



Sandy City, Utah

10000 Centennial Parkway
Sandy, UT 84070
Phone: 801-568-7141

Meeting Agenda

City Council

Brooke Christensen, District 1
Maren Barker, District 2
Kristin Coleman-Nicholl, District 3
Chris McCandless, District 4
Steve Fairbanks, At-large
Linda Martinez Saville, At-large
Zach Robinson, At-large

Tuesday, March 13, 2018

5:15 PM

Council Chambers

Web address to view complete packet: <http://sandyutah.legistar.com>

The Sandy City Council has adopted Rules of Procedure which are available at the rear of the Council Chambers and online at: <http://sandy.utah.gov/government/city-council/procedure-guidelines.html>. Consent Calendar items have been previously considered or are otherwise routine in nature and will be considered in a single motion unless a Council Member wishes to discuss an item separately. In compliance with the Americans with Disabilities Act, reasonable accommodations for individuals with disabilities will be provided upon request. For assistance, please call (801) 568-7141.

*For the March 13, 2018 City Council Meeting, the Chair will allow public comment for each item listed on the agenda at the time the item is heard. Comments on items or issues not listed on the agenda will be heard during the Citizen Comment portion of the meeting. Public comments may not exceed 3 minutes per speaker, per agenda item.

Per Utah Code Annotated 52-4-207 and City Council policy, Council Member Fairbanks may be participating in the March 13, 2018 City Council Meeting via telephone or video conference.

4:30 Dinner

Roll Call

5:15 Council Meeting

Opening Remarks / Prayer / Pledge of Allegiance

Agenda Planning Calendar Review

Council Member Business

Council Office Director's Report

Mayor's Report

CAO Report

Legislative Report

Citizen Comments

Citizen Comments is for public comment on issues not listed on the agenda.

Consent Calendar

1. [18-081](#) Approval of the March 6, 2013 Minutes.

Attachments: [March 6, 2018 minutes.pdf](#)

Council Items

2. [18-083](#) Administration updating the City Council
3. [18-082](#) Finance Department updating the Council on the 2018-19 budget.
4. [18-077](#) Finance Department recommending the City Council amend the purchasing ordinance

Attachments: [Memo to Council RE Purchasing Updates](#)
[18-07](#)
[Purchasing Ordinance Redline](#)
[Purchasing Ordinance Revised](#)

5. [17-310](#) Administration updating the Council on the recodification of City Code

Attachments: [Legal Review City Responses](#)
[Memo on Project](#)
[New Table of Content](#)

6. [18-072](#) Public Utilities Department recommending that the City Council make citizen appointments to the Public Utilities Advisory Board.

Attachments: [March 13, 2018 Reappointment PUAB.pdf](#)
[Resolution for David Colling](#)
[Resolution for Jeff Budge](#)
[Resolution for Don Milne](#)
[Resolution for Florence Reynolds](#)

7. [18-012](#) Council Member Robinson recommending the Council adopt amendments to the Sandy Election Code.

Attachments: [Draft Ordinance to Revise Title 2](#)
[Revisions to Title 2 - Election Code](#)
[Revised Title 2 - Election Code](#)

8. [18-044](#) Council Member Robinson requesting discussion on proposed code amendments to create idle free zones within Sandy City.

Attachments: [Idle free draft amendments](#)

7:00 Public Hearing

9. [MISC-11-17-5](#) Rich Welch for Garbett Homes is requesting a partial street vacation of a
[320](#) public street located on the northern section of Wasatch Blvd on the southern property lines of 1991 Wasatch Blvd and 2073 Wasatch Blvd.

Attachments: [Staff Report and Exhibits.pdf](#)
[Ordinance and Exhibits.pdf](#)

Adjournment



Staff Report

File #: 18-081, **Version:** 1

Date: 3/13/2018

Approval of the March 6, 2013 Minutes.

Motion to approve the minutes as presented.



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Meeting Minutes

City Council

Brooke Christensen, District 1
Maren Barker, District 2
Kristin Coleman-Nicholl, District 3
Chris McCandless, District 4
Steve Fairbanks, At-large
Linda Martinez Saville, At-large
Zach Robinson, At-large

Tuesday, March 6, 2018

5:15 PM

Council Chambers

5:15 Work Session

Agenda Planning Calendar Review

Mike Applegarth reviewed the Agenda Calendar.

Council Member Business

Zach Robinson reported on the Jordan River Commission meeting and grant opportunities.

Brooke Christensen reported on the Sandy Chamber Small Business Owner luncheon.

Steve Fairbanks spoke regarding legislative bills affecting the City.

Council Office Director's Report

Michael Applegarth informed the Council that the cameras and live streaming were operational for tonight's meeting. He also noted some changes on tonight's agenda.

Mayor's Report

No Report.

CAO Report

No Report.

Legislative Report

No Report.

Information Items

1. [18-050](#) Sandy Pride Committee Chair updating City Council

Captain Justin Chapman, Chairman of Sandy Pride, updated the City Council on the 2017 Sandy Pride.

2. [18-069](#) Special Recognition for Officer Shay Ballard

Zach Robinson along with Mayor Bradburn presented a resolution in recognition to Sandy Police Officer Shay Ballard for his service going above and beyond the call of duty as a school resource officer by helping a student at Mount Jordan Middle School.

3. [18-067](#) City Council interview of vendors offering legal services for the City Council.

Attachments: [CouncilAttorneyRFP_Executed](#)

The City Council interviewed vendors offering legal services for the City Council.

Tracy Cowdell and I Rob Wall were interviewed.

The Council agreed to discuss and make a recommendation during the City Council meeting.

4. [17-100](#) City Council Office recommending that the Council discuss short term rentals.

Attachments: [March 6, 2018 Important parts of an STR ordinance](#)

[March 6, 2018 Process and Calendar](#)

[March 6, 2018 Fire Department Memo](#)

[March 6, 2018 City Attorney Memo](#)

[March 6, 2018 Community Development Memo](#)

[March 6, 2018 Presentation](#)

[March 6, 2018 Land Development Code Draft STR Language](#)

[March 6, 2018 Business License Draft STR Language](#)

Mike Applegarth requested that this item be continued due to new information that was received today. Mr. Applegarth noted that it would be appropriate for the Council to make a motion to continue this item to the next available Council Meeting. The Council unanimously agreed to table the discussion.

5. [GPA-Stadium Village](#) Stadium Village Master Plan - update and discussion

Attachments: [Critical Path_Sandy Stadium Village_02 06 18_1](#)

Korban Lee introduced the discussion on the Stadium Village Master Plan.

Jake Warner updated the Council on scheduled events upcoming for the Stadium Village Master Plan.

Council discussion and questions followed.

Meeting went into Recess

Meeting Reconvened

A motion was made by Kristin Coleman-Nicholl, seconded by Chris McCandless,

to adjourn work session.. The motion carried by the following vote:

Yes: 6 - Brooke Christensen
Kristin Coleman-Nicholl
Chris McCandless
Steve Fairbanks
Zach Robinson
Linda Martinez Saville

Absent: 1 - Maren Barker

7:00 Council Meeting

Roll Call

Administration:

Mayor Kurt Bradburn
CAO Matthew Huish
Assistant CAO Korban Lee
Economic Development Director Nick Duerksen
City Attorney Bob Thompson
Community Development Director James Sorensen
Senior Planner Jake Warner
Administrative Services Director Brian Kelley
Fire Chief Bruce Cline
Fire Marshall Robert DeKorver
Parks & Recreation Director Scott Earl
Police Chief Kevin Thacker
Assistant Police Chief Bill O'Neil
Police Captain Justin Chapman
Public Utilities Director Tom Ward
Public Works Director Mike Gladbach

Present: 6 - Council Member Brooke Christensen
Council Member Kristin Coleman-Nicholl
Council Member Chris McCandless
Council Member Steve Fairbanks
Council Member Zach Robinson
Council Member Linda Martinez Saville

Absent: 1 - Council Member Maren Barker

Opening Remarks / Prayer / Pledge of Allegiance

Chairwoman Linda Martinez-Saville welcomed all those in attendance.

City Attorney Bob Thompson offered the opening prayer.

Council Member Zach Robinson led the audience in the pledge.

Citizen Comments

Steve Van Maren supported adopting the Resolution on the consent calendar to cancel the March 20, 2018 City Council Meeting in order to attend the 2018 Caucus meetings.

Steve Smith addressed city master plans and the importance for the Council to take the

necessary steps to see that the master plans are updated.

Monica Zoltanski, Dimple Dell Preservation, thanked the Council for implementing the new code amendment requiring developers to cover construction materials. She reported on Earth Day and the process of obtaining 5013C funding for the park.

Annette Teede spoke regarding Short Term Rentals and a recent Air B&B that she opened.

Consent Calendar

Approval of the Consent Calendar

A motion was made by Steve Fairbanks, seconded by Chris McCandless, to approve the Consent Calendar. The motion carried by the following vote:

Yes: 6 - Brooke Christensen
Kristin Coleman-Nicholl
Chris McCandless
Steve Fairbanks
Zach Robinson
Linda Martinez Saville

Absent: 1 - Maren Barker

6. [18-071](#) City Council Office recommending to adopt Resolution 18-09c canceling the March 20, 2018 City Council Meeting for Caucus Night.

Attachments: [18-09c canceling March 20, 2018.pdf](#)

Item adopted.

Council Items

7. [17-310](#) Administration updating the Council on the recodification of City Code

Attachments: [Legal Review City Responses](#)

[Memo on Project](#)

[New Table of Content](#)

A motion was made by Steve Fairbanks, seconded by Chris McCandless, to continue Item #7 on the Agenda Administration updating the Council on the recodification of City Code.. The motion carried by the following vote:

Yes: 6 - Brooke Christensen
Kristin Coleman-Nicholl
Chris McCandless
Steve Fairbanks
Zach Robinson
Linda Martinez Saville

Absent: 1 - Maren Barker

8. [18-057](#) Council Member McCandless proposing the development and adoption of

a land use restriction for the "Ricahrdson Property."

Attachments: [Bells Canyon Restrictions Resolution and Quite Claim Deed](#)

Chris McCandless proposed a deed restriction for the Richardson property also requesting Staff to bring back a proposal for adoption.

Council discussion followed.

A motion was made by Chris McCandless, seconded by Kristin Coleman-Nicholl, to approve the proposed resolution as stated in the Staff Report file #18-057 to be brought back at the earliest convenient time and then reviewed by legal counsel.. The motion carried by the following vote:

Yes: 6 - Brooke Christensen
Kristin Coleman-Nicholl
Chris McCandless
Steve Fairbanks
Zach Robinson
Linda Martinez Saville

Absent: 1 - Maren Barker

9. [18-058](#) Public Works Department recommends the City Council adopt Resolution # 18-07C, An Interlocal Cooperative Agreement with the Utah Transit Authority, regarding Dry Creek Trail tunnel Connection.

Attachments: [Interlocal Cooperation Agreement for TIGER Grant.docx](#)
[FLCDSHMX-6070N@rideuta.com 20180213 111848.pdf](#)

Mike Gladbach addressed their recommendation to adopt Resolution 18-07C an Interlocal Cooperative Agreement with Utah Transit Authority regarding Dry Creek Trail Tunnel Connection. He explained the TIGER grant.

Council comments followed.

A motion was made by Steve Fairbanks, seconded by Chris McCandless, to adopt Resolution # 18-07C, an Interlocal Cooperative Agreement with the Utah Transit Authority, regarding Dry Creek Trail tunnel Connection... The motion carried by the following vote:

Yes: 6 - Brooke Christensen
Kristin Coleman-Nicholl
Chris McCandless
Steve Fairbanks
Zach Robinson
Linda Martinez Saville

Absent: 1 - Maren Barker

10. [18-067](#) City Council interview of vendors offering legal services for the City Council.

Attachments: [CouncilAttorneyRFP_Executed](#)

Council discussion was held on vendors offering legal services for the City Council.

Council comments followed.

A motion was made by Kristin Coleman-Nicholl, seconded by Chris McCandless, to chose Rob Wall as the City Council's contract attorney.. The motion carried by the following vote:

Yes: 4 - Kristin Coleman-Nicholl
Chris McCandless
Steve Fairbanks
Zach Robinson

No: 2 - Brooke Christensen
Linda Martinez Saville

Absent: 1 - Maren Barker

Completion of reports and other items not held in the Work Session.

Chris McCandless would like a letter of appreciation sent to UTA for their assistance on the TIGER grant. Chris would like the Fire Chief to bring a presentation to the Council on the fireworks map and fire suppression.

Linda Saville explained her "no" vote on the selection of the Council Office Attorney.

Zach Robinson mentioned the Town Hall Meeting that will be held at Lone Peak Park this Saturday at 10:00 a.m. Brooke Christensen will also join the Town Hall Meeting.

Zach Robinson informed everyone of a class called "Stop The Bleed" that will be held at City Hall in the Multi Purpose Room Thursday, March 8th.

Adjournment

The meeting adjourned at approximately 7:55 p.m. by Kris Coleman Nicholl. The next scheduled meeting of the City Council is Tuesday, March 13, 2018 at 7:00 p.m.

Linda Martinez-Saville, Chair
Sandy City Council

Pam Lehman
Meeting Clerk



Staff Report

File #: 18-083, **Version:** 1

Date: 3/13/2018

Agenda Item Title:

Administration updating the City Council

Presenter:

Matthew Huish, Chief Administrative Officer

Description/Background:

Matthew Huish will provide a brief overview of administrative accomplishments to date and future plans relative to city operations and interfaces with the citizenry. This will be a high level snap shot of initiatives underway and forthcoming. Various representatives will be on hand to answer detailed questions if needed.

Recommended Action and/or Suggested Motion:

Information only, no action needed.



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Staff Report

File #: 18-082, **Version:** 1

Date: 3/13/2018

Agenda Item Title:

Finance Department updating the Council on the 2018-19 budget.

Presenter: Brian Kelley



Staff Report

File #: 18-077, **Version:** 1

Date: 3/13/2018

Agenda Item Title

Finance Department recommending the City Council amend the purchasing ordinance

Presenter

Brian Kelley

Recommended Action and/or Suggested Motion:

Motion to amend the Sandy City purchasing ordinance



SANDY CITY ADMINISTRATION

KURT BRADBURN
MAYOR

MATTHEW HUISH
CHIEF ADMINISTRATIVE OFFICER

To: City Council Members

From: Brian Kelley, Finance/Administrative Services Director

Date: March 9, 2018

Re: Purchasing Ordinance Amendments

I am recommending a few updates to our Purchasing Ordinance as follows:

1. Update the threshold amount for triggering a formal Request for Proposal (RFP) process from \$25,000 to \$40,000 (this is simply to adjust for inflation - \$25,000 in 1995 equates to \$41,229 today. Furthermore, the State of Utah's threshold is \$50,000 and Salt Lake City's is \$40,000 for general purchases and \$50,000 for construction/engineering),
2. Update the threshold amount for triggering formal bids for professional services from \$5,000 to \$7,500 (this is also to adjust for inflation),
3. Clarify the duration of RFP noticing from five days to five business days, and
4. Update the citation reference to applicable State Code.

I have attached the ordinance amendment, a redline version showing the changes, and a clean copy with the new changes. Please do not hesitate to call me with any questions you may have.

Thanks.

TITLE 11

PURCHASING PROCEDURES

Chapter 1 PURCHASING

11-1-1. Purpose.

The underlying purposes of this ordinance are:

- (a) To provide for the economy, efficiency, and to encourage competition in City procurement activities.
- (b) To procure the best services, materials and construction at the most reasonable cost to the City.
- (c) To provide fair treatment of persons who conduct business or wish to do business with the City.

Nothing in this statement of purposes shall create rights, interests, or causes of action against the City, its officers, agents or employees. Failure to follow the procedures set out herein shall not invalidate a procurement unless otherwise provided by law.

11-1-2. Definitions.

As used in this chapter:

"Business day" means a day when Sandy City administration offices are open for public business.

"City" means Sandy City Corporation.

"City Purchasing Agent" or "Purchasing Agent" means the purchasing agent or assistants whose duties include procurements of goods and services for the entire City.

"Department Buyer" means the person or persons charged by a City department head to make procurements for that department.

"Emergency" means an imminent threat to the public's health, welfare, safety or of an imminent and substantial risk of injury or loss to property under conditions which reasonably do not permit fulfilling all of the purchasing requirements provided for in this chapter.

"Item" means goods, services, or a combination of both, of one type.

"Professional services" includes, but is not limited to the following services: medical diagnosis or treatment; veterinary; psychological or emotional diagnosis, testing, analysis, counseling or treatment; auditing; banking; insurance; bonding; risk management; engineering; architectural; legal; public surveying and statistical analysis; hazardous substance consulting and disposal; construction management; tax consulting; financial investment; appraisal; title research; geology consulting; hydrology; history; technical writing; seismic consulting; impresarios, producers, directors, music conductors, choreographers, authors, artists, and other artistic services; and other consulting services which require a high level of training, skill and special knowledge not common among lay people.

"Provider" means a person who offers or provides goods, services, or a combination of both to the City under contract.

11-1-3. Purchasing Agent, Specifications.

The City may appoint a Purchasing Agent whose duties shall be defined by the City Administrator and the Finance Director. Those duties may include: procurement, soliciting bids and proposals, negotiating, recommending and administering contracts, advising departments on procurements, maintaining a bidders' list, vendors' catalogue files, and records needed for the efficient operation of his or her duties, making written determinations for the City, and the development and maintenance of forms as are reasonably needed for the purposes of this chapter, supervise the inspection of supplies and equipment. The Purchasing Agent may recommend rules and regulations to govern matters covered by this ordinance, including, but not limited to protests and appeals, the preparation, maintenance, and content of specifications for supplies, services and construction required by the City. One or more assistants may be employed to assist the City Purchasing Agent in performing his or her duties.

11-1-4. Specifications.

The City may prepare specifications for the purchase of goods, services and construction which contain information and detail which seeks to promote the purposes of this Chapter 11-1. The specifications shall be maintained for the period of time required by law. The Purchasing Agent may, in addition, promulgate rules and regulations to govern the preparation, maintenance, and content of specifications for supplies, services and construction required by the City for the purposes set out in this Section.

11-1-5. Scope.

(a) *Superior or More Suitable Products.* Whenever the requisitioning department head or his or her designated representative finds in a signed memorandum a copy of which shall be sent to the Purchasing Agent and the City Administrator, that a particular product significantly surpasses competing products in terms of quality, serviceability or longevity, or that such a product is better suited to the needs of the City in order to lower costs of inventory, to maintain compatibility with City equipment, or because doing so will lower the costs of service or procurements, such a product may be procured notwithstanding the fact that a competing product could be procured at a lower cost.

(b) *State or Federal Purchasing Prices.* The City need not solicit competitive bids or proposals when making procurements through cooperative purchasing contracts administered by the State Division of Purchasing, or an agency of the Federal government, the benefits of which

are also available to the City.

(c) *Cooperative Procurements.* The City may join with other units of Federal, State or local government, or with special districts, school districts, and such other similar agencies as the City Council may by resolution direct, in purchasing goods and services. In such cases the City is encouraged, but is not required to follow a competitive bidding process or request for proposals where that would be required if the service or goods were procured by the City alone. Notwithstanding the foregoing, purchases shall be made in accordance with State law, such as Section ~~10-7-20~~ 11-39-103, Utah Code Annotated, regarding contracts for new public improvements construction costs where the estimated cost exceeds ~~\$2540,000~~.

(d) *Goods \$2,000 or Less - No Bids.* City procurements of goods and services reasonably expected to cost \$2,000 or less do not require the solicitation of bids or proposals, although bids may be solicited orally or otherwise if desired. Procurements under this subsection may be made by cash payment, but in such cases the procurer should obtain a receipt for the payment.

(e) *Goods and Services Costing \$2,001 to \$5,000- Three Oral Quotes.* Procurements of goods and services reasonably expected to cost more than \$2,001 but not more than \$5,000 in total shall require three telephone, oral, or written quotes for prices from proposed vendors of goods or services. The Purchasing Agent or Department Buyer shall make a signed written record of quotes and reasonably detailed product or service information about each of them, sufficient to compare and make a reasonably informed choice from among the vendors who make offers or bids, including the name of the vendor, the vendor's address, telephone number, and the price quoted. Procurements within this subsection (e) shall be made by purchase order unless made by written contract. In the event three vendors willing to provide quotes cannot reasonably be obtained, then the Purchasing Agent or Department Buyer shall make a signed written record of quotes and product and service information about each vendor willing to provide quotes, and a record of efforts to obtain other quotes. The decision about which vendor to choose for the services or goods shall be made based upon the information submitted. The Purchasing Agent or Department Buyer may allow a person who has prepared or helped to prepare specifications for use in a City procurement to bid or submit a proposal for the procurement if doing so is not unfair to other bidders or proponents, in the reasonable discretion of the Purchasing Agent or Department Buyer; otherwise, such person shall not be allowed to bid or submit a proposal.

(f) *Goods and Services Costing \$5,001 to ~~\$2540,000~~ - Three Written Bids.* Procurements of goods and services reasonably expected to cost more than \$5,001 but not more than ~~\$2540,000~~ in total shall require the receipt of three bids or proposals in writing unless three vendors willing to submit such bids or proposals cannot reasonably be obtained. In the event three vendors willing to provide quotes cannot reasonably be obtained, then the Purchasing Agent or Department Buyer shall make a signed written record of quotes and product and service information about each vendor willing to provide quotes, and a record of efforts to obtain other quotes. Procurements within this subsection 11-1-5(f) shall be made by purchase order unless made by written contract.

(g) *May Use Formal Bidding Requirements.* All formal bidding and requests for proposals shall be issued by the City Purchasing Agent or his or her assistants. The requirements contained herein are minimal requirements, and nothing in this section shall prevent the Purchasing Agent, the City Council, Mayor or the City Administrator may require that the procurement of services, supplies, materials or equipment be competitively bid or that

competitive offers be solicited in cases that otherwise would not so require if it is determined that such action to be in the best interest of the City.

11-1-6. Exceptions.

The competitive purchasing requirements of this chapter need not be followed in the following circumstances. In such cases, written documentation should be made demonstrating that a procurement falls within one of the following provisions of this section.

(a) *Grant, Gift, Bequest.* In complying with the terms and conditions of any grant, gift, or bequest to the City, or to one of the City's departments or subdivisions, committees, or a community organization which functions under City auspices if such action is approved by the City Council and is otherwise consistent with law.

(b) *Federal or State Assistance.* When a procurement involves the expenditure of federal or State assistance funds, and to the extent that doing so requires that federal or State law or regulations be followed rather than City ordinances.

(1) *Suspension and Debarment Certification.* For subrecipients and contractors receiving \$~~2540~~,000 or more in federal funds from the City, request-for-bid or proposal documents will contain language notifying bidders or proponents of federal or State suspension and debarment requirements, which shall be provided in forms by which bidders or proponents can certify their status. At time of bid, bidders or proponents will be required to certify their suspension and debarment status as a mandatory element of their bids or proposals.

(2) *System for Award Management (sam.gov).* Purchases in excess of \$~~2540~~,000 in federal funds where bidding is not required (i.e., in State contracts, or where disbursements exceed \$~~2540~~,000 on existing contracts) the Purchasing Agent or the Department Buyer shall not award contracts or orders to persons suspended or debarred by the United States government, which shall be determined by checking the federal suspension and debarment website (currently, sam.gov) for a favorable suspension and debarment status for such persons before a bid or proposal is awarded, an order is placed, or a contract for goods or services with such person is signed.

(3) *Supporting Documentation.* Supporting documentation relating to suspension and debarment status shall be kept by the Purchasing Agent and/or the Department Buyer pursuant to federal, State and City laws and regulations.

(c) *Emergency Procurements.* Notwithstanding any other provision of this chapter, procurements may be made in emergencies by the Purchasing Agent, a department head, or a designee of either in instances in which the procurement could not reasonably have been made pursuant to this chapter, provided that procurements shall be made with as much competition as practicable under the circumstances. Promptly thereafter the department head of the department which made the procurement shall provide a signed written statement to the City Purchasing Agent setting out in reasonable detail the item procurement, the price, and cause and basis for the emergency and why the procedures set out in this chapter were not followed. A copy of the statement shall be included in the contract file.

(d) *Single-Source Provider.* Procurements of products, services or construction items

available only from a single provider. The Mayor, City Administrator, Department head or the Purchasing Agent shall find in writing that there is only one source for the item or service.

(e) *Compatibility, Parts, Training.* Procurements of equipment which, by reason of the training of City personnel who service such equipment, or which is an addition to or for the repair or maintenance of equipment owned by the City which may be more efficiently added to, repaired or maintained by a certain brand, person or firm.

(f) *Additional or Replacement Parts.* Equipment which, due to an inventory of replacement parts maintained by the City is compatible only with existing equipment owned, leased or used by the City, need not, where the department head or the Purchasing Agent finds in a signed writing that the City's interest is better served by so purchasing, procurement a different brand of such equipment.

(g) *Professional Services.* Contracts for professional services reasonably expected to cost more than ~~\$5,07,500~~ for the services specifically set out in the contract shall be awarded at the discretion of the Mayor, or a person designated by the Mayor.

(1) *Criteria for Award.* Contracts for professional services shall be based on the evaluation of professional qualifications, service ability, cost of service, and other service-related criteria.

(2) *Manner of Selection.* Criteria for award of professional service contracts costing more than ~~\$5,07,500~~ may be determined through one or more of the following methods:

(A) Competitive bid;

(B) Request for Proposals (RFP); or

(C) Informal Survey.

