceptors shall be inspected and cleaned at least once each year or more frequently, as needed, by the owner at their expense.

11-3A-070. Slug Load Control Plans.

The Operator may require any non-domestic user to develop and implement a slug control plan. Any non-domestic user required to develop or implement a slug control plan shall submit a plan which addresses, at a minimum, the following:

- A. Description of discharge practices, including nonroutine batch discharges.
- B. Type and quantity of stored chemicals.
- C. Procedures for immediately notifying Salem City of any accidental or slug discharge.
- D. Procedures to prevent adverse impact from any accidental or slug discharge.

11-3A-080. Owner/Tenant Responsibility.

When an owner of property leases premises to any other person as a tenant under any rental or lease agreement, if either the owner or the tenant is a non-domestic user, either or both may be held responsible for compliance with the provisions of this ordinance.

11-3A-090. Hauled Wastewater.

- A. Septic tank waste may be accepted into the POTW at a designated receiving structure within the treatment plant area, and at such times as are established by the Operator.
- L. Fees for dumping septage will be established as part of the non-domestic user fee system.

11-3A-100. Non-domestic Waste Survey.

When requested by the Operator non-domestic users must submit information on the nature and characteristics of their wastewater by completing a questionnaire and a baseline monitoring report. Failure to complete this application questionnaire shall be reasonable grounds for terminating service to the non-domestic user and shall be considered a violation of the ordinance.

11-3A-110. Application questionnaire Contents.

The Operator shall approve a form to be used as a permit application. Incomplete or inaccurate applications will not be processed and shall be returned to the non-domestic user for revision. Should any of the information requested or supplied be considered by the non-domestic user to be of a confidential nature, the non-domestic user should request confidential status in accordance with this Chapter. The information must contain at least the following:

- A. **Identifying Information.** The name and address of the facility including the name of the operator and owners.
- B. **Hours of Operation.** Number and type of employees, hours of operation, either proposed or actual hours.
- C. **Permits.** A list of any environmental control permits held by or for the facility.

- D. **Description of Operations.** A description of the activities, facilities and processes on the premises, average rate of production, and standard industrial classifications of the operation(s) carried out by the industrial user. This Description should include a schematic process diagram which indicates all points of discharge to the POTW from the regulated processes.
- E. **Facility Plans.** The site plans, floor plans, mechanical and plumbing plans, and details to show all sewers, floor drains, and appurtenances by size, location, and elevation, and all points of discharge.
- F. **Raw Materials.** Type and amount of raw materials processed (average and maximum per day) and chemicals used or stored at the facility.
- G. **Products.** Each product produced by type, amount, process or processes, and rate of production.
- H. **Pretreatment Standards.** Identify the categorical Pretreatment Standards applicable to each regulated process.
- I. **Pollutants.** Submit the results of sampling and analysis identifying the nature and concentration of regulated pollutants in the discharge for each regulated process. Instantaneous, daily maximum and long term average concentration shall be reported. The sample shall be representative of daily operations and shall be sampled and analyzed in accordance with procedures set out in this chapter.
- J. **Flow Measurement.** Time, duration and quantity of discharge. In addition, measured average daily and maximum daily flow, in gallons per day, to the POTW from each waste stream, as necessary to allow use of the combined waste stream formula set out in 40 CFR 403.6(e).
- K. **Certification.** A statement reviewed by the industrial user's authorized representative and certified by the qualified professional, indicating whether Pretreatment Standards are being met on a consistent basis. If not, state whether additional O&M and/or additional pretreatment is required to meet the Pretreatment Standards and requirements.
- L. **Compliance Schedule.** If additional pretreatment and/or O&M will be required to meet the Pretreatment Standards, the shortest schedule by which the industrial user will provide such additional pretreatment and/or O&M. The completion date in this schedule shall not be later than the compliance date established for the applicable Pretreatment Standard.
- M. **Additional Information.** Any other information as may be deemed necessary by the operator to evaluate the wastewater discharge permit application.

11-3A-120. Treatment Works Operator.

The Operator will evaluate the data furnished by the non-domestic user and may require additional information. Within Thirty (30) days of receipt of a complete wastewater discharge permit application, the Operator will determine whether or not to issue a wastewater discharge permit. The Operator may deny for cause any application for a wastewater discharge permit. The basis for denial shall be provided to the non-domestic user.

11-3A-130. Wastewater Discharge Permit Requirement.

- A. It shall be unlawful for any significant non-domestic user to discharge wastewater into POTW without first obtaining a wastewater discharge permit from the Operator.

Any violation of the terms and conditions of a wastewater discharge permit shall be deemed a violation of this ordinance and subjects the wastewater discharge permittee to sanctions. Obtaining a wastewater discharge permit does not relieve a permittee of its obligation to comply with any other requirements of Federal, State or local law.

- B. The Operator may require, other non-domestic users, including liquid waste haulers, to obtain wastewater discharge permits as necessary to carry out the purposes of this ordinance.

11-3A-140. Connections.

- A. **Existing Users.** Any significant non-domestic user which has an indirect discharge into the sewer system prior to the effective date of this ordinance and who wishes to continue such discharges in the future, shall, within ninety (90) days after said date, apply to Salem city for a wastewater discharge permit, and the user shall not cause or allow discharges to the POTW system to continue after ninety days of the effective date of this ordinance, except in accordance with a wastewater discharge permit issued by the Operator.
- B. **New Users.** Any significant non-domestic user proposing to begin or recommence discharging non-domestic wastes into the POTW must obtain a wastewater discharge permit prior to the beginning or recommencing of such discharge. An application for this wastewater discharge permit must be filed at least ninety (90) days prior to the date upon which any discharge will begin. Salem City has the right to place conditions on new or increased contributions from existing users.

11-3A-150. Contents.

Wastewater discharge permits shall include such conditions as are reasonably deemed necessary by the Operator to prevent pass through or interference, protect the quality of the water

body receiving the lagoon's effluent, protect worker health and safety, protect ambient air quality, and protect against damage to the POTW.

11-3A-160. Modifications.

The Operator may modify the wastewater discharge permit for good cause.

11-3A-170. Wastewater Discharge Permit Appeals.

Any person, including the non-domestic user, may petition Salem City to reconsider the terms of a wastewater discharge permit within thirty (30) days of its issuance.

- A. Failure to submit a timely petition for review shall be deemed to be a waiver of the administrative appeal.
- B. In its petition, the appealing party must indicate the wastewater discharge permit provisions objected to, the reasons for this objection, and the alternative condition, if any, it seeks to place in the wastewater discharge permit.
- C. The effectiveness of the wastewater discharge permit shall not be stayed pending the appeal.
- D. If Salem City fails to act within thirty (30) days, a request for reconsideration shall be deemed to be denied.

11-3A-180. Revocation.

Wastewater discharge permits may be revoked for the following reasons:

- A. Failure to notify Salem City of Significant changes to the wastewater prior to the changed discharge.
- B. Failure to provide prior notification to Salem City of changed conditions.
- C. Misrepresentation or failure to fully disclose all relevant facts in the wastewater discharge permit application.
- D. Falsifying self-monitoring reports.
- E. Tampering with monitoring equipment.
- F. Refusing to allow Salem City timely access to the facility premises and records.

- G. Failure to meet effluent limitations.
- H. Failure to pay fines.
- I. Failure to pay sewer charges.
- J. Failure to meet compliance schedules.
- K. Failure to complete a wastewater survey or the wastewater discharge permit application.
- L. Failure to provide advance notice of the transfer of a permitted facility.

Wastewater discharge permits shall be voidable upon non-operation of permitted Facility, cessation of operations, or transfer of business ownership.

11-3A-190. Changed Conditions Report.

Each non-domestic user is required to notify the Operator of any planned changes to the non-domestic user's operations or system which might alter the nature, quality or volume of its wastewater at least 30 days before the change.

11-3A-200. Slug Discharge Report.

- A. In the case of any discharge including, but not limited to, accidental discharges, discharges of a non-routine, episodic nature, a non-customary batch discharge, or a slug load which may cause potential problems for the POTW (including a violation of the prohibited discharge standards in this Chapter), it is the responsibility of the non-domestic user to immediately telephone and notify the Operator, or his designee of the incident. This notification shall include the location of discharge, type of waste, concentration and volume, if known, and corrective actions taken by the non-domestic user.
- B. Within five (5) days following such discharge, the non-domestic user shall, unless waived by the Operator, submit a detailed written report describing the cause(s) of the discharge and the measures to be taken by the non-domestic user to prevent similar future occurrences. Such notification shall not relieve the non-domestic user or any expense, loss, damage, or other liability which may be incurred as a result of damage to the POTW, natural resources, or any other damage to person

or property, nor shall such notification relieve the non-domestic user of any fines, civil penalties, or other liability which may be imposed by this ordinance.

- C. Failure to notify Salem City of potential problem discharges shall be deemed a separate violation of this ordinance.
- D. A notice shall be permanently posted on the non-domestic user's bulletin board or other prominent place advising employees whom to call in the event of a discharge described in paragraph A, above. Employers shall ensure that all employees, who may cause or suffer such a discharge to occur, are advised of the emergency notification procedure.

11-3A-210. Nonpermitted Non-domestic Users Reports.

All non-domestic users not required to obtain a wastewater discharge permit shall provide appropriate reports to Salem City as (the Operator) may require.

11-3A-220. Hazardous Waste Discharge Notification.

- A. Any non-domestic user who commences the discharge of hazardous waste shall notify Salem City, the EPA Regional Waste Management Division Director, and the State Department of Environmental Quality, Division of Solid and Hazardous Waste authorities in writing of any discharge into the POTW of a substance which, if otherwise disposed of, would be a hazardous waste under 40 CFR Part 261. All notifications must take place no later than 30 days after the discharge commences. Any notification under this paragraph need be submitted only once for each hazardous waste discharged.

11-3A-230. Timing.

Written reports will be deemed to have been submitted on the date of receipt of the report.

11-3A-240. Record Keeping.

Non-domestic users shall retain, and make available for inspection and copying, all records and information required to be retained under this ordinance. These records shall remain available for a period of at least three (3) years. This period shall be automatically extended for the duration of any enforcement action concerning compliance with this ordinance, or where the non-domestic user has been specifically notified of a longer retention period by the Operator.

11-3A-250. Inspection.

- A. **Right to Enter.** Salem City shall have the right to enter the facilities of any non-domestic user at reasonable times to ascertain whether the purpose of this ordinance, and any permit or order issued hereunder, is being met and whether the

non-domestic user is complying with all requirements thereof. Non-domestic users shall allow the Operator or his representatives ready access to all parts of the premises for the purposes of inspection, sampling, records examination and copying, and the performance of any additional duties.

- B. **Search Warrants.** If the Operator has been refused access to a building, structure or property or any part thereof, and if the Operator has demonstrated probable cause to believe that there may be a violation of this ordinance or that there is a need to inspect as part of a routine inspection program designed to verify compliance with this ordinance or any permit or order issued hereunder, or to protect the overall public health, safety and welfare of the community, then upon application by the Salem City Attorney, the appropriate judge shall issue a search and/or seizure warrant describing therein the specific location subject to the warrant. The warrant shall specify what, if anything, may be searched and/or seized on the property described. Such warrant shall be served at reasonable hours by the Operator in the company of a uniformed police officer. In the event of an emergency affecting public health and safety, inspections shall be made without the issuance of a warrant.

11-3A-260. Monitoring.

- A. **Sample Collection.** Samples for oil and grease, temperature, pH, cyanide, phenols, toxicity, sulfides, and volatile organic chemicals must be obtained using grab collection techniques. All other wastewater samples shall be collected using composite sampling procedures. In addition, grab samples may be required to show compliance with instantaneous discharge limits.
- B. **Monitoring Equipment.** Salem City, the State of Utah, or the EPA shall have the right to set up on the non-domestic user's property, or require installation of such devices as are necessary to conduct sampling and/or metering of the user's operation.

Salem City may require the non-domestic user to install monitoring equipment as necessary. Equipment at multiple points may be required, at the direction of the operator. The facility's sampling and monitoring equipment shall be maintained at all times in a safe and proper operating condition by the non-domestic user at its own expense. All devices used to measure wastewater flow and quality shall be calibrated at least annually to ensure their accuracy.

- C. **Analytical Requirements.** All pollutant analyses, including sampling techniques, to be submitted as part of a wastewater discharge permit application or for any of the reports required in this Chapter shall be performed in accordance with the prescribed in 40 CFR Part 136.

- D. **Determination of Noncompliance.** The Operator may use a grab sample(s) to determine noncompliance with Pretreatment Standards. The decision to use this method is at the discretion of the Operator and would not be announced in advance to the non-domestic user.

11-3A-270. Obstruction and Delays.

- A. Any temporary or permanent obstruction to safe and easy access to the non-domestic facility to be inspected and/or sampled shall be promptly removed by the non-domestic user at the written or verbal request of the Operator and shall not be replaced. The costs of clearing such access shall be born by the non-domestic user.
- B. Delays in allowing Salem City personnel access to the non-domestic user's premises shall be a violation of this ordinance.

11-3A-280. Confidential Information.

Information and data on a non-domestic user obtained from reports, surveys, wastewater discharge permit applications, wastewater discharge permits, and monitoring programs, and from Salem City inspection and sampling activities, shall be available to the public without restriction unless the non-domestic user specifically requests, and is able to demonstrate to the satisfaction of Salem City, that the release of such information would divulge information, processes or methods of production entitled to protection as trade secrets under applicable State law. When requested and demonstrated by the non-domestic user furnishing a report that such information should be held confidential, the portions of a report which might disclose trade secrets or secret processes shall not be made available for inspection by the public, but shall immediately be made available, upon request, to governmental agencies for uses related to the UPDES program or pretreatment program, and in enforcement proceedings involving the person furnishing the report. Wastewater constituents and characteristics and other "effluent data" as defined by 40 CFR 2.302 will not be recognized as confidential information and will be available to the public without restriction. Salem City will provide a secure facility to maintain documentation considered confidential.

11-3A-290. Significant Noncompliance.

The term significant noncompliance shall mean:

- A. **Discharge violations:** Any discharge violation that Salem City believes has caused, alone or in combination with other discharges, interference or pass through.
- B. **Endangerment:** Any discharge of pollutants that has caused imminent endangerment to Salem City personnel, the public, or to the environment, or has resulted in Salem City's exercise of its emergency authority to halt or prevent such a discharge.

- C. **Failure to Comply:** Failure to meet, within ninety 90 days of the scheduled date, a compliance schedule milestone contained in a wastewater discharge permit or enforcement order for starting construction, completing construction, or attaining final compliance.
- D. **Failure to Report.** Failure to provide within ninety (90) days after the due date, any required reports.
- E. **Failure to Accurately Report Noncompliance.**
- F. **Other Violations:** Any other violation(s) which Salem City determines will adversely affect the operation of the POTW.

11-3A-300. Notification of Violation.

Whenever the Operator finds that any non-domestic user has violated or is violating this ordinance, a wastewater discharge permit, or order issued hereunder, the Operator or his agent may serve upon said user a written Notice of Violation. Such written notice shall be served in person or by certified mail where a receipt is obtained. Within thirty (30) days of the receipt of this notice, an explanation of the violation and a plan for the satisfactory correction and prevention thereof, to include specific required actions, shall be submitted by the user to the Operator. Submission of this plan in no way relieves the user of liability for any violation occurring before or after receipt of the Notice of Violation. Nothing in this section shall limit the authority of Salem City to take any action, including emergency actions or any other enforcement action, without first issuing a Notice of Violation.

11-3A-310. Consent Orders.

The Operator is hereby empowered to enter into consent orders, assurances of voluntary compliance, or other similar documents establishing an agreement with any user responsible for noncompliance. Such orders will include specific action to be taken by the order. Consent Orders shall have the same force and effect as administrative orders issued pursuant to this Chapter and shall be judicially enforceable.

11-3A-320. Show Cause Hearing.

The Operator may order any user which causes or contributes to violation(s) of this ordinance, wastewater discharge permit, or orders issued hereunder, or any other Pretreatment Standard or requirement, to appear before the Operator and show cause why a proposed enforcement action should not be taken. Notice shall be served on the user specifying the time and place for the meeting, the proposed enforcement action, the reasons for such action, and a request that the user show cause why this proposed enforcement action should not be taken. Such written notice shall be served in person or by certified mail where a receipt is obtained. The notice of the meeting shall be served personally or by registered or certified mail (return receipt requested) at least seven (7) days prior to the hearing. Such notice may be served on any

authorized representative of the user. Whether or not the user appears as ordered, immediate enforcement action may be pursued following the hearing date. A show cause hearing shall not be a prerequisite for taking any other action against the user.

11-3A-330. Compliance Orders.

When the Operator finds that a user has violated or continues to violate the ordinance, wastewater discharge permits, or orders issued hereunder, or any other Pretreatment Standard or requirement, he may issue an order to the user responsible for the discharge directing that the user come into compliance within thirty (30) days. If the user does not come into compliance within thirty (30) days, sewer service may be discontinued. Compliance orders may also contain other requirements to address the noncompliance, including additional self-monitoring, and management practices designed to minimize the amount of pollutants discharged to the sewer. A compliance order may not extend the deadline for compliance established for a Federal Pretreatment Standard or requirement, nor does a compliance order release the user of liability for any violation, including any continuing violation. Issuance of a compliance order shall not be a prerequisite to taking any other action against the user.

11-3A-340. Cease and Desist Orders.

When the Operator finds that a user is violating this ordinance, the user's wastewater discharge permit, any order issued hereunder, or any other Pretreatment Standard or requirement, or that the user's past violations are likely to recur, the Operators may issue an order to the user directing it to cease and desist all such violations and directing the user to:

- A. Immediately comply with all requirements.
- B. Take such appropriate remedial or preventive action as may be needed to properly address a continuing or threatened violation, including halting operations and/or terminating the discharge.

Issuance of a cease and desist order shall not be a prerequisite to taking any other action against the user.

11-3A-350. Administrative Fines.

- A. Notwithstanding any other section of this ordinance, any user found to have violated any provision of this ordinance, its wastewater discharge permit, and orders issued hereunder, or any other Pretreatment Standard or requirement may be fined in an amount not to exceed **\$1,000 per day per violation**. Such fines shall be assessed on a per violation, per day basis. In the case of monthly or other long term average discharge limits, fines shall be assessed for each day during the period of violation. Salem City may add the costs of preparing administrative enforcement actions such as notices and order to the fine.
- B. Assessments may be added to the user's next scheduled sewer service charge and the City shall have such other collection remedies as may be available for other service charges and fees.

- C. Unpaid charges, fines, and penalties shall, after sixty (60) calendar days, be assessed an additional penalty of ten (10) percent of the unpaid balance and interest shall accrue thereafter at a rate of 1% per month (12% per annum). A lien against the individual user's property will be sought for unpaid charges, fines, and penalties.
- D. Users desiring to dispute such fines must file a written request for the City to reconsider the fine, along with full payment of the fine amount within thirty (30) days of being notified of the fine. Where a request has merit, the City shall convene a hearing on the matter within fourteen (14) days of receiving the request from the non-domestic user. In the event the user's appeal is successful, the payment together with any interest accruing thereto shall be returned to the non-domestic user.
- E. Issuance of an administrative fine shall not be a prerequisite for taking any other.

11-3A-360. Emergency Suspensions.

The Operator may immediately suspend a user's discharge (after informal notice to the user) whenever such suspension is necessary in order to stop an actual or threatened discharge which reasonably appears to present or cause an imminent or substantial endangerment to the health or welfare of any people. The Operator may also suspend a user's discharge (after notice and opportunity to respond) that threatens to interfere with the operation of the POTW, or which presents or may present an endangerment to the environment.

Any user notified of a suspension of its discharge shall immediately stop or eliminate its contribution. In the event of a user's failure to immediately comply voluntarily with the suspension order, the Operator shall take such steps as deemed necessary, including immediate severance of the sewer connection, to prevent or minimize damage to the POTW, its receiving stream, contamination of sludge, or endangerment to any individuals. The Operator shall allow the user to recommence its discharge when the user has demonstrated to the satisfaction of Salem City that the period of endangerment has passed, unless the termination proceedings set forth in this Chapter are initiated against the user.

A user that is responsible, in whole or in part, for any discharge presenting imminent endangerment shall submit a detailed written statement describing the causes of the harmful contribution and the measures taken to prevent any future occurrence to the Operator, prior to the date of any show cause or termination of discharge hearing under this chapter.

Nothing in this section shall be interpreted as requiring a hearing prior to any emergency suspension under this section.

11-3A-370. Termination of Discharge.

In concert with the wastewater discharge permit revocation provisions of this Chapter, any user that violates any of the following conditions of this ordinance, wastewater discharge permits, or orders issued hereunder, is subject to discharge termination:

- A. Violation of wastewater discharge permit conditions.
- B. Failure to accurately report the wastewater constituents and characteristics of its discharge.
- C. Failure to report significant changes in operations or wastewater volume, constituents and characteristics prior to discharge.
- D. Refusal of reasonable access to the user's premises for the purpose of inspection, monitoring or sampling.
- E. Violation of any of the standards of this Chapter.

The Non-domestic user will be notified of the proposed termination of its discharge and be offered an opportunity to show cause under this Chapter why the proposed action should not be taken.

11-3A-380. Injunctive Relief.

Whenever a user has violated a Pretreatment Standard or requirement or continues to violate the provisions of this ordinance, wastewater discharge permits or orders issued hereunder, or any other pretreatment requirement, Salem City may petition the appropriate Court for the issuance of a temporary or permanent injunction, as appropriate, which restrains or compels the specific performance of the wastewater discharge permit, order, or other requirement imposed by the ordinance on activities of the non-domestic user. In addition, Salem City may recover reasonable attorney's fees, court costs, and other expenses of litigation by appropriate legal action against the user found to have violated any provision herein, or any other rules, regulations, permits, or agreement issued herein. Such other action as appropriate for legal and/or equitable relief may also be sought by Salem City. A petition for injunctive relief need not be filed as a prerequisite to taking any other action against a user.

11-3A-390. Civil Fine Pass Through Recovery.

In the event that a non-domestic user discharges such pollutants which cause Salem City to violate any conditions of its NPDES Permit and Salem City is fined by EPA or the State of Utah for such violations, then such non-domestic users shall be fully liable for the total amount of the fines and civil penalties assessed against the City by EPA or the State of Utah, together with all administrative costs incurred, including attorneys fees.

11-3A-400. Referral to State of Utah for Action.

Salem City may refer to the State of Utah criminal violations of any Pretreatment Standards or permit conditions. The State, at its discretion, may initiate appropriate criminal action.

11-3A-410. Nonexclusive Remedies.

The remedial provisions in this Chapter are not exclusive remedies. Salem City reserves the right to take any, all, or any combination of these actions against a noncompliant user. Enforcement of pretreatment violations will generally be in accordance with Salem City's enforcement response plan. However, Salem City reserves the right, to take other action against any user when the circumstances warrant. Further, Salem City is empowered to take more than one enforcement action against any noncompliant user. These actions may be taken concurrently.

11-3A-420. Severability.

If any provision of this Chapter is invalidated by any court of competent jurisdiction, the remaining provisions shall not be effected and shall continue in full force and effect.

(Ordinance No. 6-10-97-C)

CHAPTER 4 - GARBAGE SERVICE

11-4-010. Garbage Service in General - Rules and Regulations.

- A. The city shall provide garbage pickup services for the benefit of the residents and businesses of the city. The city may fulfill its obligation by providing the service itself or by contracting the service to a private contractor. The City Council may enact rules and policies for levying, billing, guarantying, and collecting charges for garbage service and all other rules necessary for the management and control of the garbage services. (Ord. No. 9-26-95)
- B. All solid waste collected within the City shall be disposed of at a disposal site specified by the City. The City may specify different sites if part of the material may be recycled. (Ord. No. 3-3-04)

11-4-020. Rates.

The garbage pickup rates for garbage services from the city shall be fixed from time to time by the city council. The rates may be established in the annual budget enacted by the council.

11-4-030. Pickup Receptacles.

Salem City will provide and maintain ownership of automated garbage collection receptacles. One such receptacle shall be provided to each resident or business. Additional receptacles may be obtained at a charge to be determined by the city council. Each receptacle shall be numbered and recorded in the city office with the address of the customer.

11-4-040. Condition of Receptacles - Abuse Prohibited.

- A. All receptacles shall be kept in a safe, clean, and sanitary condition by the person using them. Any damage caused by improper use, or loss of the receptacle shall be the responsibility of the person using them.
- B. It shall be unlawful for any person to willfully break, deface, or injure any receptacle.
- C. It shall be the responsibility of users of all receptacles to see that the area around such is kept neat, clean, and sanitary at all times.

11-4-050. Placement of Receptacles - Spillage.

- A. Receptacles containing solid waste shall be set out for collection at the front curb line of the premises using such receptacles, or at a location indicated by the city. Receptacles shall be set out on the day of collection by seven (7:00) a.m. All empty receptacles must be removed from the curb as soon as practicable after being emptied and, in every case, must be removed from the curb the same day they are emptied.

- B. All containers shall be located at appropriate places so as to be readily accessible for emptying and so as not to constitute a nuisance or hazard. No container shall be permanently placed on a city street, right of way, or sidewalk.
- C. Solid waste vehicle operators shall not be required to pick up any solid waste that has been spilled, or that is laying outside the receptacle or container unless the vehicle operators are responsible for the spillage.

11-4-060. Title to Solid Waste.

- A. Title to solid waste shall pass to the city when the receptacle containing the solid waste is set out for pickup. Where receptacles are not to be set out for pickup, title to the solid waste placed in them shall pass to the city upon being placed in the receptacle.
- B. Nothing in this section shall prohibit the generator of the solid waste from reclaiming material set out prior to collection.
- C. It shall be unlawful for any person to place materials of any kind into a receptacle that is not owned, or assigned to that specific person.

11-4-070 Accumulation Prohibited.

- A. It shall be unlawful for any person owning and/or occupying any premises or lot in the city to permit to collect or remain upon such premise or lot any garbage for a period of more than one (1) week, or any refuse for a period of more than one (1) month, unless written approval is granted by the city. Accumulations of leaves and grass used to produce mulch are excluded from the requirements of this section.
- B. It shall also be unlawful to accumulate any of the materials specifically excluded from the definitions of refuse, garbage, or solid waste herein. It shall be the responsibility of the owner of the property to have all such materials removed within a reasonable time depending upon the type of materials, but in no event shall the materials be allowed to accumulate for more than thirty (30) days.

11-4-080. Dumping Prohibited.

Except as provided by the terms of this title, it shall be unlawful for any person to place, deposit, bury, or dump upon any lot, street, alley, or into any water, waterway or container not intended for his or her use, within the corporate city limits, any solid waste or other matter constituting a nuisance.

11-4-090. Hazardous Waste Prohibited.

- A. Except as otherwise provided herein, no person shall knowingly collect or dispose of:
 - 1. Any unmarked sealed barrel for any reason;
 - 2. Any sealed or unsealed barrel upon suspicion of hazardous waste content;

3. Any hazardous waste of any description.
- B. Subsection (A) above, shall not apply to persons licensed pursuant to federal and state law to dispose of hazardous wastes.
- C. A violation of this section is a Class B Misdemeanor, and shall be imposed in addition to federal or state penalties which may also be imposed. A violation by a solid waste contractor or any person employed by a solid waste contractor shall be grounds for suspension or revocation of the license and permit granted to the contractor.

11-4-100. Burning Prohibited.

It shall be unlawful for any person to burn garbage, waste, manure, or other refuse in the open air or any furnace or stove within the municipality.

11-4-110. Burning Exceptions.

- A. The city hereby expressly prohibits outdoor burning with the exceptions identified hereafter and in Utah Code Annotated § 11-7-1(2)(a).
- B. Open burning shall be permitted in the following instances:
 1. in devices for the primary purpose of preparing food such as outdoor grills and fireplaces;
 2. campfires and fires used solely for recreational purposes where such fires are under control of a responsible person;
 3. in indoor fireplaces and residential solid fuel burning devices except as provided in section 4.13.3 of these regulations; and
 4. properly operated industrial flares for combustion of flammable gases.
- C. Open burning is allowed of clippings, bushes, plants, and pruning from trees incident to property clean-up activities provided that the following conditions have been met:
 1. The burning occurs within the thirty (30) day burning period as established by the Utah County Fire Marshall between March 30th and May 30th in compliance with state law in setting said burning period;
 2. Materials to be burned are thoroughly dry;
 3. No trash, rubbish, tires, or petroleum products are used to start fires or are included in the material to be burned.

- D. Other burning is permitted only upon the obtaining of a special burn permit from the Utah County Health Department and a permit or other permission is obtained from the Air Conservation Committee of the Utah State Department of Health. Such burning shall be permitted only within the parameters of the respective permits.

11-4-120. Inspections - Corrections.

Authorized city representative may, with a proper warrant or with the consent of the owner or occupant of the premises, inspect any premises or lots within the corporate city limits from time to time in order to examine the sanitary conditions of the property and to determine whether the property is in compliance with all applicable provisions contained in this chapter. All persons shall, within three (3) days after written notice of any violation, comply with all applicable city ordinances and regulations.

11-4-130. Unauthorized Collection. (Ord. No. 9-26-95 – Section 11-4-130.)

- A. It shall be unlawful for any person or entity, other than the City, or private contractor licensed by the City, to collect, remove, or dispose of solid waste for hire.
- B. This section shall not prohibit any person from transporting their own garbage to an appropriate and licensed landfill, transfer station, mulching yard, compost pit, or recycling center.

11-4-140. Responsibility for Compliance.

The occupant of any premises within the city shall be primarily responsible for the sanitary condition of the premises. The owner of any unoccupied property shall be primarily responsible for the sanitary condition of the property. It shall be unlawful for any person to place, deposit, or allow to be placed or deposited on his or her premises or property any solid waste, except as permitted by the terms of this title.

11-4-150. Violation - Penalty.

Any person found in violation of this chapter is guilty of a Class C Misdemeanor.

CHAPTER 5

Reserved

CHAPTER 6 – SECONDARY WATER

11-6-010. Created

The City shall provide secondary water facilities to the residents of the City for outdoor use. The secondary water facilities shall be maintained and administered by a secondary water utility.

11-6-020. Definitions.

The following definitions are applicable to this chapter:

- A. **Connection Fee** means the cost of participation in the secondary system.
- B. **Equivalent Residential Unit or ERU** represents the amount of outdoor water usage in the average residential lot within the City, determined to be 0.8 acre feet per year.
- C. **Secondary Water** means non-culinary quality water, delivered in a system separate from the culinary water system, for outdoor usage.
- D. **Secondary Water Utility** means the physical facilities consisting of the system, together with the administrative functions, including the part of the public works department devoted to the operations and maintenance of the system.

11-6-030. Mandatory Connection to System.

Every water user shall be required to connect to the secondary water system, unless the City Engineer makes a determination that the secondary system will not be available to such user. All water users shall be required to pay a connection fee in the amount of \$25.00 per month starting December, 2006 and continuing until the system is operational, at which time the connection fee will cease and the user rate will commence.

11-6-040. Rates.

- A. All users of the municipal secondary water system shall pay a monthly rate based on the number of ERU's there are on each developed parcel. Each single family unit, twin home, or town home shall be assessed one ERU. All other developed parcels will be assessed a rate based upon the number of ERU's on the parcel, with a minimum of one ERU.
- B. The rates are to be established each year by the City Council, either by resolution or as part of the annual budget approval process.
- C. The rates authorized herein shall be assessed against every developed parcel regardless of the amount of secondary water used.

11-6-050. Violation – Penalty.

- A. Unless otherwise specifically provided, every person who violates any provision of this chapter is guilty of a Class C Misdemeanor.
- B. Each date that a violation of any provision of this chapter continues constitutes a separate and distinct offense.

(Ord. No. 10-18-06B)

TITLE TWELVE - BUILDINGS AND CONSTRUCTION

CHAPTER 1 - BUILDING REGULATIONS

12-01-010. Building Code - Adopted.

The City hereby adopts the national recognized building code, as adopted by the Utah Uniform Building Code Commission, as it may be amended from time to time, subject only to those exceptions allowed by State Law as set forth In Utah Code Ann. §58-56-1 et seq. (Ord. No. 12-12-01)

12-01-020. Fees.

Building permit fees shall be based upon the table of fees as published in the 1997 edition of the Uniform Building Code.

Plan review fees for retail commercial establishments or industrial businesses shall be 10% of the building permit fee.

Other fees, not identified herein, shall be in the amounts as set forth in the building code in place at the time the fee is incurred. (Ord. No. 1-23-96 – Section 12-1-020.) (Ord. No. 3-8-98 – Section 12-1-020) (Ord. No. 12-12-01 – Section 12-01-020)

12-01-025. Water Transfer.

Prior to the issuance of a building permit, the building official shall require the transfer of water to the City required by Section 13-2-110, unless previously transferred as part of a development. (Ord. No. 7-19-06)

12-01-030. Violation.

It shall be a class C misdemeanor to erect, construct, enlarge, alter, repair, move, demolish, occupy or use any building or structure in the city in violation of or without complying with the provisions of the Uniform Building Code.

12-01-040. Remodel Deposit

Whenever a building permit is obtained to perform any remodeling project a cash deposit in the amount of \$500.00 shall be collected. Upon obtaining the final inspection and a certificate of occupancy, the deposit shall be refunded to the person named on the building permit as the applicant for the permit.

If a certificate of occupancy is not obtained within six months from the time the building permit is issued, the deposit shall be forfeited. The Building Official has the discretion to extend the time to obtain a certificate of occupancy and avoid forfeiture for an additional period of time up to six months. No more than one six month extension may be granted by the Building Official. A request for any additional extensions must be brought before the City Council.

(Ord. No. 9-19-01)

CHAPTER 2 - MOVING BUILDINGS

12-02-010. Permit - Required.

No permit shall be issued for the moving of any residential, commercial or industrial building from one site within the city to another site within the city, or from a site outside the city to site within the city, without first filing an application with the city, and obtaining a permit therefore from the city.

12-02-020. Permit - Application.

The following information shall be filed with the city at the time application is made:

- A. The location and address of the old and new site;
- B. A plot plan of the new location, also showing adjacent lots on all sides of the property and indicating all structures and improvements on said lots;
- C. Plans and specifications for the proposed improvements at the new location including plans for landscaping;
- D. Before further consideration of said application, the building inspector must certify in writing that the structure is sound enough to be removed and that the location and use of the building will conform to the building and zoning ordinances of the city.

12-02-030. City Approval of Application.

Prior to approval of the application for the moving of a building, the City Council must find:

- A. That the building will have no appreciable detrimental effect on the living environment and property values in the area into which the structure is to be removed;
- B. That the building is in conformity with the type and quality of buildings existing in the area into which it is proposed to be moved;
- C. That said building and the lot on which it is to be located conforms to the requirements of the zoning ordinance and building code;
- D. That its location on the lot does not in any substantial way adversely affect buildings or uses on abutting property;
- E. That all dedications and improvements as required by the city for streets and facilities and buildings shall be provided in conformity with the standards of the city.

12-02-040. Standard Required Before Occupancy.

Prior to occupancy, the building shall be brought up to current standards of the building code for a new building and shall be painted, refurbished and maintained at that standard.

12-02-050. Bond Required.

Before a permit to move a building may be granted the applicant shall post a bond or other assurance as determined by the city to cover the costs of improvements established in the granting of the permit.

12-02-060. Old Site to Be Restored.

If the site to be vacated is within the city, the bond shall also cover the costs involved in cleaning up the vacated site and restoring it to a safe and sightly condition.

12-02-070. Payment of Expenses.

In addition to the regular fees for inspection charges and for building permits, the applicant shall pay any extraordinary expenses which may be incurred, including travel by the building inspector to inspect the building, or any other similar expenses incurred by the city.

12-02-080. Violation.

It shall be a Class C misdemeanor to erect, construct, enlarge, alter, repair, move, demolish, occupy or use any building or structure in the city in violation of or without complying with the provisions of the Moving Buildings Code.

CHAPTER 3 - PLUMBING CODE

12-03-010. Adopted.

The city hereby adopts the national recognized plumbing code, as amended from time to time, as adopted by the Utah Uniform Building Code Commission, subject only to those exceptions allowed by state law as set forth in Utah Code Ann. §58-56-1 et seq. (Ord. No. 12-12-01)

12-03-020. Violation.

It shall be a class C misdemeanor to erect, construct, enlarge, alter, repair, move, demolish, occupy or use any building or structure in the city in violation of or without complying with the provisions of the Uniform Plumbing Code.

CHAPTER 4 - ELECTRICAL CODE

12-04-010. Adopted.

The city hereby adopts the National Electrical Code as amended from time to time, as promulgated by the National Fire Protection Association, subject only to those exceptions allowed by state law, as set forth in Utah Code Annotated, §58-54-1 et seq.

12-04-020. Violation.

It shall be a class C misdemeanor to erect, construct, enlarge, alter, repair, move, demolish, occupy or use any building or structure in the city in violation of or without complying with the provisions of the National Electrical Code.

12-04-030. Deposit.

- A. A deposit of \$1,000.00 is due from a contractor/developer upon request for permanent power in order to obtain final inspection.
- B. The deposit set forth in paragraph (A) will be forfeited to the City if the contractor/ developer allows the owner to move in prior to receipt of a certificate of occupancy, unless otherwise excepted by ordinance. The City Building Official may grant a temporary certificate of occupancy if inclement weather prevents the completion of minor items, which do not threaten the life or safety of the occupants, necessary to obtain a permanent certificate of occupancy. All items must be completed on or before May 15 following the issuance of a temporary certificate of occupancy or the deposit will be forfeited to the City. If the deposit is forfeited, no additional building permits may be issued, nor projects approved for that contractor/developer until the work is completed and a final certificate of occupancy issued. The Building Official has the discretion to determine if an incomplete item is minor and weather or not to issue a temporary certificate of occupancy. Nothing herein shall be construed to relieve the contractor/developer from providing all items required by the building code or by contract. (Ord. No. 5-17-06A)
- C. The deposit referred to in paragraph (A) shall be refunded to the person posting the same, which refund will be made upon final inspection and the issuance of a final certificate of occupancy, if the provisions of paragraph (B) are complied with. In the event the person posting the bond has not left a forwarding address with the City, the refund will be made to the occupant of the building as shown on the City utility records. (Ord. No. 2-13-96 – Section 12-04-030)

**CHAPTER 5 –
ENERGY CONSERVATION IN NEW BUILDING CONSTRUCTION**

12-05-010. Adopted.

The city hereby adopts the Utah Code for Energy Conservation in New Buildings as amended from time to time, as promulgated by the Utah Energy Office, subject only to those exceptions allowed by state law as set forth in Utah Code Annotated, §58-54-1 et seq.

12-05-020. Violation.

It shall be a class C misdemeanor to erect, construct, enlarge, alter, repair, move, demolish, occupy or use any building or structure in the city in violation of or without complying with the provisions of the Code for Energy Conservation in New Buildings.

CHAPTER 6 - UNIFORM MECHANICAL CODE

12-06-010. Adopted.

The City hereby adopts the nationally recognized mechanical code as adopted by the Utah Uniform Building Code Commission, or amended from time to time, subject only to those exceptions allowed by State Law, as set forth in Utah Code Ann. §58-56-1 et. seq. (Ord. No. 12-12-01)

12-06-020. Violation.

It shall be a class C Misdemeanor to erect, construct, enlarge, alter, repair, move, demolish, occupy or use any building or structure in the city in violation of or without complying with the provision of the Uniform Mechanical Code.

CHAPTER 7 – UNIFORM CODE FOR ABATEMENT OF DANGEROUS BUILDINGS

12-07-010. Adopted

The City hereby adopts the Uniform Code for Abatement of Dangerous Buildings, as it may be amended from time to time, or such other nationally recognized code as may be adopted by the Utah Uniform Building Code Commission, subject only to those exceptions allowed by state law as set forth in Utah Code Ann. §58-56-1 et. seq.

12-07-020. Violation.

It shall be a Class c. Misdemeanor for any property owner or occupant to fail to abide by the directions of the City Building Official in abating any dangerous building or any directive related thereto.

(Ordinance No. 12-12-01)

CHAPTER 8 – INTERNATIONAL FUEL GAS CODE

12-08-010. Adopted.

The City hereby adopts the International Fuel Gas Code, as amended from time to time, or such other code as may be adopted by the Utah Uniform Building Code Commission, subject only to those exceptions allowed by State Law as set forth in Utah Code Ann. §58-56-1 et seq.

12-08-020. Violation.

It shall be a Class C Misdemeanor for any contractor, developer, owner, or occupant to violate the provisions of the International Fuel Gas Code, or such substitute code as may be adopted by the Utah Uniform Building Code Commission.

(Ordinance No. 12-12-01)

TITLE THIRTEEN - SUBDIVISIONS

CHAPTER 1 - GENERAL PROVISIONS

13-1-010. General.

The intent of this title is as follows:

- A. To facilitate the orderly development of the city in accordance with the city's comprehensive general plan; (Ord. No. 6-20-05)
- B. To implement the city's major street plan;
- C. To facilitate the development of a safe and efficient street system;
- D. To facilitate the orderly transfer of the ownership of building sites in a manner consistent with state law;
- E. To facilitate adequate provisions for water, sewer, drainage, utilities, and other services;
- F. To establish the rights, duties, and responsibilities of subdividers and developers with respect to the development of land.

13-1-020. Definitions.

- 1. **Affected Entity:** A government entity, school district, public utility, interlocal cooperative entity, or service or similar district whose facilities are likely to require expansion or significant modification because of an intended use of land or the entity's facilities or boundaries are within one mile of land which is the subject of a land use ordinance change. (Ord. No. 6-20-05)
- 2. **Block.** The land surrounded by streets and other rights-of-ways other than an alley, or land which is designated or shown as a block on any recorded subdivision plat, or official map of plat adopted by the city council.
- 3. **City.** The City of Salem.
- 4. **City Engineer.** The person appointed by the city to be the city engineer.
- 5. **Completion Date.** The date the entire subdivision or development is completed and an approved final inspection statement is given.

6. **Construction Plans and Profiles.** Plans drawn by a registered civil engineer or land surveyor showing all required improvements including the location, size, grade and elevations.
7. **Construction and Development Standards.** The Development Standards as referred to in this title and adopted by the city council.
8. **Council or City Council.** The governing body of the city.
9. **Developer.** Person, persons, partnership or corporation developing residential, commercial or industrial property.
10. **Development Review Committee or DRC:** A committee that provides technical review, analysis, and recommendations to the Planning and Zoning Commission and the City Council as related to the City's Comprehensive General Plan, Zoning Ordinance, Subdivisions, Capital Facilities Plan, and Site Plans. (Ord. No. 6-20-05)
11. **Engineer.** A person registered with the State of Utah to practice as a professional engineer.
12. **Final Approval.** The final approval of the city council and signing of the plat by the mayor and council.
13. **Final Decision:** A decision by a land use authority which approves, approves with conditions, or denies a land use application. A final decision is made by motion and majority vote in a public meeting, or by a written decision if no vote is taken in a public meeting. When a final decision is made by a staff person, it is when the application is either approved or denied in writing. (Ord. No. 6-20-05)
14. **Final Grading.** The last stages of excavation or filling or combination of excavation or filling prior to the installation of concrete or bituminous paving.
15. **Final Plat.** A map or plat drawn on mylar or linen in a form as approved by the County Records, showing all lots, streets, utility easements, etc.
16. **Formally Initiated:** An act taken to change or modify a land use ordinance by application or by motion of the Planning and Zoning Commission or City Council, made in a public meeting. (Ord. No. 6-20-05)
17. **Improved Lot.** A lot which has all the improvements required in this chapter.

18. **Improvements.** Includes roads, streets, curb, gutters, sidewalks, gradings, landscaping, water and sewer systems, drainage systems, fences, and public facilities required by this chapter.
19. **Land Surveyor.** A person registered with the State of Utah to practice as a licensed land surveyor.
20. **Land Use Authority:** A person, board, commission, agency, or other body designated by ordinance to act upon a land use application. (Ord. No. 6-20-05)
21. **Land Use Ordinance:** A Planning, Zoning, Development, or Subdivision Ordinance of the City, but does not include the Comprehensive General Plan. (Ord. No. 6-20-05)
22. **Lot.** A parcel or tract of land within a subdivision which is or may be occupied by a building or structure and the accessory buildings, structures or uses customarily incident thereto, including such open spaces as are arranged and designed to be used in connection with the building according to the zone within which the lot is located.
23. **Master Plan.** The comprehensive land use plan document as approved by the city council.
24. **Offsite Facilities.** Facilities outside of the boundaries of the subdivision or development site which are designated and located to serve the needs of the subdivision or development or adjacent property, usually lying between a development and existing facilities.
25. **Onsite Facilities.** Facilities installed within or on the perimeter of the subdivision or development site.
26. **Parcel of Land.** A contiguous area of land in the possession or ownership of one person.
27. **Planning Commission.** The Planning and Zoning Commission of Salem City.
28. **Preliminary Plat.** A map or plat of a proposed subdivision or development with accompanying supplementary documents.
29. **Public Utility Easements.** The easements required to place public utilities across any privately owned property.

30. **Sensitive Lands:** Lands having any of the following characteristics: slopes in excess of 30%, wetlands, 100-year floodplain, natural drainages, fault zones, streams, lakes, canals, and irrigation ditches.
(Ord. 9-20-06A)
31. **Streets.** A thoroughfare which has been dedicated and accepted by the city council, which the city has acquired by prescriptive right or which the city owns, or is offered for dedication on an approved recorded final plat. For further explanation see the streets section of the Construction and Development Standards.
32. **Subdivision.** The first division of any tract or parcel of land, for the purpose, whether immediate or future, for sale or for building development;
33. **Utilities.** Includes culinary water lines; irrigation lines; sanitary and storm sewer lines; gas lines; electric power lines; cable television and telephone transmission lines; underground conduits; and junction boxes and all appurtenances to the above.
34. **Warranty Period.** Warranty period is one year after city approval of subdivision improvements as one year after city approval of repairs or replacements of subdivision improvements whichever is longer.
35. **Zoning Ordinance.** The zoning ordinances of the City of Salem as adopted by the city council.

13-1-030. Approval Required.

- A. Subdividing land. It shall be unlawful for any person to create a subdivision or subdivide for the purpose of transferring, selling, conveying, or assigning any tract or parcel of land which is located wholly or in part in the city except in compliance with this ordinance.
- B. Subdivisions. It shall be unlawful for any person to sell or exchange or to offer to sell or exchange any parcel of land which is part of a subdivision of land, or recorded in the office of the Utah County Recorder as a subdivision unless the subdivision has been approved by the city and complies with the provisions of this chapter.
- C. Building permit conditions. No building permit shall be issued until the final subdivision plat has been recorded by the city at the office of the Utah County Recorder.

13-1-040. Exceptions.