(3) Where criteria for award of professional service contracts costing more than ~~\$5,07,500~~ are determined through informal survey or through some lesser review, then award of the contract or its proposed award shall be disclosed in writing to the City Council by the department head or a person designated by the department head along with a reasonably detailed written summary of the findings of that survey.

(h) *Insufficient Bids.* Where fewer than three responses are made to a bid solicitation or request for proposals after reasonable efforts to obtain three or more bids or proposals, the Purchasing Agent or Department Buyer responsible for the purchase may, after making a signed writing setting out the circumstances thereof, a copy of which shall be placed in the contract file, make a purchase which in his or her reasonable discretion meets the purposes of this ordinance by purchasing in a manner which does not conform to the formal bidding or RFP process set out in this chapter.

(i) *City Council Determinations.* The City Council may authorize the procurement of supplies, equipment and services without complying with the provisions of this chapter when it determines that compliance with the procedure is not in the best interests of the City. A memo shall be placed in the file for the purchase setting out the reasons for doing not following the purchasing provisions which otherwise would apply.

(j) *Special Opportunity Purchases.* Where a substantial savings will be realized thereby in the purchase of goods or non-professional services costing more than \$~~2540~~,000, and provided that sufficient money has been appropriated for the purchase, a Department may avoid competitive bidding or the RFP requirements set out in Section 11-1-8, by the following streamlined procedures, provided other applicable provisions of this Chapter are met before the purchase is made:

(1) It shall, in its reasonable discretion, obtain offers from competing sources in a manner most likely to meet the purposes of this Chapter; and

(2) The Department Head shall disclose the proposed purchase in a signed written memorandum to the Mayor and City Administrator, setting out in reasonable detail the reason the purchase is recommended, the reason normal purchasing procedures are not recommended, and the proposed savings, and what efforts have been made to obtain competitive offers; and

(3) The Mayor and City Administrator each agrees in a signed memorandum that he or she believes that the purchase is justified, and that the purposes of this Chapter will be met thereby.

11-1-7. Splitting Orders to Avoid Competitive Bidding Prohibited.

No person may split or separate into smaller orders the procurement of supplies, materials, equipment or services for the purpose of evading the competitive bidding or request for proposal provisions of this ordinance.

11-1-8. Formal Bidding Procedure.

The following procedures shall apply to the procurements of all materials, supplies, equipment, public improvements, and non-professional services which cost \$~~2540~~,000 or more, and may be used for professional services. All bids and requests for proposals shall be made by the City Purchasing Agent.

(a) *General.* The Purchasing Agent shall issue Invitations to Bid or Requests for Proposals for materials, supplies, equipment, services, insurance, public contracts, and other items required for the City.

(b) *Invitations to Bid.* An invitation to Bid shall describe the material, supplies, equipment, services or insurance with sufficient particularity to allow for competitive bidding and evaluation, and shall include a procurement description, and contractual terms and conditions applicable to the procurement.

(c) *Bid and Proposal Submissions.* Bidders must submit responsive Bids and Proposals on or before the bid closing to the Purchasing Agent to be eligible for consideration. The City Purchasing Agent may in his or her discretion consider a Bid or Proposal which was timely submitted via a delivery medium which arrives after the bid closing, provided acceptance of the Bid or Proposal is reasonably determined by the Purchasing Agent to be in the best interests of the and there is no evidence or likelihood of collusion or fraud upon the procurement process. Formal Bids shall otherwise be opened at a public bid opening.

(1) Bids shall be opened publicly in the presence of one or more witnesses at the

time and place designated in the invitation for bids. The amount of each bid and any other relevant information specified by rules and regulations, together with the name of each bidder, shall be recorded. The record and each bid shall be open to public inspection.

(2) Bids shall be unconditionally accepted without alteration or correction, except as authorized in this chapter. Bids shall be evaluated based on the requirements set forth in the invitation for bids, which may include criteria to determine acceptability such as inspection, testing, quality, workmanship, delivery, and suitability for a particular purpose, except that criteria in determining responsible bidders contained in this chapter 11-1 need not be set forth in the invitation for bids. The Purchasing Agent shall attempt to make selections based on those criteria that will affect the bid price and be considered in evaluation for award shall be objectively measurable. The criteria may include discounts, transportation costs, and total or life cycle costs.

(3) 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 the interest of the City in the reasonable discretion of the Purchasing Agent in consultation with a representative of the interested City department. After bid opening no changes in bid prices or other provisions of bids prejudicial to the interest of the City or to fair competition shall be permitted. Except as otherwise provided by this chapter, or rules and regulations, all decisions to permit the correction or withdrawal of bids or to cancel awards or contracts based on bid mistakes by a provider shall be supported by a written determination made by the Purchasing Agent.

(d) Award Under Invitation to Bid. Contracts for procurement under an Invitation to Bid shall be awarded with reasonable promptness by written notice to the lowest responsive and responsible bidder whose bid meets the requirements and criteria set forth in the invitation for bids. Determinations may be based on one or more or any combination of factors which will serve to meet City requirements at the best economic advantage to the City including but not limited to: unit cost, life cycle cost, economic cost analysis, operating efficiency, warranty and quality, compatibility with existing equipment, maintenance costs (to include consideration for the cost associated with proprietary invention), experience and responsibility of bidder. In the event all bids for a construction project exceed available funds as certified by the appropriate fiscal officer, and the low responsive and responsible bid does not exceed such funds by more than 5%, the chief procurement officer or the head of a purchasing agency is authorized, in situations where time or economic considerations preclude resolicitation of work of a reduced scope, to negotiate an adjustment of the bid price, including changes in the bid requirements, with the low responsive and responsible bidder, in order to bring the bid within the amount of available funds.

(e) Two-Step Awards. When it is considered impractical to prepare initially a purchase description to support an award based on price, an invitation for bids may be issued requesting the submission of unpriced offers to be followed by an invitation for bids limited to those bidders whose offers have been qualified under the criteria set forth in the first solicitation.

(f) Lowest Responsible Bidder.

(1) In determining lowest responsible bidder, the Purchasing Agent may in his or her discretion consider one or more of the following criteria, which may be included as purchase criteria in the invitation for bids:

- (A) The quality of supplies offered;
- (B) The ability, capacity and skill of the bidder to perform the contract or provide the supplies or service required;
- (C) Whether the bidder can perform the contract or provide the supplies promptly, or within the time specified, without delay or interference;
- (D) The sufficiency of the bidder's financial resources and the effect thereof on his ability to perform the contract or provide the supplies or services;
- (E) The character, integrity, reputation, judgment, experience and efficiency of the bidder;
- (F) The quality of bidder's performance on previous orders or contracts for the City or others;
- (G) Litigation or claims by the bidder without substantial basis;
- (H) Any previous or existing noncompliance by the bidder with laws and ordinances relating to the subject of the contract;
- (I) The ability of the bidder to provide future maintenance and service, where such maintenance and service is essential; and
- (K) Price.

(2) Determination of nonresponsibility of a bidder, or written determination of nonresponsibility of a bidder or offeror shall be made in accordance with this chapter. The unreasonable failure of a bidder or offeror to promptly supply information in connection with an inquiry with respect to responsibility may be grounds for a determination of nonresponsibility with respect to the bidder or offeror. Information furnished by a bidder or offeror pursuant to this section shall not be disclosed outside of the department making the purchase and the Purchasing Agent's office without prior written consent by the bidder or offeror.

(3) After reasonable notice to the person involved, the Purchasing Agent may debar a person for cause from consideration for award of City contracts.

(g) *Competitive Sealed Proposals.* As an alternative to the bidding process provided for this section, competitive proposals may be solicited in the discretion of the Purchasing Agent, the Mayor, City Administrator, or a Department head, and a contract may be entered into by competitive sealed proposals.

- (1) Competitive sealed proposals may be used for the procurement of services of consultants, professionals, and providers.
- (2) Proposals shall be opened so as to avoid disclosure of the contents to

competing offerors before a contract is signed with the offeror during the process of negotiation.

(3) A register of proposals shall be prepared and shall list such information with respect to each proposal as is important in making the decision which shall be open for public inspection after award of the contract. The register shall be open for public inspection after award of the contract.

(4) The request for proposals 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 for the purpose of assuring full understanding of, and responsiveness to, solicitation requirements. Offerors shall be accorded fair and equal treatment with respect to any opportunity for discussion and revision of proposals, and revisions may be permitted after submissions and before the contract is awarded for the purpose of obtaining best and final offers. In conducting discussions, reasonable care shall be taken to avoid the disclosure of information derived from proposals submitted by competing offerors which is not known to the competitors.

The contract file shall contain the basis on which the award is made.

(h) *Waiver of Defects, Technicalities.* The City Purchasing Agent together with the head of the department purchasing the item or service may waive defects and technicalities when doing so is in the best interests of the City. The City Purchasing Agent shall, where practicable, take reasonable efforts to notify all bidders of the determination thereof.

(i) *Bid Bond.* A bid bond may be required on items, contracts, materials and services procurement under this chapter.

(j) *Notices Inviting Bids and Quotations.* Notices inviting bids or quotations shall be published at least five (5) business days before the date of the opening of the bids in a manner which the Purchasing Agent determines is in the City's best interest to meet the purposes of this ordinance, including but not limited to publication on an electronic bulletin board, on the Internet, in commonly read trade publications, radio, television, cable television, or in a newspaper of general circulation in the City. Notices advertising pending procurements by bid or request for proposals under this Section 11-1-8 shall be posted on a public bulletin board in City Hall, and where practicable, shall be posted at least five days before the procurement is contracted for.

(k) *Tie Bids.* If two or more bids received are for the same total amount or unit price, quality and service being equal, and if the Purchasing Agent determines that the City's interest is better served by not re-advertising for bids, the City may require the tie bidders to submit a rebid within five (5) days.

11-1-9. Relief Due to Computation Error.

Any bidder who seeks to withdraw or modify a Bid because of inadvertent computational error shall notify the Purchasing Agent no later than three (3) working days following the bid closing. The bidder shall provide worksheets and such other information as may be appropriate or

required by the City Purchasing Agent to substantiate the claim of inadvertent error. Failure to do so may bar such relief and allow recourse from the bid surety, in the discretion of the Purchasing Agent. The burden is upon the bidder to prove such error.

11-1-10. Notice Inviting Bids or Proposals.

Notice inviting bids or proposals shall include a general description of the articles to be procurement and shall state where bid blanks and specifications may be secured, and the time and place for opening bids, along with any other information which the Purchasing Agent deems appropriate.

11-1-11. Construction Projects.

(a) Municipal construction projects are governed by Section ~~10-7-20~~ 11-39-103, Utah Code Annotated (1953), as amended. The requirement for obtaining payment bonds in municipal construction contracts is covered by Chapter 14-1, Utah Code Annotated.

(b) A City department head is authorized to approve extra work or change orders on City construction projects in an amount not to exceed 20 percent of the contract in the best interests of the City in the discretion of the department head. Notice of such provision may be included in the invitation for bids.

11-1-12. Performance and bid bonds.

Performance and bid bonds in such amounts as the Purchasing Agent determines are needed to protect the best interests of the City may be required by the Purchasing Agent. The nature, form and amount of such bonds shall be described in the notice inviting bids or in the request for competitive sealed proposals.

11-1-13. Prequalification of Bidders, Proponents and Suppliers.

Bidders, proponents and/or suppliers may be prequalified for particular types of supplies, services and construction. Solicitation mailing lists of potential contractors shall include but shall not be limited to prequalified suppliers.

(a) *Standard of Responsibility.* Factors to be considered in determining whether the standard of responsibility has been met by a bidder, supplier or proponent include:

- (1) Availability of the appropriate financial, material, equipment, facility and personnel resources and expertise, or the ability to obtain them, necessary to indicate the capability of the bidder, proponent or supplier to meet all contractual requirements;
- (2) A satisfactory record of performance, including, but not limited to, the record of performance for the City or other governmental agencies, and debarment by any such agency;
- (3) A satisfactory record of integrity;
- (4) Legal qualifications to contract with the City; and
- (5) Whether all necessary information has been supplied in connection with

the inquiry concerning responsibility.

(6) Those considerations in respect to low responsible bidders in Section 11-1- 8(g) above.

(b) *Information Pertaining to Responsibility.* The proponent, bidder or supplier shall supply information requested by the City concerning the responsibility of such bidder, proponent or supplier. If such information is not supplied, the City shall base the determination of responsibility upon any available information or may find the proponent, bidder or supplier nonresponsible if such failure, as determined by the City, is unreasonable.

11-1-14. Cancellation and Rejection of Bids and Proposals.

An invitation for bids, a request for proposals, or other solicitation may be canceled, or any or all bids or proposals may be rejected, in whole or in part, as may be specified in the solicitation, when it is in the best interests of the City in the reasonable discretion of the Purchasing Agent or the Department Buyer responsible for the purchase. The reasons for the cancellation shall be made part of the contract file.

11-1-15. Records.

Except when a longer minimum time is required by State law or City ordinance, the Purchasing Agent or Department Buyer making a procurement of more than ~~\$5,07,500~~ shall keep records relating to the procurement for not less than one year from the time of the procurement.

11-1-16. Procurement Protests.

(a) Any actual or prospective bidder or offeror who is aggrieved in connection with the solicitation or award of a contract for procurement may protest the procurement by filing a written protest with the Purchasing Agent. The protest shall contain the following information:

- (1) The protesting party's name, mailing address and daytime telephone number, the signature of the protesting party or the attorney for the protesting party, and the date the protest is signed; and
- (2) The relief sought, a statement of facts and a recitation of the reasons and legal authority in support of the protest sufficient to permit review.

(b) Protests shall be submitted prior to the closing date for receiving bids or proposals unless the protestor did not know and could not reasonably have known of the facts giving rise to the protest prior to such time, but in any event, all protests shall be submitted within five days after the closing date for receiving bids or proposals.

(c) The City may proceed with the procurement except that the Purchasing Agent may suspend the procurement process for so long as he or she determines is appropriate.

(d) The Purchasing Agent may designate another individual to assist in reviewing the matter, which assistance may include finding facts, analyzing the protest, and making recommendations to the Purchasing Agent.

(e) The Purchasing Agent or the Purchasing Agent's designated representative may request additional information from the protesting party or from other persons to make a determination. The protesting party shall provide all information requested by the Purchasing Agent reasonably needed to decide the protest except information which is protected from disclosure by law, or which could reasonably be expected to result in unfair competitive injury to the protestor in spite of the protections for the protestor provided by law, including the Utah Government Records Access Management Act, Chapter 63-2, Utah Code Annotated.

(f) The Purchasing Agent shall review and decide protests, and shall issue a written determination to the protester party within fifteen days of receipt of the protest.

(g) The protesting party may appeal the written decision of the Purchasing Agent by filing a written appeal with the Director of Finance. The notice of appeal shall contain the following information:

(1) The petitioner's name, mailing address and daytime telephone number, the signature of the petitioner or of the attorney for the petitioner, and date; and

(2) The relief sought, a statement of facts and a recitation of the reasons and legal authority in support of the protest sufficient to permit review .

(h) The Director of Finance or another person selected by the Mayor or City Administrator shall review and hear the appeal. No later than five days after receiving a notice of appeal, the Director shall schedule a hearing on the appeal. Unless otherwise agreed to by the City and the petitioner, the hearing shall be held no sooner than five days and not later than 30 days from the date of the filing of the appeal.

(i) At the hearing before the Director, the appellant and the City's representative shall be allowed to testify, present evidence, and comment on the issues under the direction of the committee chairman. The Director may allow other interested persons to testify, comment or provide evidence on the issues.

(j) No later than fifteen business days after the hearing, the Director shall issue a signed order either granting the petition in whole or in part, or upholding the determination of the Purchasing Agent in whole or in part. The order of the Director shall include:

1. The decision, and any reasons for the decision the committee may wish to provide; and

2. A statement that any party to the appeal may appeal the decision to the State district court.

(k) If the Director fails to issue a decision within fifteen business days after the hearing, said failure shall be considered the equivalent of an order denying the appeal.

(l) The Mayor or the City Administrator may appoint a person other than the Purchasing Agent or the Director of Finance to fulfill their respective responsibilities described in this section.

11-1-17. Ineligibility.

In addition to all other remedies permitted by law, the Mayor or the City Council may declare a bidder or contractor ineligible to bid on City procurement and public works contracts for a period not to exceed five years for any of the following grounds: two or more claims of computational error in bid submission within a two-year period; a not-reasonably-justified refusal to provide or execute contract documents; unsatisfactory performance of contract; unjustified refusal to perform or complete contract work or warranty performance; unjustified failure to honor or observe contractual obligations or legal requirements pertaining to the contract; conviction under state or federal statutes for fraud, bribery, theft, falsification or destruction of records, receiving stolen property or of any other similar crime or offense indicating a lack of business integrity and which would directly affect the reliability and credibility of performance of such a vendor or contractor with future contracts with the City; or, based on the limited department by another government agency.

11-1-18. Penalties.

Collusion among Bidders. Any agreement or collusion among bidders or prospective bidders is a restraint of freedom of competition and any agreement to bid a fixed price, or otherwise, shall render the bids of such bidders void.

11-1-19. Right to Inspect Place of Business.

Gratuities. The acceptance of any gift, benefit or gratuity in the form of cash, merchandise or any other thing of value by an official or employee of the City from a vendor or contractor, or prospective vendor or contractor, which would reasonably be expected to substantially influence the actions of the official or employee in favor of the giver in future procurements or negotiations may be deemed to be a violation of this ordinance and may be cause for removal or other disciplinary action.

11-1-20. Personal Purchases.

Procurements of goods and services ordered on City credit or paid for by the City which are for the personal use of an official or employee of the City shall not be delivered, or if delivered, may be void or voidable at the City's option. Such personal procurements shall not be permitted and may be considered cause for disciplinary action. City officers and employees may purchase goods or services for personal use from suppliers at discounted rates offered to the City where the supplier makes such goods or services available to all City officials and employees on the same terms, provided the official or employee pays for such items from the official's or employee's own money, and provided the purchase is not reasonably likely to improperly influence the official, employee or a City department in the discharge of their duties or in making purchases of supplies or services.

The City may, at reasonable times, inspect the part of the plant or place of business of a contractor, or any subcontractor which is related to the performance of any contract awarded or to be awarded by the City.

11-1-21. Allowable Incurred Costs.

The City may allow the reimbursement of costs reasonably and necessarily incurred by a contractor or according to the terms of written contract with the City.

11-1-22. Cost-Plus-Percentage-of-Cost Contract Prohibited Except When Determined Less Costly.

Subject to the limitations of this section or other applicable law, any type of contract which will promote the best interests of the City may be used; provided that a cost-plus-a-percentage-of-cost contract is prohibited. A cost-reimbursement contract may be used only when a determination is made in writing by the Mayor, City Administrator, or Purchasing Agent, the Department Buyer, or the department head, that such contract is likely to be less costly to the City than any other type, or that it is impracticable to obtain the supplies, services or construction required except under such a contract.

11-1-23. Sales of Goods or Services to the City by Officials or Employees.

City officials and employees may sell goods or services to the City under the following conditions:

(a) An employee or the employee's spouse, parent, children, or siblings may not sell goods or services to the employee's department unless the sale is first approved in writing by the department head, and either the Mayor or City Administrator;

(b) All such transactions are subject to applicable provisions regarding ethics or municipal officials and employees of the Utah Code Annotated.

11-1-24. Surplus Real and Personal Property.

(a) Definitions as used in this section:

(1) "Dispose" or "disposal" means to sell, lease, trade, gift, convey, or encumber surplus property.

(2) "Exchange" means transactions where surplus property is transferred as a full or partial consideration for the transfer to the City of other property.

(3) "Highest and best return" means maximizing economic return to the City as estimated by one or more of the following methods:

- (A) Competitive bid which may include electronic auction;
- (B) Evaluation by a qualified and disinterested appraiser;
- (C) Other professional publications and valuation services; or
- (D) An informal market survey by the City's Purchasing Agent (Purchasing Agent) in the case of items of property possessing readily-discernible market value.

(4) "Property" means real and personal property.

(5) "Reasonable notice" means publication in a newspaper or newsletter of general circulation within the City, posting in public places within the City, Internet posting on the City's Website, publication on the City's government and education cable television channel, or other means of notification accessed by City residents.

(6) “Significant parcel of real property” means City owned real property whose reasonable estimated value exceeds \$40,000.

(7) “Surplus property” means City property that is so used, obsolete, depreciated, excess or is no longer necessary to current and projected needs as to be unfit or undesirable for use or retention by the City.

(b) The Purchasing Agent shall dispose of surplus property pursuant to existing State law and as follows:

(1) All department heads shall, from time to time, identify and give notice in a signed writing to the City’s Chief Administrative Officer (CAO) and the Purchasing Agent of surplus property within the control of that department.

(2) Whenever the surplus property is real property, or personal property with a reasonable estimated value of more than \$2,000, prior to its disposal the CAO or his designee shall disclose the disposal to the Mayor’s cabinet.

(3) Before any disposal of a significant parcel of real property, the City shall allow an opportunity for public comment on the proposed disposal providing reasonable notice at least 14 days before such public comment.

(4) The Purchasing Agent shall dispose of the surplus property in a method likely to produce the highest and best return unless in the opinion of the Purchasing Agent:

(A) the value of the surplus property is considered negligible in relation to the time, labor and expense of competitive bidding or bidding procedures are deemed unlikely to produce a competitive offer, or

(B) the surplus property is disposed to units of government or other public or charitable organizations pursuant to existing State law.

(5) When any surplus property has been disposed, the monies or credit there for shall be credited:

(A) to the City department or City office which requested its disposal if the disposal has been contemplated in the current annual budget,

(B) to the City’s general fund if the disposal has not been contemplated in the current annual budget, or

(C) to a revenue account within the specific enterprise fund if originally procured from an enterprise fund or from properties attributable by the Mayor to use by an existing enterprise fund.

(6) The Finance Director shall report any disposal of surplus property to the City Council in the Comprehensive Annual Financial Report.

(c) Notwithstanding the provisions of this section:

(1) Every conveyance or encumbrance of City property shall be made by the Mayor, or

under the Mayor's express written authority, and pursuant to existing State law.

(2) The City may impose limitations or conditions on the future use of surplus property, in addition to those required under other Titles of City ordinances, which limitations or conditions must be disclosed by the Purchasing Agent prior to its disposal.

(3) No provision of this section shall be construed to require or to invalidate any sale, conveyance, transaction, transfer or encumbrance by the City, nor to vest rights of action of any kind against the City, its officers, agents or employees.

11-1-25. Participation by Bidder Who Supplies Specifications.

A person other than a City employee who has prepared specifications used substantially by the City in determining from which bidder or proponent it wishes to purchase goods or services may participate in a bid or proposal procurement in the City where the Purchasing Agent determines in his or her reasonable discretion that such participation will be in the best interest of the City in light of the stated purposes of this chapter contained in Section 11-1-1. A City employee who has prepared specifications used substantially by the City in determining the bidder or proponent from which it wishes to purchase goods or services may participate as a bidder or proponent in a bid or proposal procurement by the City when the Purchasing Agent determines in his or her reasonable discretion that doing so is fair and in the best interests of the City in light of the purposes of this ordinance.

11-1-26. Period of Time for Contract of Supplies.

(1) Unless otherwise provided by law, a contract for supplies or services may be entered into for any period of time deemed to be in the best interests of the City; provided that the term of the contract and conditions of renewal or expansion, if any, are included in the solicitation and funds are available for the first fiscal period at the time of contracting. Payment and performance obligations for succeeding fiscal periods shall be subject to the availability and appropriation of funds.

(2) When funds are not appropriated or otherwise made available to support continuation of performance in a subsequent fiscal period, the contract shall be canceled. The contractor may apply for reimbursement for the reasonable value of any nonrecurring costs incurred but not amortized in the price of the supplies or services delivered under the contract, which may be awarded in the reasonable discretion of the Purchasing Agent. The cost of cancellation may be paid from any appropriations available for that purpose.

11-1-27. Alternative Methods of Construction.

The City may contract for any method of construction management allowed by law in the reasonable discretion of the department head responsible for the construction, or the Purchasing Agent.

11-1-28. Failure to Follow Ordinance.

The failure to follow any provision of this ordinance shall not render a procurement invalid, nor give a bidder or proponent a claim or right against the City or the employee responsible for such failure.

Chapter 2 LOST, ABANDONED OR UNCLAIMED PROPERTY

11-2-1. Disposition of Lost, Abandoned or Unclaimed Property.

It shall be the duty of the Chief of Police to keep all lost, abandoned or unclaimed property which comes into the possession of the Police Department or any of its members and he shall make all reasonable efforts to identify and locate the owner or owners thereof and restore said property to such owner.

11-2-2. Definitions.

- (a) Abandoned Property is personal property found under circumstances reasonably indicating that the owner does not intend to control or possess it.
- (b) Lost Property is personal property the location of which is unknown to the owner.
- (c) Unclaimed Property is personal property held by the Police Department for a period of three months or more and is unclaimed within that period by the owner; or, is personal property held by the police in connection with a court proceeding, the disposition of which is not otherwise determined by law or court order, and is unclaimed by the owner within a period of three months following the end of said court proceeding.

11-2-3. Identified Owner.

Whenever the owner of lost, abandoned, or unclaimed property is identified and located, the Chief of Police shall send by way of registered letter, written notice to the owner, describing the property, giving its present location, stating the circumstances under which he came into possession thereof, and giving notice to the owner that he must claim his property within the

time provided by this notice or the property will be disposed of as hereinafter provided.