Land may be sold by metes and bounds descriptions without the necessity of recording a subdivision plat, if the following conditions are met:

- A. The subdivision contains less than 10 lots;
- B. The subdivision shall have been first approved in writing by the planning commission;
- C. The subdivision is not traversed by the mapped lines of a proposed street as shown on the official map or maps of the municipality;
- D. The subdivision does not require the dedication of any land for street or other public purposes;
- E. Each lot in the subdivision meets the frontage, width, and area requirements as set forth under the zoning ordinance or has been granted a variance from such requirements by the board of adjustments;
- F. All improvements required under chapter 3 of this title shall have been installed without cost to the city.

13-1-050. Dedicated Streets. (Ord. No. 10-8-96)

All streets shall be dedicated for public use. All streets proposed for dedication to the city shall conform to the minimum standards for paving and width. The city may not approve a street which is not fully paved the entire width necessary to meet the city requirements, unless the City Council makes a finding of exceptional circumstance, such as a deviation which is necessary to meet the master street plan, to line up existing streets or similar unusual circumstances.

13-1-060. Lots Abutting Streets.

Each lot shall abut on a street dedicated by the subdivision plat or on an existing publicly dedicated street, or on a street which has become public by right of use and is more than fifty feet wide. (Ord. No. 6-20-05)

13-1-070. Private Roads - Driveways.

All officials and employees of the city shall refrain from opening, accepting, grading, paving, or lighting the street, authorizing the laying of sewers and water mains, or making connections to public water or sewer lines in a street unless said street:

- A. Has received the status of a public street, either by prescription or dedication; or
- B. is shown on a plat of the subdivision which plat has received tentative approval by the City Council; or
- C. has been dedicated to and accepted by the City Council.

No City officer or employee shall enter upon private driveways or roads for the purpose of maintaining or constructing the same, unless and until such private driveways or roads shall have first been made to comply with the standards for public streets for width and improvements and shall have been accepted as a public street or road by the Planning Commission and City Council.

13-1-080. Notices.

Public hearings required by law shall be noticed by publishing in a newspaper of general circulation within the city and by posting on the city web page at least 10 days prior to the scheduled hearing. Notice shall also be mailed, sent by facsimile copy, or e-mailed to affected entities. (Ord. No. 6-20-05)

13-1-90. Appeal Process.

- A. Any land use decision made under this title may be appealed by an interested party by following the procedures set forth in this section. All appeals shall be to the Appeal Authority identified in this title. Appeals from the Appeal Authority shall be to the District Court.
- B. All appeals must be in writing and, unless otherwise indicated, must be filed within 15 days from the date of a final decision by the appropriate land use authority.
- C. Appeals must be received in the office of the City Recorder, and any fees paid, within the appeal time limit.
- D. Matters considered by the Appeal Authority shall be *de novo*. Matters appealed to the District Court shall be a review of the record made before the Appeal Authority or council. No matter may be considered on appeal which was not first presented to the land use authority for its consideration. (Ord. No. 6-20-05)

13-1-100. Appeal Authority.

The City Council will act as the Appeal Authority for land use decisions made under this title, except those decisions made by the Council as the land use authority. In those instances when the Council is the land use authority, the appeal shall be filed directly with the District Court. All appeals shall follow the process set forth in §13-1-00, unless more specific procedures are set forth for a specific appeal. (Ord. No. 6-20-05)

CHAPTER 2 - PLATS REQUIRED

13-2-010. Preliminary Plats - Filing. (Ord. No. 11-26-96 – Section 13-2-010) (Ord. No. 5-6-98 – Section 13-2-010.)

Whenever a subdivision is to be filed, eight copies of the preliminary or tentative plat shall be prepared and presented to the City for approval at least 10 (ten) days before the next scheduled meeting with the Planning and Zoning Commission and five working days prior to the next meeting of the Development Review Committee.

Filing fees, as established from time to time by resolution of the City Council, must be tendered before the preliminary plat will be accepted by the City.

(Ord. No. 6-17-98 – Section 13-2-010[1])

1. Preliminary plats containing affordable housing units designated according to Salem City Municipal Code §14-8-050 shall receive an expedited review process.

13-2-020. Preliminary Plats - Form and Contents.

The preliminary plat of a subdivision shall contain the following information:

- A. The proposed name of the subdivision;
- B. The location of the subdivision as a part of some larger subdivision or tract of land referred to in the records of the county recorder. In such case, a sketch of the prospective street system of the unplatted parts of the subdivider's land shall be submitted and the street system of the part submitted shall be considered in light of existing master street plans or other planning commission street studies;
- C. The names and addresses of the subdivider, the engineer or surveyor of the subdivision, or other persons to whom notice of the hearing to be held by the city council should be sent;
- D. Sufficient information to locate accurately the property shown on the plat and the location and principle dimensions of recorded section lines, streets, alleys, easements, watercourses, sewer, gas and water mains and all other important features within and adjacent to the tract to be subdivided;
- E. The location and principle dimensions of all proposed streets, alleys, easements, lot lines and areas to be reserved for public use;
- F. The date of preparation, the scale (not less than one hundred feet to the inch) and the north arrow;

- G. A contour map based on city datum with vertical intervals not to exceed five feet, or where such information is not obtainable, a centerline profile for all proposed rights-of-ways; and
- H. The names of all adjacent subdivisions and property owners.
- I. A resume of the developer and/or contractor who will be doing the subdivision improvements, as identified in Title 13, Chapter 3 of the Salem City Municipal Code, 13-3-010 et. seq., is required. The resume should include all development projects undertaken by the developer/contractor within the last ten (10) years together with such other information that the developer deems appropriate. (Ord. No. 4-22-97)

13-2-030. Preliminary Plats - Approval Procedure.

- A. Each preliminary plat submitted to the City shall be referred to the City Development and Review Committee for review to ensure conformity to the present ordinances and standards and to determine the adequacy and availability of public facilities. (Ord. No. 5-6-98 – Section 13-2-030.) (Ord. No. 8-16-00-A)
- B. Approval of a preliminary subdivision plat shall not be granted until such time as the applicant has provided information, to the satisfaction of the City Engineer and/or Public Works Director, to establish that adequate public facilities exist as set forth in §13-3-010. (Ord. No. 6-20-05)
- C. (Repealed)
- D. The adequacy of public facilities shall be determined in accordance with the Salem City Development and Construction Standards, the various master plans, and the Comprehensive General Plan of the City, and the City Development Review Committee (DRC). Any party dissatisfied with the decision of the DRC may appeal to the City Council by filing a written appeal within ten days of the DRC decision.
- E. In the event that the City determines that adequate public facilities are not available and will not be available by the time of final plat approval, so as to assure that adequate public services are available at the time of occupancy, the City may proceed as set forth in §13-3-020. (Ord. No. 6-20-05)
- F. If the plat is not in conformity with the Construction and Development Standards, or with this chapter, the Development review Committee shall refer it back to the subdivider or developer

with a list of items necessary to bring the plat into compliance. If the plat is in conformity, it will be submitted to the Planning and Zoning Commission with suggestions and comments noted thereon.

- G. The Planning and Zoning Commission may table the matter to further study the issues presented. The Planning and Zoning Commission may recommend approval, rejection, or approval with conditions to the City Council. After considering the recommendations of the Planning and Zoning Commission, the City Council may approve, reject, or grant approval upon the condition stated. The City Council acts as the land use authority. If approved, the City Council shall express its written approval with whatever conditions are attached. If any conditions are attached, the preliminary plat shall be amended to reflect such changes and an accurate preliminary plat shall be submitted to the Public Works Director. (Ord. No. 6-20-05)
- H. Receipt of the signed copy of the preliminary plat shall be authorization for the developer to proceed with the preparation of plans and specifications for the minimum improvements hereinafter required by this title and with the preparation of the final plat. (Ord. No. 8-16-00-A) (Ord. No. 6-20-05)

13-2-040. Preliminary Plats - Duration of Approval.

Approval of the preliminary plat by the city council shall be valid for a maximum period of twelve months after approval unless, upon application by the developer, the city council may grant an extension up to six months. If the final plat has not been recorded within the twelve-month period or the extension period granted, the preliminary plat must again be submitted to the city council for reapproval.

Preliminary approval of a large tract shall not be voided if the final plat of the first section thereof is submitted for final approval within one year and an extension of time is granted as to the remainder thereof.

13-2-050. Final Plats - Filing. (Ord. No. 11-26-96 – Section 13-2-050) (Ord. No. 5-6-98 – Section 13-2-050)

Within one year after the approval of the preliminary plat or within the time for which an extension to make such filing has been granted, the original tracing and eight copies of a final plat, along with complete construction drawings of such subdivision shall be submitted to the City at least ten days before the Development Review Committee meeting at which the plat is to be reviewed.

13-2-060. Final Plats - Fees.

Filing fees, as established from time to time by resolution of the City Council, must be tendered before filing of the final plat with the City will be accepted.

13-2-070. Final Plats - Form and Contents.

The final plat of a subdivision shall be in form according to the format approved by Utah County and shall contain the following:

- A. Accurate dimensions for all lines, angles and curves used to describe boundaries, streets, alleys, easements, areas to be reserved for public use and other important features; the lines, angles, dimensions, State Plane Coordinates, bearings, numbers and square footage of all lots, blocks and parts reserved for any reason within the subdivision. All dimensions shall be determined by an accurate field survey which shall balance and close within a limit of one in fifty thousand;
- B. All lots and blocks are to be numbered and named in accordance with the street numbering and naming system of the city, unless the city council has given their prior approval for a different naming and numbering system;
- C. All drawings and signatures shall be in waterproof ink or tracing cloth with outer dimensions of twenty-four inches by thirty-six inches. There shall be an unencumbered margin of one and one-half inches on the left-hand side of the sheet and not less than a half inch margin around the other three sides of the sheet. In no case shall the scale be less than one hundred feet to the inch;
- D. When more than one sheet is required, an index sheet of the same size shall be filed showing the entire subdivision with the individual sheets blocked out thereon as a key.
- E. Following final approval of the City, reproducible copies of the final plat and all construction drawings shall be furnished to the City by the developer. (Ord. No. 6-20-05)

13-2-080. Final Plats - Approval Procedure.

Each final plat shall be submitted to the City Engineer for review to ensure conformity to the present ordinances and construction and development standards and for the adequacy and availability of public facilities. If the final plat is not in conformity, the City Engineer shall refer it back to the subdivider or developer with a list of items necessary to bring the final plat into compliance. If the final plat is in conformity, it will be submitted to the DRC with suggestions and comments noted thereon. After considering the recommendations of the City Engineer, the DRC may table the matter, approve, or grant approval upon conditions stated. The DRC acts as the land use authority. If approved, the City Mayor and City Engineer shall sign the final plat. If a ditch is to be piped or abandoned, the applicable irrigation company, which owns the ditch shall also have a representative sign the plat indicating their approval. In the event the irrigation company refuses to sign, the City will request a letter from the irrigation company indicating why they refuse to sign. If the City determines the reason to be unreasonable, it may record the plat without the irrigation company signature. If any conditions are attached, the final plat shall

be amended to reflect such changes and an accurate plat shall be submitted to the City Engineer, prior to signing by the Mayor and Engineer. (Ord. No. 5-8-98 – Section 13-2-080) (Ord. No. 04-07-04B)

Each final plat, including all phases of a preliminary plat, are subject to the construction and development standards, policies, and regulations that are in effect at the time of approval for each of the final plats. (Ord. No. 6-20-05)

13-2-090. Final Plats - Title Documentation.

Evidence of title is to be supplied by a policy of title insurance or a preliminary title report, or in such other form as may be required by the city, verifying that the owners listed in the owners' certificate of dedication have sufficient control over the premises to effectuate said dedication without boundary exceptions.

13-2-100. Final Plats - Security/Performance Bond.

- A. The developer of a subdivision shall bond for the proper and timely installation of all subdivision improvements required by the City.
- B. The developer's bond shall guarantee that all required improvements will:
 - 1. Be constructed in accordance with the City's Construction and Development Standards and the construction drawings approved by the City.
 - 2. Be completed and pass City inspection within one (1) year of the date that the final plat is recorded, or any extensions granted by the City Council.
 - 3. Remain free from defects for a period of one (1) year following the date that all improvements pass City inspection. The developer shall repair or replace any improvements which are or become defective during this time period. All repairs or replacements shall be made to the satisfaction of the City. All repairs or replacements shall remain free from defects for a period of one year following the repair or replacement and after passing city inspection. The city may retain the developer's bond until the repairs have lasted through the warranty period, and may take action on the bond if necessary to properly complete the repairs.
- C. The bond guaranteeing the developer's timely and proper installation of required improvements shall be equal in value to at least one hundred twenty-five percent (125%) of the cost of the required improvements, as estimated by the City Engineer. The purpose of the bond is to enable the City to make or complete the required

improvements in the event of the developer's inability or failure to do so. The City need not complete the required improvements before collecting on the bond. The City may, in its sole discretion, delay taking action on the bond and allow the developer to complete the improvements if it receives adequate assurances that the improvements will be completed in a timely and proper manner. The additional twenty-five percent will be used to make up any deficiencies in the bond amount and to reimburse the City for collection costs, including attorney's fees.

- D. The bond shall be an irrevocable letter of credit, escrow bond or cash bond in favor of the City. The City must approve any bond submitted pursuant to this section. The City reserves the right to reject any of the bond types if it has a rational basis for doing so. Letters of credit and escrow bonds shall be from a federally insured bank and shall be submitted on standard forms. (Ord. No. 6-20-05)
- E. Cash Bond.
 - 1. A developer may use a cash bond by tendering the required bond amount in cash or certified funds to the City.
 - 2. Partial releases may be made from the cash bond as allowed for other bond types.
 - 3. The City shall not pay any interest on funds held as a cash bond.
- F. A sum equal to twenty-five percent (25%) of the total amount covered by the bond shall be held and not released for a period of one year after all improvements are completed and final inspection is made by the City. (Ord. No. 1-10-95 / Section 13-3-100[F]).
- G. No final subdivision plat shall be recorded until the developer of the subdivision has tendered the bond and entered into an agreement with the City in which the developer agrees to install the improvements as required by this Chapter and agrees to indemnify and hold the City harmless from any claims, suits or judgments arising from the condition of property dedicated to the City, from the time that the property is dedicated to the City to the time when the improvements on the dedicated property are finally accepted by the City (including the passage of the warranty period).
- H. If, for any reason, the funds or bonds set aside or provided for the guarantee of improvements are insufficient to properly complete the improvements, the developer shall be personally liable to complete the improvements required by this Chapter. If the developer is a

corporation, the principal officers of the corporation shall be personally liable to complete the improvements.

- I. The bonds required by this Section are for the sole benefit of the City. The bonds are not for the individual benefit of any citizen or identifiable class of citizens, including the owners or purchasers of lots within the subdivision. The bonds are not for the purpose of ensuring payment of contractors, subcontractors or suppliers of labor or materials, and no contractors, subcontractors or suppliers of labor or materials shall have a cause of action against the City or the bond for providing labor or materials.

13-2-110. Final Plats - Water Transfer.

- A. Prior to receiving final plat approval, the subdivider or developer shall convey to the City the water rights for each lot or residential equivalent unit as set forth herein.
- B. For each residential or residential equivalent unit connection, 0.5 acre feet of culinary quality water shall be conveyed to the City.
- C. For each single family residence or twin home, up to one-half acre in lot size, 0.8 acre feet of non-culinary quality water shall be conveyed to the City. For single family residences or twin homes or lots larger than one-half acre in size, or for town homes and multifamily housing in the R-4 and R-5 zones, which have common areas, the City Engineer shall determine the amount of water to be transferred. The Engineer shall determine the amount based upon the size of the property which will potentially be watered, taking into account permanent buildings, garages, and driveways. The decision of the Engineer is appealable to the City Council, following the process set forth in Section 13-1-090.
- D. all non-culinary quality water associated with the land being developed must be transferred to the City to meet the non-culinary water requirements of this section. To the extent there is insufficient water, a cash in lieu fee may be imposed, as established from time to time by resolution of the City Council. The initial fee, until changed by resolution of the Council, is \$3000.00 per acre foot for culinary quality water required to be transferred, and \$400.00 per acre foot for non-culinary quality water required to be transferred. These amounts may be amended by resolution of the City Council.
- E. Commercial and industrial users shall transfer water based upon a residential equivalent unit, as determined by the City Engineer, who shall act as a land use authority for such decision, with the Council acting as the appeal authority.

- F. In the event of dispute over whether water was previously transferred, the property owner/developer shall have the burden of proof to establish the earlier transfer of water. In the event a previous transfer of water is insufficient to meet the amounts required herein, the developer is responsible to make up the difference.
- G. Properties located within the original charter of the City are exempt from the water transfer requirements of this section, having previously transferred water to the City. (Ord. No. 7-19-06)

13-2-120. Final Plats - Recording. (Ord. No. 11-28-95 – Section 13-2-120) (Ord. No. 5-8-98 – Section 13-2-120)

Following acceptance by the Development Review Committee, the final plat bearing all official approval, shall be deposited in the office of the County Recorder for recording by the City. All costs of recording shall be paid for by the developer. Prior to submission for recording, all bonds for improvements as required by City Ordinance shall be deposited and/or placed on file with the City. Final plats must be recorded within one hundred eighty (180) days of acceptance and approval by the Development Review Committee. Any plat not recorded within that time shall be deemed null and void.

13-2-130. Final Plats - Amendments. (Ord. No. 5-6-98 – Section 13-2-130)

- A. No change shall be made in a plat which has received final approval unless and until approval for said change has been reviewed by the Development Review Committee and approval granted by the Planning and Zoning Commission and the City Council. Any change on a plat which has been recorded shall first require that the plat be vacated in accordance with the applicable provision of Utah State Law and a new plat of the territory approved and filed in accordance with the procedures and requirements of this ordinance.
- B. A filing fee in an amount set from time to time by resolution of the City Council shall be paid at the time any proposed amendment is submitted.

13-2-140. Final Plat-Inspection Fees.

Prior to the recording of any final plat, an inspection fee in the amount of five percent (5%) of the bond amount as required in §13-2-100 shall be paid to Salem City. These fees are non-refundable and shall be used to offset expenses incurred by the City and the Engineering and Public Works Departments incurred as a result of development. (Ord. No.

6-16-99 – Section 13-2-140) (Ord. No. 6-20-05)

**CHAPTER 3 -
IMPROVEMENTS, DESIGN STANDARDS AND PUBLIC FACILITIES**

13-3-010. Availability of Adequate Public Facilities.

- A. No application for subdivision approval shall be granted until such time as the applicant has provided information, to the satisfaction of the city, to establish that adequate public facilities exist in the areas affected by the development to accommodate the development.
- B. The public facilities to which the preceding paragraph applies shall include the following:
 - 1. The culinary water system, including quantity, quality, treatment, storage capacity, transmission capacity, and distribution capacity;
 - 2. The sanitary sewer system, including treatment, overall capacity, outfall lines, laterals, and collector lines;
 - 3. The electric power system, including generation, transformation, transmission, and distribution;
 - 4. The storm water system, including drainage and flood control facilities;
 - 5. Streets and roads, including arterial and collector roads, sidewalks, curb and gutter, and related transportation facilities;
 - 6. Recreational facilities, including ballparks, playgrounds, and trails.
- C. The adequacy of public facilities shall be determined in accordance with the Salem City construction and development standards, the various master plans and the comprehensive general plan of the city, and at the discretion of the City Council.

13-3-020. Unavailability of Adequate Public Facilities.

In the event that the city engineer determines that adequate public facilities are not available and will not be available by the time of final plat approval, so as to assure that adequate public services are available at the time of occupancy, the following alternatives may be elected, at the discretion of the city council:

- A. Allowing the developer to voluntarily construct those public facilities which are necessary to service the proposed development and provide adequate facilities as determined by the city engineer and by entering into an appropriate form of connector's agreement, which may include, as deemed appropriate by the city engineer, provisions for recoupment of any expenses incurred above and beyond those reasonably necessary for or related to the

need created by or the benefit conferred upon the proposed development, and the method and conditions upon which recoupment is to be obtained;

- B. Requiring the timing, sequencing, and phasing of the proposed development consistent with the availability of adequate public facilities;
- C. Deferring final plat approval and the issuance of building permits until all necessary public facilities are adequate and available; or
- D. Denying plat approval and allowing the applicant to reapply when adequate public facilities are available.

13-3-030. Construction of Improvements.

All improvements shall be installed in accordance with the Construction and Development Standards. The expense of all such improvements and installations, including but not limited to expenses for all of the foregoing items and for area-wide topographical drainage, engineering, ecological or other work or study, shall be borne by the owner or subdivider or developer subject to such terms and conditions as may be required by the city council by way of ordinance, resolution, contract or otherwise. The failure of any owner or subdivider to comply with the terms of this provision or his failure to complete the installation of all of the foregoing installations, fixtures or improvements or such others as may be required by the city council from time to time, shall result in the forfeiture pro tanto of the bond or other security posted. No building, installation, improvement or other permit shall issue to any developer, builder, owner, subdivider or to any business entity having a full or limited partner, owner, shareholder or officer who has once failed to comply with the provisions hereof or who has failed to complete the installation of all improvements, fixtures and installations required by this section or by the city council on any previous construction or improvement project or subdivision. Any subdivision not in full compliance with this section shall not be connected to or receive any of its municipal services, including but not limited to water, sewer, irrigation, electricity or refuse removal services.

13-3-040. Streets.

The developer shall construct all streets required by the subdivision as specified by the city council in accordance with the city construction and development standards.

13-3-050. Sewers and Sewage Facilities.

The developer shall connect each lot with the city sewer system in accordance with the ordinances of the city and pursuant to the construction and development standards and/or other codes adopted by the city. All said work shall be done as directed and under the supervision of the city engineer and building inspector.

13-3-060. Water Supply.

The developer shall connect the subdivision with the city water system with all appurtenances and shall make such water available to each lot within the subdivided area.

Adequacy of supply and sizes of water mains shall be designated by the city engineer, or by such personnel as the city council may designate.

Workmanship and details of construction shall be in accordance with city construction and development standards and/or other codes adopted by the city. All work in connection with water services shall be done as directed and under the supervision of the city engineer and building inspector.

13-3-070. Pressurized Irrigation.

The developer shall install pipes and all appurtenances necessary to accommodate a pressurized irrigation system for all outside watering. The system shall be installed as directed by the city, with pipe sizes as designated by the public works director.

13-3-080. Curb, Gutter and Sidewalk.

Curbs, gutters and sidewalks shall be built on all existing and proposed streets required by the subdivision in accordance with the city construction and development standards. The developer shall also set mailboxes along the curb as directed by the city.

13-3-090. Fire Hydrants.

Fire hydrants shall be installed at all locations indicated on the final plat and meet all of the city qualifications and specifications.

13-3-100. Survey Monuments.

Not less than two permanent survey monuments shall be installed in each subdivision. The location of the monument shall be shown on the final plat. Also all corners on the subdivision and all lot corners in the subdivision shall be marked.

13-3-110. Street Lights. (Ord. No. 4-25-95)

- A. Street lights shall be installed at all locations indicated on the final plat. Said street lights shall conform to minimum city standards as set forth in the construction and development standards adopted by the city.

13-3-120. Storms, Sewers - Drainage.

- A. The storm water produced from the subdivision development shall be properly disposed of within the limits of the subdivision or in conformance with the city's drainage plan.
- B. Pipes and other facilities for the disposal of storm water shall be installed as directed by the city. The location, size, and design of said facilities shall be in accordance with the city's storm water disposal plans and standards or as directed by the city engineer.
- C. All subdivision proposals shall be consistent with the need to minimize flood damage. The subdivision layout shall make adequate provision for natural drainage channels and floodways. All water, sewer, and other utility systems and facilities located in designated flood areas shall be designed and constructed to minimize flood damage, including the infiltration of flood water into the system, or the discharge of the system into the flood waters.

Base flood data shall be provided by the developer as part of the preliminary plat.

- D. Storm drainage, runoff water, nor ground water shall be permitted to enter or flow into the sanitary sewer system.

13-3-130. Environmental Standards.

- A. Placement of streets, buildings, and the designation of building sites on areas of unstable soil shall be prohibited. It shall be the developer or subdividers responsibility to test and establish the stability of the soil. Soils with significant erosion hazard shall be protected. Revegetation or other erosion control measures shall be imposed as a condition of subdivision approval.
- B. Where applicable, other adverse environmental conditions must also be eliminated or adequately accommodated. Additional conditions shall include, but not be limited to, seismic land slides, uncontrolled fires, and ground water.

13-3-140. Underground Utilities.

Utilities including electrical, transformers, telephone, street lights and cable television lines shall be underground, except when the developer can demonstrate that such underground lines are not feasible.

13-3-150. Utility Connection.

It shall be the responsibility of the developer to connect to any utilities or improvements wherever they are located and extend those improvements to and through the development as shown on the final plat.

13-3-160. Street Signs.

Street Signs shall be installed at all locations indicated on the final plat. Location and design of said signs shall conform to minimum city standards and directions.

13-3-165. Roof Pitch. (Ord. No. 6-13-95)

A minimum roof pitch for any residential building constructed within the Salem City limits shall be 4:12.

13-3-170. Contractor.

All work performed in accordance with this title shall be performed by a contractor licensed to perform such work by the State of Utah.

13-3-180. Time Limitation for Completion.

All improvements listed herein must be completed within one year of the date of approval. Improvements which are not completed within the time limitation imposed herein shall work a forfeiture of any bond or surety which shall have been posted by the owner or subdivider.

13-3-190. Conflict of Interest.

No employee or agent of the city shall work for or be employed by any subdivider, developer, or contractor for the purpose of constructing or installing any of the subdivision improvements, provided that this section shall not apply to any independent engineering contractors or any other independent contractors employed by the city on a contract, or project by project basis.

13-3-200. Engineer - Surveyor.

All engineering work must be done by or under the direction of a professional engineer licensed in the State of Utah. All land survey work must be done by or under the direction of a land surveyor licensed by the State of Utah. (Ord. No. 6-20-05)

13-3-210. Variances.

Variances to the strict applications of the standards and specifications adopted in this section may be authorized by the City Council at the recommendation from the Planning Commission. Such variances may be granted only upon a finding that because of topographical or other unique physical conditions, the standard appealed from:

1. Is unnecessary for the proper development of the subdivision and will not be required in the future;
2. Would cause an unreasonable hardship if adhered to; and
3. May be granted without destroying the intent of the standards of this section.

Any variance so authorized shall be stated on the final plat.

13-3-220. Affordable Housing Standards. (Ord. No. 6-17-98 – Section 13-3-220.) (Ord. No. 8-20-03)

- A. Residences constructed on lots designated as affordable housing lots under section 14-8-050 must meet the requirements of this section prior to the issuance of a building permit.
- B. Affordable housing units must meet these minimum standards:
 1. Contain a minimum of 900 square feet of finished living space, and 600 square feet of unfinished space;
 2. Contain a wainscot of stucco, rock, or brick at least thirty-six (36) inches high across the front of the building;
 3. Contain aluminum or vinyl siding, or approved substitute around the sides and back;

4. Contain a minimum roof pitch of 4:12, with minimum eighteen (18) inch eaves;
5. Contain a note on the plat that financing is limited to Utah Housing or similar type agency which provides financing for affordable housing;
6. Have a maximum selling price that a person earning eighty percent (80%) of the median income for the Salem City Metropolitan Statistical Area could qualify for financing;
7. Contain a note on the plat that the residence must be owner occupied;
8. Contain a note on the plat that the resale price during the first thirty (30) years is limited to that which a person earning eighty percent (80%) of the median income for the Salem City Metropolitan Statistical Area could qualify for financing, with a minimum of five (5) year ownership prior to resale at fair market value;
9. Provide a fully landscaped front yard, which includes sod, automatic sprinkler system, and a minimum of one tree at least six (6) feet in height and one and one-half (1 ½) inch caliper, measured three feet from the ground prior to receiving a certificate of occupancy, unless occupancy is desired between October 1 and April 15, then a cash bond in the amount of \$2500.00 may be posed to guarantee the completion of the landscaping by May 31 following occupancy. If a bond is posted, it shall be refunded to the homeowner if the landscaping is completed by May 31, and if not, the city will forfeit the bond and cause the landscaping to be completed;
10. Contain a minimum of two (2) finished bedrooms and an attached two (2) car garage or carport, which must be attached by a minimum four foot common wall;
11. The affordable housing units must receive approval from the Development Review Committee prior to the issuance of a building permit. The DRC shall approve the architectural design and outside building materials and otherwise insure a quality product in compliance with these standards. (Ord. No. 8-20-03)

CHAPTER 4 - IMPACT FEES

13-4-010. Impact Fees, Ratification, Authorization.

Salem City is hereby authorized to establish and collect impact fees as a condition of granting subdivision plat approval and/or as a condition of the issuance of a building permit and/or as a condition of connection to City facilities that have an impact fee associated with them. All prior impact fees assessed and collected by the city are hereby ratified.

13-4-020. Purpose of Impact Fees, Limitations.

(Ord. No. 7-25-95 – Section 13-4-020)

The purpose of impact fees is to provide necessary funding for capital improvements to public facilities, including water, sewer, electric power, storm drainage, pressurized irrigation, streets and roads, public safety, recreation or any other public facility authorized by Chapter 36 of title 11, Utah Code Annotated. Impact fees collected shall be used only for capital improvements to the public facility for which it was assessed.

13-4-030. Determination. (Ord. No. 7-25-95 – Section 13-4-030)

The city council may set impact fees based on studies and analyses of the anticipated costs to provide adequate public facilities to new developments. The amount of the impact fees shall not exceed the anticipated cost of providing adequate public facilities which become necessary as a result of the development. The City may also impose an impact fee for public facility costs previously incurred to the extent that new growth and development will be served by the previously constructed improvement. In setting the amount of the fee, the council shall take into consideration the following factors:

- A. The cost of existing capital facilities;
- B. The manner of financing existing facilities;
- C. The relative extent to which newly developed property and other properties within the city have already contributed to the costs of existing capital facilities;
- D. The relative extent to which newly developed properties and other properties within the city will contribute to the cost of existing capital facilities in the future;
- E. The relative extent to which newly developed properties are entitled to a credit because the city may be requiring owners or developers to provide common facilities that have historically been provided by the city and financed through general taxation or other charges in other parts of the city;
- F. The extraordinary costs, if any, in servicing newly developed properties;

- G. The time-price differential inherent in fair comparison of amounts paid at different times.

13-4-040. Method of Assessing. (Ord. No. 7-25-95 – Section 13-4-040.)

The city council may establish and assess impact fees by an impact fee enactment and by complying with the notice and hearing provisions of Utah Code Ann. §11-36-202.

13-4-050. Special Exceptions. Ord. No. 7-25-95 – Section 13-4-050.)

- A. The City Council retains the authority to adjust any impact fee imposed in order to respond to unusual circumstances in specific cases and to insure that impact fees are fairly imposed. Economic hardship shall not be considered an unusual circumstance justifying an adjustment to the impact fee.
- B. The City Council may, at its sole discretion, adjust any impact fee, on the basis of justice and equity, based upon studies and data submitted by the developer.
- C. The City Council may, at its sole discretion, waive any impact fee for governmental development or other development activities with broad public purposes. Any development undertaken to gain a profit, whether or not a profit is realized, does not qualify as a broad public purpose.
- D. The City Council may, at its sole discretion, allow a full or partial credit against impact fees for any system improvements provided by the developer that are required as a condition of approval of the development activity.

(Ord. No. 6-17-98 – Section 13-4-050[E])

- E. Impact fees may be waived for lots designated as affordable housing lots as set forth in Salem City Municipal Code Section 14-8-050, and which meet the affordable housing standards set forth in Salem City Municipal Code Section 13-3-220.

CHAPTER 5 – PLANNED UNIT DEVELOPMENTS

13-5-010. Purpose.

The purpose of Planned Unit Development (PUD) designations are to allow and encourage a flexible, efficient, and creative development pattern. Planned unit developments can:

- A. Promote attractive architectural design, creative lot configuration, provide open space, and ensure efficient delivery of services.
- B. Promote usable public and private recreation areas, parks, trails, and open space.
- C. Promote specific aspects of development of interest to the City.
- D. Reduce development costs and ongoing maintenance costs.
- E. Provide high quality affordable housing.
- F. Encourage the clustering of dwellings within specific areas of the development.

13-5-020. Intent.

The intent of this article is to provide regulations that further the objectives of the general plan relating to residential developments. It is the intent to achieve a balance between open space and buildings, harmony between new development and the surrounding area, longer life expectancy for buildings, superior maintenance and appearance of buildings and premises, and an overall project atmosphere that concurs with the goals for a more attractive and functional city. These regulations are intended to create residential development which offers a better living environment than may be obtained through standard development.

13-5-030. Development Description.

A Planned Unit Development (PUD) is a development containing residential lots or units with some or all of the parcels reduced below the minimum lot sizes and/or frontages required by the base zoning district(s). Projects are planned to achieve a coordinated, functional and unified development pattern. A PUD allows flexibility in project layout while 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 density bonuses based on the provision of additional amenities in the development.

Planned Unit Developments (PUD) are allowed in property zoned R-2, providing for low density single-family residential uses.

13-5-040. Planned Unit Development Standards.

- A. Objectives and Characteristics. The objective of establishing a Planned Unit Development is to encourage the creation and maintenance of residential areas

within the existing R-2 zone which are characterized by medium sized lots on which single-family dwellings are situated, surrounded by well kept landscaping. A minimum of vehicular and pedestrian traffic and quiet residential conditions favorable to family living are also characteristic of this overlay zone.

In order to accomplish the objectives and purposes of the Salem City Comprehensive Zoning Ordinance and to promote the characteristics of this overlay zone, the regulations set forth in this section shall apply to PUDs.

B. Permitted Uses. All permitted uses associated with the R-2 zone.

C. Conditional Uses. All conditional uses associated with the R-2 zone.

D. Density.

Base density shall be calculated on the buildable acreage within the project area, excluding from the calculation of acreage any sensitive lands located therein.

1. Base Density: 2.5 units per acre.
2. Maximum Allowable Density: 4.5 units per acre.

(Ord. No. 9-20-06A)

E. Area Requirements. A minimum of 20 acres is required to develop a PUD. Schools and churches cannot be included in the acreage. Lots shall contain a minimum of seven thousand five hundred (7,500) square feet. Corner lots shall contain a minimum of eight thousand (8,000) square feet.

F. Frontage Requirements. The minimum frontage of lots are measured at the designated front setback shall be seventy (70) feet for interior lots and a minimum of eight-five (85) feet for corner lots.

G. Location Requirements.

(1) Front Setback: All primary buildings and structures shall be set back at least twenty-five (25) feet from the front lot line.

(2) Side Setback:

a. Interior Lots: all primary dwellings and other main buildings shall be set back from the side property line a distance of at least ten (10) feet on one side and six (6) feet on the other, provided that buildings must be a minimum of sixteen (16) feet apart. A public utility easement shall be located on the ten (10) foot side. Accessory buildings shall be set back as required in Salem City Municipal Code §14-1-060.

b. Corner Lots: all primary dwellings and other main buildings shall be set back from any street not less than twenty (20) feet or twenty-five (25) feet with a side-entry garage. The interior side setback shall be at least ten (10)

feet. Accessory buildings shall be set back as required I Salem City Municipal Code §14-1-060.

- (3) Rear Setback: All primary dwellings and other main buildings shall be set back from the rear property line a distance of at least twenty (2) feet. The city council may approve a shorter distance during the approval process, on a case by case basis. Accessory buildings shall be set back as required in Sale City Municipal Code §14-1-060.
- (4) Intersections: Proper signage to be placed at all street intersections in order to create controlled intersections. Controlled intersections shall have a maximum of one through street with all other roads controlled by stop or yield signs, as determined by the City.
- (5) Clear View: No obstruction over thirty six (36) inches in height, which will obscure the view of automobile drivers or pedestrians shall be placed on a corner lot within the triangular area formed by the street side property lines and the line connecting them from points twenty (20) feet from the intersection of the street side property lines.

H. Dwelling Size: Minimum dwelling size shall be one thousand three hundred (1,300) square feet finished floor area above finished grade for a rambler style dwelling or one thousand four hundred (1,400) square feet finished floor area above finished grade for a two story dwelling.

13-5-050. Development Agreements.

- A. General. The density bonus granted, based upon the amenities chosen by a developer, as set for in §13-5-060, may be implemented at the discretion of the City, by a development agreement. The city may opt to use a development agreement when it determines that an agreement promotes and protects the public health, safety, and welfare. When used, the agreement should implement the rights and responsibilities of the respective parties to avoid confusion and complete the PUD as agreed.
- B. Binding Agreement. Whenever the City opts to enter into a development agreement, the agreement shall constitute a binding agreement between the developer and the City. It shall contain those terms and conditions agreed to by the developer and the City. It shall describe all limitations, restrictions, and requirements associated with the development of the subject property. When zoning and platting have been approved by the City, according to law, the development agreement shall vest the developer in the specific project for a period of three years. Any such project shall be completed within three years. A development agreement ma not extend beyond three years. However, the developer may approach the city council prior to the expiration of the term and seek an extension. Any such extension shall be granted at the sole discretion of the city council for an additional term not to exceed eighteen (18) months. The developer should establish good cause why an extension is needed.

C. Criteria. A development agreement may include, but is not limited to the following criteria:

- (1) A legal description of the subject property, with all property owners having executed the agreement;
- (2) The agreement has been reviewed by the DRC and Planning and Zoning Commission and the City Council finds that the specific proposals, terms, specifications and conditions promote the intent of the Comprehensive General Plan, result in benefits to the public and protects the health, safety, and welfare of the public;
- (3) The agreement complies with all codes and the Construction and Development Standards of the City;
- (4) The developer agrees to contribute to improvements necessary to mitigate the impacts of the project on the City, including fiscal impacts;
- (5) All construction shall meet or exceed the quality objectives found in the Subdivision Ordinance, Comprehensive Zoning Ordinance, Comprehensive General Plan, and Construction and Development Standards of the City;
- (6) The development shall be consistent with the goal of orderly growth and minimize construction impacts on public infrastructure within the City;
- (7) The development shall protect life and property from natural and manmade hazards and shall prevent harm to neighboring properties, including nuisances;
- (8) The agreement should describe if, how, and to what extent, the developer will be paid back for over-sized public infrastructure improvements required in order to proceed with the development and in light of future needs and planning;
- (9) The bonus density and amenity requirements for PUD projects are included in the agreement.

13-5-060. Performance Standards.

All Planned Unit Developments shall meet the following minimum standards:

- (1) A PUD shall be required to have a minimum of five different floor plans, with no identical floor plan located next to, nor directly across the street from each other.
- (2) Streets, other than collector and arterial streets, may use a modified rolled back curb.
- (3) Streets, other than collector and arterial streets, may have a sixty-six (66) foot right-of-way, with thirty-six (36) feet of asphalt, two and one-half foot curbs on each side, seven foot planters on each side, five foot sidewalks on each side, and six inches back of curb on each side.
- (4) All dwelling units shall have a minimum roof pitch of 6/12.
- (5) All dwelling units shall have a minimum of a two car garage for each unit.
- (6) A minimum of ten percent (10%) of the overall project gross acreage shall be planned and dedicated to usable open space, not including sensitive lands.

An application for a Planned Unit Development may include one or more of the following amenities in the design of the subdivision, which will be considered for density bonuses in accordance with this section. The developer may choose which amenities to provide in order to increase the project density in accordance with the bonus densities allowed in this section. Each amenity is followed by a total allowable percentage increase in total project density for providing the amenity(s). The density increases for the amenities outlined herein shall be cumulative with a maximum density bonus equal to the percentages listed for the applicable Planned Unit Development designation. 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 the maximum density listed in section 13-05-040.

The City Council has the discretion to grant density increases up to the maximum density bonuses which may be granted for each amenity. The amount of the discretionary density increases are at the sole discretion of the City Council, upon recommendation by DRC and Planning and Zoning Commission. The intended use of the discretionary density increases is to reward a development plan which significantly exceeds the manner and extent of the specified amenities.

A. Upgraded Exterior Building Materials: 10%
Maximum

- | | | |
|-----|---|-----|
| (1) | 100% elevations brick or stone | 10% |
| (2) | 100% all elevations upgraded building materials. | 7% |
| (3) | 100% front and side upgraded materials | 5% |
| (4) | 100% front, 50% side and rear upgraded materials. | 3% |

B. Architectural Design Theme: 5%
Maximum

C. Active Recreation: 10%
Maximum

Developments which add improvements and features to provide active recreation facilities are eligible for a density bonus. Active recreation areas may include such items as swimming pools, sports courts, tennis courts, spas, and similar activities or improvements. The following criteria and associated density increase apply:

- | | |
|-----|---|
| (1) | Facilities available for all residents of Salem City.
DENSITY BONUS = up to 10% |
| (2) | Facilities available for residents of the project only.
DENSITY BONUS = up to 7.5% |

D. Open Space: 15 %
Maximum

Developments which provide and improve additional open space above the minimum 10% requirement listed in §13-5-060(6), at the developer's expense, at a rate of 1 acre of open space for each 50 proposed dwelling units, or payment to the City's dedicated park fund equal to the cost of land and basic development of park space are

eligible for a density bonus. The city will not accept parks less than 3 acres in size. Churches and schools in a project do not count as open space. Sensitive lands generally will not qualify as open space, unless improvements are made which increase the usability, aesthetics, or ambiance of the sensitive lands. Trials which are provided must be finished with an asphalt or concrete surface.

DENSITY BONUS = Up to 15%

- | | | |
|----|--|----|
| E. | Landscaping:
Maximum | 5% |
| | Developments which incorporate landscaping of lot frontages (including roadway side for corner lots) prior to issuance of a certificate of occupancy by Salem City are eligible for a density bonus according to the following criteria: | |
| | (1) Full lot landscaping, including the minimum as shown in paragraph (2) | 5% |
| | Maximum | |
| | (2) Minimum Landscape Criteria | 3% |
| | (a) Final grading of lot. | |
| | (b) Two trees with a two inch diameter, measured two feet from the ground. | |
| | (c) Automatic sprinkling system. | |
| | (d) Grass seed, rock, bark, or other approved landscaping materials in front yard and street side yard, if a corner lot. | |
| | | |
| F. | Fencing:
Maximum | 5% |
| | (1) Perimeter and lot side and rear yards | 5% |
| | (2) Perimeter fencing (around entire development) | 3% |
| | | |
| G. | Roof Pitch:
Maximum | 3% |
| | Development which incorporate upgraded roof pitches and/or materials are eligible for a density bonus according to the following criteria: | |
| | (1) Minimum roof pitches of 7/12 for dwellings throughout the entire development. | |
| | DENSITY BONUS = 1% | |
| | (2) Minimum roof pitches of 8/12 for dwellings throughout the entire development. | |
| | DENSITY BONUS = 2% | |
| | (3) Minimum roof pitches of 9/12 for dwellings throughout the entire development. | |
| | DENSITY BONUS = 3% | |
| | | |
| H. | Dwelling Size:
Maximum | 2% |
| | Developments which increase the base allowable home size are eligible for a density bonus as follows: | |

- (1) Minimum dwelling size for Planned Unit Development designation plus twenty-five percent (25%) throughout the project.
DENSITY BONUS = 2%

I. Garage layout and Construction. 2%
Maximum

Developments which de-emphasize the garage by setting it back from the front elevation, using upgraded doors with windows, arched doorways, multiple and/or different sized doors, or with similar features are eligible for a density bonus according to the following criteria:

- (1) Minimum of a three car garage for 50% or more of the dwellings.
DENSITY BONUS = 1%
- (2) Side entry or detached garages for 50% or more of the dwellings.
DENSITY BONUS = 1%

J. Front Porches: 2%
Maximum

Developments which incorporate and emphasize usable front porches as a major architectural feature are eligible for a density bonus. Front porches must be a minimum size of 128 square feet on all dwellings.

DENSITY BONUS = 2%

K. Special Features: 7%
Maximum

Developments which provide other special features such as fountains, streams, additional architectural features, or other features which are unique and add value and/or pleasing aesthetics to the project are eligible for a density bonus. Special features which are unrelated to each other may each qualify for a density bonus, at the discretion of the City.

DENSITY BONUS = up to 7%

(Ord. No. 9-20-06A)

13-5-070. Final Plat Approval.

After approval of the PUD development by the City Council, the developer shall submit a final plat to DRC for approval. The final plat shall meet the requirements of Salem Municipal Code §§13-2-050 through 140. In addition therein, the final plat shall include, or have attached thereto, the following information specific to the PUD:

- (1) Final architectural elevations, including the identification and samples of all proposed materials and color samples of all proposed improvements.
- (2) Building footprints for each lot showing no identical or similar floor plan is next to nor directly across the street from another.
- (3) Final landscape plan meeting all requirements of the Council approved landscaping for density bonuses.
- (4) A copy of proposed deed restrictions or covenants for the property.
- (5) Evidence that a home owners' association is or will be established, if any of the density bonus amenities are to be owned or maintained by a home

owners association, together with sample maintenance agreements and/or standards.

(Ord. No. 12-8-04B)

(Subdivision Ordinance #4-26-94)

TITLE FOURTEEN - COMPREHENSIVE ZONING ORDINANCE

CHAPTER 1 - GENERAL PROVISIONS

14-1-010. Intent.

It is the intent of the Salem City Council to divide the city into zoning districts as set forth in this title, to provide general zoning guidelines to promote the health, safety, morals and general welfare of the inhabitants of the city and to facilitate the orderly growth and development of the city. It is the intent of the Salem City Council that the provisions of this title be interpreted and construed so as to further the objectives and purposes of this Ordinance.

14-1-020. Amendments.

- A. The zoning ordinances of Salem City may be amended from time to time by complying with the provisions of Utah Code Annotated §10-9-a—501 et. seq..
- B. Any person seeking an amendment of the zoning ordinances may petition for the same by filing with the Salem City recorder a written petition designating the desired change, the reasons for the change, and why the change further promotes the objectives and purposes of the zoning plan of the city. A filing fee in an amount as set from time to time by resolution of the city council shall also be remitted.

14-1-030. Annexation.

In the event of annexation to the city, the annexed property shall be zoned the same as the property already in the city which shares the longest contiguous boundary with the property annexed, unless those petitioning for annexation request a different zone, which zone is approved by the city council at the time the annexation is approved.

14-1-040. Definitions.

As used throughout this title, the following words shall have the meanings set forth herein:

- A. **“Accessory Building”**--A subordinate building, the use of which is incidental to that of the main building.
- B. **“Accessory Use”**--A related use which is incidental to the prescribed and permissible use.
- C. **“Affected Entity”** – A government entity, school district, public utility, interlocal cooperative entity, or service or similar district whose facilities are likely to require expansion or significant modification because of an intended use of land or the entity’s facilities or boundaries are within one mile of land which is the subject of a land use ordinance change.