11-2-4. Advertising Property.

If the owner of lost, abandoned, or unclaimed property fails to claim such property within fifteen days after the receipt of notice, or is not identified and located within a period of three months, the Chief may compile a list of said property for distribution to other City departments as stated in the next following section. If, after thirty days of notifying other City departments of available property, there is still property for sale, the Chief may advertise the sale of such property for at least five days in a newspaper of general circulation in the City and may, on the date specified in such advertisement, offer the property to the public at public auction. The time of the public sale shall be scheduled for a date not more than thirty days after published notice of the sale has been completed.

11-2-5. Notifying City Departments.

The Chief shall also mail the above-described list of all lost, abandoned, or unclaimed property which is available for public sale to the Purchasing Department. The Purchasing Department will then notify the other City departments of the property offered for public sale.

11-2-6. Requests for Use of Property.

If a City department wishes to utilize any of the lost, abandoned, or unclaimed property offered for sale, then a written request stating which property is needed shall be forwarded to the Police Department and the Purchasing Department not later than seven days before the public sale.

11-2-7. Joint Committee to Review Requests.

A joint committee comprised of an authorized representative from the Police Department and an authorized representative from the City Purchasing Department shall then review departmental requests for the use of property and shall determine which department, if more than one request for the same property is received, shall be assigned the property. The remaining advertised property will then be offered for public sale on the published date. Provided, however, that this joint committee may authorize the Police Department to destroy or otherwise dispose of any property subject to this ordinance where such property is determined valueless or of such little value that the costs of conducting a sale and advertising would exceed the amount realized therefrom.

11-2-8. Sale of Firearms.

11-2-9. Donated or Destroyed Property.

All advertised lost, abandoned, or unclaimed property remaining unsold or unassigned for Departmental use under the preceding sections of this ordinance may then either be destroyed or

donated to public or private charities as directed by the joint committee.

11-2-10. Report to the Recorder by Committee.

The joint committee shall make a report to the City Recorder, at the time of sale or disposition, containing: a listing of property sold or distributed under the provisions of this chapter; the amount of money received from public sales; and the fair market value, estimated by the joint committee, of any property distributed for use by a City department.

11-2-11. Separate Fund for Monies Received.

All money from the public sale of lost, abandoned or unclaimed property shall be kept in a separate fund credited to the City.

11-2-12. Reclaiming of Property by Owner.

If the owner, his legal representative or successor, of any lost, abandoned, or unclaimed property sold at auction or utilized by a City department demands his property within three years from the date the property was received by the Police Department, the City Treasurer shall pay to him after deducting the fees and expenses of the City in relation to the matter, the proceeds of the public sale or, if the property was assigned for use by a City department, the fair market value of the property.

11-2-13. Failure to Claim Property by Owner.

If the owner, his legal representative or successor of any lost, abandoned, or unclaimed property sold at auction does not claim the proceeds from the sale of his property within three year period, the proceeds from the public sale shall revert to the City General Fund.

11-2-14. Chief of Police to Act as Depository.

The Chief shall have the power to receive lost, abandoned, or unclaimed tangible or intangible property from a private citizen. He shall then make reasonable efforts to locate the owner of said property, but, if after three months, the owner has not been located or this property claimed, the property shall be returned to the citizen. If the citizen disclaims the property, then the property shall be distributed according to the provisions of this chapter.

Chapter 3 CONSTITUTIONAL TAKINGS

11-3-1. Purpose/Intent.

Private property owners should be treated fairly and should not be unconstitutionally deprived of real property interests without just compensation. This chapter shall be construed to provide for the objective and fair review of claims by persons asserting deprivation of

vested real property rights or interests, without just compensation. Nothing contained herein shall be construed to limit the ability of the City to lawfully fulfill its duties and functions.

11-3-2. Review of Decision by Mayor.

Any owner of private real property or a real property right who claims there has been an unconstitutional taking of their property, without just compensation, shall petition for a review of a final decision of any City officer, employee, board, commission, or the Council. Consistent with the separation of powers which is integral to the City's form of government, the Council hereby designates the Mayor to hear and consider such petitions. The Mayor may delegate such responsibility to another individual or board.

11-3-3. Review Procedures.

The following procedures for review of a final decision shall be followed:

(1) Final Decision. The person petitioning for review shall obtain a final decision before requesting review.

(2) Petition for Review. Within fifteen (15) days from the date of the final decision, the person requesting the review shall file, in the office of the City Recorder, a written petition for review of that decision. A copy shall also be filed with the City Attorney.

(3) Hearing Date. The Mayor, or the Mayor's designee, shall set a time to review the decision that gave rise to the petition as soon as reasonably practical. The Mayor, or the Mayor's designee, shall hear and consider the evidence related to and submitted by the petitioner, the City, and other parties whom the City determines have an interest in the proceedings,. In the discretion of the Mayor, or the Mayor's designee, the hearing may be oral or based upon written submittals.

(4) Applicant Information Submittal.

(a) *Initial Filing Information.* In addition to the petition for review, the petitioner shall submit, within 7 days prior to the date of the review, the following:

- (i) The name of the petitioner requesting review;
- (ii) The name and business address of the current owner of the property; the form of ownership, i.e. whether sole proprietorship, for-profit or not-for-profit corporation, partnership, joint venture or other; and if owned by other than a real person, the name and address of all partners or shareholders owning 10% or more of the outstanding shares;
- (iii) A detailed statement of the factual and legal grounds for the claim that there has been a unconstitutional taking, without just compensation;
- (iv) A legal description of the property allegedly taken and a detailed

description of the nature of the property; and

- (v) A detailed description of the protectable property interest claimed to be affected.

(b) *Supplemental information.* If the Mayor or the Mayor's designee determines that there may be an unconstitutional taking, and additional information is needed, in his sole discretion, the Mayor, or the Mayor's designee, may further require the following to be submitted:

- (i) The evidence and documentation as to the value of the property interest claimed taken, including the date and cost at the date the property was acquired. This material should include any evidence of the value of that same property before and after the alleged unconstitutional taking; the name of the party from whom purchased, including the relationship, if any, between the person requesting a review; and the party from whom the property was acquired;
- (ii) The terms, including sale price, of any previous purchase or sale of a full or partial interest in the property during the three years prior to the date of application;
- (iii) 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;
- (iv) The assessed value of and ad valorem taxes on the property for the previous three years;
- (v) All information concerning current mortgages or other loans secured by the property, including the name of the mortgagee or lender, current interest rate, remaining loan balance, term of the loan and other significant provisions, including but not limited to, the right of purchasers to assume the loan;
- (vi) All listings of the property for sale or rent, price asked and offers received, if any, within the previous three years;
- (vii) All studies commissioned by the petitioner or agents of the petitioner within the previous three years concerning feasibility of development or utilization of the property;
- (viii) For income-producing property, itemized income and expense statements from the property for the previous three years;
- (ix) Information from a title policy or other source showing all recorded liens or encumbrances affecting the

property; and

- (x) The Mayor, or the Mayor's designee, may request additional information reasonably necessary, in their opinion, to arrive at a fair and well supported conclusion concerning the nature of and the value of the alleged unconstitutional taking.

11-3-4. Reviewing Guidelines.

The Mayor or the Mayor's designee shall review the facts and information presented by the petitioner, the City, and other parties whom the City determines have an interest in the proceedings, and determine if the action by the City constitutes an unconstitutional taking. The City Attorney's office may serve as the City's legal counsel. The Mayor, or the Mayor's designee shall review the facts in light of the applicable state and federal constitutional law.

11-3-5. Time for Final Decision.

If the Mayor, or the Mayor's designee, fails to hear and decide the petition within 14 days after the filing of the petition, the administrative decision of the City officer, employee, board, commission, or the Council shall be deemed approved; provided, however, the Mayor, or the Mayor's designee, may extend the time to reach a decision, not exceeding an additional 120 days following the receipt of the petitioner's submissions required in Section 11-3-3.

11-3-6. Results of Review.

After completing the review the Mayor or the Mayor's designee shall make a determination regarding the petition and may in his or her discretion make a recommendation to the Council or the appropriate officer, employee, board, commission.

11-3-7. Guidelines Advisory.

The guidelines adopted and decisions rendered pursuant to the provisions of this chapter are advisory, and shall not be construed to expand or limit the scope of the City's liability for an unconstitutional taking of a property interest. The decision rendered pursuant to the provisions of this chapter are not admissible in court for any purpose other than to demonstrate that the petitioner has exhausted the requisite administrative remedies, and in no event shall any recommended compensation be admissible into evidence.

11-3-8. Severability.

If any part of this ordinance or the application thereof to any person or circumstances shall, for any reason, be adjudged by a court of competent jurisdiction to be unconstitutional or invalid, such judgment shall not affect, impair or invalidate the remainder of this ordinance or the application thereof to other persons and circumstances, but shall be confined to its operation to the section, subdivision, sentence or part of the section and the persons and circumstances directly involved in the controversy in which such judgment shall have been rendered. It is hereby declared to be the intent of the City Council that this section would have been adopted if such invalid section, provisions, subdivision, sentence or part of a section or application had not been included.

EXHIBIT “A”

CHANGES TO REVISED ORDINANCES OF SANDY CITY TITLE 11, “PURCHASING PROCEDURES”

11-1-5. Scope.

(a) *Superior or More Suitable Products.* Whenever the requisitioning department head or his or her designated representative finds in a signed memorandum a copy of which shall be sent to the Purchasing Agent and the City Administrator, that a particular product significantly surpasses competing products in terms of quality, serviceability or longevity, or that such a product is better suited to the needs of the City in order to lower costs of inventory, to maintain compatibility with City equipment, or because doing so will lower the costs of service or procurements, such a product may be procured notwithstanding the fact that a competing product could be procured at a lower cost.

(b) *State or Federal Purchasing Prices.* The City need not solicit competitive bids or proposals when making procurements through cooperative purchasing contracts administered by the State Division of Purchasing, or an agency of the Federal government, the benefits of which are also available to the City.

(c) *Cooperative Procurements.* The City may join with other units of Federal, State or local government, or with special districts, school districts, and such other similar agencies as the City Council may by resolution direct, in purchasing goods and services. In such cases the City is encouraged, but is not required to follow a competitive bidding process or request for proposals where that would be required if the service or goods were procured by the City alone. Notwithstanding the foregoing, purchases shall be made in accordance with State law, such as Section 11-39-103, Utah Code Annotated, regarding contracts for new public improvements construction costs where the estimated cost exceeds \$40,000.

(d) *Goods \$2,000 or Less - No Bids.* City procurements of goods and services reasonably expected to cost \$2,000 or less do not require the solicitation of bids or proposals, although bids may be solicited orally or otherwise if desired. Procurements under this subsection may be made by cash payment, but in such cases the procurer should obtain a receipt for the payment.

(e) *Goods and Services Costing \$2,001 to \$5,000- Three Oral Quotes.* Procurements of goods and services reasonably expected to cost more than \$2,001 but not more than \$5,000 in total shall require three telephone, oral, or written quotes for prices from proposed vendors of goods or services. The Purchasing Agent or Department Buyer shall make a signed written record of quotes and reasonably detailed product or service information about each of them, sufficient to compare and make a reasonably informed choice from among the vendors who make offers or bids, including the name of the vendor, the vendor's address, telephone number, and the price quoted. Procurements within this subsection (e) shall be

made by purchase order unless made by written contract. In the event three vendors willing to provide quotes cannot reasonably be obtained, then the Purchasing Agent or Department Buyer shall make a signed written record of quotes and product and service information about each vendor willing to provide quotes, and a record of efforts to obtain other quotes. The decision about which vendor to choose for the services or goods shall be made based upon the information submitted. The Purchasing Agent or Department Buyer may allow a person who has prepared or helped to prepare specifications for use in a City procurement to bid or submit a proposal for the procurement if doing so is not unfair to other bidders or proponents, in the reasonable discretion of the Purchasing Agent or Department Buyer; otherwise, such person shall not be allowed to bid or submit a proposal.

(f) Goods and Services Costing \$5,001 to \$40,000 - Three Written Bids.

Procurements of goods and services reasonably expected to cost more than \$5,001 but not more than \$40,000 in total shall require the receipt of three bids or proposals in writing unless three vendors willing to submit such bids or proposals cannot reasonably be obtained. In the event three vendors willing to provide quotes cannot reasonably be obtained, then the Purchasing Agent or Department Buyer shall make a signed written record of quotes and product and service information about each vendor willing to provide quotes, and a record of efforts to obtain other quotes. Procurements within this subsection 11-1-5(f) shall be made by purchase order unless made by written contract.

(g) May Use Formal Bidding Requirements. All formal bidding and requests for proposals shall be issued by the City Purchasing Agent or his or her assistants. The requirements contained herein are minimal requirements, and nothing in this section shall prevent the Purchasing Agent, the City Council, Mayor or the City Administrator may require that the procurement of services, supplies, materials or equipment be competitively bid or that competitive offers be solicited in cases that otherwise would not so require if it is determined that such action to be in the best interest of the City.

11-1-6. Exceptions.

The competitive purchasing requirements of this chapter need not be followed in the following circumstances. In such cases, written documentation should be made demonstrating that procurement falls within one of the following provisions of this section.

(a) Grant, Gift, Bequest. In complying with the terms and conditions of any grant, gift, or bequest to the City, or to one of the City's departments or subdivisions, committees, or a community organization which functions under City auspices if such action is approved by the City Council and is otherwise consistent with law.

(b) Federal or State Assistance. When procurement involves the expenditure of federal or State assistance funds, and to the extent that doing so requires that federal or State law or regulations be followed rather than City ordinances.

(1) Suspension and Debarment Certification. For subrecipients and contractors receiving \$40,000 or more in federal funds from the City, request-for-bid or proposal documents will contain language notifying bidders or proponents of federal or State suspension and debarment requirements, which shall be provided in forms by which bidders or proponents can certify their status. At time of bid, bidders or proponents

will be required to certify their suspension and debarment status as a mandatory element of their bids or proposals.

(2) *System for Award Management (sam.gov).* Purchases in excess of \$40,000 in federal funds where bidding is not required (i.e., in State contracts, or where disbursements exceed \$40,000 on existing contracts) the Purchasing Agent or the Department Buyer shall not award contracts or orders to persons suspended or debarred by the United States government, which shall be determined by checking the federal suspension and debarment website (currently, sam.gov) for a favorable suspension and debarment status for such persons before a bid or proposal is awarded, an order is placed, or a contract for goods or services with such person is signed.

(3) *Supporting Documentation.* Supporting documentation relating to suspension and debarment status shall be kept by the Purchasing Agent and/or the Department Buyer pursuant to federal, State and City laws and regulations.

(c) *Emergency Procurements.* Notwithstanding any other provision of this chapter, procurements may be made in emergencies by the Purchasing Agent, a department head, or a designee of either in instances in which the procurement could not reasonably have been made pursuant to this chapter, provided that procurements shall be made with as much competition as practicable under the circumstances. Promptly thereafter the department head of the department which made the procurement shall provide a signed written statement to the City Purchasing Agent setting out in reasonable detail the item procurement, the price, and cause and basis for the emergency and why the procedures set out in this chapter were not followed. A copy of the statement shall be included in the contract file.

(d) *Single-Source Provider.* Procurements of products, services or construction items available only from a single provider. The Mayor, City Administrator, Department head or the Purchasing Agent shall find in writing that there is only one source for the item or service.

(e) *Compatibility, Parts, Training.* Procurements of equipment which, by reason of the training of City personnel who service such equipment, or which is an addition to or for the repair or maintenance of equipment owned by the City which may be more efficiently added to, repaired or maintained by a certain brand, person or firm.

(f) *Additional or Replacement Parts.* Equipment which, due to an inventory of replacement parts maintained by the City is compatible only with existing equipment owned, leased or used by the City, need not, where the department head or the Purchasing Agent finds in a signed writing that the City's interest is better served by so purchasing, procurement a different brand of such equipment.

(g) *Professional Services.* Contracts for professional services reasonably expected to cost more than \$7,500 for the services specifically set out in the contract shall be awarded at the discretion of the Mayor, or a person designated by the Mayor.

(1) *Criteria for Award.* Contracts for professional services shall be based on the evaluation of professional qualifications, service ability, cost of service, and other service-related criteria.

(2) *Manner of Selection.* Criteria for award of professional service contracts costing more than \$7,500 may be determined through one or more of the following methods:

- (A) Competitive bid;
- (B) Request for Proposals (RFP); or
- (C) Informal Survey.

(3) Where criteria for award of professional service contracts costing more than \$7,500 are determined through informal survey or through some lesser review, then award of the contract or its proposed award shall be disclosed in writing to the City Council by the department head or a person designated by the department head along with a reasonably detailed written summary of the findings of that survey.

(h) *Insufficient Bids.* Where fewer than three responses are made to a bid solicitation or request for proposals after reasonable efforts to obtain three or more bids or proposals, the Purchasing Agent or Department Buyer responsible for the purchase may, after making a signed writing setting out the circumstances thereof, a copy of which shall be placed in the contract file, make a purchase which in his or her reasonable discretion meets the purposes of this ordinance by purchasing in a manner which does not conform to the formal bidding or RFP process set out in this chapter.

(i) *City Council Determinations.* The City Council may authorize the procurement of supplies, equipment and services without complying with the provisions of this chapter when it determines that compliance with the procedure is not in the best interests of the City. A memo shall be placed in the file for the purchase setting out the reasons for doing not following the purchasing provisions which otherwise would apply.

(j) *Special Opportunity Purchases.* Where a substantial savings will be realized thereby in the purchase of goods or non-professional services costing more than \$40,000, and provided that sufficient money has been appropriated for the purchase, a Department may avoid competitive bidding or the RFP requirements set out in Section 11-1-8, by the following streamlined procedures, provided other applicable provisions of this Chapter are met before the purchase is made:

- (1) It shall, in its reasonable discretion, obtain offers from competing sources in a manner most likely to meet the purposes of this Chapter; and
- (2) The Department Head shall disclose the proposed purchase in a signed written memorandum to the Mayor and City Administrator, setting out in reasonable detail the reason the purchase is recommended, the reason normal purchasing procedures are not recommended, and the proposed savings, and what efforts have been made to obtain competitive offers; and
- (3) The Mayor and City Administrator each agrees in a signed memorandum that he or she believes that the purchase is justified, and that the purposes of this Chapter will be met thereby.

11-1-7. Splitting Orders to Avoid Competitive Bidding Prohibited.

No person may split or separate into smaller orders the procurement of supplies, materials, equipment or services for the purpose of evading the competitive bidding or request for proposal provisions of this ordinance.

11-1-8. Formal Bidding Procedure.

The following procedures shall apply to the procurements of all materials, supplies, equipment, public improvements, and non-professional services which cost \$40,000 or more, and may be used for professional services. All bids and requests for proposals shall be made by the City Purchasing Agent.

(a) *General.* The Purchasing Agent shall issue Invitations to Bid or Requests for Proposals for materials, supplies, equipment, services, insurance, public contracts, and other items required for the City.

(b) *Invitations to Bid.* An invitation to Bid shall describe the material, supplies, equipment, services or insurance with sufficient particularity to allow for competitive bidding and evaluation, and shall include a procurement description, and contractual terms and conditions applicable to the procurement.

(c) *Bid and Proposal Submissions.* Bidders must submit responsive Bids and Proposals on or before the bid closing to the Purchasing Agent to be eligible for consideration. The City Purchasing Agent may in his or her discretion consider a Bid or Proposal which was timely submitted via a delivery medium which arrives after the bid closing, provided acceptance of the Bid or Proposal is reasonably determined by the Purchasing Agent to be in the best interests of the and there is no evidence or likelihood of collusion or fraud upon the procurement process. Formal Bids shall otherwise be opened at a public bid opening.

(1) Bids shall be opened publicly in the presence of one or more witnesses at the time and place designated in the invitation for bids. The amount of each bid and any other relevant information specified by rules and regulations, together with the name of each bidder, shall be recorded. The record and each bid shall be open to public inspection.

(2) Bids shall be unconditionally accepted without alteration or correction, except as authorized in this chapter. Bids shall be evaluated based on the requirements set forth in the invitation for bids, which may include criteria to determine acceptability such as inspection, testing, quality, workmanship, delivery, and suitability for a particular purpose, except that criteria in determining responsible bidders contained in this chapter 11-1 need not be set forth in the invitation for bids. The Purchasing Agent shall attempt to make selections based on those criteria that will affect the bid price and be considered in evaluation for award shall be objectively measurable. The criteria may include discounts, transportation costs, and total or life cycle costs.

(3) 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 the interest of the City in the reasonable discretion of the Purchasing Agent in consultation with a representative of the interested City department. After bid opening no changes in bid prices or other provisions of bids prejudicial to the interest of the City or to fair competition shall be permitted. Except as otherwise provided by this chapter, or rules and regulations, all decisions to permit the correction or withdrawal of bids or to cancel awards or contracts based on bid mistakes by a provider shall be supported by a written determination made by the Purchasing Agent.

(d) *Award Under Invitation to Bid.* Contracts for procurement under an Invitation to Bid shall be awarded with reasonable promptness by written notice to the lowest responsive and responsible bidder whose bid meets the requirements and criteria set forth in the invitation for bids. Determinations may be based on one or more or any combination of factors which will serve to meet City requirements at the best economic advantage to the City including but not limited to: unit cost, life cycle cost, economic cost analysis, operating efficiency, warranty and quality, compatibility with existing equipment, maintenance costs (to include consideration for the cost associated with proprietary invention), experience and responsibility of bidder. In the event all bids for a construction project exceed available funds as certified by the appropriate fiscal officer, and the low responsive and responsible bid does not exceed such funds by more than 5%, the chief procurement officer or the head of a purchasing agency is authorized, in situations where time or economic considerations preclude resolicitation of work of a reduced scope, to negotiate an adjustment of the bid price, including changes in the bid requirements, with the low responsive and responsible bidder, in order to bring the bid within the amount of available funds.

(e) *Two-Step Awards.* When it is considered impractical to prepare initially a purchase description to support an award based on price, an invitation for bids may be issued requesting the submission of unpriced offers to be followed by an invitation for bids limited to those bidders whose offers have been qualified under the criteria set forth in the first solicitation.

(f) *Lowest Responsible Bidder.*

(1) In determining lowest responsible bidder, the Purchasing Agent may in his or her discretion consider one or more of the following criteria, which may be included as purchase criteria in the invitation for bids:

- (A) The quality of supplies offered;
- (B) The ability, capacity and skill of the bidder to perform the contract or provide the supplies or service required;
- (C) Whether the bidder can perform the contract or provide the supplies promptly, or within the time specified, without delay or interference;
- (D) The sufficiency of the bidder's financial resources and the effect

thereof on his ability to perform the contract or provide the suppliers or services;

(E) The character, integrity, reputation, judgment, experience and efficiency of the bidder;

(F) The quality of bidder's performance on previous orders or contracts for the City or others;

(G) Litigation or claims by the bidder without substantial basis;

(H) Any previous or existing noncompliance by the bidder with laws and ordinances relating to the subject of the contract;

(I) The ability of the bidder to provide future maintenance and service, where such maintenance and service is essential; and

(K) Price.

(2) Determination of nonresponsibility of a bidder, or written determination of nonresponsibility of a bidder or offeror shall be made in accordance with this chapter. The unreasonable failure of a bidder or offeror to promptly supply information in connection with an inquiry with respect to responsibility may be grounds for a determination of nonresponsibility with respect to the bidder or offeror. Information furnished by a bidder or offeror pursuant to this section shall not be disclosed outside of the department making the purchase and the Purchasing Agent's office without prior written consent by the bidder or offeror.

(3) After reasonable notice to the person involved, the Purchasing Agent may debar a person for cause from consideration for award of City contracts.

(g) Competitive Sealed Proposals. As an alternative to the bidding process provided for this section, competitive proposals may be solicited in the discretion of the Purchasing Agent, the Mayor, City Administrator, or a Department head, and a contract may be entered into by competitive sealed proposals.

(1) Competitive sealed proposals may be used for the procurement of services of consultants, professionals, and providers.

(2) Proposals shall be opened so as to avoid disclosure of the contents to competing offerors before a contract is signed with the offeror during the process of negotiation.

(3) A register of proposals shall be prepared and shall list such information with respect to each proposal as is important in making the decision which shall be open for public inspection after award of the contract. The register shall be open for public inspection after award of the contract.

(4) The request for proposals 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 for the purpose of assuring full understanding of, and responsiveness to, solicitation requirements. Offerors shall be accorded fair and equal treatment with respect to any opportunity for discussion and revision of proposals, and revisions may be permitted after submissions and before the contract is awarded for the purpose of obtaining best and final offers. In conducting discussions, reasonable care shall be taken to avoid the disclosure of information derived from proposals submitted by competing offerors which is not known to the competitors.

The contract file shall contain the basis on which the award is made.

(h) *Waiver of Defects, Technicalities.* The City Purchasing Agent together with the head of the department purchasing the item or service may waive defects and technicalities when doing so is in the best interests of the City. The City Purchasing Agent shall, where practicable, take reasonable efforts to notify all bidders of the determination thereof.

(i) *Bid Bond.* A bid bond may be required on items, contracts, materials and services procurement under this chapter.