- D. **“Agriculture”**--Agriculture shall mean the growing of soil crops in the customary manner in the open. It shall also include livestock raising activities. It shall not include retailing of goods on the premises.
- E. **“Alley”**--A public way primarily for utility use and for servicing the property adjacent thereto.
- F. **“Animal Unit”**--An animal unit shall mean one horse, or one cow, or two sheep, or ten fowl.
- G. **“Bed and Breakfast Inn”**--Any building which is used to provide temporary lodging and simple meals for no more than two or three days and nights to the traveling public. (Ord. No. 1-21-98)
- H. **“Boarding House”**--A building containing not more than one kitchen, where, for compensation, meals and sleeping accommodations are provided pursuant to previous arrangements on a daily, weekly, or monthly basis in contradistinction to a hotel or a cafe.
- I. **“Carport”**--A structure not completely enclosed by walls for the shelter of automobiles.
- J. **“Conditional Use”**--A use which is permitted in a zone only after obtaining a conditional use permit required by this Ordinance.
- K. **“Convalescent Home”**--Any building or structure used for or occupied by persons recovering from illness or requiring nursing or similar care.
- L. **“Corner Lot”**--A lot situated at a junction of two public streets, or situated on a curved street or way whose radius is thirty-five (35) feet or less, and where the angle formed by the intersection of the tangent is one hundred five (105) degrees or less.
- M. **“Curb Cut”**--A cut in the curb line for the passage of vehicles.
- N. **Development Review Committee or DRC** – A committee that provides technical review, analysis, and recommendations to the Planning and Zoning Commission and the City Council as related to the City’s Comprehensive General Plan, Zoning Ordinance, Subdivisions, Capital Facilities Plan, and Site Plans.
- O. **“Dwelling”**--Any permanent building which is used and approved for residential purposes.
- P. **“Dwelling Unit”**--One or more rooms in a building designed for or occupied by one family for living or sleeping purposes.

- Q. **“Family”**--An individual or two or more persons related by blood, marriage or adoption living together in a dwelling unit.
- R. **“Final Decision”** – A decision by a land use authority which approves, approves with conditions, or denies a land use application. A final decision is made by motion and majority vote in a public meeting, or by a written decision if no vote is taken in a public meeting. When a final decision is made by a staff person, it is when the application is either approved or denied in writing.
- S. **“Formally Initiated”** – An act taken to change or modify a land use ordinance by application or by motion of the Planning and Zoning Commission or City Council, made in a public meeting.
- T. **“Garage”**--An accessory building or portion of a main building designed for the parking or temporary storage of automobiles of the occupants of the premises.
- U. **“Grade”**--The average of the finished ground level at the center of exterior walls of a building.
- V. **“Guest”**--a person staying or receiving services at a hotel, motel, boarding house, rooming house or rest home, or similar use for compensation.
- W. **“Home Occupation”**--The use of space within a dwelling as an office, studio, shop or work room for occupation at home by a person residing on the premises.
- X. **“Height of Building”**--Shall be the vertical distance from the grade to the elevation of the square of the building. Where the building walls vary in height along a side yard, the height of the building shall be determined by multiplying the length of each section of said wall by its height and dividing the sum derived therefrom by the total length of said wall.
- Y. **“Hotel or Motel”**--Any building used, rented, or hired out to be occupied on a daily or weekly basis for sleeping purposes by guests.
- Z. **“Household Pet”**--Animals or fowl customarily permitted in the house and kept for company or pleasure, including dogs, cats, and similar animals.
- AA. **“Interior Lot”**--A lot other than a corner lot.
- BB. **“Land Use Authority”** – A person, board, commission, agency, or other body designated by ordinance to act upon a land use application.

- CC. **“Land Use Ordinance”** – A Planning, Zoning, Development, or Subdivision Ordinance of the City, but does not include the Comprehensive General Plan.
- DD. **“Lot”**--Land occupied or to be occupied by a building or buildings together with such open spaces as required under this Ordinance and having its principal frontage on a street or on officially approved place. Also building sites without reference to lots as recorded on official plats.
- EE. **“Master Plan”**--A comprehensive plan, or part thereof, which has been adopted by the City Council for the purpose of building development in the city, including but not limited to, a plan or plans of land use, streets, parks, and playgrounds, public buildings and grounds, off-street parking, neighborhood conservation, water facilities, sewerage facilities and similar plans.
- FF. **“Main Building”**--One or more of the principal buildings upon a lot.
- GG. **“Mobile Home”**--Shall mean a dwelling unit, designed to be transported after fabrication on its own wheels or detachable wheels and which is ready for occupancy as an independent dwelling unit except for connection to utilities and/or location on a foundation. The term mobile home shall not include conventional houses which are manufactured elsewhere and moved into an area for use as permanent housing.
- HH. **“Non-Complying Structure”** – A structure that 1) legally existed before its current land use designation; and 2) because of one or more subsequent land use ordinance changes, does not conform to the setback, height restrictions, or other regulations, excluding those regulations which govern the use of land.
- II. **“Non-Conforming Building”**--A building, structure, or portion thereof, which does not conform to the regulations of this Ordinance applicable to the zone or district in which such building is situated, but which existed prior to the effective date of this Ordinance.
- JJ. **“Non-Conforming Use”** – The use of land that: 1) legally existed before its current land use designation; 2) has been maintained continuously since the time a land use ordinance governed the land; and 3) because of one or more subsequent land use ordinance changes, does not conform to regulations that now govern the use of the land.
- KK. **“Nursery or Day Care”**--The watching, caring for or tending children for compensation.

- LL. **“Offstreet Parking Space”**--An area for the parking of automobiles which does not include a public street, but has convenient access to it.
- MM. **“Parking Space”**--Space, exclusive of driveways, ramps, columns, office and working areas, for the parking of a motor vehicle, not less than twenty (20) feet in length and not less than eight and one-half (8½) feet in width.
- NN. **“Park and Playground”**--An open space which has been dedicated, designed for or used for outdoor recreation activities. Not including outdoor theaters and similar commercial recreational activities.
- OO. **“Public Parks”**--Parks which are maintained by a public agency.
- PP. **“Rest Home or Nursing Home”**--A building for the care and keeping of old people. A rest home is not a boarding, lodging or rooming house.
- QQ. **“Section House, Modular Homes, or Manufactured Housing”**--A home fabricated in two or more sections or modules which are transported to a building site for placement on a permanent foundation, and which carries the HUD seal of compliance with national safety standards.
- RR. **“Setback”**--The shortest distance between the property line and the foundation, wall or main frame of the building.
- SS. **“Story”**--That portion of a building included between the surface of a floor and the ceiling next above it.
- TT. **“Street”**--A public thoroughfare other than an alley.
- UU. **“Trailer House”**--The term trailer house shall mean any vehicle used or maintained for temporary human habitation. Trailer houses shall be deemed to include vehicles on their own separate wheels, separated from the sources of motive power and shall also include campers of the type normally put on trucks or trailers. For purpose of this title, trailer houses shall also refer to units in which the habitation unit is integrated as a part of the motor vehicle.
- VV. **“Twin Home”**--Any building or portion thereof which is designed, built, rented, or sold, to be occupied or which is occupied as the home or residence of two families living independently of each other. The individual units of a twin home may be rented or sold separately. Construction of any twin home shall include a fire wall which complies with the uniform building code. No building without a fire wall may be approved as a twin home. (Ord. No. 9-3-94)
- WW. **“UCA”**--The term UCA shall mean Utah Code Annotated (1953 as amended).

(Ord. No. 6-20-05)

14-1-050. The Sale of Non-Conforming Lots.

A parcel of land which has less than the minimum width and area requirements for the zone in which it is located and which has been cut off from a larger parcel of land since the effective date of the width and area requirements of this title, shall not be entitled to the issuance of a building permit for any type of construction thereon until such time as the lot is fully conforming to the zoning requirements of the area where it is located.

A variance to the strict requirement of this section may be granted by the Appeal Authority if each of the following criteria are met:

1. the property in question is not in a formally plotted subdivision;
2. each new lot contains the minimum square footage required in the zone;
3. each new lot contains at least 75 feet of frontage on a public street. (Ord. No. 12-17-96) (Ord. No. 6-20-05)

14-1-060. Accessory Buildings.

- A. All detached buildings, structures, or satellite earth stations must be located behind the front wall plane of the principal structure.
- B. All detached buildings or structures must comply with any height restrictions found in the applicable zone where they are located. The combined square footage of all detached accessory buildings, structures, and satellite earth stations shall not exceed 500 square feet, or ten percent (10%) of the total lot area, whichever is greater.
- C. Detached sheds or similar structures one hundred twenty (120) square feet or less, may be built to property line, with height restrictions of eight feet to the square, or twelve feet to the peak of the building, from ground level, provided the roof drainage does not fall on to the adjoining property.
- D. All detached buildings or structures over one hundred twenty (120) square feet in size shall maintain a five foot setback from the side and rear yards. The maximum height, of any portion of the building, shall be fifteen feet from ground level to the peak of the building, within five feet of the side and/or rear yard. For each additional foot in height an additional two feet of setback shall be required. Example: a building with a sixteen foot height at the peak must have a seven foot setback. (Ord. No. 6-20-05) (amended Ord. No. 12-13-06-A)
- E. If any accessory building must be removed, relocated, or otherwise modified in any manner in order to access public utilities, the property owner shall bear the full expense of such removal, relocation, or modification, together with all costs of restoration. (Ord. No. 4-7-99)

14-1-065. Accessory Buildings on a Historic Site.

- A. A "historic site or building" is defined as any structure which is listed individually in the National Register of Historic Places, such register being maintained by the United States Department of the Interior.

- B. The Salem City Planning and Zoning Commission may approve a variance to the accessory building requirements of this title for Historic Structures and/or sites when the following standards are met:
1. A public hearing will be held by the Planning and Zoning Commission, with a minimum ten days notice to each adjoining property owner, plus posting on the City web page;
 2. The owner of the subject building/site demonstrates through appropriate documentation that the building/site is a “historic site or building”;
 3. A variance from zoning standards/requirements is necessary for the enhancement, preservation, rehabilitation, restoration, reconstruction, or maintenance of the site/structure;
 4. Design and development standards for the site and related structures are adopted which ensure that the historic or cultural significance and character of the subject site and/or structure is perpetuated and adherence to said standards are made as a condition of the permit;
 5. The variance granted will not create significant, unmitigated adverse impacts;
 6. No adjacent land owners voice any opposition at the public hearing held to consider the variance(s) proposed;
 7. The project associated with the subject site has been reviewed and approved, where applicable, pursuant to the National Historic Register and the Department of the Interior (documentation provided to the city by the owner/developer).
- C. The City Council shall act as the appeal authority for any appeal from the decision of the Planning and Zoning Commission concerning a historic structure/site variance. The applicant or any adjoining landowner may file an appeal by submitting a written notice of appeal to the City Recorder within fifteen (15) days of the Planning and Zoning Commission decision. The appeal authority shall hear the appeal within forty-five (45) days of receipt of the notice of appeal and act upon the appeal within thirty (30) days of the hearing. (Ord. No. 5-17-06)

14-1-070. Additional Height Allowance for Public Buildings.

Public buildings, schools and churches may be erected to any height provided the building is set back from the required building setback lines a distance of at

least one foot for each additional foot of building height above the maximum height otherwise permitted in the zone in which the building is located.

14-1-080. Minimum Height.

No dwelling shall be erected which has a ceiling height of less than eight feet or one story above grade, whichever is greater.

14-1-090. Maximum Height of Fencing.

Walls, hedges, or vision barrier fences which are located within 30 feet from the street property line shall not exceed 36 inches in height, unless approval is obtained from the Public Works Director and Public Safety Director after review of the site plan and the property and a determination is made that such wall, hedge, or vision will not affect the safety of motorist or pedestrians. Fences may be six feet in height if they are not a vision barrier fence.

The Public Works director and Public Safety Director will not only inspect the involved property, but will inspect the streets, intersections, sidewalks, and driveways which may be impacted by such a wall, hedge, or vision barrier fence. (Ord. No. 5-17-00)

14-1-100. Clear view of Street Intersections.

All properties located on the corners of intersecting streets shall be prohibited from having or permitting any obstruction which would obscure the view of automobile drivers approaching the intersection.

14-1-110. Effect of General Plan.

Wherever a building is planned or abutting on a proposed street which has not yet been constructed, but which has been designated in the general plan as a future street, the setback requirements of such front or side yards shall be measured from the planned street line.

14-1-120. Dwelling Size to Have Frontage on a Deeded Street.

At least one side of each lot used as a dwelling site shall abut on a street which has been deeded or dedicated to the public for street purposes.

14-1-130. Sewage Disposal.

The owners of all houses, buildings or properties used for human occupancy, employment, recreation, or other purposes, situated within the city and abutting on any street, alley or right-of-way in which there is now located or may in the future be located a public sanitary or combined sewer of the city, is required, at the owner's expense, to install suitable toilet facilities therein and to connect such facilities directly with the proper public sewer in accordance with the rules and regulations of the city sewer department, within 60 days after date of official notice to do so, provided, that said public sewer is within 500 feet of the property line.

14-1-140. Prohibited Uses.

Uses of land which are not expressly permitted within the zone as set forth in this title are prohibited.

14-1-150. Trailer Houses and Mobile Homes.

No trailer house or mobile home shall be permitted for occupancy except under the following conditions:

- A. When the trailer house or mobile home is located in a licensed trailer court or mobile home park; and
- B. The house trailer or mobile home shall be connected to the city sewer system.

14-1-160. Rules of Construction.

For purposes of this title, words used in the present tense include the future and the future includes the present; the singular includes the plural and vice-versa; the word "lot" includes the word "plot", "tract" or "parcel of land", as the sense may require it. The word masculine includes the feminine and vice-versa; the term "erected" means "constructed", "altered", "moved" or "repaired". The words "shall" and "must" are always mandatory. The word "district" is synonymous with the word "zone"; the term "building inspector" is synonymous with the term "zoning administrator".

14-1-170. Variances.

Variances to the terms of the zoning ordinance may be made by the Appeal Authority upon the finding that the requirements of Utah Code Annotated §10-9a-702 have been met. (Ord. No. 6-20-05)

14-1-180. Public Hearings.

The City Council shall hold a public hearing prior to amending any portion of this title. (Ord. No. 6-20-05)

14-1-190. Notices.

Public hearings required by law shall be noticed by publishing in a newspaper of general circulation within the city and by posting on the city web page at least 10 days prior to the scheduled hearing. Notice shall also be mailed, sent by facsimile copy, or e-mailed to affected entities. (Ord. No. 6-20-05)

14-1-200. Appeal Process.

- A. Any land use decision made under this title may be appealed by an interested party by following the procedures set forth in this section. All appeals shall be to the Appeal Authority identified in this title. Appeals from the Appeal Authority shall be to the District Court.
- B. All appeals must be in writing and, unless otherwise indicated, must be filed within 15 days from the date of a final decision by the appropriate land use authority.

- C. Appeals must be received in the office of the City Recorder and any fees paid, within the appeal time limit.
- D. Matters considered by the Appeal Authority shall be *de novo*. Matters appealed to the District Court shall be a review of the record made before the Appeal Authority or Council. No matter may be considered on appeal which was not first presented to the land use authority for its consideration. (Ord. No. 6-20-05)

14-1-210. Appeal Authority.

The City Council will act as the Appeal Authority for land use decisions made under this title, except those decisions made by the Council as the land use authority. In Those instances when the Council is the land use authority, the appeal shall be filed directly with the District Court. All appeals shall follow the process set forth in §13-1-090, unless more specific procedures are set forth for a specific appeal. (Ord. No. 6-20-05)

14-1-220. Violators.

A violation of any section of this title is a class C misdemeanor. (Moved from 14-1-170 to end of Chapter 1 when Ordinance No. 6-20-05 was adopted.)

CHAPTER 2

PLANNING AND ZONING COMMISSION

14-2-010. Creation.

There is hereby established a Planning and Zoning Commission which shall have the powers and duties as set forth in Utah Code Annotated §10-9a-301 et. seq. (Ord. No. 6-20-05)

14-2-020. Appointment, Term, Vacancy and Compensation.

- A. The planning and zoning commission shall consist of five members who shall be appointed by the mayor with the consent of the city council. No more than one member of the planning and zoning commission may simultaneously be a member of the city council.
- B. Each member of the planning and zoning commission shall serve for a period of five years unless they are earlier removed or resign. The initial members of the planning and zoning commission shall be appointed for respective terms of one year, two years, three years, four years and five years. A member of the planning and zoning commission may not serve more than two consecutive terms.
- C. Vacancies in the planning and zoning commission may be appointed by the mayor with the consent of the city council to serve the unexpired term. The term shall expire on January 31 of the respective year. A new appointment shall be made and brought before the city council for approval on the last meeting date of January in each year, such that the member shall be ready to commence serving with the first meeting in February.
- D. Malfeasance in office, conviction of a crime involving moral turpitude, nonattendance at meetings and such other causes as may be established from time to time by the city council shall be grounds for removal.
- E. A member of the planning and zoning commission shall serve without compensation except that necessary expenses actually incurred shall be reimbursed to them.

14-2-030. Advisory Body.

The planning and zoning commission of Salem City shall be an advisory body to the city council, which is not bound by the commission's recommendations.

14-2-040. Timely Consideration.

Any matter referred by the city council to the planning and zoning commission shall be reviewed and studied and a recommendation returned to the city council within 30 days. In the event the planning and zoning commission fails to make a recommendation within 30 days, the city council may proceed without a recommendation.

14-2-050. Quorum.

The attendance of at least three members of the planning and zoning commission shall constitute a quorum. No business may be conducted nor recommendation made without a quorum.

14-2-060. Majority Vote.

A majority vote of the quorum of the planning and zoning commission shall be required to submit a recommendation to the city council.

14-2-070. Chairperson.

A member of the planning and zoning commission shall be appointed each year by the mayor to act as the chairperson of the commission. The chairperson shall conduct all meetings of the commission. In the event of the absence of the chairperson, the present members may elect one of their number to act as chairperson *pro-tempore*.

CHAPTER 3
BOARD OF ADJUSTMENT

Chapter 3, Board of Adjustment, is hereby repealed.

14-3-010 Repealed;

14-3-020 Repealed;

14-3-030 Repealed;

14-3-040 Repealed;

14-3-050 Repealed;

14-3-060 Repealed;

14-3-070 Repealed;

(Ord. No. 6-20-05)

CHAPTER 4 HOME OCCUPATIONS

14-4-010. Residential Zones.

No commercial, retail, or industrial uses of any kind are allowed in any residential zone of the city except as permitted in this chapter on home occupations.

14-4-020. Standards.

A home occupation may be permitted only if all of the following conditions are met:

- A. The home occupation is clearly incidental to the residential use.
- B. No more than two non-resident employees may be at the premises at any given time. Off street parking must be provided for any such employees.
- C. The use does not change the residential character of the building or of the neighborhood.
- D. The use requires no enlargement of the residence.
- E. The use will not produce offensive noise, vibrations, fumes, smoke, dust, or other particulate matter, odorous matter, heat, humidity, glare, electrical interference, excess traffic for a residential neighborhood, or other objectionable effects.
- F. The use does not require more than three patrons and/or non-resident family member employees at a time to be on the premises, except for child care and similar youth (age 17 and younger) related occupations. Off street parking must be provided for all anticipated patrons who will remain on the premises for a period of time longer than necessary to pick up or drop off a child.
- G. No more than one youth (age 17 or younger) related home occupation license may be issued to an address. (Ord. No. 5-5-04)

14-4-030. Prohibitions.

The following activities are prohibited as home occupation uses:

- A. The retail or wholesale sale of goods or commodities from the premises, except agricultural products grown on the premises, and goods which are incidental to the primary home occupation, and retail or wholesale sales over the internet, where the goods are not stored on the premises, customers are not coming to the premises, and where increased delivery or shipping of products is not increased in the residential setting. (Ord. No. 3-7-01-B)

- B. The display and storage of goods and materials visible from the exterior of the building.
- C. The use of yard space in a manner not normally associated with a residential use.
- D. Commercial stables, kennels, or similar uses.
- E. Use of any power driven equipment using motors with more than three horsepower capacity. The use of power driven equipment with three or less horsepower capacity shall be limited to the hours of 7:00 a.m. to 6:00 p.m.
(Ord. No. 5-5-04)
- F. Mechanical uses, industrial related uses, and other uses which are not in harmony with a residential zone.

14-4-040. Permitted Uses.

Examples of uses permitted as home occupations are beauty shops, accounting offices, insurance sales offices, and similar type uses which do not effect the residential character of the zone.

14-4-050. Business Licenses.

- A. All persons operating a home occupation are required to obtain a business license from the city. The cost of the home occupation license shall be \$50.00 per year. Periodic, random inspections may be conducted by the city to ensure the conditions of the business license are met, as set forth in this chapter. All licenses expire on December 31 of each year and must be renewed by January 31.
- B. Any person violating the conditions of the home occupation license shall be subject to prosecution s set forth in §14-1-170. The minimum fine for any such violation shall be \$200.00. (Ord. No. 5-5-04)

14-4-060. Revocation.

A Business license for a home occupation may be revoked if all of the requirements of the permit and of this chapter are not complied with. A revocation hearing before the council, with at least five days notice, shall be conducted prior to revoking a license.

14-4-070. Inspections.

The city council may require a city inspection or inspections prior to the issuance of a home occupation business license. Such inspections shall determine and require compliance with the building and fire codes of the city and shall meet such other criteria as the council may direct to protect the health, safety, and welfare of the residents of the city.

CHAPTER 5 NON-CONFORMING USES

14-5-010. Non-Conforming Uses - When Allowed.

Any structure or use of property which was legal when commenced but is currently non-conforming to the zoning code may continue in such non-conforming status.

14-5-020. Conditions.

The conditions upon which non-conforming structures or uses may continue are as follow:

- A. It may not be expanded nor intensified;
- B. It may not be enlarged;
- C. It may not be extended;
- D. It may not be altered;
- E. It may not be substituted.

14-5-030. Animal Uses. (Ord. No. 7-15-98 – Section 14-5-030) (Repealed)

14-5-040. Reconstruction - When Allowed.

Whenever a non-complying structure or nonconforming use is destroyed or damaged by fire, flood, natural disaster, or other calamity, it may be reconstructed if it was actively used as a non-complying structure or nonconforming use immediately prior to the fire, flood, natural disaster or other calamity and if the building permit for the reconstruction is obtained within one year of the fire, flood, natural disaster or other calamity. A non-complying structure which is reconstructed may not be expanded, intensified, enlarged, extended, altered, or substituted. (Ord. No. 6-20-05)

14-5-050. Abandonment.

The non-complying structure or nonconforming use may not be reconstructed or reinstated if it is abandoned, except in conformance with this title. Abandonment is presumed to have occurred if:

- A. The majority of the primary structure associated with the nonconforming use has been voluntarily demolished without prior written agreement with the municipality regarding as extension of the nonconforming use;
- B. If the use has been discontinued for a minimum of one year; or
- C. The primary structure associated with the nonconforming use remains vacant for a period of one year. (Ord. No. 6-20-05)

CHAPTER 6 CONDITIONAL USES

14-6-010. Conditional Uses-Permitted-Restrictions.

- A. Public schools, churches, public recreation facilities, public buildings, and preschools may be permitted in any zone upon the obtaining of a conditional use permit. (Ord. No. 6-20-05)
- B. High density retirement centers may be permitted in the C-1 commercial zone upon the obtaining of a conditional use permit. A conditional use permit shall not waive any of the requirements of the C-1 zone, but may include conditions more stringent.
(Ord. No. 5-24-94)
- C. Twin Homes may be permitted in the R-1 residential zone upon the obtaining of a conditional use permit. (Ord. No. 5-9-95)
- D. Communication towers may be permitted in any zone upon the obtaining of a conditional use permit and complying with the terms thereof. (Ord. No. 8-27-96)
- E. Bed and Breakfast Inns may be permitted in any residential or agricultural zone upon the obtaining of a conditional use permit. (Ord. No. 1-21-98)
- F. Kennels are permitted in the C-1 zones west of 600 West and in the A-1 zones upon the obtaining of a conditional use permit. (Ord. No. 6-17-98-A) (Ord. No. 11-19-03)
- G. (Ord. No. 6-21-00) Section 14-6-010(G) of the Salem City Municipal Code, which allows flag lots as a conditional use in the R-1 zone, is hereby suspended on a temporary basis. (Ord. No. 6-07-06A)
§14-6-010(G) is hereby repealed. (Ord. No. 9-20-06)
- H. Storage facilities may be permitted in the C-1 Commercial Zone, except between 600 North and 600 West along State Road 198, upon the obtaining of a conditional use permit and complying with the terms thereof. (Ord. No. 6-6-01)
- I. Accessory buildings in the industrial zones may exceed 40 feet in height upon obtaining a conditional use permit. The Planning and Zoning Commission and/or City Council may impose conditions in addition to those required by this ordinance. Such conditions may include, but are not limited to, height restrictions, architectural style, color schemes, visual impact mitigation measures, landscape screening or other conditions deemed desirable to enhance property values, encourage business, and/or to protect the health, safety, or welfare of the residents of the City. (Ord. No. 10-6-04)

- J. Cement batch plants are permitted in the I-1 zone, upon obtaining a conditional use permit. (Ord. NO. 6-20-05)
- K. Two (2) animal units are permitted in the R-1 zone upon a lot which is less than one acre upon the obtaining of a conditional use permit. An animal unit is defined as one horse or one cow, or two sheep/goats. (Ord. No. 1-17-07-A)

14-6-020. Permit.

A conditional use permit may be applied for by application on a form provided by the city. It shall require the applicant to identify the specific use sought, the exact location, and to pay a processing fee in an amount not to exceed the costs of the application process, which amount shall be set from time to time by resolution of the city council.

14-6-030. Recommendations.

- A. Upon receipt of an application for getting a conditional use permit, the matter shall be referred to the Planning and Zoning Commission for a recommendation. A recommendation shall include conditions which must be complied with in order to obtain and maintain the permit.
- B. The conditions for the uses permitted in §14-6-010(A) may include minimum and maximum setback requirements on front, rear, and side yards, limitations on building size and height, landscaping requirements, parking requirements, lighting requirements, fencing requirements, noise requirements, limitations on hours of operation, and pollution restrictions. It is the intent that the city be given wide discretion in imposing conditions in order to protect the health, safety, and welfare of the other residents and to require conditions which will be in general harmony with the overall zoning code.
- C. The conditions for the uses permitted in §14-6-010(B) must include the following minimum standards:
 - 1. The development includes a minimum of five acres;
 - 2. The density be no greater than sixteen residents per acre;
 - 3. The minimum dwelling unit size be 400 square feet;
 - 4. Commercial uses made part of the development such as therapy, medical clinics, pharmacies, cafeterias, and similar uses be limited in size, hours of operation, lighting, noise requirements, pollution restrictions, and similar restrictions;

5. Recreational uses made part of the development such as pools, exercise courts and similar uses be limited to size, hours of operations, lighting, noise restrictions, pollution restrictions, and similar restrictions;
 6. That easements for open areas in locations and sizes as recommended be conveyed to the city, restricting the area against future building or use, except as is consistent with the approved or amended development plans, which include landscaping as approved conditions. Requirements for maintenance and upkeep in such areas must be established as conditions. (Ord. No. 5-24-04)
- D. The conditions for the uses permitted in Section 14-6-010(C) must include the following minimum standards:
1. The minimum frontage requirements shall be 130 feet;
 2. The minimum lot size shall be 13,000 square feet for both units;
 3. The set-back and height requirements shall be the same as set forth in the R-1 Zone;
 4. That the minimum dwelling unit size shall be 1,000 square feet finished;
 5. That the minimum roof pitch shall be 4:12;
 6. That each unit contain a garage or car port;
 7. That each lot be fully landscaped within 24 months of completion;
 8. That the structural style be compatible with the surrounding neighborhood;
 9. That a minimum of two single family residences be between twin homes, which requirement may be waived by the council upon the showing of special circumstances;
 10. That such other conditions be imposed, on a case-by-case basis that may be required to meet special needs, to protect and enhance property values, which will generally make the city a more desirable place to reside. (Ord. No. 5-9-95 [Item D])
- E. The following guidelines shall be considered minimum conditions for communication towers as allowed in section 14-6-010 (D), unless

exceptional circumstances are found, in which case at least four members of the City Council may impose less stringent standards:

1. Communication towers allowed in the R-1 and R-4 Zones should meet these minimum standards. More stringent standards may also be imposed at the discretion of the Planning and Zoning Commission and City Council:
 - a. A minimum ten foot set back from the front, rear, and side yards;
 - b. A maximum height of 30 feet;
 - c. The entire lot is to be landscaped with lawn, shrubbery, and/or trees as approved by the Planning and Zoning Commission. All landscaping is to be watered by automatic sprinklers and properly maintained;
 - d. The tower itself, together with its base and any related equipment, is to be fenced by a solid, vision barrier fence a minimum six feet in height. No razor wire or barbwire or similar substances are allowed on the fence.
 - e. No lighting is to be attached to the tower;
 - f. The tower may, but is not required to be designed for co-location.
2. Communication towers allowed in the R-2 and the R-3 Zones should meet these minimum standards. More stringent standards may be imposed at the discretion of the Planning and Zoning Commission and City Council:
 - a. Front, rear, and side yard set backs shall be a minimum of ten feet, plus an additional foot for each foot of height over thirty feet;
 - b. A maximum height of 100 feet;
 - c. Landscaping is to be compatible with the neighborhood. Specific requirements to be compatible may be imposed by the Planning and Zoning Commission or City Council.
 - d. The tower itself, together with its base and any equipment must be fenced with a solid, vision barrier fence a minimum

of six feet high. No razor wire or barb wire or other similar substances are allowed on the fence;

- e. Limited lighting may be allowed in a manner authorized by the Planning and Zoning Commission and City Council.
 - f. The tower must be designed to accommodate at least three co-locators and designed in such a manner to support the size and weight of necessary equipment which must be installed to be usable with the prevalent technology at the time of construction.
3. Communication towers allowed in the C-1, C-2, A-1, or I-1 Zones should meet these minimum standards. More stringent standards may be imposed at the discretion of the Planning and Zoning Commission and City Council:
- a. A minimum set back of two feet from the front, rear, and side yards, with the further provision that the tower may not be within 150 feet of any residential zone;
 - b. A maximum height of 100 feet;
 - c. Landscaping shall be compatible with the neighborhood. Specific requirements to be compatible may be imposed by the Planning and Zoning Commission or City Council.
 - d. Fencing compatible with the neighborhood is required. The Planning and Zoning Commission and City Council may require a solid, vision barrier fence;
 - e. Lighting may be allowed in a manner authorized by the Planning and Zoning Commission and City Council;
 - f. The tower must be designed to accommodate at least three co-locators and designed in such a manner to support the size and weight of necessary equipment which must be installed to be usable with the prevalent technology at the time of construction.
4. Communications towers erected in any zone must be removed when the use has been abandoned. Nonuse by any co-locator for a one year period is prime facie evidence of abandonment. (Ord. No. 8-27-96 [Item E])
- F. The conditions for the uses permitted in Section 14-6-010(E) must include the following minimum standards.

1. The minimum frontage, height, and set back requirements shall be the same as for a single family residential dwelling within the zone where it is situated.
2. The building shall be of a size and style which is compatible with the neighborhood, including a minimum roof pitch of 4:12.
3. No illuminated signage is allowed. All signage must be limited to no more than 12 square feet, and placed in a location as directed by the City Council, after recommendations from the Planning and Zoning Commission.
4. Off street parking must be provided to allow one space for each guest room plus two spaces for employees. All parking shall be screened from surrounding residences by visual barrier fencing or shrubbery.
5. The surrounding lot must be fully landscaped prior to opening for business. (Ord. No. 1-21-98 [Item F])

G. The conditions where the use is permitted in section 14-6-010(F) must include the following minimum standards:

1. The number of animals which may be housed in a kennel may be set by the Planning and Zoning Commission and City Council, depending on the location;
2. The minimum distance to the lot line may be established by the Planning and Zoning Commission and City Council, but in no event closer than 10 feet;
3. The minimum distance to neighboring buildings may be established by the Planning and Zoning Commission and City Council;
4. Noise and odor conditions may be imposed;
5. Sanitary conditions for the health and safety of the animals, as well as nearby residents may be imposed;
6. Other conditions may be imposed on a case-by-case basis, to meet special needs, to protect and enhance property values, to protect the health, welfare and safety of the residents of the city, or of the animals, or to enhance the quality of life in the city. (Ord. No. 6-17-98-A [Item G])

H. (Ord. No. 6-21-00 [Item H])
 Repealed (Ord. No. 1-17-07B).

- I. The conditions for the uses permitted in section §14-6-010(H) must include the following minimum standards:
1. The storage facility must be fully enclosed with four walls and a roof.
 2. The front of the facility shall be constructed of brick, glass, or other similar substance as approved by the City which presents an aesthetically pleasing appearance with architectural styles as established by the City.
 3. The sides of the facility, for a distance to be established by the City on a case by case basis, shall be of materials designated by the city in order to present an appropriate appearance in the C-1 commercial zone from any public street.
 4. The number of entrances to such building shall be limited, the exact number to be designated by the City.
 5. The number of entrances from public streets shall be limited, the exact number and location to be designated by the City.
 6. The front setbacks shall contain landscaping as designated by the city and shall contain an automatic sprinkling system to assure adequate watering without wasting water.
 7. Parking, lighting, and other conditions may be imposed by the City to protect the health, safety and welfare of the residents and to assure harmony with the overall objective of the C-1 commercial zone.
 8. Such a storage facility may not be allowed adjacent to any R-1 Residential Zone.
 9. Other conditions to protect the health, safety and welfare of the residents may be imposed. (Ord. No. 6-6-01)
- J. The conditions for the uses permitted in Section 14-6-010(J) must include the following minimum standards:
1. Dust control measures;
 2. Noise control measures;
 3. Ingress and egress requirements onto or from public roads;
 4. Such other measures as the City determines necessary to mitigate against detrimental effects caused by a cement batch plant. (Ord. No. 6-20-05)

K. The conditions for the uses permitted in § 14-6-010 (K) must include the following minimum standards:

1. The parcel in question must be contiguous and contain a minimum of 20,000 square feet.
2. All corrals, stalls, pens, paddocks for the enclosure of livestock, and all barns, stables, sheds, or similar buildings used for the housing or confinement of livestock and all water troughs in areas used for the feeding of livestock shall be located no closer than 100 feet from a dwelling located on another lot or parcel.
3. Other appropriate conditions may be imposed to minimize potential adverse effects on neighboring parcels. (Ord. No. 1-17-07-A)

14-6-040. Public Hearing.

The Planning and Zoning Commission shall make a recommendation to the City Council within 30 days of the date of the application for a conditional use permit. Upon the receipt of the recommendation, the City Council shall schedule a public hearing, giving at least 10 days notice of the same, following the notice provisions of this title. The City Council may defer a decision on the matter to the next regularly scheduled Council Meeting following a public hearing. In no event shall a decision be postponed longer than the next regularly scheduled Council Meeting. (Ord. No. 6-17-98-A) (Ord. No. 6-20-05)

The conditional use shall be approved if reasonable conditions are proposed, or can be imposed, to mitigate the reasonably anticipated detrimental effects of the proposed use in accordance with the standards of this chapter. If the reasonably anticipated detrimental effects of a proposed conditional use cannot be substantially mitigated by the proposal or by the imposition of reasonable conditions to achieve compliance with applicable standards, the conditional use may be denied. (Ord. No. 6-20-05)

14-6-050. Conforming Use.

Upon approval of a conditional use permit, the applicant may proceed as a conforming use, provided all of the conditions are met. The permit may be revoked if any condition ceases to be met. A building permit must be obtained within six months of the grant of the permit. If a building permit is not obtained within six months, a new application must be submitted.

14-6-060. Appeals.

The decision of the city council may be appealed to the district court within 30 days of the decision. A written decision need not be issued as long as the decision is made in a public meeting which includes the conditional use permit as an agenda item. Only the applicant or adjoining property owners shall be entitled to appeal. The district court shall affirm the decision of the city council unless it finds by clear and convincing evidence that the decision was arbitrary and capricious.

CHAPTER 7

R-1 RESIDENTIAL ZONE

14-7-010. Objectives, Restrictions.

The objectives in creating the R-1 residential zone are to maintain a residential environment characterized by large lots and well kept landscaping. This zone is meant to protect residential areas from invasion by incompatible and conflicting land uses, to prevent overcrowding of land and loss of property values, and to assure quiet, attractive, convenient and wholesome residential neighborhoods. No use may be permitted in this zone except as is specifically provided in this chapter, or those allowed with a conditional use permit.

14.7.020. Permitted Uses.

Uses permitted in the R-1 residential zone are as follows:

1. Single family dwelling and accessory buildings and structures such as garages and green houses. Only one dwelling unit per lot is allowed. (Ord. No. 5-19-99)

14-7-030. Other Requirements.

All dwellings in the R-1 residential zone shall comply with the following minimum requirements:

1. Minimum lot size shall be 10,000 square feet, with a minimum of 100 feet of frontage at the building line. The minimum frontage may be modified by the approval of the Council, in a formally platted subdivision, when street dedications or similar requirements of the City create a hardship. Such exceptions are intended to be difficult to obtain and should generally be based on requirements which are more onerous than typically required in the subdivision ordinance or construction and development standards. (Ord. No. 6-10-97-A)
2. The minimum front yard setback requirement shall be 25 feet to the residence. The minimum side yard setback requirement shall be 10 feet, except on corner lots, where the side yards facing the road shall have a minimum setback of 25 feet. The minimum rear yard setback shall be 15 feet. All accessory buildings shall be set behind the principal residence as a front yard setback requirement. (Ord. No. 6-28-94) (Ord. No. 10-15-03)
3. Dwellings must have a minimum finished living floor area of 1000 square feet.
4. Dwelling shall have a minimum height of 10 feet and a maximum height of 30 feet, measured from the grade to the elevation of the square of the building.

14-7-040. Animals.

No animals, except for household pets are allowed in the R-1 Zone, unless the lot within the R-1 Zone contained a minimum of one acre, or unless the property owner is granted a conditional use permit pursuant to 14-6-010. If the minimum acreage requirement is met, the following standards shall apply. (amended Ord. No. 1-17-07-A)

1. Three (3) animal units are allowed for the first acre;
2. One (1) additional animal unit is allowed for each additional 20,000 square feet of total lot area;
3. All corrals, stalls, pens, paddocks for the enclosure of livestock, and all barns, stables, coops, sheds, hutches, or similar buildings used for the housing or confinement of livestock and/or fowl and all water troughs in areas used for the feeding of livestock shall be located no closer than 150 feet from a dwelling located on another lot or parcel or 50 feet from a dwelling on the same lot or parcel;
4. An animal unit is defined as one horse, or one cow, or two sheep, or two fowl. (Ord. No. 7-15-98)

14-7-050. Affordable Housing.

- A. Affordable Housing, as set forth in this section, is permitted in the R-1 zone, with the standards set forth herein and in §13-3-220. To the extent that the standards conflict with those found in §14-7-030, the standards found in this section shall prevail.
- B. Any subdivision plat in the R-1 zone may designate up to 20% of the lots as affordable housing lots. In order to accommodate the affordable housing, other lots in the subdivision may qualify for up to a 10% reduction in the frontage requirements and area requirements. The number of lots qualifying for the reduction will be at the discretion of the City based on the number of affordable housing lots and quality of the project. The lots designated as affordable housing lots may qualify for up to 25% reduction in the frontage requirements and overall area requirements. Subdivisions seeking to qualify under this paragraph must have a minimum of 15 lots in each phase.
- C. The affordable housing lots, as designated pursuant to paragraph B, may not be side to side, back to back, directly across the street from each other, nor on a corner.
- D. In such a subdivision, no more than two non-affordable housing units may be built without building one affordable housing unit, until all of the designated affordable housing units are constructed and receive a certificate of occupancy.

- E. Once an affordable housing plat is approved, the following penalty shall apply to any amendments which eliminate the affordable housing lots:
1. A 15% enlargement on all lots sizes;
 2. A 15% enlargement on frontage requirements;
 3. An additional 10% plan check fee for each building permit;
 4. Double the cost of filing fee for both preliminary and final amended plats;
 5. Any impact fees which have been waived must be reimbursed.

(Ord. No. 6-20-05)

CHAPTER 8

R-2 RESIDENTIAL ZONE

14-8-010. Objectives, Restrictions.

The objectives in creating the R-2 residential zone are to maintain a residential/farming environment characterized by dwellings situated on large, rural type lots and small farms occupied largely by families whose main source of income is not from agriculture, but who desire to supplement their income or increase their living pleasure by raising agricultural produce or maintaining a limited number of domestic animals. This zone is meant to encourage the use of land for residential and limited agricultural purposes, provide for the keeping of a limited number of domestic animals, to protect the residential/farming areas from invasion by incompatible and conflicting land uses, to prevent overcrowding of land and loss of property values and to enhance the economic well-being of the people who live within the zone. No use may be permitted in this zone except as is specifically provided in this chapter, or those allowed with a conditional use permit.

14-8-020. Permitted Uses. (Ord. No. 5-9-95) (Ord.No. 3-26-96)

Uses permitted in the R-2 residential zone are as follows:

1. Single family dwellings and accessory buildings and structures such as garages and greenhouses. Only one dwelling unit per lot is allowed. (Ord. No. 5-19-99)
2. Agricultural uses with limits set forth herein.
3. Barns, machinery sheds, corrals, pens, coops, feed storage buildings, produce sheds, and similar agricultural structures.
4. Fruit and vegetable stands made of temporary construction for the sale of produce raised on the premises, provided the stands do not exceed 100 square feet, are made of wood frame or light metal material, are maintained and comply with the Board of Health standards, and are separated from any highway or street by fencing between October 1 and May 1.
5. Planned Unit Developments as provided in Chapter 5 of Title 13. (Ord. No. 12-8-04B)

14-8-030. Other Requirements.

All dwellings in the R-2 Residential Zone shall comply with the following minimum requirements:

1. Minimum lot size for a single family dwelling shall be 15,000 square feet, with a minimum of 100 feet of frontage at the building line.
2. The minimum front yard setback requirement shall be 25 feet to the residence. The minimum side yard setback requirement shall be 10 feet,

except on corner lots, where the side yard facing the road shall have a minimum setback of 25 feet. The minimum rear yard setback shall be 15 feet. All accessory buildings shall be set behind the principal residence as a front yard setback requirement. If the front yard setback is more than 30 feet, access shall be a minimum width of 20 feet and constructed of a material to allow a fire truck to approach the dwelling and turn around. (Ord. No. 10-15-03)

3. The dwelling must have a minimum finished living floor area of 1,000 square feet.
4. The dwelling shall have a minimum height of 10 feet and a maximum height of 30 feet, measured from the grade to the elevation of the square of the building. (Ord. No. 6-27-95)

14-8-040. Animals.

No animals, except for household pets are allowed in the R-2 Zone unless the R-2 Zone contains a minimum of 1 acre. If the minimum acreage requirement is met, the following standards shall apply:

1. Three animal units are allowed for the first acre.
2. One additional animal unit is allowed for each additional 20,000 square feet of total lot area.
3. All corrals, stalls, pens, paddocks for the enclosure of livestock and all barns, stables, coops, sheds, hutches or similar buildings used for the housing or confinement of livestock and fowl and all water troughs and areas used for the feeding of livestock shall be located no closer than 150 feet from a dwelling located on another lot or parcel or 50 feet from a dwelling on the same lot or parcel.
4. An animal unit is defined as 1 horse or 1 cow or 2 sheep, or 10 fowl. (Ord. No. 6-27-95)

14-8-050. Affordable Housing.

- A. Affordable housing, as set forth in this section, is permitted in the R-2 zone, with the standards set forth herein and in §13-3-220. To the extent the standards conflict with those found in §14-8-030, the standards found in this section shall prevail. (Ord. No. 01-19-00) (Ord. No. 6-20-05)
- B. Any subdivision plat in the R-2 Zone may designate up to 20 percent of the lots as affordable housing lots. In order to accommodate the affordable housing, other lots in the subdivision may qualify for up to a ten percent (10%) reduction in the frontage requirements and area requirements. The number of lots qualifying for the reduction will be at the discretion of the

City based on the number of affordable housing lots and quality of the project. The lots designated as affordable housing lots may qualify for up to a twenty-five percent (25%) reduction in the frontage requirements and overall area requirements. Subdivisions seeking to qualify under this paragraph must have a minimum of 15 lots in each phase.

- C. The affordable housing lots, as designated pursuant to paragraph B, may not be side to side, back to back, directly across the street from each other, nor on a corner.
- D. In such a subdivision, no more than two non-affordable housing units may be built without building one affordable housing unit, until all the designated affordable housing units are constructed and receive a certificate of occupancy.
- E. Once an affordable housing plat is approved, the following penalties shall apply to any amendments which eliminate the affordable housing lots:
 - 1. A fifteen percent (15%) enlargement on all lot sizes;
 - 2. A fifteen percent (15%) enlargement on frontage requirements;
 - 3. An additional ten percent (10%) plan check fee for each building permit;
 - 4. Double the cost of filing fees for both preliminary and final amended plats;
 - 5. Any impact fees which have been waived must be reimbursed.

(Ord. No. 6-17-98)

CHAPTER 9

R-3 RESIDENTIAL ZONE

14-9-010. Objectives, Restrictions.

The objectives in creating the R-3 residential zone are to maintain a residential/farming environment characterized by dwellings situated on large, rural type lots and small farms occupied largely by families whose main source of income is not from agriculture, but who desire to supplement their income or increase their living pleasure by raising agricultural produce or maintaining a limited number of domestic animals. This zone is meant to encourage the use of land for residential and limited agricultural purposes, provide for the keeping of a limited number of domestic animals, to protect the residential/farming areas from invasion by incompatible and conflicting land uses, to prevent overcrowding of land and loss of property values and to enhance the economic well-being of the people who live within the zone. No use may be permitted in this zone except as is specifically provided in this chapter, or those allowed with a conditional use permit.

14.9.020. Permitted Uses.

The uses permitted in the R-3 residential zone are as follows:

1. Single family dwellings and accessory buildings and structures such as garages and greenhouses. Only one dwelling unit per lot is allowed. (Ord. No. 5-9-99)
2. Agricultural uses with limits set forth herein.
3. Barns, machinery sheds, corrals, pens, coops, feed storage buildings, produce sheds, and similar agricultural structures.
4. Fruit and vegetable stands made of temporary construction for the sale of produce raised on the premises, provided the stands do not exceed 100 square feet, are made of wood frame or light metal material, are maintained and comply with board of health standards, and are separated from any highway or street by fencing between October 1 and May 1.
5. Nursing homes and rest homes.

14-9-030. Other Requirements.

All dwellings in the R-3 residential zone shall comply with the following minimum requirements:

1. Minimum lot size shall be 1½ acres, with a minimum of 150 feet of frontage at the building line.
2. The minimum front yard setback requirement shall be 25 feet to the residence. The maximum front yard setback shall be 200 feet. If the front yard setback is more than 30 feet, access shall be a minimum width of 20 feet and constructed of a material to allow a fire truck to approach the

dwelling. The minimum side yard setback requirement shall be 10 feet, except on corner lots, where the side yard facing the road shall have a minimum setback of 25 feet. The minimum rear yard setback shall be 15 feet. All accessory buildings shall be set behind the principal residence as a front yard setback requirement. (Ord. No. 6-38-04) (Ord. No. 10-15-03)

3. The dwelling must have a minimum of finished living floor area of 1,000 square feet.
4. The dwelling shall have a minimum height of 10 feet and a maximum height of 30 feet, measured from the grade to the elevation of the square of the building.