(j) *Notices Inviting Bids and Quotations.* Notices inviting bids or quotations shall be published at least five (5) business days before the date of the opening of the bids in a manner which the Purchasing Agent determines is in the City's best interest to meet the purposes of this ordinance, including but not limited to publication on an electronic bulletin board, on the Internet, in commonly read trade publications, radio, television, cable television, or in a newspaper of general circulation in the City. Notices advertising pending procurements by bid or request for proposals under this Section 11-1-8 shall be posted on a public bulletin board in City Hall, and where practicable, shall be posted at least five days before the procurement is contracted for.

(k) *Tie Bids.* If two or more bids received are for the same total amount or unit price, quality and service being equal, and if the Purchasing Agent determines that the City's interest is better served by not re-advertising for bids, the City may require the tie bidders to submit a rebid within five (5) days.

11-1-9. Relief Due to Computation Error.

Any bidder who seeks to withdraw or modify a Bid because of inadvertent computational error shall notify the Purchasing Agent no later than three (3) working days following the bid closing. The bidder shall provide worksheets and such other information as may be appropriate or required by the City Purchasing Agent to substantiate the claim of inadvertent error. Failure to do so may bar such relief and allow recourse from the bid surety, in the discretion of the Purchasing Agent. The burden is upon the bidder to prove such error.

11-1-10. Notice Inviting Bids or Proposals.

Notice inviting bids or proposals shall include a general description of the articles to be procurement and shall state where bid blanks and specifications may be secured and the time and place for opening bids, along with any other information which the Purchasing Agent deems appropriate.

11-1-11. Construction Projects.

(a) Municipal construction projects are governed by Section 11-39-103, Utah Code Annotated (1953), as amended. The requirement for obtaining payment bonds in municipal construction contracts is covered by Chapter 14-1, Utah Code Annotated.

(b) A City department head is authorized to approve extra work or change orders on City construction projects in an amount not to exceed 20 percent of the contract in the best interests of the City in the discretion of the department head. Notice of such provision may be included in the invitation for bids.



Sandy City, Utah

10000 Centennial Parkway
Sandy, UT 84070
Phone: 801-568-7141

Staff Report

File #: 17-310, **Version:** 2

Date: 3/13/2018

Agenda Item Title:

Administration updating the Council on the recodification of City Code

Presenter: Shane Pace



[Web](#) | [Legal](#) | [Pay](#)

Roger D. Merriam

Senior Code Attorney (Admitted to Practice in Florida)

rdm@municode.com 1-800-262-2633, ext. 1257 www.municode.com

MAY 18, 2017

TO: MR. ROBERT WALL
CITY ATTORNEY
SANDY CITY CORPORATION, UTAH

RE: SANDY CITY CORPORATION RECODIFICATION LEGAL REVIEW & PROPOSED CODE REORGANIZATION

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MUNICIPAL CODE CORPORATION
MAILING ADDRESS: P.O. Box 2235 Tallahassee, FL 32316
PHYSICAL ADDRESS: 1700 Capital Circle, SW Tallahassee, FL 32310
FAX: 850-575-8852
LOCAL TELEPHONE NUMBER: 850-576-3171, ext. 1257

PART I. INTRODUCTION

Part II of this memorandum is a legal analysis of the Revised Ordinances of Sandy City, Utah, 1978, as amended through April 30, 2017 ("Code"), in which the Code has been researched for the following purposes:

1. Identification and elimination of conflicts, inconsistencies and obsolete provisions in connection with the Utah Code Annotated ('U.C.A. 1953'), current through chapters 3, 4, 9 to 15, 20, 21, 172, 233, 263, 277, 317, 355, 389, 398, 400, 404, 437, 453, 470, 472, and 476, of the 2017 General Session effective through March 14, 2017.
2. Identification and elimination of obsolete or conflicting provisions.
3. Identification and elimination (or curing) of potentially unconstitutional provisions.

The legal analysis is presented to the maximum extent possible as recommended changes. In some cases the city attorney may agree that a problem exists but disagree with the proposed solution. In other cases, the city attorney may not agree that a problem exists.

Effective date, severability and repealer provisions will be deleted without further mention. All state law and state rule references will be corrected without further mention.

Because U.C.A. 1953, § 78A-7-106 provides that a justice court has jurisdiction over Class B and Class C misdemeanors, violation of ordinances, and infractions committed within its territorial jurisdiction by a person 18 years or older, it has been recommended that offenses covered by statute be deleted.

It is uniformly held that incorporation by reference *in futuro* . . . is invalid. (C. Rhyne, *The Law of Local Governmental Operations*, p. 122.)

In *Blitch v. City of Ocala*, 142 Fla. 612, 195 So. 406 (1940) (cited in Mr. Rhyne's treatise), the Florida Supreme Court ruled on a challenge to § 31 of an ordinance adopted by the city of Ocala on October 21, 1924. Such section required roofing "which would rank as Class 'A' or Class 'B' under the test specifications of the National Board of Fire Underwriters." 142 Fla. at 617, 195 So. at 408. The court upheld the provisions ruling that the above-quoted language only referred to specifications then in effect and not to subsequent changes in the specifications. The court stated that "if it [the ordinance] should be held to mean, not only present but also future specifications, or any changes therein that might be adopted by the National Board of Fire Underwriters, section 31 of the ordinance would be invalid as being a delegation of authority to an outside board to alter a municipal ordinance." 142 Fla. at 618, 195 So. at 408.

The prohibited *in futuro* adoption of standards discussed above is referred to in this memorandum as the "adoption by reference problem."

This memorandum is intended for the use of the City Attorney. Nothing in this memorandum is to be construed as giving legal advice to the city.

PART II. LEGAL ANALYSIS

Title 1. Ordinances

Chapter 1. Ordinances and Sanctions, Fines and Penalties

Revise chapters 1 and 2 in accordance with attachment A. However:

1. **Delete** § 1-1-5 (*publication of ordinances*) as covered by U.C.A. 1953, § 10-3-711.
2. **Delete** § 1-1-6 (*effective date of ordinances*) as covered by U.C.A. 1953, § 10-3-712.
3. **Delete** § 1-1-7 (*enacting clause*) as covered by U.C.A. 1953, § 10-3-704.
4. **Delete Code** § 1-1-8 (*numbering of ordinances*) as adequately covered by U.C.A. 1953, § 10-3-704.

****City Response: Accept #1-4 (deleting 1-1-5, 1-1-6, 1-1-7, and 1-1-8)**

5. ~~Deleted~~ Code § 1-2-2(b). This provides for fines on corporations that exceed the amounts authorized by U.C.A. 1953, § 10-3-703. Such statute references U.C.A. 1953, § 76-3-301 (and subsection (a) reflects these amounts.). U.C.A. 1953, § 76-3-301 does not apply to corporations, etc. Subsection (b) reflects the fines imposable upon corporations pursuant to U.C.A. 1953, § 76-3-302. As U.C.A. 1953, § 76-3-301 does not reference U.C.A. 1953, § 76-3-302, such later statute is applicable to municipal ordinance violations.

****City Response: leave 1-2-2 as is. (do not accept change)**

Chapter 3. Code of Ethics

Except for Code § 1-3-10, ~~delete~~ as covered by (and in conflict with) U.C.A. 1953, § 10-3-1301 et seq.

****City Response: Keep chapter 3 – update definitions to match UCA.**

Title 2. Elections

Secs. 2-1-1. Elections. Except for U.C.A. 1953, § 17-33-11, delete. These sections are state election offenses or are mandatory.

****City Response: Accept**

Title 3. Animal Control

Chapter 1. Animal Control

3-1-2. Definitions. Conform the definition of assistance animal to U.C.A. 1953, § 62A-5b-102(3).

****City Response: Accept change**

3-1-7. Licensing. In subsection (f), given U.C.A. 1953, § 10-8-65(b),¹ Add an exemption for one service animal and one retired service animal.

****City Response: Accept change**

3-1-23. Impounding, Euthanization; Disposition of Animals.

1. In subsection (d), alter to be consistent with U.C.A. 1953, § 11-46-203 by changing two months to **six months**.

****City Response: accept change to 6 months**

2. In subsection (e)(3), please review the minimum deposit (\$25.00) and advise as to any needed changes.

****City Response: No change – keep at \$25**

3-1-26. Cruelty to Animals Prohibited, Dogfighting. Except for subsection (b)(6), delete as covered by U.C.A. 1953, §§ 76-9-301 et seq. Many provisions herein are designed a class A misdemeanor, which is not permissible under U.C.A. 1953, § 10-3-703.

****City Response: Refer to state code & Keep (b)(6) – Change to class B misdemeanor**

Chapter 2. Hobby License

Revise to recognize the exception for service animals and retired services animals in U.C.A. 1953, § 10-8-65(b).

****City Response: Accept**

See recommendation for Code § 15A-11-03, *infra*.

****City Response: not in conflict – 5 dogs with hobby license, 6 pets**

Chapter 3. Dangerous and Prohibited Dogs

3-3-4. Keeping of Dangerous Dogs. Please review subsection (j). The catchline indicates only one dangerous dog is allowed while the text indicates that only one dog is allowed. If the latter interpretation is correct, revise to recognize the exception for service animals and retired services animals in U.C.A. 1953, § 10-8-65(b). Please advise.

****City Response: Accept – recognize state statute exemption (2 total dogs)**

****consider moving “no-kill” to different location in code**

¹ U.C.A. 1953, § 10-8-65(b): “If a municipality adopts a limit as to the number of dogs a person may keep, the municipality shall allow a person to keep a service animal, a retired service animal, or both in addition to that limit.”

Title 5. Business Licensing

Chapter 1. Business License

5-1-3. Duties of Business License Section. While the catchline of this section references a business license section, the text (in this section and elsewhere) references a license section. Please advise as to the correct title.

****City Response: No change – keep as is**

5-1-9. Transferability. In subsection (a)(2), please review the official titles used and advise as to any corrections.

****City Response: No change – keep as is**

Chapter 2. Alcoholic Beverage Regulations

5-2-1. Definitions. (It is noted that many definitions add additional requirements to the similar definitions found in U.C.A. 1953, § 32B-1-102—*compare, e.g.,* definition of reception center *with* U.C.A. 1953, § 32B-1-102(88), as amended 2017 Acts, ch. 455. It is assumed that this is permissible.)

1. Conform the definition of beer to U.C.A. 1953, § 32B-1-102(10), as amended 2017 Acts, ch. 455.
2. Conform the definition of flavored malt beverage to U.C.A. 1953, § 32B-1-102(41), as amended 2017 Acts, ch. 455.
3. Conform the definition of flavored malt beverage to U.C.A. 1953, § 32B-1-102(61), as amended 2017 Acts, ch. 455.
4. Conform definition of restaurant to U.C.A. 1953, § 32B-1-102(97), as amended 2017 Acts, ch. 455.
5. Conform definition of state store to U.C.A. 1953, § 32B-1-102(112), as amended 2017 Acts, ch. 455.

****City Response: Accept**

5-2-8. License Application, Contents and Applicant Qualifications. Delete subsection (a)(3). Federal prohibits requiring the social security number. Section 7 of the Federal Privacy Act (5 USC 552a note) states, in its entirety:

****City Response: Accept**

Sec. 7 (a)(1) It shall be unlawful for any Federal, State or local government agency to deny to any individual any right, benefit, or privilege provided by law because of such individual's refusal to disclose his social security account number.

(2) the provisions of paragraph (1) of this subsection shall not apply with respect to--

(A) any disclosure which is required by Federal statute, or

(B) any disclosure of a social security number to any Federal, State, or local agency maintaining a system of records in existence and operating before January 1, 1975, if

such disclosure was required under statute or regulation adopted prior to such date to verify the identity of an individual.

(b) Any Federal, State or local government agency which requests an individual to disclose his social security account number shall inform that individual whether that disclosure is mandatory or voluntary, by what statutory or other authority such number is solicited, and what uses will be made of it.

5-2-21. Alcoholic beverage sales—Prohibited to minors. Delete as covered by U.C.A. 1953, § 32b-4-403, 32b-4-409.

****City Response: Accept**

Chapter 4. Entertainments Arcades and Devices

If obsolete (the average personal computer providing better games than can be found in an arcade), delete.

****City Response: keep as is**

Chapter 5. Swap Meets and Flea Markets

5-5-4. Fee. Alter so fee is established by the fee schedule. The citation to § 5-1-6 is inappropriate.

****City Response: reference fee schedule; delete 5-1-6**

Chapter 7. Public Dance Halls

If obsolete, delete.

****City Response: Keep – not obsolete**

5-7-11. Inspections of Dance Halls. Tie inspection fee to the fee schedule.

****City Response: accept - delete**

5-7-15. Walkathons Prohibited. Delete. This was repealed on February 28, 2013.

****City Response: accept - delete**

Chapter 8. Coupons, Coupon Books or Discount Cards

If obsolete, delete.

****City Response: accept – delete obsolete**

Chapter 14. Auctioneers and Auctions

If obsolete, delete.

****City Response: No change – do not delete, not obsolete**

5-14-4. Auctioneer's License Required. Please advise as to the correctness of the term “license department.”

****City Response: change to “license section”**

Chapter 16. Home Occupations

5-16-1. Definitions. In the definition of child day care, change age 19 to age 18. See U.C.A. 1953, § 26-39-102(8)(a)(ii).

****City Response: Accept**

Chapter 18. Escort Agencies, Outcall Service Agencies, And Semi-Nude Dancing Agencies

If superseded or covered by Code title 12, ch. 2, delete.

****City response: the last 2 lines of 5-8-12 should be placed under 5-8-13 “severability”**

****City Response: Chapter 18 – keep section as is – it is not superseded or covered by title 12**

Title 6. Administrative Code

Chapter 1. Purposes and Principles

6-1-3. Administrative Organization. Delete as not needed. The city may wish to insert a statement that the city is organized under the council-mayor form of government found in U.C.A. 1953, title 10, ch. 3B, pt. 2 (U.C.A. 1953, § 10-3b-201 et seq.).

****City Response: Insert recommended statement and delete the remainder**

Chapter 2. Office of Mayor

6-2-1. Qualifications and Term of Office. Delete as covered by U.C.A. 1953, § § 10-3-301. 10-3-205, 10-3-205.5.

****City Response: Delete and replace with a general statement that authority is as provided by state law**

6-2-2. Vacancy in Office of Mayor. Delete as not needed—the statute cited applies absent this section.

****City Response: Accept - Delete**

6-2-3. Powers and Duties. Delete as covered by (and not consistent with) U.C.A. 1953, § 10-3b-202.

****City Response: Accept - delete**

6-2-4. Power in Time of Local Emergency. Delete as covered by U.C.A. 1953, §§ 53-2a-208, 53-2a-205.

****City Response: Accept**

6-2-5. Council-Mayor Relationships. In subsection (a), delete in the second sentence the word “dismiss” as covered by Code § 6-2-3(d)(2), (d)(3).

****City Response: leave section (b), delete the remainder**

Chapter 5. Human Resources

6-5-12. Agreements and Cooperation with other Governmental Agencies. In subsection (a), if the agreements must be approved by the council, delete subsection (a) as not needed.

****City Response: Leave as is**

Chapter 6. Miscellaneous Provisions

****City Response: Retitle to “Ethics”**

6-6-1. Ethics. Delete as not needed.

****City Response: Keep as is**

6-6-2. Prohibitions on Employment of Relatives. Delete as not needed—the statute cited applies absent this section.

****City Response: keep as is**

Title 7. Public Peace and Safety

Chapter 1. Miscellaneous Offenses Against Public Peace and Property

7-1-1. Vagrancy. In subsection (a), so as to avoid constitutional problems (“The right to walk the streets, or to meet publicly with one’s friends for a noble purpose or for no purpose at all---and to do so whenever one pleases---is an integral component of life in a free and ordered society.” Papachristou v. City of Jacksonville, 405 U.S. 156, 164, 92 S. Ct. 839, 31 L. Ed. 2d 110 (1972)), delete the words “or about” and insert in lieu thereof the word “on”.

****City Response: Keep as is**

7-1-2. Disorderly Houses. So as to avoid vagueness, revise to apply only, to premises where illegal or unlawful activities are conducted, deleting the terms, bawdy, disorderly, lewdness, house of ill-fame and assignation house.

****City Response: Keep as is**

7-1-7. Obscene or Profane Language. If obsolete in light of Code title 7, ch. 2, delete. If retained, so as to avoid constitutional problems, insert a reasonable person standard.

****City Response: Keep as is**

7-1-8. Regulation of Smoking, Fires, and the Discharge of Fireworks and other Explosives. Delete as superseded (apparently) by Code title 8, ch. 5.

****City Response: Keep as is**

7-1-9. Barbed Wire Fences Prohibited. It is assumed that this section is needed (notwithstanding Code § 15A-28-07) because of pre-existing use issues.

****City Response: Keep a is**

7-1-11. Expectorating in Public Place and Prohibition Against Littering. Delete subsection (b) as superseded by title 7, ch. 11.

****City Response: Keep as is**

Chapter 2. Noise Control

7-2-3. Definitions and Standards. In definition of noise disturbance, so as to avoid constitutional problems, insert a reasonable person standard.

****City Response: Keep as is**

Chapter 2. Regulations Relating to Minors

7-3-1. Providing Cigars, Cigarettes, or Tobacco to Minors - Penalties. Delete as covered by U.C.A. 1953, § 76-10-104, multiple violations of which are a class A misdemeanor (and which is impermissibly stated in this section). If retained, conform to such statute by including electronic cigarettes.

****City Response: Accept**

7-3-2. Purchase or Possession of Tobacco. Alter to be consistent with U.C.A. 1953, § 76-10-105 by including electronic cigarettes.

****City Response: Accept**

7-3-3. Sale of Tobacco Products. Either conform to U.C.A. 1953, §§ 76-10-105.1 and 76-10-102 or delete. See U.C.A. 1953, § 76-10-105.1(8).

****City Response: Accept**

7-3-4. Sale of Beer, Alcoholic Beverage or Liquor. Delete as covered by Code § 5-2-21 (*recommended for deletion as covered by state law*).

****City Response: Accept**

7-3-5. Unlawful Purchase, Possession, Consumption by Minors - Measurable Amounts in Body. Delete as covered by Code § 5-2-21 (*recommended for deletion as covered by state law*).

****City Response: Accept**

7-3-7. Regulation of Movies for Minors. Delete subsections (b)(1) and (b)(3) as covered by U.C.A. 1953, § 76-10-1206.

****City Response: Accept**

7-3-8. Regulation of Magazines for Minors. Delete as covered by U.C.A. 1953, § 76-10-1206.

****City Response: Accept**

7-3-9. Contributing to the Delinquency of a Minor. Delete subsections (a)(1)(i) and (a)(1)(ii) as covered by U.C.A. 1953, § 76-20-2301. Delete subsections (a)(1)(iii) and (a)(2) as covered by U.C.A. 1953, § 76-5-109, violation of which can be a felony.

****City Response: Accept**

7-5-1. Assault. Delete as covered by (and in conflict with) U.C.A. 1953, § 76-5-102.

****City Response: Accept**

7-5-2. Battery. Delete as covered by Code § 7-5-1, as modified.

****City Response: Accept**

7-5-4. Harassment. Delete as covered by (and in conflict with) U.C.A. 1953, § 76-5-106.

****City Response: Accept**

7-5-5. Terroristic Threat. Delete as covered by (and in conflict with) U.C.A. 1953, § 76-5-107.3.

****City Response: Accept**

7-5-6. Custodial Interference. Delete as covered by (and in conflict with) U.C.A. 1953, § 76-5-303.

****City Response: Accept**

7-5-7. Unlawful Detention. Delete as covered by (and in conflict with) U.C.A. 1953, § 76-5-304.

****City Response: Accept**

7-5-8. Unlawful Sexual Activity with a Minor - Elements - Penalties - Evidence of Age

Raised by Defendant. Delete as covered by (and in conflict with) U.C.A. 1953, § 76-5-401.

****City Response: Accept**

7-5-9. Sodomy. Delete as covered by U.C.A. 1953, § 76-5-403.

****City Response: Accept**

7-5-11. Child Abuse. Delete as covered by U.C.A. 1953, § 76-5-109.

****City Response: Accept**

7-5-12. Commission of Domestic Violence in the Presence of a Child. Delete as covered by U.C.A. 1953, § 76-5-109.1.

****City Response: Accept**

Chapter 6. Offenses Against Property

7-6-1. Definitions. Delete as covered by U.C.A. 1953, § 76-6-101. If retained, conform to such statute by changing the dollar amount from \$300.00 to \$500.00.

****City Response: Accept**

7-6-2. Arson. Delete as covered by (and in conflict with) U.C.A. 1953, § 76-6-102.

****City Response: Accept**

7-6-3. Reckless Burning. Delete as covered by (and in conflict with) U.C.A. 1953, § 76-6-104.

****City Response: Accept**

7-6-4. Criminal Mischief and Damage to Mail Receptacle. Delete as covered by (and in conflict with) U.C.A. 1953, §§ 76-6-104, 76-1-1001 et seq.

****City Response: Accept**

7-6-5. Manufacture or Possession of Instrument for Burglary, Theft, Vandalism, or Destruction of Property. Delete as covered by U.C.A. 1953, § 76-6-206.

****City Response: Accept**

7-6-6. Criminal Trespass. Delete as covered by (and in conflict with) U.C.A. 1953, § 76-6-206.

****City Response: Accept**

7-6-7. Tampering with Records. Delete as covered by U.C.A. 1953, § 76-6-504.

****City Response: Accept**

7-6-8. Issuing a Bad Check - Presumption. Delete as covered by (and in conflict with) U.C.A. 1953, § 76-6-505.

****City Response: Accept**

7-6-9. Fraudulent Use of Credit Card - "Credit Card" Defined. Delete as covered by (and in conflict with) U.C.A. 1953, § 76-6-506.2.

****City Response: Accept**

7-6-10. Deceptive Business Practices - Definitions - Defense. Delete as covered by (and in

conflict with) U.C.A. 1953, § 76-6-507.

****City Response: Accept**

7-6-11. Bribery of, or Receiving Bribe by, Person in the Business of Selection, Appraisal, or Criticism of Goods or Services. Delete as covered by U.C.A. 1953, § 76-6-508.

****City Response: Accept**

7-6-12. Defrauding Creditors. Delete as covered by U.C.A. 1953, § 76-6-511.

****City Response: Accept**

7-6-13. Using or Making Slugs. Delete as covered by U.C.A. 1953, § 76-6-515.

****City Response: Accept**

7-6-14. Criminal Simulation. Delete as covered by (and in conflict with) U.C.A. 1953, § 76-6-518.

****City Response: Accept**

7-6-15. False or Fraudulent Insurance Claim. Delete as covered by (and in conflict with) U.C.A. 1953, § 76-6-521.

****City Response: Accept**

7-6-16. Definitions. Delete as covered by U.C.A. 1953, § 76-6-401.

****City Response: Accept**

7-6-17. Presumptions and Defenses. Delete as covered by U.C.A. 1953, § 76-6-402.

****City Response: Accept**

7-6-18. Theft - Evidence to Support Accusation. Delete as covered by U.C.A. 1953, § 76-6-403.

****City Response: Accept**

7-6-19. Theft - Elements. Delete as covered by U.C.A. 1953, § 76-6-404.

****City Response: Accept**

7-6-20. Theft by Deception. Delete as covered by U.C.A. 1953, § 76-6-405.

****City Response: Accept**

7-6-21. Theft by Extortion. Delete as covered by U.C.A. 1953, § 76-6-406.

****City Response: Accept**

7-6-22. Theft of Lost, Mislaid or Mistakenly Delivered Property. Delete as covered by U.C.A. 1953, § 76-6-407.

****City Response: Accept**

7-6-23. Receiving Stolen Property. Delete as covered by (and in conflict with) U.C.A. 1953, § 76-6-408.

****City Response: Accept**

7-6-24. Theft of Services. Delete as covered by (and in conflict with) U.C.A. 1953, § 76-6-409.

****City Response: Accept**

7-6-25. Theft by Person Having Custody of Property Pursuant to Repair or Rental Agreement. Delete as covered by U.C.A. 1953, § 76-6-410.

****City Response: Accept**

7-6-26. Theft by Failure to Make Required Payment or Disposition of Property Subject to Legal Obligation - Presumptions - Definitions. Delete as obsolete. This no longer is a state offense.

****City Response: Accept**

7-6-29. Identity Fraud Crime. Delete as covered by (and in conflict with) U.C.A. 1953, § 76-6-1105.

****City Response: Accept**

7-6-30. Theft - Classification of Offense. Delete as covered by (and in conflict with) U.C.A. 1953, § 76-6-412.

****City Response: Accept**

Chapter 7. Offenses Against Public Order and Decency

7-7-1. Riot. Delete as covered by U.C.A. 1953, § 76-9-101.

****City Response: Accept**

7-7-2. Disorderly Conduct. Delete as covered by (and in conflict with) U.C.A. 1953, § 76-9-101.

****City Response: Accept**

7-7-3. Disrupting a Meeting or Procession. Delete as covered by U.C.A. 1953, § 76-9-103.

****City Response: Accept**

7-7-4. Failure to Disperse. Delete as covered by U.C.A. 1953, § 76-9-104.

****City Response: Accept**

7-7-5. Giving a False Alarm. Delete as covered by U.C.A. 1953, § 76-9-105.

****City Response: Accept**

7-7-6. Telephone Harassment. Delete as covered by (and in conflict with) U.C.A. 1953, § 76-9-201.

****City Response: Accept**

7-7-7. Emergency Reporting - Interference - False Report. Delete as covered by U.C.A. 1953, § 76-9-202.

****City Response: Accept**

7-7-8. Definitions. Delete as covered by U.C.A. 1953, § 76-9-401.