14-9-040. Animals. (Ord. No. 7-15-98)

The maximum number of animals or fowl permitted on any lot or parcel shall be as follows:

1. Four (4) animal units are allowed for the first one and one-half (1 ½) acres;
2. One (1) additional animal unit is allowed for each additional 20,000 square feet of lot area;
3. All corrals, stalls, pens, paddocks for the enclosure of livestock, and all barns, stables, coops, sheds, hutches, or similar buildings used for the housing or confinement of livestock and/or fowl and all water troughs in areas used for the feeding of livestock shall be located no closer than 150 feet from a dwelling located on another lot or parcel or 50 feet from a dwelling on the same lot or parcel.
4. Notwithstanding the requirement of subsection one, fowl may be kept in coops or pens of p to 50 mature birds at a time, provided such coops or pens are at least 150 feet from the nearest dwelling on an adjacent lot, or from the nearest street.
5. An animal unit is defined as one horse or one cow, or two sheep, or ten fowl.

CHAPTER 9A

R-4 RETIREMENT RESIDENTIAL ZONE

14-9A-010. Objectives, Restrictions.

The objectives in creating the R-4 Retirement Residential Zone are to allow higher density, planned "communities" with common areas for elderly citizens, allowing them necessities and conveniences in a more rural environment, taking into account that many may have fixed incomes. In providing for the higher densities, the standards of this chapter are to be strictly complied with.

14-9A-020. Permitted Uses.

Subject to the regulations of this chapter, the following uses are permitted in the R-4 zone:

1. Single family dwellings.
2. Twin homes.
3. Multi-family units with a maximum of eight consecutively attached units.
4. Accessory buildings and structures such as garages.
5. Recreational, or cultural buildings or uses, if approved by the city council following review of the site plan and operational plans by the planning commission
6. One cafeteria as part of a multi- family unit, limited to providing meals to residents of the "retirement community."
7. Nursing homes and rest homes. (Ord. No. 3-26-96)

14-9A-030. Standards and Requirements.

A development approved under the provision of this chapter shall conform to the following standards and requirements:

- A. Residency Requirements. Have restrictive covenants to be recorded with the plat which limits residency to those age 55 and older, with those exceptions allowed in the Fair Housing Act and as found in 42 U.S.C. Section 3607(b)(2). (Ord. No. 9-9-97)
- B. Single Ownership or Control. The area proposed for development shall be in one (1) ownership during development to provide for full supervision and control of said development and to insure conformance with these provisions and all conditions imposed by the planning commission and city council upon the preliminary and final development plans. However, single-family

or twin home dwelling units may be sold, provided that building begins within one (1) year from the date of sale, or if building does not begin within one (1) year, any lot or common area shall be landscaped and maintained by the owner and/or home owners' association.

- C. Design Team. The final development plan shall be prepared by a design team composed of an architect, a landscape architect, and an engineer or land surveyor, all licensed to practice in the State of Utah.
- D. Minimum Area. The minimum land area for the R-4 zone shall be five acres.
- E. Placement of Structures. Locations and arrangements of buildings in the development should be accomplished in a manner that will best utilize the lot area and create an attractive living environment. The following exceptions shall be considered as minimum requirements as they apply:
 - 1. Permanent landscaped setbacks at least twenty (20) feet in width shall be maintained along the peripheral property lines of the development.
 - 2. In those instances where a proposed development will front upon a public street, a permanent landscaped setback, at least thirty (30) feet in width, shall be required along the frontage of the public street.
(Ord. No. 9-9-97)
- F. Open space. Not less than fifteen (15) percent of the gross area of the development shall be retained in permanent open space, parks, and recreational or cultural uses for the use of the occupants of the development. Land proposed to be devoted to vehicular streets or roads, parking, driveways, required setbacks, and slopes greater than twenty-five (25) percent shall not be included in computations of open space, parks, or recreational area. The open space to be reserved shall be protected against building development by conveying to the city, an open space easement over such open area, restricting the area against any future building or use, except as consistent with approved or amended development plans.
- G. Utilities. All dwelling units shall be served by public sewer and a public water supply. All utilities within the development shall be placed underground, including telephone, electrical, and television cables. Dwelling units under separate ownership shall have separate utility metering. Meters shall be located as specified by the city.
- H. Front and Side Yards. The required front and side yards which face upon a public or a private street shall not be used for vehicular parking, but shall be landscaped with lawn and appropriate plants and shrubs as indicated on approved final development plans.

- I. Off-Street Parking. Dwellings shall be provided with not less than two (2) parking spaces per unit. Guest parking shall be located within reasonable walking distance (approximately three hundred [300] feet) of the dwelling to be served.
- J. Streets. Dedication of street rights-of-way and improvement of streets shall be made in accordance with the adopted subdivision plan of Salem City, and further as may be determined by the city to be necessary to serve the vehicular and pedestrian needs of the proposed development. Said streets shall conform to the standards set forth for various classes of streets by the city.
- K. Landscaping Vacant Lots. All areas not covered by buildings or by off-street car parking, driveways, and alleyways shall be planted into lawn, trees and shrubs and shall otherwise be landscaped and maintained in accordance with good landscape practice. This is to be done within one (1) year from the date of final development plan approval.
- L. Entrance. There shall be at least one hundred (100) feet between an entrance to the development and a street intersection and entrances shall not be closer than one hundred (100) feet from each other.
- M. Solid Waste Storage. All storage and solid waste receptacles outside the dwelling units must be housed in a closed structure compatible with the design of the development, and capable of being served by Salem City.
- N. Restrictive Covenants. Restrictive Covenants as part of the final plat to be recorded shall limit residency to those age 55 or over with the exceptions granted in paragraph A, which restrictive covenant shall contain a provision that this requirement may not be amended. (Ord. No. 9-9-97)

14-9A-040. Other Requirements.

All buildings in the R-4 Residential Retirement Zone shall comply with the following minimum requirements:

(Ord. No. 9-9-97 – Section 14-0A-040[1])

- 1. Each twin home lot shall contain a minimum of 4,000 square feet and all other dwelling units shall contain 4,000 square feet of open area immediately surrounding the building, exclusive of streets, parking lots, slopes exceeding 25%, and similar areas.
- 2. The minimum front yard setback requirements shall be 25 feet to the residence. The side yard setback requirements shall be at least 16 feet between buildings. The front yard setback shall not exceed 100 feet. All driveways shall be constructed of concrete or asphalt and shall be of a

minimum width of 20 feet to allow a fire truck to approach any building. Accessory buildings larger than 125 square feet are not allowed. (Ord. No. 10-15-03)

3. The dwelling must have a minimum finished living floor area of 950 square feet for a single family dwelling or twin home, or 700 square feet if part of a multi-family building.
4. Each dwelling shall have a minimum height of nine feet and a maximum height of twenty-eight feet which minimum height shall be measured from the grade to the elevation of the square of the building.
5. No agricultural or exotic animals are permitted. Household pets are limited to one per dwelling unit.

(Ord. No. 5-24-94 B)

CHAPTER 9B

R-5 TOWNHOME DEVELOPMENT ZONE

14-9B-010. Purpose.

The purpose of the R-5 Townhome Development Zone is to allow and encourage a flexible, efficient and creative development pattern. Townhome developments can:

- A. Promote attractive architectural design, provide open space, and ensure efficient delivery of services.
- B. Promote usable public and private recreation areas, parks, trails, and open space.
- C. Promote specific aspects of development of interest to the City.
- D. Reduce development costs and ongoing maintenance costs.
- E. Provide high quality affordable housing.
- F. Encourage the clustering of dwellings within specific areas of the development.

14-9B-020. Intent.

The intent of this chapter is to provide regulations that further the objectives of the general plan relating to residential developments. It is the intent to achieve a balance between open space and buildings, harmony between new development and the surrounding area, longer life expectancy for buildings, superior maintenance and appearance of buildings and premises, and an overall project atmosphere that concurs with the goals for an attractive and functional city.

14-9B-030. Development Description.

A Townhome Development is a development containing residential units with two or more of the units attached to each other. Projects are planned to achieve a coordinated, functional and unified development pattern.

The R-5 Townhome Development zone must contain a minimum of five acres, a maximum of twenty acres, and be adjacent to the I-1 or C-1 zone. A minimum of 2,000 feet must exist between R-5 zones. It is intended for higher densities, and may contain up to nine units per acre. All projects must meet the development standards set forth in this chapter.

14-9B-040. Development Standards.

- A. Plats. Plats should show the residential unit footprint, with any limited common area. Adequate common areas must be established to meet the minimum recreation requirements of this section.
- B. Permitted Uses. Attached, multi-family residential living units.
- C. Conditional uses. All conditional uses associated with the R-1 zone.
- D. Streets. Streets may be public or private. Public streets must meet the requirements of the Construction and Development Standards, including curb, gutter, and sidewalk. Private streets must contain a minimum of thirty feet of asphalt, curb and gutter on both sides, and sidewalk on at least one

side of the street. They must otherwise meet the Construction and Development Standards.

- E. Set Backs. Buildings must be set back from public streets a minimum of twenty-five (25) feet and a minimum of twenty (20) feet from private streets. Buildings must be set back from side yards a minimum of ten (10) feet and from rear yards a minimum of fifteen (15) feet.
- F. Parking. A minimum of seventy-five percent (75%) of the units must have a two-car garage. The remaining units must have a one-car garage. Additional off-street parking must be provided at the rate of one space for each two units.
- G. Fences/Walls. A six foot high masonry wall, approved by the Planning and Zoning Commission, shall be placed between the project and the adjacent I-1 or C-1 zone.
- H. Garbage Collection. A project may elect to use individual trash receptacles provided by the city to collect garbage, or may elect to contract with a private sanitation company for garbage collection. If City receptacles are elected, all requirements of the City must be met. If a private provider is elected, collection dumpsters must be kept enclosed behind six foot high gated, masonry walls.
- I. Design Theme. Each project should have a design theme (Spanish, Swiss, Colonial, etc.), which must be maintained throughout the development. The Planning and Zoning Commission shall review and approve the theme and architectural design during the plat approval process.
- J. Recreation. Each project must maintain adequate common area to provide active recreation opportunities for the residents. The type of activity may be geared to the potential resident. Examples include, but are not limited to, commercial grade playground equipment, swimming pools, tennis courts, or clubhouses (with specified activities to be conducted therein). The City may require more or higher quality recreation opportunities, or more open space than initially proposed, based upon the extent and quality of the other standards provided.
- K. Height Restrictions. Units may not exceed thirty feet in height, measured from the grade to the elevation of the square of the building.
- L. Dwelling Size. The minimum dwelling size shall be one thousand two hundred (1,200) square feet finished floor area.
- M. Exterior Building Material. All units must be constructed entirely of stucco, masonry product (hardi-plant), or similar material specifically approved by the Planning and Zoning Commission during the design and architectural review process.
- N. Roof Pitch. The minimum roof pitch shall be 6/12.
- O. Rain Gutters. Each unit shall have rain gutters on all eaves where the roof will allow water to flow, with down spouts.
- P. Landscaping. All common areas and limited common areas shall be fully landscaped, including automatic sprinkler systems. In the event the mayor or city council declares a water shortage or potential shortage, the city may dictate the watering schedule for all common and limited common areas.

- Q. Home Owner's Association. Each project shall have a home owner's association, which shall be responsible to maintain, at a minimum, all common areas, recreational activities provided, private streets, and off street parking. The home owner's association shall also be responsible to dispose of all landscaping debris (lawn clippings, tree limbs, etc.).
- R. Animals. No animals are allowed in the R-5 zone except those which can be, and are, maintained in a humane and healthy manor, indoors. (Ord. No. 7-20-05)

CHAPTER 10

A-1 AGRICULTURAL ZONE

14-10-010. Objectives, Restrictions.

The objectives in creating the A-1 agricultural zone are to maintain the use of land for agricultural and livestock raising purposes. This zone is characterized by farms and ranches devoted to the production of wholesome plant and animal products. This zone is meant to protect and encourage continued use of land for agricultural purposes, to reduce the cost of government expenditures for police, fire protection, road maintenance and other public services, to discourage the wasteful scattering of population, and to allow limited development in an orderly, economical fashion. No use may be permitted in this zone except as is specifically provided in this chapter, or those allowed with a conditional use permit.

14-10-020. Permitted Uses.

Uses permitted in the A-1 agricultural zone are as follows:

1. Single family dwellings and accessory buildings and structures such as garages and greenhouses.
2. Agriculture and the raising, handling and processing of agricultural products, livestock, poultry and other farm products and buildings and structures incidental thereto.
3. Barns, machinery sheds, corrals, pens, coops, feed storage buildings, produce sheds, and similar agricultural structures.
4. Churches, and publicly owned buildings.
5. Kennels, riding academies, riding clubs.
6. Country clubs and golf courses.
7. Stadiums, rodeo arenas and customary concession in connection therewith.
8. Veterinary hospitals.
9. Water reservoirs, wells, and facilities.
10. Fruit and vegetable stands made of temporary construction for the sale of produce raised on the premises, provided the stands do not exceed 100 square feet, are made of wood frame or light metal material, are maintained and comply with board of health standards, and are separated from any highway or street by fencing between October 1 and May 1.

14-10-030. Other Requirements.

All dwellings in the A-1 agricultural zone shall comply with the following minimum requirements:

1. Minimum lot size shall be five acres, with a minimum frontage of 250 feet at the building line.
2. The minimum front yard setback requirement shall be 25 feet to the residence. The maximum front yard setback shall be 200 feet. If the front yard setback is more than 30 feet, access shall be a minimum width of 20 feet and constructed of a material to allow a fire truck to approach the dwelling. The minimum side yard setback requirement shall be 10 feet, except on corner lots, where the side yard facing the road shall have a minimum setback of 25 feet. The minimum rear yard setback shall be 15 feet. All accessory buildings shall be set behind the principal residence as a front yard setback requirement. (Ord. No. 6-28-94) (Ord. No. 10-15-03)
3. The dwelling shall have a minimum of finished living area of 1,000 square feet.
4. The dwelling shall have a minimum height of 10 feet and a maximum height of 30 feet, measured from the grade to the elevation of the square of the building.

14-10-040. Animals.

There are no restrictions on animals, consistent with the agricultural purposes of this zone.

CHAPTER 11

C-1 COMMERCIAL ZONE

14-11-010. Objectives, Restrictions.

The objectives in creating the C-1 commercial zone are to encourage the commercial development of the city in an organized manner for the betterment of merchants and residents. This zone is meant to create a dominant shopping district for the city allowing business and shopping activities to be carried on with maximum convenience, to induce attractive, inviting and well maintained shops, stores, offices and similar uses with ample parking and attractive landscaping. The C-1 Commercial Zone is to be characterized by wide, clean, well-lighted streets, and ample pedestrian ways for the convenience and safety of the public. Attractive, inviting, and well maintained shops, stores, offices, and other buildings are also characteristic of this zone. Conversely, uses which tend to create business dead-spots, cause undue scattering of business, and generally tend to thwart the use of the land for its primary purpose have been excluded from the zone. This zone will tend to encourage an architectural theme which will strengthen the continuity of the area and give it a "character" with which the citizens of Salem can identify. No use may be permitted in this zone except as is specifically provided in this chapter, or those allowed with a conditional use permit.

14-11-020. Permitted Uses. (Ord. No. 8-19-98)

Uses permitted in the C-1 commercial Zone are as follows:

1. New and used automobile dealers.
2. Bakeries.
3. Barber and Beauty shops.
4. Banks and other financial institutions.
5. Book, stationary, and office supply stores.
6. Camera and photo supply shops.
7. Professional offices and clinics.
8. Grocery stores, drug stores, dry good stores and similar retail uses.
9. Dry cleaning and laundry establishments.
10. Floral and gift shops.
11. Restaurants, cafes, fountains, ice parlors and similar uses.
12. Hardware stores.

13. Household appliance and furniture stores.
14. Repair shops.
15. Jewelry stores.
16. Pressing, altering, and repairing of wearing apparel.
17. Public and private parking lots.
18. Convenience stores and service stations, providing that all gasoline storage tanks comply fully with EPA rules and regulations.
19. Motels.
20. Hospitals.
21. Shoes sales and repair shops.
22. Day care, provided care for more than six children complies with the following requirements:
 - A. The building must have two approved exits, opening directly to the outside.
 - B. The exits must be a minimum of three feet wide and, if not grade level, be provided with a ramp to grade not to exceed a slope of 1:12.
 - C. Walls must meet national requirements for flame and smoke spread restrictions.
 - D. All doors opening into or from a one hour fire rated corridor must be a minimum of 20 minute fire resistive assemblies (including frames) with self closures.
 - E. The building must have fire alarm system wired in accordance with the national life safety code.
 - F. If the basement is to be used, it must have exit doors directly to the outside in addition to windows.
 - G. All storage and maintenance areas must be constructed of one hour fire resistive materials.

- H. All electrical wiring must be grounded and otherwise meet the NEC standards.
 - I. All construction must be overseen by a general contractor and all work must be done by licensed contractors.
 - J. All state licensing requirements must be met.
- 23. Bowling alleys.
 - 24. Clubs and fraternal societies.
 - 25. Dancing and music schools.

14-11-030. Other Requirements.

All uses in the C-1 commercial zone shall comply with the following minimum requirements:

- 1. Prior to the issuance of a building permit, a site plan must be submitted to the DRC and the Planning and Zoning Commission for a site plan review and recommendations. The same process shall apply to a business license unless the business license is of the same use which was previously occupying an existing building, or the business is a contemplated use in a building or commercial center which has already received a site plan review. The Planning and Zoning commission shall act as the land use authority for these matters. (Ord. No. 3-15-00) (Ord. NO. 6-20-05)
- 2. The site plan must show the location of all existing and proposed main buildings and accessory buildings, showing distances and contemplated uses.
- 3. The minimum front yard setback requirement shall be fifteen (15) feet. The minimum side yard setback requirement shall be ten (10) feet. The minimum rear yard setback requirement shall be ten (10) feet. Accessory buildings larger than 125 square feet shall have a minimum setback requirement in the side and rear yards of ten (10) feet. Accessory buildings smaller than 125 square feet shall have no rear or side yard setback requirements. (Ord. No. 6-28-94)
- 4. Buildings shall have a minimum height of 10 feet and a maximum height of 40 feet, measured from the grade to the elevation of the square of the building.
 - A. Buildings located between 600 North and 600 West along State Road 198 shall have a minimum height of 10 feet and a maximum height of 40 feet, measured from the grade to the elevation of the square of the building. (Ord. No. 8-1-01)

- B. Buildings located outside the area from 600 North to 600 West along State Road 198, shall have a minimum height of 10 feet and a maximum height of 65 feet, measured from the grade to the elevation of the square of the building, and which building shall have a minimum of three percent (3%) slope and a maximum of five percent (5%) slope away from the building for a distance of ten (10) feet.

(Ord. No. 8-1-01)

5. Provide driveways, points of vehicular ingress and egress, and a minimum of four parking spaces for each 1000 square feet of main building.
6. Provide solid waste disposal areas that, to the extent feasible, are not in the public view.
7. Provide for and maintain landscaping in all areas visible from the street not used for drives, walks, or other required uses and to include with the landscaping a sprinkling or irrigation system.
8. Prior to the issuance of a building permit, all new construction or remodeling shall provide for a drainage plan for excess run-off waters which plan is acceptable to the city engineer.
9. Provide a visual barrier fence a minimum of six feet high between commercial and residential uses, which construction shall be approved by the city engineer.
10. All commercial uses shall provide curb, gutter, sidewalk, and asphalt paving from the curb and gutter to the existing street asphalt.
11. Metal buildings are not allowed in the C-1 zone. Accessory building are to be of the same material and style as the main structure. (Ord. No. 4-7-04)

14-11-040. Bond Requirements.

Prior to the issuance of a building permit in the C-1 commercial zone, the city shall obtain a bond from the building permit applicant in an amount and form acceptable to the city engineer. The bond shall be in the amount of 125% of the estimated costs of sidewalk, curb and gutter, and asphalt surfacing and shall be for the purpose of guaranteeing the installation of the required improvements of sidewalk, curb and gutter, and street surfacing. The city engineer shall authorize the release of the bond upon the acceptable performance by the developer concerning the installation of the required improvements. If the required improvements are not satisfactorily installed and approved by the city engineer within one year after first occupancy, the city shall redeem the bond and cause the improvements to be installed.

14-11-050. Signs.

- A. Businesses in this zone may display a sign not to exceed in size more than 1/5 of the area of the wall size where it is to be displayed. Each sign shall be flush with the building, overhanging the building by no more than 18 inches.
- B. Freestanding signs shall not exceed in height the distance of 60 feet and shall not exceed in size the sum of 80 square feet. The minimum setback requirement for a freestanding sign shall be 10 feet.

CHAPTER 11A C-2 COMMERCIAL ZONE

14-11A-010. Objectives, Restrictions.

The objectives in creating a C-2 Commercial Zone are to encourage light commercial development in the City where traditional commercial uses have been authorized and where extensive development is not likely, but where some expansion of existing establishments may take place in a manner for the betterment of merchants and protection of residents. This zone is meant to create a light commercial district for the City allowing business and shopping activities to be carried on with maximum convenience, to induce attractive, inviting, and well-maintained shops, stores, offices, and similar uses with adequate parking and appropriate landscaping. No use may be permitted in this zone except as is specifically provided in this chapter, or those allowed with a conditional use permit.

14-11A-020. Permitted Uses. (Ord. No. 8-19-98)

Uses permitted in the C-2 Commercial Zone are as follows:

1. Bakeries.
2. Barber and beauty shops.
3. Banks and other financial institutions.
4. Book, stationary, and office supply stores.
5. Camera and photo supply shops.
6. Professional offices and clinics.
7. Grocery stores, drug stores, dry goods stores, and similar retail uses.
8. Floral and gift shops.
9. Restaurants, cafes, fountains, ice cream parlors, and similar uses.
10. Hardware stores.
11. Household appliance and furniture stores.
12. Repair shops, but excluding automotive bodywork, paint shops, or similar type uses which are prohibited in the C-2 Zone.
13. Jewelry stores.
14. Tailor shops.

15. Public and private parking lots.
16. Convenience stores and service stations, providing that all gasoline storage tanks comply fully with EPA rules and regulations.
17. Shoe sales and repair shops.
18. Day care, provided care for more than six children complies with the following requirements:
 - A. The building must have two approved exits, opening directly to the outside;
 - B. The exits must be a minimum of 3 feet wide and, if not grade level, be provided with ramp to grade not to exceed a slope of 1:12;
 - C. Walls must meet national requirements for flame and smoke spread restrictions;
 - D. All doors opening into or from a one-hour fire-rated corridor must be a minimum of 20-minute fire-resistive assemblies (including frames) and with self-closures.
 - E. The building must have a fire alarm system wired in accordance with the National Life Safety Code;
 - F. If the basement is to be used, it must have exit doors directly to the outside in addition to windows;
 - G. All storage and maintenance areas must be constructed of 1-hour fire resistive material;
 - H. All electrical wiring must be grounded and otherwise meet the national electric code standards;
 - I. All construction must be overseen by a general contractor and all work must be done by licensed contractors;
 - J. All state licensing requirements must be met.
19. Clubs and fraternal societies;
20. Dancing and music schools.

21. Heating and Air-conditioning uses, entailing retail sales service, and repair, including fabrication, but excluding manufacturing and further provided that all noise and pollution generated by such activity remain on the premises.