****City Response: Accept**

7-7-9. Privacy Violation. Delete as covered by (and in conflict with) U.C.A. 1953, § 76-9-402.

****City Response: Accept**

7-7-10. Communication Abuse. Delete as covered by U.C.A. 1953, § 76-9-403.

****City Response: Accept**

7-7-11. Criminal Defamation. Delete as covered by U.C.A. 1953, § 76-9-404.

****City Response: Accept**

7-7-12. Abuse of Personal Identity. Delete as covered by U.C.A. 1953, § 76-9-407.

****City Response: Accept**

7-7-13. Conveying False or Libelous Material to Newspaper or Broadcasting Stations.

Delete as obsolete—based upon repealed statute.

****City Response: accept - delete**

7-7-14. Abuse of Flag. Delete as covered by (and in conflict with) U.C.A. 1953, § 76-9-601.

****City Response: Accept**

7-7-15. Public Intoxication.

1. Delete subsection (a) and (c) as covered by (and in conflict with) U.C.A. 1953, § 76-9-701.

3. Delete subsection (b) as covered by Code § 7-12-3(g).

****City Response: Delete all except for section (b)**

7-7-16. Lewdness. Delete as covered by (and in conflict with) U.C.A. 1953, § 76-9-702.

****City Response: Accept**

7-7-18. Abuse of a Corpse. Delete as covered by U.C.A. 1953, § 76-9-704.

****City Response: Accept**

7-7-19. Duty to Answer a Police Officer. Delete subsection (a) as covered by (and in conflict with) U.C.A. 1953, § 76-8-301.5, 77-7-15.

****City Response: Accept**

7-7-20. Emergency Reporting Abuse. Delete as covered by U.C.A. 1953, § 76-9-202.

****City Response: Accept**

7-7-21. Damage to or Interruption of a Communication Device. Delete as covered by U.C.A. 1953, § 76-6-108.

****City Response: Accept**

Chapter 8. Offenses Against Government

7-8-1. Definitions. Delete as covered by (and in conflict with) U.C.A. 1953, § 76-8-101.

****City Response: Accept**

7-8-2. Campaign Contributions Not Prohibited. Delete as covered by U.C.A. 1953, § 76-8-102.

****City Response: Accept**

7-8-3. Receiving Bribe or Bribery by Public Servant. Delete as covered by U.C.A. 1953, § 76-8-105, a felony.

****City Response: Accept**

7-8-4. Receiving Bribe or Bribery for Endorsement of Person as Public Servant. Delete as covered by U.C.A. 1953, § 78-6-106.

****City Response: Accept**

7-8-6. Official Misconduct. Delete as covered by U.C.A. 1953, § 76-8-201.

****City Response: Accept**

7-8-7. Unlawful Acts Based on "Inside" Information. Delete as covered by U.C.A. 1953, § 76-8-202.

****City Response: Accept**

7-8-8. Unofficial Misconduct. Delete as covered by U.C.A. 1953, § 76-8-203.

****City Response: Accept**

7-8-9. Interference with a Public Servant or Officer. Delete as covered by U.C.A. 1953, § 76-8-301.

****City Response: Accept**

7-8-10. Picketing or Parading in or Near Court. Delete as covered by U.C.A. 1953, § 76-8-302.

****City Response: Accept**

7-8-12. Interference with Arresting Officer. Delete as covered by (and in conflict with) U.C.A. 1953, § 76-8-305, as amended 2017 Acts ch. 312.

****City Response: Accept**

7-8-13. Obstruction of Justice - Elements - Penalties - Exceptions. Delete as covered by (and in conflict with) U.C.A. 1953, § 76-8-306.

****City Response: Accept**

7-8-14. Failure to Aid a Peace Officer. Delete as covered by U.C.A. 1953, § 76-8-307.

****City Response: Accept**

7-8-17. Failure to Appear or Comply. Delete as covered by U.C.A. 1953, § 77-7-22. See also U.C.A. 1953, § 77-7-18.

****City Response: Accept**

7-8-18. Failure to Pay Over Fine, Forfeiture or Fee. Delete as covered by U.C.A. 1953, § 76-

8-405.

****City Response: Accept**

7-8-19. Injuring or Removing Monuments of Official Surveys. Delete as covered by U.C.A. 1953, § 76-8-415.

****City Response: Accept**

7-8-20. Tampering with Official Notice or Proclamation. Delete as covered by U.C.A. 1953, § 76-8-417.

****City Response: Accept**

7-8-21. Removing, Injuring or Possessing Road Signs. Delete as covered by U.C.A. 1953, § 76-8-420.

****City Response: Accept**

7-8-22. False or Inconsistent Statements. Delete as covered by (and in conflict with) U.C.A. 1953, § 76-8-503.

****City Response: Accept**

7-8-23. Written False Statement. Delete as covered by U.C.A. 1953, § 76-8-504.

****City Response: Accept**

7-8-24. Perjury or False Swearing. Delete as covered by U.C.A. 1953, § 76-8-505.

****City Response: Accept**

7-8-25. False Reports of Offenses to Law Enforcement Officer. Delete as covered by (and in conflict with) U.C.A. 1953, § 76-8-506.

****City Response: Accept**

7-8-26. False Information to a Peace Officer. Delete as covered by U.C.A. 1953, § 76-8-507.

****City Response: Accept**

7-8-27. Falsification or Alteration of Government Record. Delete as covered by (and in conflict with) U.C.A. 1953, § 76-8-511.

****City Response: Accept**

7-8-28. Impersonation of an Officer. Delete as covered by (and in conflict with) U.C.A. 1953, § 76-8-512.

****City Response: Accept**

7-8-29. False Judicial or Official Notice. Delete as covered by U.C.A. 1953, § 76-8-513.

****City Response: Accept**

7-8-30. Unlawful Acts in or About Schools, Colleges or Universities. In subsection (a)(3), so as to avoid constitutional problems (“The right to walk the streets, or to meet publicly with one’s friends for a noble purpose or for no purpose at all---and to do so whenever one pleases---is an integral component of life in a free and ordered society.” *Papachristou v. City of Jacksonville*, 405 U.S. 156, 164, 92 S. Ct. 839, 31 L. Ed. 2d 110 (1972)), delete the words “or about” and

insert in lieu thereof the word “on”.

****City Response: Accept**

Chapter 9. Offenses Against Public Health, Safety, Welfare and Morals

7-9-1. "Place of Business" and "Enclosed Public Place" Defined. Delete subsection (a) as covered by (and in conflict with) U.C.A. 1953, § 76-10-101.

****City Response: Accept**

7-9-2. Advertising Restrictions on Cigarettes and Tobacco. Delete as covered by (and in conflict with) U.C.A. 1953, § 76-10-102.

****City Response: Accept**

7-9-3. Permitting Minors to Use Tobacco in Place of Business. Delete as covered by U.C.A. 1953, § 76-8-103.

****City Response: Accept**

7-9-5. Abuse of Psychotoxic Chemical Solvents. Delete as covered by (and in conflict with) U.C.A. 1953, § 76-10-107.

****City Response: Accept**

7-9-6. Interference with Control of Water. Delete as covered by U.C.A. 1953, § 76-10-201.

****City Response: Accept**

7-9-7. Taking Water out of Turn or Injuring Facilities. Delete as covered by (and in conflict with) U.C.A. 1953, § 76-10-202.

****City Response: Accept**

7-9-8. Fencing of Shaft and Wells and Swimming Pools. Delete as covered by (and in conflict with) U.C.A. 1953, § 76-10-2601.

****City Response: Accept**

7-9-9. Definitions. Delete the definition of shotgun as not needed (not used in ordinance).

****City Response: Accept**

7-9-13. Unlawful use of a laser pointer - Definitions - Penalties. Delete as covered by U.C.A. 1953, § 76-10-2501.

****City Response: Accept**

7-9-17. Soliciting Contributions. Delete as covered by U.C.A. 1953, § 70-10-602, 70-10-603 (and in conflict therewith).

****City Response: Accept**

7-9-18. "Nuisance" Defined. Delete as covered by U.C.A. 1953, § 76-10-801.

****City Response: Accept**

7-9-19. Befouling Waters. Delete as covered by U.C.A. 1953, § 76-10-802.

****City Response: Accept**

7-9-21. Maintaining, Committing or Failing to Remove a Public Nuisance. Delete as covered by U.C.A. 1953, § 76-10-804.

****City Response: Accept**

7-9-22. Carcass or Offal - Prohibition Relating to Disposal. Delete as covered by U.C.A. 1953, § 76-10-805.

****City Response: Accept**

7-9-27. Definitions. Delete as covered by (and in conflict with) U.C.A. 1953, § 76-10-1101.

****City Response: Accept**

7-9-28. Gambling. Delete as covered by U.C.A. 1953, § 76-10-1102.

****City Response: Accept**

7-9-29. Gambling Fraud. Delete as covered by (and in conflict with) U.C.A. 1953, § 76-10-1102.

****City Response: Accept**

7-9-30. Possession of Gambling Device or Record. Delete as covered by U.C.A. 1953, § 76-10-1105—multiple violations are a felony.

****City Response: Accept**

7-9-31. Failure to Prosecute Offenses. Delete as covered by U.C.A. 1953, § 76-10-1106.

****City Response: Accept**

7-9-32. Confidence Game. Delete as covered by U.C.A. 1953, § 76-8-1109.

****City Response: Accept**

7-9-33. Definitions. Delete as covered by (and in conflict with) U.C.A. 1953, § 76-10-1201.

****City Response: Accept**

7-9-34. Pornographic Material or Performance. Delete as covered by (and in conflict with) U.C.A. 1953, § 76-10-1201.

****City Response: Accept**

7-9-35. Distributing Pornographic Material. Delete as covered by (and in conflict with) U.C.A. 1953, § 76-10-1204.

****City Response: Accept**

7-9-36. Affirmative Defenses. Delete as covered by (and in conflict with) U.C.A. 1953, § 76-10-1208.

****City Response: Accept**

7-9-37. Seizure and Disposition of Prohibited Materials. Delete as covered by (and in conflict with) U.C.A. 1953, § 76-10-1212.

****City Response: Accept**

7-9-38. Fornication. Delete as covered by U.C.A. 1953, § 76-7-104.

****City Response: Accept**

7-9-39. Definitions. Delete as covered by (and in conflict with) U.C.A. 1953, § 76-8-1301, as amended 2017 Acts ch. 433.

****City Response: Accept**

7-9-40. Prostitution. Delete as covered by (and in conflict with) U.C.A. 1953, § 76-10-1302

****City Response: Accept**

7-9-41. Patronizing a Prostitute. Delete as covered by (and in conflict with) U.C.A. 1953, § 76-10-1303.

****City Response: Accept**

7-9-42. Aiding Prostitution. Delete as covered by (and in conflict with) U.C.A. 1953, § 76-8-1304, as amended 2017 Acts ch. 433.

****City Response: Accept**

7-9-43. Definition. Delete as not needed.

****City Response: Accept**

7-9-44. Possession of Controlled Substance. Delete as covered by U.C.A. 1953, § 58-37-8.

****City Response: Accept**

7-9-45. Sale and Display of Narcotic and Other Paraphernalia. Delete as covered by (and in conflict with) U.C.A. 1953, § 58-37a-1 et seq.

****City Response: Accept**

7-9-47. Use and Possession of Drug Paraphernalia. Delete as covered by (and in conflict with) U.C.A. 1953, § 58-37a-1 et seq.

****City Response: Accept**

7-10-1—7-10-6. Violations. Delete as covered by title 1.

****City Response: Accept**

Chapter 12. City Parks

7-12-3. Prohibited Activities.

1. In subsection (c), add language recognizing the service animal exemption in U.C.A. 1953, § 62a-5b-104.

****City Response: Accept**

2. In subsection (g), delete the drinking of alcohol prohibition as superseded by Code § 5-2-31.

****City Response: Accept**

3. In subsection (v), delete the hunting prohibition as covered by Code § 7-9-14A.

4. ****City Response: Accept**

Title 8. Fire Prevention

Chapter 1. International Fire Code

8-1-1. Adoption of International Fire Code. So as to avoid adoption by reference problems, revise to adopt the 2015 *International Fire Code*, eliminating the *in futuro* language. This is also consistent with action taken in Code § 4-1-1 and the amendments in Code § 8-1-3. Note that Code § 8-8-3 references the 2012 *IFC* (revise to reference the *IFC* as adopted by the city).

****City Response: Keep – change 8-1-3 to match UCA; Remove “2015 edition” and replace with “currently adopted State edition”**

8-5-4. License Required. Per U.C.A. 1953, § 11-3-3.5, restrict the license to call C common state-approved explosives.

****City Response: “class C common state-approved explosives”**

Chapter 9. Cost Recovery for Hazardous Materials Emergencies

8-9-4. No Admission of Liability. Delete as rules of evidence are beyond the power of the city to provide.

****City Response: Keep as is**

Chapter 8. Appeals, Penalties and Conflicts

8-8-3. Conflicts. Delete the reference to the Life Safety Code. The city does not adopt same.

****City Response: update 2012 to “currently adopted State edition” – otherwise keep as is**

****City Response: “Currently adopted State Edition” to be used in the Fire and Building code as well.**

Life Safety – use “2015 Edition” because State has not adopted

Title 9 Property Maintenance

Chapter 6. Solid Waste Management Regulation

It is assumed that the rules adopted in Code § 9-6-1 do not supersede chapters 4 and 5 of this title. Please confirm.

****City Response: Keep as is; change to reference new number of Jurisdiction 3.1 Valley Health Department Regulations**

Title 10. Health Ordinances

Sections 10-2-1 and 10-3-1 adopt city/county ordinances by reference *in futuro*. Unless such ordinances apply as a matter of law to the city without adoption, this presents the adoption by reference problem and the *in futuro* language should be eliminated.

Chapter 4. Smoking Restrictions in City Government Buildings

Delete as covered by U.C.A. 1953, § 26-38-1 et seq.

****City Response: Delete entire Title**

Title 11. Purchasing Procedures

Chapter 1. Purchasing

11-1-5. Scope. Delete the last sentence of subsection (c). The statute cited has been repealed. It is assumed that there is no intent to adopt the Utah Procurement Code. Alternatively, the city might want to change the reference to be to U.C.A. 1953, § ~~10-7-86~~. **11-39-101**

****City Response: Delete sentence and move financial threshold into 11-1-11 with updated statute**

11-1-11. Construction Projects. As U.C.A. 1953, § 10-7-20 has been repealed, delete the first sentence.

****City Response: Delete first sentence and revise last sentence in 11-1-5 (c) to include updated statute citation and include \$25,000 threshold. Move that sentence as first sentence in 11-1-11**

****May want to include: “municipal construction projects may be accomplished by any method allowed by law, including those identified in 11-39-103”.**

Chapter 3. Constitutional Takings

11-3-7. Guidelines Advisory. As rules of evidence are beyond the power of the city to provide, delete the second sentence.

****City Response: keep as is**

Title 12. Adult Business Regulations

Chapter 1. Massage Establishments

As U.C.A. 1953, § 58-47b-305 preempted licensing of massage therapy to the state, delete the references to a masseur in the following Code sections:

§ 12-1-2
§ 12-1-3
§ 12-1-5
§ 12-1-6
§ 12-1-7
§ 12-1-10
§ 12-1-12

12-1-1. Definitions. Conform definition of “massage or massage therapy” to U.C.A. 1953, § 58-47b-102(6).

****City Response: Leave section as is – no change**

12-1-16. Appointment of Inspectors for the Purpose of Enforcement of this Chapter. Delete the reference to the obsolete department of building and safety.

****City Response: accept**

Chapter 3. Pornography and Obscenity

Delete (§§ 12-3-12 and 12-3-13—which should be tied to statute) as covered by U.C.A. 1953, § 76-10-1201 et seq. These issues are also addressed (*and recommended for deletion*) in Code § 7-9-34 et seq.

****City Response: Leave section 12-3-12 – increase dollar amounts; delete 12-3-13**

Title 13. Streets and Public Improvements

Chapter 2. Street Signs

13-3-2. Amount of Fees. Alter official titles to reference only the community development department and public works department.

****City Response: accept**

Chapter 5. Implementation of Transportation Element of Comprehensive Plan

13-5-1. Purpose. Correct reference to nonexistent U.C.A. 1953, § 10-9-24 to be to U.C.A. 1953, § 10-9a-407.

****City Response: Accept – 10-9a-407**

Title 14. Water System

Chapter 3. Water Conservations

14-3-1. Waste Prohibited. Delete the waste of water prohibition as too vague to enforce.

****City Response: keep as is**

Title 15A. Land Development Code

So that this title may be a “stand-alone” document, redundancies with title 1 have been ignored. It is assumed that the land development code may be renumbered.

Throughout this title change building department to community development department.

****City Response: accept**

Chapter 15A-01. Organization

15A-01-05. Effect on Previous Ordinances and Maps. Delete the first sentence as obsolete.

****City Response: accept**

15A-01-08. How to Use the Land Development Code. Delete as not needed and incorrect. It references non-existent sections. For example, it states that definitions are section 8; definitions are in fact chapter 37. It also states that there is an appendix; as other provisions herein reference the appendix, it is assumed it exists but is not to be codified. In addition, the proposed rearrangement of the Code (see pt. II of the memorandum) makes this section obsolete.

****City Response: accept**

Chapter 15A-02. General Provisions

15A-02-04. Fees. As all fees might not be established in the budget, delete the reference to same. It is assumed that no fee (not just those in the budget) are returnable.

****City Response: accept – delete second sentence**

Chapter 15A-03. Officers, Boards and Commissions

15A-03-03. Land Use Authorities In subsection A (*planning commission*), conform subsection 4 a. (2) to U.C.A. 1953, § 10-9-302(2), as amended 2017 Acts, ch. 84.

****City Response: accept**

Chapter 15A-04. Zone Districts

15A-04-03. Residential Districts.

1. Delete the A-1 district provision; such district apparently does not exist. Assuming this is so delete references in Code §§ 15A-08-02(C)10 and 15A-11-17(C)1c to agricultural districts.

****City Response: keep as is**

2. Add the R-2-8 and R-2-10 districts. See Code §§ 15A-07-02.

****City Response: accept**

3. Delete the listing of special districts and inconsistent with Code § 15A-07-01.

****City Response: add all SD Zones**

15A-04-07. Open Space/Institutional Districts. Delete the H district. No such district is referenced elsewhere in the zoning ordinance.

****City Response: Do not delete – need to add SD-H Special district**

15A-04-08. Overlay Districts. Add the following districts to this section:

1. Historic Sandy Development Overlay Zone. See ch. 15A-12.
2. Sensitive Area Overlay Zone. See ch. 15A-15.
3. Flood Plain Overlay Zone. See ch. 15A-16.
4. Drinking Water Source Protection Overlay Zone. See ch. 15A-17.
5. Historic Resources Overlay Zone. See ch. 15A-18.
6. Sports and Recreation Overlay Zone. See ch. 15A-38.

****City Response: accept**

Chapter 15A-11. Special Use Standards

15A-11-03. Animals (Farm and Household Pets). Subsection B conflicts with Code § 3-3-2 in this this section allows up to six dogs while § 3-3-2 only allows five dogs. Please reconcile.

****City Response: Keep as is (only allows 5 dogs, 6 pets)**

15A-11-08. Residential Facility for Elderly Persons or for Persons with a Disability.

1. In subsection D.5.(e), change building and safety code to building code.
2. In subsection D.5.(g), delete the reference to the Life Safety Code; the city does not adopt such code.
4. In subsection G.1 a., delete the reference to the Life Safety Code; the city does not adopt such code. Also change *Uniform Fire Code* to *International Fire Code*.

****City Response: accept all above (15A-11-08 1-3)**

Chapter 15A-15. Sensitive Area Overlay Zone

15A-15-04. Development Standards for Sensitive Areas. In subsection B.5.e, so as to be consistent with other adopted codes, change 2006 *International Wildland - Urban Interface Code* to 2015 *International Wildland - Urban Interface Code*.

****City Response: Accept**

Chapter 15A-30. Subdivision Review

15A-30-08. Required Subdivision Improvements and Procedures. In subsection C1, change *Uniform Fire Code* to *International Fire Code*.

****City Response: accept**

Chapter 15A-35. Appeals and Variances

15A-35-01. Appeals. In subsection (D) (*time for appeal*) add language recognizing the history preservation exception in U.C.A. 1953, § 10-9a-704, as amended 2017 Acts ch. 17.

****City Response: accept – add language**

15A-35-02. Variances. Delete as covered by U.C.A. 1953, § 10-9a-702.

****City Response: accept and reference to the state code section (Municode confirmed it will be referenced)**

15A-36-03. General Plan. Delete as covered by (and in conflict with) U.C.A. 1953, §§ 10-9a-203, **10-9a-204.**

****City Response: Accept as provided in UCA**

15A-36-04. Zone District Map and Land Development Code. Delete as covered by (and in conflict with) U.C.A. 1953, §§ 10-9a-205, as amended 2017 Acts ch. 84.

****City Response: accept**

15A-36-06. Subdivision plats and amendments. Delete as covered by (and in conflict with) U.C.A. 1953, §§ 10-9a-207.

****City Response: accept**

15A-36-08. Street Vacations, Alteration, Amendments or Closure (not within a subdivision plat). Delete as covered by (and in conflict with) U.C.A. 1953, §§ 10-9a-208.

****City Response: accept**

15A-36-10. Notice Challenge. Delete as covered by (and in conflict with) U.C.A. 1953, §§ 10-9a-209.

****City Response: accept**

Chapter 15A-37. Definitions

In the definition of Alcoholic Beverage Establishments, delete the paragraphs relating to licenses and permits and not definitional in nature.

****City Response: Keep as is**

In the definition of Development Review Meeting, delete the reference to Building & Safety Division as same is a part of the listed Community Development Department.

****City Response: accept**

Title 16. Revenue and Taxation

Chapter 2. Sales and Use Tax Act

16-2-2. Purpose. Delete as not needed.

****City Response: Accept**

16-2-3. Effective Date. Continuance of former ordinance. Delete as obsolete.

****City Response: Accept**

16-2-4. Sales Tax. Per U.C.A. 1953, § 59-12-204(1), revise subsections (a) and (b) to impose the tax “upon those transactions listed in U.C.A. 1953, § 59-12-103(1).” See also U.C.A. 1953, § 59-12-202.

****City Response: Accept**

16-2-5. Use. Delete as covered by the revisions to Code § 16-2-4.

****City Response: Accept**

16-2-6. Contract with State Tax Commission. Delete as not needed. See U.C.A. 1953, § 59-12-206.

****City Response: Accept**

Chapter 3. Telecommunications Service Providers Tax

16-3-1. Definitions. Delete as not needed in light of other changes to this chapter.

****City Response: Accept**

16-3-2. Levy of Tax. Per U.C.A. 1953, §§ 10-1-403(a) 10-1-404, revise to levy the tax “on the telecommunications provider's gross receipts from telecommunications service that are attributed to the city in accordance with U.C.A. 1953, § 10-1-407.”

****City Response: Accept**

16-3-3. Rate. Per U.C.A. 1953, § 10-1-404 and U.C.A. 1953, § 10-1-403(1)(c) revise so that rate is 3.5 percent and is “subject to the requirements of U.C.A. 1953, §§ 10-1-407 and 10-1-403.”

****City Response: Accept**

16-3-4. Rate Limitation and Exemption Therefrom. Delete as obsolete.

****City Response: Accept**

Delete the remainder of this chapter as obsolete.

****City Response: Accept – with statement referring to state code**

Chapter 7. Franchise to Utah Power and Light

If the 1931 franchise has expired, delete this chapter. Alternatively, delete this chapter as not of a general and permanent nature. It would seem that this chapter is obsolete in light of chapter 35 of this title.

Alternatively, the city may wish to list franchises.

****City Response: Accept – replace with language that franchises to be enter into by agreement and list franchise agreements. Have a generic ordinance that states the city may enter into a franchise**

agreement. (Each franchise will not have it's on ordinance).

Chapter 9. Cemetery Fee

Delete as superseded by title 21, ch. 2. In any event, Code § 16-9-4 appears not to be needed.

****City Response: Accept**

Chapter 14. Development Impact Fees

It does not appear that this chapter contains the provisions required by U.C.A. 1953, § 11-36a-402(1)(b), (2) and (3). (This suggests that this ordinance is obsolete.)

****City Response: keep 16-14-3 – a1-2, 4; b, c, and d. preserve section on “credits” and 16-14-2 – Services areas and delete the rest**

Chapter 16. Cable TV Franchise

Delete as not of a general and permanent nature or as obsolete. Per Code § 16-16-1, a 15-year franchise is granted. This chapter is also obsolete in light of chapters 27 and 28 of this title. Alternatively, the city may wish to list franchises.

****City Response: Accept**

Chapter 17. Disconnection Fee

If obsolete, delete. If retained, in Code § 16-17-1 correct statutory references to be to U.C.A. 1953, title 10, ch. 2, pt. 5 (U.C.A. 1953, § 10-2-501 et seq.).

****City Response: Do not delete, retain and update to reference UCA 10-2-501**

Chapter 26. Cable TV Franchise

Delete as not of a general and permanent nature or as obsolete. Per Code § 16-26-1, a 15-year franchise is granted. This chapter is also obsolete in light of chapters 27 and 28 of this title. Alternatively, the city may wish to list franchises.

****City Response: Accept - delete**

Chapter 29. Cable Communications Franchise Grant -- Insight

Delete as not of a general and permanent nature or as obsolete. Per Code § 16-29-2, a 15-year franchise is granted. Alternatively, the city may wish to list franchises.

****City Response: Accept - delete**

Chapter 30. Cable Communications Franchise Grant – TCI

Delete as obsolete. Per Code §§ 16-30-2 and 16-30-7, the ordinance expired in 2008. Alternatively, the city may wish to list franchises.

****City Response: Accept**

Chapter 32. Telecommunications Rights-of-Way Declaration of Findings and Intent; Scope of Ordinance

16-32-3. Excluded Activity. Revise subsection (1) to exemption franchised cable television operators. It

is unclear what franchises are in effect and specific franchise grants should not be codified. Alternatively, the city may wish to list franchises.

****City Response: Accept**

16-32-12. Compensation. Tie application fee to the fee schedule.

****City Response: Accept**

Chapter 33. Municipal Energy Sales and Use Tax

16-33-1. Definitions. Delete as not needed in light of other changes to this chapter.

****City Response: Accept**

16-33-3. Exemptions from the Municipal Energy Sales and Use Tax. Conform subsection (b)(3) to U.C.A. 1953, § 10-1-305(2)(b)(iii).

****City Response: Accept**

Chapter 34. Questar Gas Company Franchise

Delete as not of a general and permanent nature. Per Code § 16-34-5, the ordinance expires no later than January 30, 2020. Alternatively, the city may wish to list franchises.

Chapter 35. Rocky Mountain Power Electric Power Franchise

Delete as not of a general and permanent nature. Per Code § 16-35-5, the ordinance expires on January 30, 2026. Alternatively, the city may wish to list franchises.

****City Response: Need to adopt general ordinance for all franchises that allows us to include a separate agreement with the specific provisions related to each different provider. Chapters 34 & 35**

Title 18. Sewage Disposal

Chapter 1. Sewage Disposal

18-1-5. Criminal Penalties. Conform to U.C.A. 1953, § 19-5-115. N.B. This section is at substantial variance from the statute and how to conform is unclear.

****City Response: Accept and delete entire title**

Title 19. Taxicabs

This chapter is replete with references to a license department and a license division. Please advise of the correct title so that appropriate corrections can be made.

****City Response: Needs to be consistent with Title 5**

Chapter 2. Certificate of Public Convenience and Necessity

19-2-10. Fees for Issuance of Certificate. Tie fees to the fee schedule.

****City Response: Accept**

Chapter 3. Drivers License

19-3-5. Fee to Accompany Application. Tie fee to the fee schedule. If this is done, Code § 19-3-15 should be altered accordingly.

****City Response: Accept**

Chapter 4. Vehicles -- Equipment and Maintenance

19-4-4. Clean and Sanitary Condition of Vehicles. Tie fee in subsection (e) to the fee schedule.

****City Response: Accept**

Chapter 5. Taximeter Rules and Regulations

19-5-15. Fee for Inspection. Tie fee to the fee schedule.

****City Response: Accept**

Chapter 6. Rates

19-6-1. Rates of Hire Established. Please review and advise as to changes necessary to make current.

****City Response: Accept**

19-7-15. Open Stands. Telephone Installation. Delete as obsolete.

****City Response: Accept**

Chapter 9. Enforcement

19-9-3. Penalty. Please review and advise as to changes necessary to make current.

****City Response: Do not delete – revise penalty to Class “C” misdemeanor.**

Title 21. Cemetery City Code

Chapter 1. General Regulations

21-1-1. Administration and Enforcement. If adequately covered by Code § 6-4-5(g), delete.

****City Response: Do not delete – keep as is**

21-1-2. Employee Conflict Of Interest Restrictions. Delete as adequately covered by U.C.A. 1953, § 10-3-1301 et seq. Taken literally, this section prohibits ownership in a mutual fund that owns stocks, bonds or other debt of corporations in the funeral industry.

****City Response: Accept**

Chapter 2. Lots and Gravesites

21-2-7. Unused Lots Purchase by City Personnel Authorized When. Delete the second sentence as adequately covered by U.C.A. 1953, § 10-3-1301 et seq. Taken literally, this section prohibits ownership in a mutual fund that owns stocks, bonds or other debt of corporations in the funeral industry.

****City Response: Do not delete- Keep as is**

Title 22. Legislative Code

Chapter 1. City Council

22-1-1. Council Terms and Districts. Eliminate initial terms of office as obsolete.

****City Response: Accept**

22-1-2. Council Powers. Except for the last two sentences, delete as not needed and adequately covered by U.C.A. 1953, §§ 10-3b-202(1)(d)(ii)(C) and 10-3b-203.

****City Response: Accept – keep second sentence from “may perform all other duties and responsibilities....”**

22-1-3. Meetings of Council.

1. Delete the first sentence of subsection (b) as inconsistent with U.C.A. 1953, § 10-3-502(2)(a). (It is noted that the remainder of subsection (b) is more stringent than U.C.A. 1953, § 10-3-502(2).

****City Response: Keep as is**

2. Delete subsection (d) as covered by U.C.A. 1953, § 52-4-204.

****City Response: Accept**

22-1-4. Meeting Schedules, Agendas and Minutes. Delete subsection (c) as not needed.

****City Response: Accept**

22-1-5. Council Organization and Rules. Delete as covered by U.C.A. 1953, § 10-3b-203.

****City Response: Accept**

22-1-6. Council Vacancies. Delete the first two sentences as covered by U.C.A. 1953, § 10-3-507.

****City Response: Accept**

22-1-7. Staff and Support Personnel. Delete as not needed.

****City Response: Keep as is – do not delete**

Title 23. Judicial Code

23-1-2. Establishment of Judgeships. Delete as not needed.

****City Response: Accept**

23-1-3. Appointment and Term of Office. Delete subsections (a) and (b) as covered by U.C.A. 1953, §§ 78A-7-202, 78A-7-203, 78A-7-208 and 20A-12-201.

****City Response: Accept and delete (c) as process is described in CJA 3-104 Presiding Judges. The court gets to determine how the presiding judge is selected not the executive. The Utah Supreme court selects its chief, not the Governor.**

23-1-4. Qualifications for Office. Delete as not needed.

****City Response: Accept**

23-1-5. Compensation. Delete as covered by U.C.A. 1953, § 78A-7-206.

****City Response: Accept**

23-1-8. Court Support. Except for the first and last sentences, delete as not needed.

****City Response: Accept and replace with:**

23-1-8. Court Administration

The presiding Judge shall be responsible for the overall operation and administration of justice in the Justice Court; however, the Presiding Judge shall approve a Court Administrator through an open and competitive; however, the Presiding Judge shall approve a Court Administrator through an open and competitive process in compliance with applicable with State and City personnel rules, policies and procedures governing Justice court employees. The selection, supervision, and discipline of court personnel, as well as day-to-day administrative operations, shall be managed by the Justice Court Administrator in accordance with Utah Court Rules, City policies and under the direction of the Presiding Judge.

23-1-9. Court Jurisdiction. Delete as not needed.

****City Response: Accept**

23-1-10. Authority of Judges. Delete as not needed.

****City Response: Accept**

****City Response: Also delete the following sections:**

23-1-6. Trial Facilities – Hours of Operations. Delete as not needed. Covered by UCA 1953, § 78A-7-212, 78A-7-213 and CJA 9-105.

23-1-7. Administrative Responsibility. Delete as not needed. Cover by UCA 1953, § 78A-7-210

Traffic Code

Delete the Code sections listed in the left-hand column below as covered by the U.C.A. provisions listed opposite them in the right-hand column below. As asterisk (*) in the left-hand column below means that the Code provisions do not conform to the statute cited opposite them in the right-hand column below. (The city may wish to adopt traffic laws by reference.)

Traffic Code § (<i>definitions</i>) **City Response: Delete all definitions listed here		U.C.A. 1953, § 41-6a-102
2	Alley	(1)
3	Authorized emergency vehicle	(3)
4	Bicycle*	(5)
5	Bus	(6)
9	Crosswalk	(13)
11	Divided highway*	(16)
12.1	Electric Assisted Bicycle	(17)
13	Explosives (only)*	(19)
14	Farm tractor	(20)
16	Gross weight	(25)
17	Highway	(26)
18	Intersection	(28)
19	Island, traffic island, or physical barrier*	(29)
21	Limited-access street, highway, or roadway*	(31)
23	Mobile home	(33)
24	Moped*	(37)
24.1	Motor Assisted Scooter*	(38)
25	Motor vehicle*	(41)
26	Motorcycle*	(39)
27	Motor-driven cycle*	(40)
31	Operator	(44)
33	Park or parking	(45)
35	Peace Officer*	(46)
36	Pedestrian*	(47)
41	Private road or driveway	(51)
42	Railroad	(52)
43	Railroad sign or signal	(53)
44	Railroad train	(54)
45	Right-of-way	(55)
46	Roadway	(56)
47	Safety zone	(57)
48	School bus	(58)
49	Semitrailer	(59)
50	Shoulder area	(60)
51	Sidewalk	(61)
52	Stand or standing	(63)
53	Stop	(64)

55	Stop or stopping	(65)
58	Traffic	(67)
60	Traffic-control signal	(68)
64	Trailer	(71)
65	Truck	(72)
66	Truck tractor	(73)
68	Urban district	(75)
70	Vehicle	(77)
Traffic Code § ** City response: See list at the end		U.C.A. 1953, § 41-6a-
87	Obedience to police and fire department officials	209
89	Persons propelling push carts or riding animals to obey traffic regulations*	213
91	Public employees to obey traffic regulations. Workers and equipment on streets (subsection (1) only)	205
92	Emergency vehicles	212
93	Right of real property owner to regulate traffic	215
94(1)—(3)	Removal of brush, foliage or other obstruction impairing view	216
95	Obedying devices/Obedience to	304
96	Traffic-control signals. Meaning of colored lights and signals. Right and duties of operators and pedestrians.	305
97	Pedestrian signals*	306
98	Flashing red or yellow signals. Rights and duties of operators and pedestrians*	307
99	Prohibition of unauthorized traffic-control devices. Commercial advertising. Public nuisance*	309
100	Interference with traffic-control devices prohibited*	311
101	Failure to observe restricted highway control devices.	905
109	Give name, render assistance*	401 et seq.
110	Accident involving damage to vehicle or other property*	401 et seq.
112	Collision with unattended vehicle*	401 et seq.
113	Accident reports. Duty of operator, witnesses, and investigating officer to forward or render. Supplemental reports*	402--404
116	Garage keeper to report damaged vehicle*	405
117	Accident to livestock in highway. Duty of owner or keeper*	407
119	Driving under the influence of alcohol, drugs, or with specified or unsafe blood alcohol concentration - measurement of blood or breath alcohol - Criminal punishment - Arrest without warrant - Penalties - Suspension or revocation of license*	502 et seq.
119.1	Definitions - Driving with any measurable controlled substance in the body - Penalties - Arrest without warrant*	517
119.2	Ignition interlock devices - Use - Probationer to pay cost - Impecuniosity – Fee*	518
120	Standards for chemical breath analysis – Evidence*	515
121	Admissibility of chemical test results in actions for driving under the influence -- Weight of evidence	516

123	Implied consent to chemical tests for alcohol or drug - Number of tests - Refusal - Warning, report - Hearing, revocation of license - Appeal - Person incapable of refusal - Results of test available - Who may give test – Evidence*	520
124	Drinking in vehicle, open container*	526
125	Impoundment of vehicles.	527
134.5	Vehicle accident. Investigation and report of operator security. Agency action if no security. Surrender of plates. Penalties*	403
135	Prima facie limit [Posted Limits]—only subsection (1)	601
136	Speed regulations -- Safe and appropriate speeds at certain locations -- Prima facie speed limits*	601
137	Definition of reduced speed school zone - Maximum speed in school zone - Operation of warning lights - School crossing guard requirements - Responsibility provisions - Rulemaking authority - Penalty, Minimum fines, Community service - waiver, recordkeeping.	604
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257	Following Emergency Vehicles (subsection (a) only)	1710
258	Fire hose, driving on*	1711
259	Headlights*	1603 et seq.
261	Destructive or injurious materials and dumping*	1712
268	Driving through safety zone.	1202
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290	Railroad grade crossing. Duty of buses and certain trucks to stop, look and listen*	1205
291	Duties respecting crawler tractor, power shovel, derrick or other equipment or structure	1206
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294	Pedestrians subject to traffic-control signals	1001
295	Pedestrians' right-of-way	1002
297	Crossing roadways*	1003
298	Pedestrians and incapacitated persons	1006, 1007
299	Use of roadway by pedestrians*	1009
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306.1 Operation of bicycle or moped on and use of roadway -Duties, Prohibitions.	1105
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336 Motor Assisted Scooters - Conflicting Provisions - Restrictions - Penalties	1115
337 Motorcycle or Motor-Driven Cycle - Place for Operator to Ride - Passengers*	1501
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341 Motorcycle or Motor-Driven Cycle - Protective Headgear – Closed Cab Excepted - Electric Assisted Bicycles*	1505

Sec. 73. Duty of police department. Delete subsections (1) and (2) (*Pepperwood subdivision*) as not of a general and permanent nature. There are undoubtedly other such subdivisions. In any event delete the listing of streets as not needed in light of the general language.

****City Response: change Title to “Authority of police department ; Keep 1 & 2 – jurisdiction based on separate agreement – hoping to link to that agreement. Delete specific references to street.**

Sec. 78. City Transportation Engineer. Please review the title city traffic engineer and advise as to changes necessary to make same current.

****City Response: keep as is – do not delete**

Sec. 86. Required Obedience to traffic code. Delete subsection (2) (last sentence) and subsections (2) (a)—(2)(d) as obsolete.

****City Response: Accept**

Sec. 105. Compliance with road excavation regulations. Delete subsection (1) as covered by Code title 13, ch. 1.

****City Response: Accept**

Sec. 108. Moving vehicles involved in accidents. Delete as obsolete. See also U.C.A. 1953, § 41-6a-401.9

****City Response: Accept**

Sec. 111. Concealing identity. Delete as covered by Code § 7-7-19. See also recommendation for same, *supra*.

****City Response: Accept**

Sec. 126. Intoxicated pedestrian. Delete as covered by Code § 7-7-15.

****City Response: Accept**

Sec. 127. Permitting use by habitual user. Delete as obsolete.

****City Response: Accept**

Sec. 128. Intoxicated person in or about a vehicle. Delete as obsolete.

****City Response: Accept**

Sec. 129. Incapable operators. Delete as obsolete.

****City Response: Keep as is**

Sec. 131. Incompetent operators. As to persons under 16 years of age, delete as covered by U.C.A. 1953, § 53-3-204. Delete the remainder as obsolete.

****City Response: Accept**

Sec. 132. Permitting incompetent operator to operate. Except for subsection (2), delete as covered by U.C.A. 1953, §§ 53-3-212 and 53-3-203.

****City Response: Accept and delete entire section**

Sec. 133. Operator's license. Delete as covered by U.C.A. 1953, § 53-3-201.

****City Response: Accept**

Sec. 134.1. No Fault Insurance. Delete as covered by U.C.A. 1953, § 31a-22-301 et seq. and 41-12a-401 et seq.

****City Response: Accept**

Sec. 134.2. Evidence of owner's or operator's security to be carried when operating motor vehicle - Defense - Penalties. Delete as covered by (and in conflict with) U.C.A. 1953, § 41-12a-303.2.

****City Response: Accept**

Sec. 176. Handicapped parking. Delete as covered by U.C.A. 1953, § 41-1a-414.

****City Response: Accept**

Sec. 177. Parking in a fire lane. Deleted as superseded by Code title 8, ch. 4.

****City Response: Accept**

Sec. 182. Taxicab stands to be designated. Delete as covered by Code § 19-7-13.

****City Response: Accept**

Sec. 185. Restricted use of bus and taxicab stands. In subsection (b), delete reference to taxicab as covered by Code § 19-7-16.

****City Response: Accept**

Sec. 191. Inspection of Vehicles. Delete as covered by U.C.A. 1953, § 53-8-205 et seq.

****City Response: Accept**

Secs. 192—198. Registration of Vehicles. Delete as covered by U.C.A. 1953, § 41-1a-401 et seq.

****City Response: Accept**

Secs. 204—206. Weight and width limits. Delete as covered by (and not consistent with) U.C.A. 1953, § 72-7-401 et seq.

****City Response: Accept**

Sec. 207. Licenses for trucks and other non-passenger vehicles. If obsolete, delete. If retained, tie the fee to the fee schedule.

****City Response: Accept**

Sec. 233. Losing right-of-way. Delete as obsolete.

****City Response: Accept**

Secs. 262, 263. Littering. Delete as covered by Code title 7, ch. 11.

****City Response: Accept**

Sec. 267. Parades and processions, permits required. So as to avoid constitutional problems (see *Shuttlesworth v. Birmingham*, 394 U.S. 147, 89 S. Ct. 935, 22 L. Ed. 2d 162 (1969)), revise to provide that the permit is granted unless public safety would be endangered thereby.

****City Response: Accept**

Sec. 273. Record of business. As to taxicabs, delete as superseded by Code § 19-8-1 et seq. If the remainder of this section is obsolete, delete it.

****City Response: Accept**

Sec. 276. Records to be kept by dealers in used cars. If obsolete, delete.

****City Response: Accept**

Sec. 280. Test-driving of Vehicles on Residential Streets. If obsolete, delete.

****City Response: Keep as is – dot not delete**

Sec. 284. Leaving Animals Unattended in Enclosed Vehicles. Delete as covered by Code § 3-1-26(b)(6).

****City Response: Accept**

Sec. 285. Noises Prohibited. Delete as covered by Code title 7, ch. 2.

****City Response: Keep as is – do not delete**

Sec. 308. Condition for immediate appearance before magistrate. Delete as covered by U.C.A. 1953, § 77-7-23.

****City Response: Accept**

Sec. 309. Procedure for requiring appearance when immediate appearance is not made. Delete as covered by U.C.A. 1953, § 77-7-24.

****City Response: Accept**

Sec. 310. Violation of notice to appear. Delete as covered by U.C.A. 1953, § 72-7-22.

****City Response: Accept**

Sec. 311. Improper disposition or cancellation of summons or traffic citation. Delete as covered by U.C.A. 1953, § 77-7-26.

****City Response: Accept**

Sec. 315. Regulation of traffic and parking on school grounds. Change handicapped to disabled

****City Response: Accept and change to read “handicapped or disabled”**

Secs. 319—322. Noise. Delete as covered by Code title 7, ch. 2.

****City Response: Accept**

Secs. 323—335. All-terrain vehicles. Delete as covered by (and in conflict with) U.C.A. 1953, § 41-22-1 et seq.

****City Response: Accept**

Sec. 342. Low Profile Motorized Vehicles Prohibited on Public Property. If obsolete, delete.

****City Response: Keep as is – do not delete (pocket bikes and go-carts are still an issue)**

****City Response: Delete all except the following sections**

090	Use Of Coasters, Skates, Etc. Restricted
106	Drive on New Pavement
129	Incapable Driver
130	Permit incapable operator to operate
142	Angle parking violations
148. R	Fail to park within lines
153	Prohibited parking – snow removal
154	Display Vehicle for sale
154(3)	Display vehicle for sale
155	Park camper/boat/trailer on street
157	Prohibited parking on certain street
203	Commercial vehicle in restricted zone
208(3)	Drive to right of edge line
227	Turn required after signal
238	Cutting corners
244	Negligent collision
245	Auto Assault
247	Negligent operation
249	Improper lookout
254	Operate vehicle with child standing
267	Parades
269	Bicycle lane right of way

280	Test drive veh. – residential area
282	Leave children in vehicle
283	Animals in open vehicle
285	Noises prohibited
315(3)	Cruising, loitering on school property
315(6)	School parking- restricted

PART III. PROPOSED CODE REORGANIZATION

The following table of contents shows the proposed to reorganize the Code. Parenthetical references show the source of provisions.

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 - Art. II. Violations and Penalties
2. Administration
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 - Art. III. Administrative Code (title 6)
 - Art. IV. Code of Ethics (ch. 1-3)
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 - Div. 1. Generally
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3. Reserved
4. Alcoholic Beverages (ch. 5-2)
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 - Art. I. In General (ch. 3-1)
 - Art. II. Hobby License (ch. 3-2)
 - Art. III. Dangerous and Prohibited Dogs (ch. 3-3)
 - Art. IV. Feeding of Deer, Elk or Moose (ch. 3-4)
7. Reserved
8. Buildings and Building Regulations ²
 - Art. I. In General
 - Art. II. Technical Codes (ch. 4-1)
9. Reserved

² The city may wish to include this chapter in part II.

- 10. Businesses
 - Art. I. In General
 - Art. II. Business License (ch. 5-1)
 - Art. III. Entertainment Arcades and Devices (ch. 5-4)
 - Art. IV. Swap Meets and Flea Markets (ch. 5-5)
 - Art. V. Public Dance Halls (ch. 5-7)
 - Art. VI. Coupons, Coupon Books and Discount Cards (ch. 5-8)
 - Art. VII. Auctioneers and Auctioneers (ch. 5-14)
 - Art. VIII. Pawnbrokers (ch. 5-15)
 - Art. IX. Home Occupations (ch. 5-16)
 - Art. X. Escort Agencies, Outcall Service Agencies, And Semi-Nude Dancing Agencies (ch. 5-18)
 - Art. XI. Massage Establishments (ch. 12-1)
 - Art. XII. Sexually Oriented Businesses (ch. 12-2)
 - Art. XIII. Taxicabs
 - Div. 1. Generally (chs. 19-1, 19-8)
 - Div. 2. Certificate of Public Convenience and Necessity (ch. 19-2)
 - Div. 3. Drivers License (ch. 19-3)
 - Div. 4. Vehicle Equipment and Maintenance (ch. 19-4)
 - Div. 5. Taximeters (ch. 19-5)
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- 12. Cemeteries
 - Art. I. In General (ch. 21-1)
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- 20. Fire Prevention and Protection
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 - Art. II. Fire Code (chs. 8-1, 8-7 and 8-7)
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 - Art. IV. Fire Lanes (ch. 8-4)
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- 22. Health
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- 24. Justice Court (Title 23)

- 26. Law Enforcement
 - Art. I. In General
 - Art. II. Police Department
 - Div. 1. Generally
 - Div. 2. Lost, Abandoned or Unclaimed Property (ch. 11-2)

- 28. Offenses and Miscellaneous Provisions (title 7, except ch. 7-12.)

- 30. Parks and Recreation (§ 7-1-14 & ch. 7-12)

- 32. Planning³
 - Art. I. In General
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 - Art. IV. Dedication of Improvement of Public Roads and Streets in Connection with Development (ch. 13-4)
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 - Art. VIII. Development Inspection Fee (ch. 16-11)
 - Art. IX. Rezoning Fee (ch. 16-13)
 - Art. X. Development Impact Fee (ch. 16-14)

³ The city may wish to include this chapter in part II.

- 34. Property Maintenance
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- 36. Solid Waste
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- 38. Streets, Sidewalks and Other Public Places
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 - Art. II. Excavations (ch. 13-1)
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- 40. Taxation
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- 42. Telecommunications
 - Art. I. In General
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 - Div. 3. Service Standards (ch. 16-28)
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- 44. Utilities
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- 102. Reserved
- 103. Commercial, Office, Industrial and Transit Corridor Development Standards (ch. 15A-23)
- 104. Reserved
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- 106. Reserved
- 107. Fences (ch. 15A-28)
- 108. Reserved
- 109. Grading and Excavating (ch. 15A-27)
- 110. Reserved
- 111. Landscaping (ch. 15A-25)
- 112. Reserved
- 113. Manufactured Home Parks (ch. 15A-22)
- 114. Reserved
- 115. Parking, Access and Circulation Requirements (ch. 15A-24)
- 116. Reserved
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- 120. Reserved
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- 122. Reserved
- 123. Subdivisions
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 - Art. VII. Specific Use Standards (ch. 15A-11)

ATTACHMENT A. REVISED CHAPTER 1

ARTICLE I. IN GENERAL

Sec. 1-1. How Code designated and cited.

The ordinances embraced in this and the following chapters shall constitute and be designated the as the "Sandy City Code."

State Law reference— Ordinance codification, U.C.A. 1953, § 10-3-706 et seq.

Sec. 3-1. General definitions and rules of construction.

The following definitions and rules of construction shall apply to this Code and to all ordinances and resolutions unless the context requires otherwise:

Generally. When provisions conflict, the specific shall prevail over the general. All provisions shall be liberally construed so that the intent of the city council may be effectuated. Words and phrases shall be construed according to the common and approved usage of the language, but technical words, technical phrases and words and phrases that have acquired peculiar and appropriate meanings in law shall be construed according to such meanings.

Bribe. The term "bribe" signifies any money, goods, right in action, property, thing of value, or advantage, present or prospective, or any promise or undertaking to give any, asked, given, or accepted, with a corrupt intent to influence unlawfully the person to whom it is given in the person's action, vote, or opinion in any public or official capacity.

City. The term "city" means the Sandy City Corporation.

City council or council. The term "city council" or "council" means the city council of the Sandy City Corporation.

Code. The term "Code" means the Sandy City Code, as designated in section 1-1. The Code consists of parts I and II. While part I is a recodification of general ordinances and part II is a recodification of ordinances pertaining to land development:

- (1) The inclusion in part I of provisions that pertain to land development does not excuse noncompliance with this Code.
- (2) The inclusion of part II of provisions that do not relate to land development does not excuse noncompliance with such provisions.