(Ord. No. 2-17-99-A)

14-11A-030. Other Requirements. (Ord. No. 8-18-98)

All uses in the C-2 Commercial Zone shall comply with the following minimum requirements:

1. Prior to the issuance of a building permit, a site plan must be submitted to the Development Review Committee and the Planning and Zoning Commission for a site plan review and recommendations. The same process shall apply to a business license unless the business is of the same use which was previously occupying an existing building, or the business is a contemplated use in a building or commercial center which has already received a site plan review. (Ord. No. 3-15-00)
2. The site plan must show the location of all existing and proposed main buildings and accessory buildings, showing distance and contemplated uses.
3. The minimum front yard set-back requirement shall be five (5) feet. The minimum side yard set-back requirement shall be five (5) feet. The minimum rear yard set-back requirement shall be five (5) feet.
4. The building shall have a minimum height of ten (10) feet and a maximum height of forty (40) feet, measured from the grade to the elevation of the square of the building.
5. Provide driveways, points of vehicular ingress and egress, and provide for off-street parking for all employees of the establishment, together with sufficient off-street parking for consumers or clients. A traffic study conducted by a traffic engineer may be required by the City. (Ord. No. 8-1-98)
6. Provide solid waste disposal areas that, to the extent feasible, are not in the public view.
7. Provide for and maintain landscaping in all areas visible from the street not used for drives, walks, or other required uses, and to include with the landscaping an automatic sprinkling system.
8. Prior to the issuance of a building permit, all new construction or remodeling shall provide for a drainage plan for excess run-off waters which plan is acceptable to the City Engineer.
9. Provide a vision barrier fence a minimum of six feet high between commercial and residential uses, which construction shall be approved by the City Council.

10. All commercial uses shall provide curb, gutter, sidewalk, and asphalt paving from the curb and gutter to the existing street asphalt.
11. Metal buildings are not allowed in the C-2 zone. Accessory buildings are to be of the same material and style as the main structure. (Ord. No. 4-7-04)

14-11A-040. Bond Requirements.

Prior to the issuance of a building permit in the C-2 Commercial Zone, the City shall obtain a bond from the building permit applicant in an amount and form acceptable to the City Public Works Director. The bond shall be in the amount of 125% of the estimated cost of sidewalk, curb, gutter, and asphalt surfacing and shall be for the purpose of guarantying the installation of the required improvements of sidewalk, curb and gutter, and street surfacing. The Public Works Director shall authorize the release of the bond upon the acceptable performance by the developer concerning the installation of the required improvements. If the required improvements are not satisfactorily installed and approved by the Public Works Director within one year after first occupancy, the City shall redeem the bond and cause the improvements to be installed.

14-11A-050. Signs.

1. Businesses in this zone may display a sign not to exceed in size more than 1/5 of the area of the wall size where it is to be displayed. Each sign shall be flush with the building, overhanging the building by not more than 18 inches.
2. Free-standing signs are limited to areas having frontage on state highways. A free-standing sign shall not exceed in height the distance of 60 feet and shall not exceed in size the area of 40 square feet. The minimum set-back requirement for a free-standing sign shall be 10 feet.

(Ord. No. 8-22-95-A)

CHAPTER 12

I-1 INDUSTRIAL ZONE

14-12-010. Objectives, Restrictions.

The objectives in creating the I-1 industrial zone are to restrict the growth and development of manufacturing and industrial uses to areas which will not interfere with residential uses. This zone is meant to accommodate manufacturing, fabricating, processing, and warehousing establishments in a pollution free environment which will encourage expansion of those uses for the economic well-being of the city. No use may be permitted in this zone except as is specifically provided in this chapter, or those allowed with a conditional use permit.

14-12-020. Permitted Uses.

Uses permitted in the I-1 industrial zone are as follows:

1. Wholesale distributing and warehouses.
2. Printing plants.
3. Machine shops.
4. Food preparation plants, the operation of which is not obnoxious by reason of emission of odors, smoke, or noise, except for normal traffic movement.
5. Milk distribution plants, creameries, bottling works, and similar uses.
6. Assembly and sale of farm equipment, mining machinery, vehicles, and similar products, but excluding junk yards and auto wrecking yards.
7. Air conditioning and heating service establishments.
8. Amusement enterprises and dance halls.
9. Assembly of products with previously prepared parts such as computers and appliances, and including limited manufacture of parts to be assembled on site.
10. Auction establishments.
11. Construction sales and service and related storage yards.
12. Lumber yards.
13. Repair services.
14. Transportation and storage businesses.

15. Glass cutting and installation.
16. Commercial garages and body shops, requiring the storage of not more than ten vehicles, which vehicles shall be stored behind a vision barrier fence.
17. Agricultural enterprises except animal feed lots, rendering houses, and slaughter houses.
18. Stone cutting and monument works.
19. Plumbing, carpenter and similar shops.
20. Storage units.
21. General manufacturing
22. Veterinary services.
23. Sexually oriented businesses, following the criteria found in §6-10-010 et seq.; provided the following restrictions are met:
 - a. They may not be located within 200 feet of SR-198, Beet Road (460 W.), Woodland Hills Dr., or any other road which provides a major entry or gateway to Salem City;
 - b. They may not be located within 1000 feet of an establishment which serves alcohol, measured in a direct line from property line to property line;
 - c. They may not be located within 100 feet of a church, daycare, or school, measured in a direct line from property line to property line;
 - d. They may not be located within 1000 feet of another SOB, measured in a direct line from property line to property line;
 - e. Their hours of operation are limited from 8:00 a.m. to 1:00 a.m. the following morning, and further provided they may not be open on Sundays.

14-12-025. Restricted Uses.

Limited retail sales may be allowed in the I-1 Industrial Zone when approved by the City Council, after having been reviewed by the Planning and Zoning Commission. Any such retail uses may not be inconsistent with any planned or existing industrial use in the immediate vicinity. All of the requirements of section 14-12-030 are applicable to retail sales uses except that free standing signage may not exceed forty feet height. (Ord. No. 6-10-97)

14-12-030. Other Requirements. All uses in the I-1 industrial zone shall comply with the following minimum requirements:

1. Prior to the issuance of a building permit, a site plan prepared by an engineer or architect must be submitted to the DRC, which shall review it for compliance with all requirements and standards of the City. When the requirements and standards have been met, the DRC may authorize the issuance of a building permit and act as the land use authority. All construction must be in compliance with the approved site plan (Ord. No. 5-6-98) (Ord. No. 6-20-05)
2. The site plan must show the location of all existing and proposed main buildings and accessory buildings, showing distances and contemplated uses.
3. The minimum front yard setback requirement shall be 25 feet. The rear and side yard setback requirement shall be at least 10 feet.
4. Buildings shall have a minimum height of 10 feet and a maximum height of 40 feet, measured from the grade to the elevation of the square of the building. Accessory buildings may exceed 40 feet, upon obtaining a conditional use permit.
5. Provide driveways, points of vehicular ingress and egress, and four parking spaces for each 1000 square feet of main building, unless the building official determines, based upon the use of the building, that more or fewer spaces are required.
6. Provide solid waste disposal areas that are not in the public view.
7. To provide and maintain xeriscape landscaping in all setback areas and parking lots not covered with asphalt or concrete and to include with the landscaping an automatic sprinkling system. Landscape plans should reflect the following techniques:
 - a. using plant material with comparatively low moisture requirements;
 - b. Selecting plants on the basis of specific slope, aspect, soil, and microclimate conditions;
 - c. Using native and adapted plant species;
 - d. Minimizing the amount of irrigated turf surfaces;
 - e. Planting and designing slopes to minimize runoff;
 - f. Separating irrigation zones according to plant water requirements and using drip/trickle systems to conserve water;
 - g. Using mulch in planting areas to reduce weed growth, promote soil cooling, and reduce evaporation.
8. Prior to the issuance of a building permit, all new construction or remodeling shall provide for a drainage plan for excess run-off waters which plan is acceptable to the city engineer.

9. Provide a visual barrier fence a minimum of six feet high between commercial and residential uses, or other appropriate land use buffers as approved by DRC, such as berms, trees, shrubs, hedges, etc., which provide a barrier to mitigate or eliminate light, noise, odor, dust, vibration, or other similar incidents of the industrial use, which construction shall be approved by the city engineer.
10. All industrial uses shall provide curb, gutter, sidewalk, and asphalt paving from the curb and gutter to the existing street asphalt.
11. All uses in the industrial zone shall comply with all federal, state, and local environmental rules or regulations.
12. Building design should be used as a method of enhancing the theme or character of a building. Details of a building elevation, such as particular design characteristics or use of material and color shall continue the character of theme of the project. Equipment such as, but not limited to, roof mounted communications and mechanical equipment, vending machines and similar equipment shall be screened from view and placed in an area designed for their inclusion as an integral part of the project. Exterior building materials shall be durable, require low maintenance, and be of high quality. Reflective surfaces shall not be used in locations which may produce excessive reflections or glare that may create a potential safety hazard. Tile, architectural grade asphalt shingles, standing seam metal, or similar quality roofing materials shall be used on all visible pitched roofs.

14-12-040. Signs.

- A. Businesses using this zone may display a sign not to exceed in size more than 1/5 of the area of the wall size where it is to be displayed. Each sign shall be flush with the building, overhanging the building by no more than 18 inches.
- B. Freestanding signs shall not exceed in height the distance of 60 feet and shall not exceed in size the sum of 80 square feet. The minimum setback requirement for a freestanding sign shall be 10 feet. (Ord. No. 10-6-04)

CHAPTER 13

LIVING ACCOMMODATIONS FOR THE HANDICAPPED

14-13-010. Definitions.

1. **"Handicapped Person"** shall have the meaning as set forth in Utah Code Annotated Section 10-9-103(1)(g).
2. **"Group Home"** as used in this chapter shall mean a residential facility for handicapped persons as set forth in Utah Code Annotated Section 10-9-601.

14-13-020. Permits Required.

Any group home offering assistance to handicapped persons by the use of a non-handicapped staff shall be required to obtain a business license from the city and to pay the costs therefore.

14-13-030. Permitted Use.

In addition to zones where already permitted, a group home shall be a permitted use in any residential zone of the City, subject to the conditions set forth hereinafter.

14-13-040. Land Use Regulations.

A group home must comply with land use regulations required of other buildings in the zone, including but not limited to front and side yard setback requirements, structure limitations, and so forth.

14-13-050. Single Family Zones.

Group homes in the R-2 and R-3 zones are allowed when the character of the neighborhood is not changed. The building dimensions and landscaping shall be of the same general character of those of the other residences and yards in the neighborhood.

14-13-060. Safety Codes.

Any group home shall be required to comply with all health and safety codes, ordinances, laws or regulations applicable to that type of building and use.

14-13-070. Supervision.

The operator of any group home shall be required to provide supervision in accordance with the rules and regulations of the State of Utah Department of Social Services or Department of Health, which care shall be on a twenty-four hour basis if so required by the aforementioned rules and regulations.

14-13-080. Parking.

Each group home shall provide sufficient off street parking for staff and visitors. The parking shall comply with the city ordinance on parking. In addition the parking shall be situated in such a manner so as to not detract from the particular residential zone where the group home is located.

14-13-090. Purposes.

All group homes shall be for the needs of the handicapped. No person being treated for alcoholism or drug abuse shall be permitted to reside in a group home under this chapter. A violation of this section shall subject the operator and/or administrator to a Class B Misdemeanor.

14-13-100. Voluntary Arrangement.

Placement in a group home shall be on a strictly volunteer basis. A person declared incompetent by a court shall be placed by the voluntary consent of their legal guardian, after consultation with the incompetent.

14-13-110. Violence.

1. No handicapped person shall reside in a group home in a residential area of the city who is violent or who constitutes a direct threat to the health or safety of other individuals, including other residents of the group home, or whose residency would result in substantial physical damage to the property of others, including other residents of the group home.
2. In order to enforce the provisions of subparagraph 1, the following shall be applicable:
 - A. Group homes shall be classified into level one and level two homes as set forth in the Small Health Care Facility Rules as promulgated by the State of Utah Department of Health Care Licensing.
 - B. Persons placed in a level two group home shall be deemed non-violent or non-threatening and shall be permitted with no further requirements.
 - C. Handicapped persons placed in a level one group home shall produce, through the operator of the group home, a certificate issued by appropriate medical professionals and based upon professional evaluations such as the ICAP, MMPI, and/or such other resources as may be available to the medical professional, which certificate shall indicate that the handicapped person is not violent nor a direct threat to the safety of the property of any other person at the time of placement. Production of this certificate required by this section shall be a pre-requisite to the obtaining of the business license required by this chapter. Each new resident shall also provide said certificate in order for the facility to be eligible to renew its business license.

14-13-120. Dispersion.

No group home in a residential zone shall be permitted within one-half mile of any other group home.

14-13-130. Non-Discrimination.

1. It shall be unlawful to discriminate against handicapped persons or group homes.
2. Nothing contained herein shall in any way be construed to prohibit individual handicapped persons from purchasing or renting residential accommodations of their choosing.

14-13-140. Severability.

If any portion of this chapter shall be declared void or unenforceable for any reason whatsoever, the remaining portion shall, nevertheless, be given full force and effect.

CHAPTER 14

LIVING ACCOMMODATIONS FOR THE ELDERLY

14-14-010. Definitions.

1. **"Elderly Person"** shall have the meaning as set forth in Utah Code Annotated Section 10-9-103(1)(e).
2. **Residential facility for elderly persons"** as used in this chapter shall mean a residential facility for elderly persons as set forth in Utah Code Annotated Section 10-9-501.

14-14-020. Permitted Use.

In addition to zones where already permitted, a group home shall be a permitted use in any residential zone of the City, subject to the conditions set forth hereinafter.

14-14-030. Land Use Regulations.

A group home must comply with land use regulations required of other buildings in the zone, including but not limited to front and side yard setback requirements, structure limitations, and so forth.

14-14-040. Single Family Zones.

A residential facility for the elderly in the R-2 and R-3 zones are allowed when the character of the neighborhood is not changed. The building dimensions and landscaping shall be of the same general character of those of the other residences and yards in the neighborhood.

14-14-050. Safety Codes.

Any home for the elderly shall be required to comply with all health and safety codes, ordinances, laws or regulations applicable to that type of building and use.

14-14-060. Supervision.

The operator of any home for the elderly shall be required to provide supervision in accordance with the rules and regulations of the State of Utah Department of Social Services or Department of Health, which care shall be on a twenty-four hour basis if so required by the aforementioned rules and regulations.

14-14-070. Parking.

Each home shall provide sufficient off street parking for staff and visitors. The parking shall comply with the city ordinance on parking. In addition the parking shall be situated in such a manner so as to not detract from the particular residential zone where the home is located.

14-14-080. Purposes.

All homes shall be for the needs of the elderly. No person being treated for alcoholism or drug abuse shall be permitted to reside in a home under this chapter. A

violation of this section shall subject the operator and/or administrator to a Class B Misdemeanor.

14-14-090. Voluntary Arrangements.

Placement in a home for the elderly shall be on a strictly volunteer basis. A person declared incompetent by a court shall be placed by the voluntary consent of their legal guardian, after consultation with the incompetent.

14-14-100. Violence.

No elderly person shall reside in a home in a residential area of the city who is violent or who constitutes a direct threat to the health or safety of other individuals, including other residents of the home, or whose residency would result in substantial physical damage to the property of others, including other residents of the home.

14-14-110. Dispersion.

No elderly home in a residential zone shall be permitted within one-half mile of any other home.

14-14-120. Non-Discrimination.

It shall be unlawful to discriminate against elderly persons or residential homes for the elderly.

14-14-130. Severability.

If any portion of this chapter shall be declared void or unenforceable for any reason whatsoever, the remaining portion shall, nevertheless, be given full force and effect.

CHAPTER 15

I-5 GRAVEL PIT ZONE

14-15-010. Intent.

This district is intended to provide for the extraction of earth products using surface mining methods while protecting the rights of neighboring properties and while protecting public facilities, such as roads, from unusual wear or damage. This is an interim use of the land, with the ultimate intent being to rehabilitate the site and convert the property to a use or uses compatible with the surrounding area.

14-15-020. Permitted Uses.

The following uses are permitted in the I-5 Gravel Pit Zone.

- A. Extraction of sand, gravel, clay, topsoil, rock, or other minerals by an open pit method with a conditional use permit.
- B. Offices and related buildings necessary to a surface mining operation, but excluding asphalt batch plants, concrete and asphalt mixing plants, and rock crushers. Any existing rock crushers may be moved to other locations where a valid permit exists, but may not be expanded in size nor increased in number. A company which has an existing rock crusher may bring in a mobile crusher to avoid multiple transports of material, provided that only one crusher may operate at a time and the mobile crusher is at least as quiet and clean as the existing crusher.

14-15-030. Conditions.

- A. Size.
 - 1. The operable portion of an open pit shall be authorized in ten (10) acre increments by use of an open pit excavation permit. Permits are valid for seven years, subject to the review required by this chapter.
 - 2. Two (2) permits per company may be outstanding at once. Reclamation of one permit, plus pre-existing pits, as set forth herein, shall be completed according to the reclamation standards of this chapter, prior to the issuance of a third permit.
- B. Nuisance Abatement.
 - 1. Dust generated in the extraction and processing of the earth products shall be contained on site by paving main roads in the pit, wetting extraction areas and loaded trucks, chemical treatment, placing landscaped berms, and other similar measures. The applicant shall submit a dust control plan with its application to

show how all dust will be contained on site. The conditional use permit may adapt the applicant's plan, or set more stringent standards.

2. Back up warning devices on motor equipment shall be by flashing lights. No beepers or similar audio warning devices are allowed.
3. Water shall not be allowed to settle or pond in the bottoms of the pits. All water shall be required to drain promptly in accordance with Salem City requirements. The depth of the pit may not exceed the grade to drain slope, such that natural drainage occurs without ponding or settling.

C. Performance Standards.

1. The operation must be in compliance with all state and federal regulations.
2. All cuts and fills must be a minimum of 75 feet from any dwellings and a minimum of 25 feet from property line. No cuts or fills are permitted outside areas for which an open pit excavation permit has been issued in accordance with Section 14-15-020(A).
3. An accurate site plan must be submitted which shows the topography, utilities, roads, and structures on the site in their current state and as proposed after completing the excavation and reclamation. All buildings are to meet a 30 foot set back from all property lines. Proof of ownership or leasehold interest is required with the site plan. All owners of property must sign a certificate acknowledging receipt of this ordinance and agreeing to abide by its terms.
4. A traffic plan must be submitted which shows the routes which loaded trucks will follow to gain access to state highways and/or arterial streets. Salem City may dictate routes for loaded trucks in order to preserve its streets.
5. All loaded trucks are to have tightly closed tailgates and tarps to prevent spillage.
6. The hours of operation are limited to no earlier than 6:00 a.m. nor later than 9:00 p.m. on weekdays and 6:00 a.m. to 2:00 p.m. on Saturdays. Operations shall not be open on Sundays. In the event that a permittee procures a contract for work on a federal or state highway which required night time operations, or in the event of an emergency, the Mayor may authorize a temporary permit to

operate on nights and Sundays. Such an emergency permit is only valid until the next Development Review Committee meeting. The Development Review Committee will review the situation and determine if the permit should be extended and if so, for how long. The permittee or an affected landowner may appeal the decision of the Development Review Committee to the City Council.

7. Public utilities are not to be left on islands making them difficult to access. Operators shall be required to relocate such utilities at their expense. Construction standards set by the utility company involved shall be met when relocating utilities. Operators may be required to grant new easements to facilitate any relocation. Utility service is not to be interrupted.
8. Precautions to protect ground water (well sources) from pollution shall be required.
9. For all new permits, the topsoil shall be stored on site for eventual reclamation.

14-15-040. Reclamation.

- A. when the extracted material has been removed from a pit, the pit shall be immediately reclaimed pursuant to these standards:
 1. The side walls of a pit or mound shall be smoothed and evenly contoured, and the floor of a pit or top of a mound shall be flattened and leveled, as the case may be.
 2. Mounds of fill shall not remain after rehabilitation of an extraction operation, even if utility poles must be relocated at the operation expense.
 3. No depression which lacks a surface outlet, shall exist on the rehabilitated site. No pond or intermintent lake is permitted.
 4. No slope shall be steeper than 2:1.
 5. All areas shall be covered with a minimum four-inch layer of topsoil and reseeded with an approved plant material to eliminate erosion.
- B. Pits which were excavated prior to annexation shall meet the Utah county reclamation standards in place at the time the excavation was concluded. For pits where disputes exist, as to either standards, dates, or any other matter, five acres shall be reclaimed with each new reclamation and prior

to the issuance of a third open pit excavation permit as set forth in Section 14-15-030(A)(2). Salem City may require all reclamation to be completed if it determines that reclamation was required, but that the applicable standards were not met.

- C. A new site plan shall be submitted showing current topography, roads, and how reclamation compares with the initial site plan.

14-15-050. Review Process.

- A. An applicant for an open pit excavation permit shall provide the site plan required by Section 14-15-030(C)(3) to the City seven days prior to the scheduled review with the Development Review Committee. The Development Review Committee will review the application using the following criteria:
 - 1. That the proposed use will not disrupt the development character of the adjacent properties.
 - 2. That the proposed site is adequate in size and shape to accommodate the intended use, and that all requirements for the zoning district, including but not limited to: setbacks, walls, landscaping and buffer yards are met.
 - 3. That the proposed site has adequate access to public streets to carry the type and quantity of traffic which may be generated by the use.
 - 4. All appropriate conditions are met and other conditions to protect the health, safety, and welfare of the residents are addressed.
- B. The Planning and Zoning Commission will review the recommendation of the DRC. The Planning and Zoning Commission shall act as the land use authority and may grant the permit, insuring the conditions required by this chapter are met, and adding such additional conditions as necessary to protect the health, safety, and welfare of the residents of the City. (Ord. No. 6-20-05)
- C. Each conditional use permit granted will be reviewed by-annually by the Development Review Committee to determine compliance with the conditions imposed by the Planning and Zoning Commission. The City Public Works Director may schedule an earlier review if he/she observes a violation of any condition.
- D. Expenses incurred by the City, in determining non-compliance with conditions, must be reimbursed to the City by the permittee prior to reinstating the permit.

14-15-060. Bonds.

- A. A cash bond, or other type of bond acceptable to the City, is required to be posted by the operator of the gravel pit, together with the owner of the property, if different than the operator, in accordance with this section.

(Ord. No. 7-3-02)

1. The bond shall be in the amount of \$1800 per acre of ground included in the open pit excavation permit.
2. A separate bond is required for each permit.
3. The bond shall guarantee performance of all of the conditions of the conditional use permit, including reclamation.
4. The bond shall be for a maximum period of seven years.
5. The DRC may review the bond annually to assure the amount is sufficient to reclaim the project. The City may increase the amount of the bond during the review.

- B. The bond shall be forfeited to the City in the event any of the following occurs:

1. A condition imposed is violated and not corrected after 30 days notice to correct the violation.
2. Reclamation of the pit has been commenced within six months from the time that mining operations within the pit have ceased.
3. Reclamation of the pit has not commenced within six months from the date that an open pit excavation permit expired, or was revoked.
4. Reclamation of the pit has not been completed within one year from the date reclamation is commenced.

- C. Monies from a forfeited bond are to be used to reclaim the pit in accordance with this chapter. Notwithstanding any forfeiture of a bond, the operator and property owner remain individually liable for any expenses of reclamation not covered by the bond. (Ord. No. 7-3-02)

14-15-070. Violation.

A violation of any provision of this chapter is a Class “C” misdemeanor.

(Ordinance 8-16-00)