Computation of time. In computing a period of days, the first day is excluded and the last day is included. If the last day of any period is a Saturday, Sunday or legal holiday, the period is extended to include the next day that is not a Saturday, Sunday or legal holiday. When a person must act within a specified time and service of a notice and service is made by mail, three days shall be added to the time within which the act must be done.

Conjunctions. In a provision involving two or more items, conditions, provisions or events, which items, conditions, provisions or events are connected by the conjunction "and," "or" or "either...or," the conjunction shall be interpreted as follows, except that in appropriate cases, the terms "and" and "or" are interchangeable:

- (1) The term "and" indicates that all the connected terms, conditions, provisions or events apply.

- (2) The term "or" indicates that the connected terms, conditions, provisions or events apply singly or in any combination.
- (3) The term "either...or" indicates that the connected terms, conditions, provisions or events apply singly but not in combination.

Corruptly. The term "corruptly" imports a wrongful design to acquire or cause some pecuniary or other advantage to the person guilty of an act, established either by proof or by presumption of law.

County. The term "county" means Salt Lake County, Utah.

Delegation of authority. A provision that authorizes or requires a city officer or city employee to perform an act or make a decision authorizes such officer or employee to act or make a decision through subordinates.

Gender. Words of one gender include all other genders.

Highway, roads. The words "highway" and "roads" include public bridges, and may be held equivalent to the words "county way," and "county road," "common road," "state road" and "street."

Knowingly. The term "knowingly" imports only a knowledge that the facts exist which brings the act or omission within the provisions of these ordinances. It does not require any knowledge of the unlawfulness of such act or omission.

Includes and including. The terms "includes" and "including" are terms of enlargement and not of limitation or exclusive enumeration, and the use of the terms does not create a presumption that components not expressed are excluded.

Joint authority. A grant of authority to three or more persons as a public body confers the authority to a majority of the number of members, as fixed by statute or ordinance.

May. The term "may" creates discretionary authority or grants permission or a power.

May not. The term "may not" imposes a prohibition.

Month. The term "month" means a calendar month.

Must. The term "must" imposes a duty.

Must not. The term "must not" imposes a prohibition.

Neglect, negligent, negligence, and negligently. The terms "neglect," "negligent," "negligence," and "negligently" import a want of such attention to the nature or probable consequences of the act or omission as a prudent man ordinarily bestows in acting in his own concern.

Number. The singular includes the plural and the plural includes the singular.

Oath. The term "oath" includes an affirmation.

Officers, departments, etc. References to officers, departments, boards, commissions or employees are to city officers, city departments, city boards, city commissions and city employees.

Owner. The term "owner," as applied to property, includes any part owner, joint owner, tenant in common, tenant in partnership, joint tenant or tenant by the entirety of the whole or part of such property.

Person. The term "person" means any corporation, organization, government, governmental subdivision or agency, business trust, estate, trust, partnership, association and any other legal entity.

Personal property. The term "personal property" means any property other than real property.

Premises. The term "premises," as applied to real property, includes land and structures.

Property. The term "property" means real and personal property.

Real property. The term "real property" includes lands, tenements and hereditaments.

Shall. The term "shall" imposes a duty.

Shall not. The term "shall not" imposes a prohibition.

Sidewalk. The term "sidewalk" means that portion of the street between the curb or lateral line of the roadway, and the adjacent property line, intended for the use of pedestrians.

Signature. The term "signature" includes any name, mark, or sign written with the intent to authenticate any instrument or writing.

State. The term "state" means the State of Utah.

State statutes. The abbreviation "U.C.A. 1953" means the Utah Code Annotated, 1953, as now or hereafter amended. References to state acts to so such acts as now or hereafter amended.

Street. The term "street" includes alleys, lanes, courts, boulevards, public ways, public squares, public places, and sidewalks.

Swear. The term "swear" includes the term "affirm."

Tenant, occupant. The term "tenant" or "occupant" applied to a building or land shall include any person who occupies the whole or any part of such building or land, either alone or with others.

Tense. The present tense includes the past and future tenses. The future tense includes the present tense.

Week. The term "week" means a period of seven consecutive days.

Willfully. The term "willfully" when applied to the intent, with which an act is done or omitted, implies simply a purpose or willingness to commit the act or make the omission referred to. It does not require any intent to violate the law, to insure another or to acquire any advantage.

Written. The term "written" includes any form of words, letters, symbols or figures.

Year. The term "year" means 12 consecutive months.

(Prior Code § 1-1-4)

Sec. 1-3. - Catchlines of sections; history notes; references.

(a) The catchlines of the several sections of this Code printed in boldface type are intended as mere catchwords to indicate the contents of the section and are not titles of such sections, or of any part of the section, nor unless expressly so provided shall they be so deemed when any such section, including the catchline, is amended or reenacted.

(b) The history or source notes appearing in parentheses after a section in this Code have no legal effect and only indicate legislative history. Cross references, editor's notes, and state law references that appear in this Code after sections or subsections or that otherwise appear in footnote form are provided for the convenience of the user of this Code and have no legal effect.

(c) Unless specified otherwise, all references to parts, chapters, articles, division, subdivisions or sections are to parts, chapters, articles, division, subdivisions or sections of this Code.

Sec. 1-4. Effect of repeal of ordinances.

(a) Unless specifically provided otherwise, the repeal of a repealing ordinance does not revive the ordinance originally repealed or impair the effect of any savings provision in it.

(b) The repeal or amendment of an ordinance does not affect any punishment or penalty incurred before the repeal took effect, nor does such repeal or amendment affect any suit, prosecution or proceeding pending at the time of the amendment or repeal.

(Prior Code § 1-1-2)

Sec. 1-5. Amendments to Code; effect of new ordinances; amendatory language.

(a) All ordinances adopted subsequent to this Code that amend, repeal or in any way affect this Code may be numbered in accordance with the numbering system of this Code and printed for inclusion in this Code. Portions of this Code repealed by subsequent ordinances may be excluded from this Code by omission from reprinted pages affected thereby.

(b) Amendments to provisions of this Code may be made with the following language: "Section (chapter, article, division or subdivision, as appropriate) _____ of the Sandy City Code is hereby amended to read as follows:"

(c) If a new section, subdivision, division, article or chapter is to be added to this Code, the following language may be used: "Section (chapter, article, division or subdivision, as appropriate) _____ of the Sandy City Code is hereby created to read as follows:"

(d) All provisions desired to be repealed should be repealed specifically by section, subdivision, division, article or chapter number, as appropriate, or by setting out the repealed provisions in full in the repealing ordinance.

State Law reference— Form of ordinances, U.C.A. 1953, §§ 10-3-703.7, 10-3-705.

Sec. 1-6. Supplementation of Code.

(a) Supplements to this Code shall be prepared and printed whenever authorized or directed by the city. A supplement to this Code shall include all substantive permanent and general parts of ordinances adopted during the period covered by the supplement and all changes made thereby in this Code. The pages of the supplement shall be so numbered that they will fit properly into this Code and will, where necessary, replace pages that have become obsolete or partially obsolete. The new pages shall be so prepared that when they have been inserted, this Code will be current through the date of the adoption of the latest ordinance included in the supplement.

(b) In preparing a supplement to this Code, all portions of this Code that have been repealed shall be excluded from this Code by the omission thereof from reprinted pages.

(c) When preparing a supplement to this Code, the person authorized to prepare the supplement may make formal, nonsubstantive changes in ordinances and parts of ordinances included in the supplement, insofar as necessary to do so in order to embody them into a unified Code. For example, the person may:

(1) Arrange the material into appropriate organizational units.

- (2) Supply appropriate catchlines, headings and titles for chapters, articles, divisions, subdivisions and sections to be included in this Code and make changes in any such catchlines, headings and titles or in any such catchlines, headings and titles already in this Code.
- (3) Assign appropriate numbers to chapters, articles, divisions, subdivisions and sections to be added to this Code.
- (4) Where necessary to accommodate new material, change existing numbers assigned to chapters, articles, divisions, subdivisions or sections.
- (5) Change the words "this ordinance" or similar words to "this chapter," "this article," "this division," "this subdivision," "this section" or "sections _____ to _____" (inserting section numbers to indicate the sections of this Code that embody the substantive sections of the ordinance incorporated in this Code).
- (6) Make other nonsubstantive changes necessary to preserve the original meaning of the ordinances inserted in his Code.

Sec. 1-7. Severability.

If any provision of this Code or its application to any person or circumstances is held invalid or unconstitutional, the invalidity or unconstitutionality does not affect other provisions or applications of this Code that can be given effect without the invalid or unconstitutional provision or application, and to this end the provisions of this Code are severable.

(Prior Code § 1-1-9)

Sec. 1-8. Provisions deemed continuation of existing ordinances.

The provisions of this Code, insofar as they are substantially the same as legislation adopted by the city relating to the same subject matter, shall be construed as reinstatements and continuations thereof and not as new enactments.

Sec. 1-9. Code does not affect prior offenses or rights.

(a) Nothing in this Code or the ordinance adopting this Code affects any offense or act committed or done, any penalty or forfeiture incurred, or any contract or right established before the effective date of this Code

(b) The adoption of this Code does not authorize any use or the continuation of any use of a structure or premises in violation of any city ordinance on the effective date of this Code.

(Prior Code § 1-1-2)

Sec. 1-10. Certain ordinances not affected by Code.

(a) Nothing in this Code or the ordinance adopting this Code affects the validity of any ordinance or portion of an ordinance not codified in this Code:

- (1) Annexing property into the city or describing the corporate limits.

- (2) Deannexing property or excluding property from the city.
- (3) Promising or guaranteeing the payment of money or authorizing the issuance of bonds or other instruments of indebtedness.
- (4) Authorizing or approving any contract, deed, or agreement.
- (5) Making or approving any appropriation or budget.
- (6) Providing for salaries of city employees or other employee benefits, or job descriptions for employee positions.
- (7) Granting any right or franchise.
- (8) Adopting or amending a comprehensive plan.
- (9) Levying or imposing any special assessment.
- (10) Dedicating, establishing, naming, locating, relocating, opening, paving, widening, repairing or vacating any street.
- (11) Establishing the grade of any street or sidewalk.
- (12) Dedicating, accepting or vacating any plat or subdivision.
- (13) Levying or imposing or otherwise related to property taxes.
- (14) Rezoning property.
- (15) That is temporary, although general in effect.
- (16) That is special, although permanent in effect.
- (17) The purpose of which has been accomplished.

(b) The ordinances designated in subsection (a) of this section continue in full force and effect to the same extent as if published at length in this Code.

Secs. 1-11—1-20. Reserved.

ARTICLE II. VIOLATIONS AND PENALTIES

Sec. 1-21. Definition.

- (a) In this article, the term "violation of this Code" means any of the following:
 - (1) Doing an act that is prohibited or made or declared unlawful, an infraction, an offense, an infraction, a violation or a misdemeanor by ordinance or by rule or regulation authorized by ordinance.
 - (2) Failure to perform an act that is required to be performed by ordinance or by rule or regulation authorized by ordinance.
 - (3) Failure to perform an act if the failure is prohibited or is made or declared unlawful, an infraction, an offense, a violation or a misdemeanor by ordinance or by rule or regulation authorized by ordinance.

(b) In every violation of this Code, there must exist a union or joint operation of act and intent, or criminal negligence

(c) 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 directed act, but also the employer authorizing it 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.

(d) In this article, the term "violation of this Code" does not include the failure of a city officer or city employee to perform an official duty unless it is specifically provided that the failure to perform the duty is to be punished as provided in this chapter.

(Prior Code §§ 1-2-4, 1-2-5)

Sec. 1-22. Authorized dispositions.

(a) A person who has been convicted of a violation of this Code may be sentenced to any one or more of the following sentences or combination of sentences:

- (1) To pay a fine; or
- (2) To probation; or
- (3) To imprisonment.

(b) This article shall not deprive a court of authority conferred by law to forfeit property, suspend or cancel a license or permit, cite for contempt, or impose any other civil penalty. A civil penalty may be included as a part of any sentence.

(c) Whenever no other penalty is prescribed, any person found guilty of violating any provision of this Code shall be deemed guilty of a class B misdemeanor.

(Prior Code §§ 1-1-3, 1-2-1)

Sec. 1-23. Fines specified.

A person who has been convicted of an offense may be sentenced to pay a fine not exceeding:

- (1) \$1000.00 when the conviction is of a class B misdemeanor;
- (2) \$750.00 when the conviction is of a class C misdemeanor or infraction.

State law reference—Penalty for ordinance violations, U.C.A. 1953, § 10-3-703.

Sec. 1-24. Imprisonment specified.

(a) A person who has been convicted of a class B misdemeanor may be sentenced to a term in the city or county jail not to exceed six months.

(b) A person who has been convicted of a class C misdemeanor may be sentenced to a term in the county or city jail not to exceed ninety days.

(c) A person who has been convicted of an infraction may not be sentenced to a term in the county or city jail.

Sec. 1-25. Separate offenses.

Except as otherwise provided by law or ordinance:

- (1) With respect to violations of this Code that are continuous with respect to time, each day that the violation continues is a separate offense.
- (2) With respect to other violations, each violation constitutes a separate offense.

(Prior Code § 1-2-6)



To: City Council Members

From: Shane Pace, Assistant CAO *SP*

Subject: Codification of City Code

Date: November 10, 2017

A Committee of employees from various departments has been meeting to review the recommended legal changes submitted by Municode of our ordinances. The purpose of these changes is to ensure our code is not in violation of federal law and does not conflict with State law. Municode also recommends eliminating some sections because they seem no longer necessary. The most common change is to eliminate sections that are the same as State Code to eliminate duplication. The attached document includes the proposed changes by Municode and the Committee's response to the proposed changes in red.

This document does not include the actual code. In order to review the proposed changes you will need to go to the City's website and open the current City Code found in the City Recorder page to review each of the recommendations. Municode is currently preparing the new codified code but we did not want to wait until it was completed before allowing the City Council to review it. If the City Council decides to make further changes, we can then submit those before Municode finalizes the codified code.

It is important to know we did not focus on updating the entire code. Many sections have been updated recently and others, such as the development code, are updated on a regular basis. We believed it was more important to codify the code for the public than spend much more time updating the entire code. Once codified, the City can go back and update sections as necessary.

Title

1. The Code; Ordinances; Ethics (title 1)
2. Elections (title 2)
3. Legislative Code (title 22)
4. Administrative Code (title 6)
5. Judicial Code (title 23)
6. Revenue and Finance (Title 16)
7. Purchasing (Title 11)
8. Water System (Title 14)
9. Stormwater (Title 17)
10. Streets and Public Improvements (Title 13)
11. Cemetery Code
12. Animal Services (Title 3)
13. Public Peace and Safety (Title 7)
14. Traffic Code
15. Business Licensing (Title 5)
16. Adult Businesses (Title 12)
17. Taxicabs (Title 19)
18. Building and Construction (Title 4)
19. Property Maintenance (Title 9)
20. Fire Prevention (Title 8)
21. Unified Development Ordinance (Title 15A).



Sandy City, Utah

10000 Centennial Parkway
Sandy, UT 84070
Phone: 801-568-7141

Staff Report

File #: 18-072, **Version:** 1

Date: 3/13/2018

Agenda Item Title:

Public Utilities Department recommending that the City Council make citizen appointments to the Public Utilities Advisory Board.

Presenter:

Tom Ward



SANDY CITY PUBLIC UTILITIES

TOM WARD, P.E.
PUBLIC UTILITIES DIRECTOR

KURT BRADBURN
MAYOR

MATTHEW HUISH
CHIEF ADMINISTRATIVE OFFICER

To: Linda Martinez-Saville, Chair

From: Tom Ward, Director Public Utilities 

Date: January 31, 2018

Re: Reappointment of Public Utilities Advisory Board Members

Cc: Mike Applegarth, Mayor Bradburn, Matt Huish, Shane Pace

On March 31, 2018, three members of the Public Utilities Board terms will end. Attached is a list of board members and those individuals whose terms will expire in March 2018. The City Council appoints five of these seven positions. Those currently up for Council reappointment are: Jeff Budge, David Colling and Don Milne.

The Public Utilities department respectfully recommends all three board members to be reappointed. The current board has brought expertise and works well together. These three individuals are valuable to the board and the Public Utilities department.

We have spoken to each of the following board members and each has expressed interest in continuing to serve on the Public Utilities Advisory Board. We would like to recommend their reappointment: Jeff Budge, David Colling and Don Milne to the Public Utilities Advisory Board.

We have just been made aware that William Bustos will not be available to serve past March 31, 2018. Therefore, we now have a vacancy for this council appointment to be filled.

One person whom I recommend for your consideration in this role is Florence Reynolds. Florence is a long time Sandy City resident, and is a regionally and nationally respected expert in drinking water having served as the Water Quality & Treatment Administrator for Salt Lake City over their 3 drinking water plants, watershed protection, and storm water quality programs. Florence retired a few years ago, and expressed interest in this role. Florence would be an exceptional asset to Sandy City in terms of experience, expertise, reputation and authority she carries on water utility issues. I would be pleased to have Florence provide additional information or meet with Council members if so desired.

Colleen Hansen's term is also expiring. She is a mayoral appointment for Mayor Bradburn's consideration.

All of these terms end March 31, 2018 and would be extended to March 31, 2021. These are three year terms. Other than William Bustos, we will have the aforesaid existing Public Utilities Advisory Board members continue to serve until the Council takes formal action to reinstate or replace them.

Thank you.

Enclosures: Public Utilities Advisory Board members and terms
Public Utilities Advisory Board Resolution

RESOLUTION #18-10c

A RESOLUTION APPOINTING DAVID COLLING AS A REGULAR MEMBER TO THE SANDY CITY PUBLIC UTILITIES ADVISORY BOARD

BE IT RESOLVED by the City Council in Sandy City, Utah, that David Colling be appointed as a regular member to the Sandy City Public Utilities Advisory Board.

The appointment will be as follows:

David Colling to fill a term as a regular member, beginning on January 1, 2018 and ending on December 31, 2019.

PASSED AND APPROVED this _____

Linda Martinez Saville, Chair
Sandy City Council

ATTEST:

City Recorder

RECORDED this _____ day of _____, 2018

RESOLUTION #18-11c

A RESOLUTION APPOINTING JEFF BUDGE AS A REGULAR MEMBER TO THE SANDY CITY PUBLIC UTILITIES ADVISORY BOARD

BE IT RESOLVED by the City Council in Sandy City, Utah, that Jeff Budge be appointed as a regular member to the Sandy City Public Utilities Advisory Board.

The appointment will be as follows:

Jeff Budge to fill a term as a regular member, beginning on January 1, 2018 and ending on December 31, 2019.

PASSED AND APPROVED this _____

Linda Martinez Saville, Chair
Sandy City Council

ATTEST:

City Recorder

RECORDED this _____ day of _____, 2018

RESOLUTION #18-12c

A RESOLUTION APPOINTING DON MILNE AS A REGULAR MEMBER TO THE SANDY CITY PUBLIC UTILITIES ADVISORY BOARD

BE IT RESOLVED by the City Council in Sandy City, Utah, that Don Milne be appointed as a regular member to the Sandy City Public Utilities Advisory Board.

The appointment will be as follows:

Don Milne to fill a term as a regular member, beginning on January 1, 2018 and ending on December 31, 2019.

PASSED AND APPROVED this _____

Linda Martinez Saville, Chair
Sandy City Council

ATTEST:

City Recorder

RECORDED this _____ day of _____, 2018

RESOLUTION #18-13c

A RESOLUTION APPOINTING FLORENCE REYNOLDS AS A REGULAR MEMBER TO THE SANDY CITY PUBLIC UTILITIES ADVISORY BOARD

BE IT RESOLVED by the City Council in Sandy City, Utah, that Florence Reynolds be appointed as a regular member to the Sandy City Public Utilities Advisory Board.

The appointment will be as follows:

Florence Reynolds to fill a term as a regular member, beginning on April 1, 2018 and ending on December 31, 2020.

PASSED AND APPROVED this _____

Linda Martinez Saville, Chair
Sandy City Council

ATTEST:

City Recorder

RECORDED this _____ day of _____, 2018



Staff Report

File #: 18-012, **Version:** 2

Date: 3/13/2018

Agenda Item Title:

Council Member Robinson recommending the Council adopt amendments to the Sandy Election Code.

Presenter: Council Member Robinson

Description/Background:

On January 16 Council Member Robinson introduced amendments to the City's Election Code. The City Council directed that Council Member Robinson continue to work with staff to refine his proposal. A final set of amendments is now proposed. The draft ordinance is attached to this item with a redline version of the proposed changes as well as a "clean" version with the amendments included.

Original (1/6/18) staff report:

I believe that we, as elected officials, can improve upon the process that we follow in reporting the contributions and expenditures to and from our individual campaigns for elected office. Many of our peer cities have taken extra steps in requiring more comprehensive campaign financial disclosures and I feel that we should consider doing the same.

The Cities of Salt Lake, Ogden, Provo, and Orem all require continued campaign financial reporting from all candidates who receive campaign contributions and/or make campaign expenditures following the end of the general election. Salt Lake City goes so far as to require an annual campaign financial disclosure from any candidate who has not expressly terminated their campaign committee (the committee that receives contributions and makes expenditures on behalf of a candidate's campaign).

I propose that as a Council we impose similar and in some cases more stringent requirements on all future campaigns for public office in Sandy City. I request that the Council consider adding the highlighted language found in attachment A to Title 2 of the Revised Ordinances of Sandy City. Adding this language will serve the following purposes:

- Require that all candidates for elected office in Sandy City report financial information from any and all campaigns for elected office within or outside of Sandy City.
- Require that all incumbent elected officials in Sandy City report annually on all campaign funds.
- Improve upon the transparency of our election process.
- Help to protect all candidates for elected office in Sandy City

Recommended Action and/or Suggested Motion:

Motion to adopt ordinance amending Title 2, Chapter 1, "Election Rules and Regulations;" also providing a saving clause for the ordinance and an effective date.

ORDINANCE #18-__

AN ORDINANCE AMENDING TITLE 2, CHAPTER 1,
“ELECTION RULES AND REGULATIONS”; ALSO
PROVIDING A SAVING CLAUSE FOR THE ORDINANCE
AND AN EFFECTIVE DATE.

WHEREAS, changes in election procedures have made it necessary to enact an ordinance of Sandy City, to be codified at Title 2, “Elections”, Chapter 1, “Election Rules and Regulations”, of the Revised Ordinances of Sandy City; and

WHEREAS, the City Council wishes to provide for additional disclosures of contributions made to candidates for office in the City; and

WHEREAS, the City Council wishes to provide for a process whereby those who hold elected office in Sandy City will be required to disclose contributions received while in office; and

WHEREAS, Section 10-8-84, Utah Code Annotated, authorizes the City to pass all ordinances in order to protect the public health, safety and welfare of the City;

NOW, THEREFORE, BE IT ORDAINED by the City Council of Sandy City as follows:

Section 1. The Election Rules and Regulations ordinance of Title 2, Chapter 1 of the Revised Ordinances of Sandy City is hereby enacted as set forth in **Exhibit “A”** which is attached to and incorporated in this ordinance.

Section 2. All former ordinances or parts thereof conflicting or inconsistent with the provisions of this ordinance or of the Code adopted by this ordinance are hereby repealed.

Section 3. The provisions of this ordinance shall be severable; and if any provision thereof, or the application of such provision under any circumstances is held invalid, it shall not affect any other provision of this ordinance, or the application in a different circumstance.

Section 4. This ordinance shall become effective upon publication of a summary thereof and the City Recorder is hereby directed to publish such summary as soon as practically possible.

PASSED AND APPROVED by the Sandy City Council this ____ day of _____, 2018.

Linda Martinez Saville
Sandy City Council

PRESENTED to the Mayor this ____ day of _____, 2018.

APPROVED by the Mayor this ____ day of _____, 2018.

Kurt Bradburn, Mayor

ATTEST:

City Recorder

RECORDED this ____ day of _____, 2018.

SUMMARY PUBLISHED this ____ day of _____, 2018.

TITLE 2 ELECTIONS

Chapter 1 ELECTION RULES AND REGULATIONS

~~2-1-1.~~ Elections.

~~Sections 20A-9-203, 17-33-11 and 20A-1-601 through 20A-1-611 of the Utah Code Annotated, as amended, shall constitute City ordinances with the word "City" being substituted for the words "state" and "county", and the provisions thereof being construed to make them applicable as City ordinances.~~

~~2-1-2.~~ Amendments.

~~Any amendments and changes to the foregoing sections adopted by reference shall be effective and shall constitute City ordinances upon the filing with the Office of the City Recorder of not less than three copies of the volumes as revised or amended.~~

~~2-1-3.~~2-1-1. Filing Fee.

A filing fee in the amount of \$10.00 shall be paid upon the filing of declaration of candidacy or nomination petition with the City Recorder.

2-1-2. Contribution Disclosures

Candidates for office must disclose all contributions received as required under State law, including disclosure of all contributions, as defined by State law, received by a candidate or elected office holder received at any time by filing updated and current campaign finance statements no later than the deadlines imposed by State law and City ordinance.

2-1-3 – Contribution Disclosure Deadlines

In addition to the deadlines imposed under State law, Candidates for office must disclose all contributions received by filing an updated and current campaign finance statement no later than the following dates:

- (a) 14 days prior to the earliest date that any voter may cast a ballot in a primary election;
and
- (b) 14 days prior to the earliest date that any voter may cast a ballot in a general election.

2-1-4. Notification to Candidate.

The City Recorder shall, at the time the candidate for municipal office files a declaration of candidacy and again 21 days before each municipal primary and municipal general election, notify the candidate in writing of:

- (a) the provisions of statute and municipal ordinance governing the disclosure of campaign contributions and expenditures through the filing of campaign finance statements no later than the deadlines imposed under State law and City ordinance;
- (b) the dates by which ~~when~~ the candidates ~~campaign finance statement is required to be filed~~ is required to file updated and current campaign finance statements to disclose all campaign contributions and expenditures; and
- (c) the penalties that apply for failure to file a timely campaign finance statement, including the statutory provision that requires removal of the candidate's name from the ballot for failure to file the required campaign finance statement.

2-1-5. Disclosure of Sources of Election Contributions.

- ~~(a) It shall be the duty of each candidate for elective office in Sandy City to file a statement of all election and campaign contributions and of all promises to make any election or campaign contribution which may be made by any individual, firm, corporation, partnership or other legal entity. Such statement shall include the following particulars:~~
 - ~~(1) The amount of each contribution or promise to make a contribution; and~~
 - ~~(2) The source, by name, of each contribution or promise to make a contribution, and if such source is a corporation, partnership, business association or other such entity, the statement shall include a listing of the principals of such organization.~~
- ~~(b) Such statements shall be filed with the Sandy City Recorder as follows:~~
 - ~~(1) seven and fourteen days before the date of the primary election, if any;~~
 - ~~(2) seven and fourteen days before the date of the general election; and~~
 - ~~(3) no later than 30 days after the date of the general election.~~
- ~~(c) Such disclosure of election contributions shall be updated and made complete and shall indicate the total amount of campaign contributions or promises for campaign contributions which shall have been made to a candidate up to and including the date of each filing.~~
- ~~(d) It shall be the duty, in addition to other duties outlined herein, of any candidate for elective office in Sandy City to report all personal expenditures spent by the candidate in connection with any campaign for or election to elective office in Sandy City. Such report shall be filed with the Sandy City Recorder at the times specified in subsection (b) above. Such report shall be updated and made complete and shall~~

indicate the total amount of personal monies spent by a candidate up to and including the date each filing.

- (e) ~~It shall be the duty of each candidate for elective office in Sandy City to submit a report to the Sandy City Recorder indicating the manner in which and the purposes for which all monies, whether contributions or personal monies, have been expended in connection with any campaign for or election to elective office in Sandy City. Such report shall be filed with the Sandy City Recorder and shall be updated for each filing. Such report shall be made complete and shall indicate the total amount, manner and purpose for which money shall have been expended up to and including the day of each filing.~~
- (f) ~~For purposes of this section:~~
 - (1) ~~"Expenditure" or "expended" shall mean any tangible outlay, disbursement, or creation of a liability for an asset or expenditure item by or on behalf of a candidate.~~
 - (2) ~~"Contribution" shall mean any tangible thing furnished, supplied, given or granted to aid or promote the election of the candidate, including nonmonetary contributions such as in-kind contributions.~~
- (g) ~~It shall be a violation of this section to fail to comply substantially with the terms thereof.~~

2-1-5. Annual Contribution Disclosure by Elected Officials

1. All elected officials who hold office in Sandy City must file an annual campaign finance statement no later than January 15 during each year while in office.
2. The annual campaign finance statement filed by an elected official must disclose all contributions received prior to December 31 of the preceding calendar year which have not been previously disclosed.

TITLE 2 ELECTIONS

Chapter 1 ELECTION RULES AND REGULATIONS

2-1-1. Filing Fee.

A filing fee in the amount of \$10.00 shall be paid upon the filing of declaration of candidacy or nomination petition with the City Recorder.

2-1-2. Contribution Disclosures

Candidates for office must disclose all contributions received as required under State law, including disclosure of all contributions, as defined by State law, received by a candidate or elected office holder received at any time by filing updated and current campaign finance statements no later than the deadlines imposed by State law and City ordinance.

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In addition to the deadlines imposed under State law, Candidates for office must disclose all contributions received by filing an updated and current campaign finance statement no later than the following dates:

- (a) 14 days prior to the earliest date that any voter may cast a ballot in a primary election; and
- (b) 14 days prior to the earliest date that any voter may cast a ballot in a general election.

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The City Recorder shall, at the time the candidate for municipal office files a declaration of candidacy and again 21 days before each municipal primary and municipal general election, notify the candidate in writing of:

- (a) the provisions of statute and municipal ordinance governing the disclosure of campaign contributions and expenditures through the filing of campaign finance statements no later than the deadlines imposed under State law and City ordinance;
- (b) the dates by which the candidate is required to file updated and current campaign finance statements to disclose all campaign contributions and expenditures; and

- (c) the penalties that apply for failure to file a timely campaign finance statement, including the statutory provision that requires removal of the candidate's name from the ballot for failure to file the required campaign finance statement.

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2. The annual campaign finance statement filed by an elected official must disclose all contributions received prior to December 31 of the preceding calendar year which have not been previously disclosed.



Staff Report

File #: 18-044, **Version:** 2

Date: 3/13/2018

Agenda Item Title:

Council Member Robinson requesting discussion on proposed code amendments to create idle free zones within Sandy City.

Presenter:

Council Member Robinson

Description/Background:

This item was initially heard on February 13, 2018. Council Member Robinson requests further Council discussion on a proposed set of code amendments. Draft amendments are attached.

Original (2.13.18) staff report:

The purpose of this agenda item is to begin a conversation of creating areas of Sandy City where vehicle cannot idle. After a brief review, nothing exists in our code that creates such areas.

With the air quality continually being a roller-coaster, many businesses and organizations are beginning to adopt idle free zones in their communities. Organizations are working diligently across the valley to help reduce the emissions in the air we breathe.

Research indicates that the average person idles their car five to ten minutes a day. Cutting idle time makes sense during inversions, because reduced idling also reduces the emissions of nitrogen oxides (NOx) and volatile organic compounds (VOCs), both precursor gases for the formation of PM2.5 during inversions.

The proposed code addition would create a way for Sandy City to do our part. By restricting vehicles from idling, we can assist with the fight to keep our environment clean.

The proposed code addition would supplement the idling vehicle policy we currently have.

With the approval of this council, I will work with Legal, and Administration to find a policy that works well for our community.

After collaboration with various departments, I will bring back a clean amendment for final council consideration.

Fiscal Impact:

Possible fiscal implications would be signage in public areas.

Further action to be taken:

A final version of proposed code changes will be scheduled for a vote of the City Council.

Recommended Action and/or Suggested Motion:

Motion to approve the development of idle free zones within Sandy City.

Idle free text-DRAFT

The primary purpose of Section XXXXXXXX is to educate the public on the health and environmental consequences of vehicle idling.

No driver, while operating a vehicle within Sandy City corporate limits, shall cause or permit a vehicle's engine to idle for more than one minute, with exceptions for the following circumstances:

- A. The vehicle is forced to remain motionless on a roadway because of traffic conditions.
- B. The vehicle is an authorized emergency vehicle used in an emergency situation.
- C. Vehicle idling is necessary for auxiliary power for law enforcement equipment, fire, emergency and water equipment, refrigeration units, loading and unloading lifts, well drilling, farming, battery charging, or is required for proper functioning of other equipment that is part of the vehicle.
- D. Vehicle idling is necessary for repair or inspection of the vehicle.
- E. The health or safety of a driver or passenger, including service animals, requires the vehicle to idle. This exception also includes idling needed to operate window defrosters and other equipment necessary to promote safe driving conditions.
- F. Vehicle idling is necessary for efficient operations of a turbo-charged heavy duty vehicle (e.g., buses) or to operate a vehicle within manufacturer's operating requirements. This includes building air pressure in air brake systems, among other requirements. Vehicles idling under these exceptions should not violate Utah State Code, 41-6a-1403, which prohibits the idling of an unattended vehicle.

Enforcement:

The purpose of this subsection is to comply with the requirements imposed by the state legislature in Utah code 41-6a-208. The intent of this section is to be primarily educational. A person must be issued at least three (3) warning citations before a fine may be imposed. The fine shall be a civil penalty of forty dollars (\$40.00) and imposed as set forth in section XXXXX of this chapter. Law enforcement personnel who enforce this section shall follow all Sandy City police policies regarding safety while enforcing this section. This section may only be enforced on public property or on private property that is open to the general public. If the private property owner has a private business that has a drive-through service as a component of the private property owner's business operations this section is only enforceable if the

owner posts a sign provided by or acceptable to the local highway authority informing its customers and the public of the local highway authority's time limit for idling vehicle engines or adopts an idle reduction education policy approved by the local highway authority.



Staff Report

File #: MISC-11-17-5320,
Version: 2

Date: 3/13/2018

Agenda Item Title:

Rich Welch for Garbett Homes is requesting a partial street vacation of a public street located on the northern section of Wasatch Blvd on the southern property lines of 1991 Wasatch Blvd and 2073 Wasatch Blvd.

Presenter: Wade Sanner

Description/Background: For the proposed Stonecroft Subdivision, the applicant is required to construct a masonry wall along Wasatch Blvd. as it is a major arterial. The Metro Water District easement runs directly adjacent to the street right-of-way along Wasatch Blvd. The Metro Water District does not allow fencing in their easement. The applicant had initially proposed this wall to be maintained by Sandy City, as the entire portion of the wall would be in the right-of-way. To ensure that the masonry wall is maintained by the HOA, staff proposed a 1-foot right-of-way vacation.

There are three determinations that need to be made by the Planning Commission and the City Council in considering a request for street vacation.

1. Consent of the abutters. Sandy City staff and Garbett Homes have agreed to this vacation. We have received no public objection from any property owner that abuts these existing road segments.
2. If good cause exists for the street vacation. The requested action will allow the masonry wall to be maintained by the HOA. The Sandy City Engineer recommends the partial street vacation .
3. That neither the public interest nor any person will be materially injured by the vacation. No injury to the public will occur due to this partial street vacation. This vacation is in the public interest to benefit public safety and will maintain pedestrian access along Wasatch Blvd.

Recommended Action and/or Suggested Motion:

This item was heard by the Sandy City Planning Commission on February 1, 2018. The Planning Commission forwarded a positive recommendation to the City Council. The Sandy City Planning Department and Planning Commission recommend the City Council adopt the ordinance to vacate a 1-foot portion of Wasatch Boulevard as shown in attached exhibits.



SANDY CITY COMMUNITY DEVELOPMENT

JAMES SORENSEN
COMMUNITY DEVELOPMENT
DIRECTOR

KURT BRADBURN
MAYOR

MATTHEW HUISH
CHIEF ADMINISTRATIVE OFFICER

MEMORANDUM

February 27, 2018

To: City Council via Planning Commission
From: Community Development Department
Subject: Partial Street Vacation of Wasatch Blvd.
(1-Foot Street Vacation) From 1991 East to 2073 East
[Lone Peak, Community #27]

MISC-11-17-5320
Vacating 478 Square
Feet or 0.012 Acres

HEARING NOTICE: *This item has been noticed to property owners within 300 feet of the subject area, and posted on the property.*

PROPERTY CASE HISTORY	
Case Number	Case Summary
SUB-88-11	Oak Grove at Hidden Valley, 15-Lot Subdivision (West Lot)
ZONE-10-16-5145	Rezone from an R-1-10 to R-1-6 Approved 11/03/16

DESCRIPTION OF REQUESTS

The applicant, Rich Welch for Garbett Homes is requesting a partial street vacation of a public street located on the northern section of Wasatch Blvd on the southern property lines of 1991 Wasatch Blvd and 2073 Wasatch Blvd. The partial street vacation is to allow the construction of a masonry wall associated with the Stonecroft Subdivision (*See Exhibit #1 –Subdivision Plat*) and supporting documentation (*See Exhibit #2 –Legal Description*), so that the wall will be maintained by the Home Owners Association (HOA).

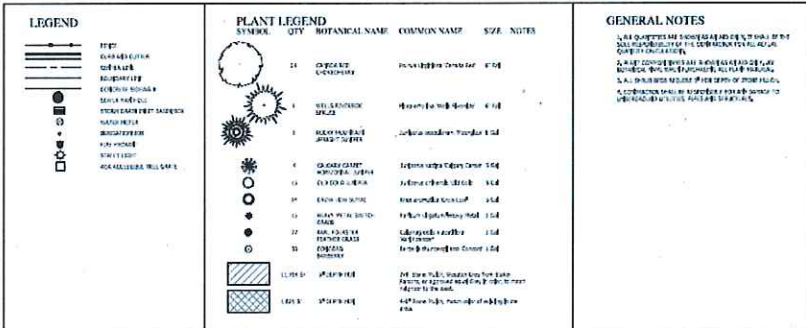
PLANNING COMMISSION HEARING

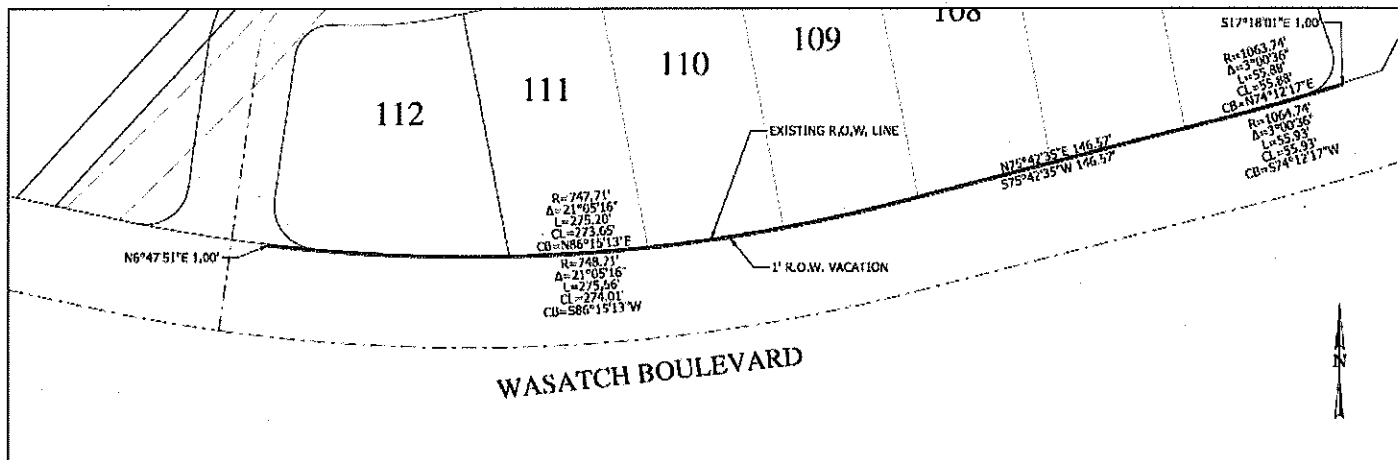
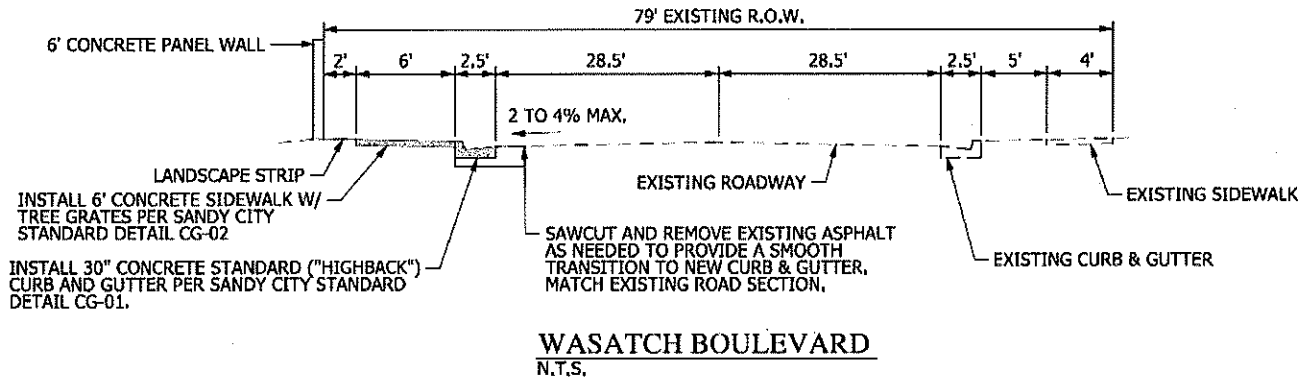
This item was heard by the Sandy City Planning Commission on February 1, 2018. The Planning Commission forwarded a positive recommendation to the City Council (*See Exhibit #3 –PC Minutes*).

NOTICE

Notices were mailed to property owners within a 300-foot radius of the subject parcels as per Sandy City Land Development Code requirements. Further, a notice was published in the newspaper, and the property was also posted with a public notice sign in both locations. Staff has received a letter from the affected Metro Water District who is in support of this application

For the proposed Stonecroft Subdivision, the applicant is required to construct a masonry wall along Wasatch Blvd. as it is a major arterial. The Metro Water District easement runs directly adjacent to the street right-of-way along Wasatch Blvd. The Metro Water District does not allow fencing in their easement. The applicant had initially proposed this wall to be maintained by Sandy City, as the entire portion of the wall would be in the right-of-way. To ensure that the masonry wall is maintained by the HOA, staff proposed a 1-foot right-of-way vacation.





REQUIRED DETERMINATIONS AND FINDINGS

There are three determinations that need to be made by the Planning Commission and the City Council in considering a request for street vacation.

1. Consent of the abutters. Sandy City staff and Garbett Homes have agreed to this vacation. We have received no public objection from any property owner that abuts these existing road segments.
2. If good cause exists for the street vacation. The requested action will allow the masonry wall to be maintained by the HOA. The Sandy City Engineer recommends the partial street vacation (See Exhibit #4 –Staff Recommendation).
3. That neither the public interest nor any person will be materially injured by the vacation. No injury to the public will occur due to this partial street vacation. This vacation is in the public interest to benefit public safety and will maintain pedestrian access along Wasatch Blvd.

STAFF RECOMMENDATION

Staff recommends that the City Council approve a partial street ROW vacation at 1991 and 2073 Wasatch Blvd., based on the following findings and subject to the following conditions of approval:

FINDINGS

1. The partial street vacation action by the City will transfer the ownership of the subject property to the abutting property owners who will use it as part of their development, and therefore good cause for the action exists.
2. That there is neither material injury to either the public interest nor any person by the requested vacation.
3. The Metropolitan Water District easement does not allow for fencing within their easement. Therefore, to balance the public interest of a barrier wall and public improvement of the roadway, it is in the best interest of all parties to allow for this partial vacation.

CONDITIONS

1. That the approval is conditioned upon the City proceeding through the vacation process through action by the City Council.
2. That the recording of the Road Vacation with the County Recorder's Office be done in coordination with the Stonecroft Subdivision plat recording.

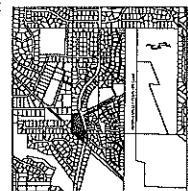
Planner:

Reviewed by:

Wade Sanner, Planner

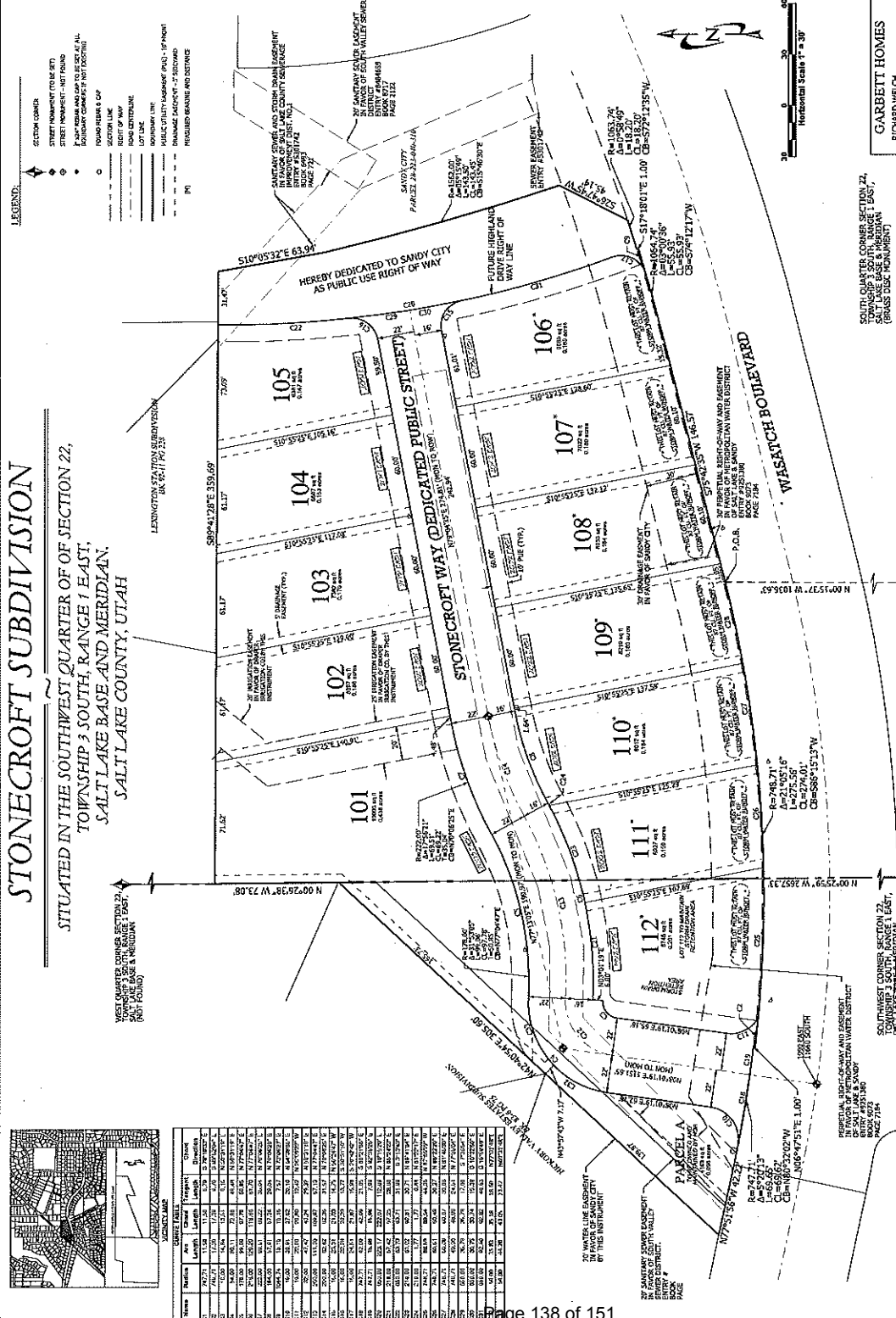
File Name: S:\USERS\PLN\STAFFRPT\2017\MISC-11-17-5320 Wasatch Blvd Street Vacation

Exhibit #1 – Subdivision Plat



STONECROFT SUBDIVISION

SITUATED IN THE SOUTHWEST QUARTER OF SECTION 22,
TOWNSHIP 3 SOUTH, RANGE 1 EAST,
SALT LAKE BASE AND MERIDIAN,
SALT LAKE COUNTY, UTAH



OWNER'S CERTIFICATE

I, **LEIF E. ANDERSON**, of the County of **SALT LAKE**, State of **UTAH**, do hereby certify that I am the owner of the above described land and that the same has been correctly surveyed and platted on the ground as shown on this plat.

OWNER'S ACKNOWLEDGMENT

I, **LEIF E. ANDERSON**, do hereby acknowledge that I am the owner of the above described land and that the same has been correctly surveyed and platted on the ground as shown on this plat.

NOTARY PUBLIC

NOTARY PUBLIC FULL NAME: _____
COMMISSION NUMBER: _____
MY COMMISSION EXPIRES: _____
A NOTARY PUBLIC COMMISSIONED IN UTAH
COMMISSION SALES NOT NUMBERED IN THE CODE 40-1077

NOTES:

1. THE SUBDIVISION IS BEING PLATTED IN ACCORDANCE WITH THE DEVELOPMENT OF THIS SUBDIVISION.
2. THE SUBDIVISION IS BEING PLATTED IN ACCORDANCE WITH THE DEVELOPMENT OF THIS SUBDIVISION.
3. THE SUBDIVISION IS BEING PLATTED IN ACCORDANCE WITH THE DEVELOPMENT OF THIS SUBDIVISION.
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12. THE SUBDIVISION IS BEING PLATTED IN ACCORDANCE WITH THE DEVELOPMENT OF THIS SUBDIVISION.

STONECROFT SUBDIVISION

SITUATED IN THE SOUTHWEST QUARTER OF SECTION 22, TOWNSHIP 3 SOUTH, RANGE 1 EAST, SALT LAKE BASE AND MERIDIAN, SALT LAKE COUNTY, UTAH

OWNER'S ACKNOWLEDGMENT

I, **LEIF E. ANDERSON**, do hereby acknowledge that I am the owner of the above described land and that the same has been correctly surveyed and platted on the ground as shown on this plat.

NOTARY PUBLIC

NOTARY PUBLIC FULL NAME: _____
COMMISSION NUMBER: _____
MY COMMISSION EXPIRES: _____
A NOTARY PUBLIC COMMISSIONED IN UTAH
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12. THE SUBDIVISION IS BEING PLATTED IN ACCORDANCE WITH THE DEVELOPMENT OF THIS SUBDIVISION.

Exhibit #2 – Legal Description

BOUNDARY DESCRIPTION – WASATCH BOULEVARD 1' R.O.W. VACATION

BEGINNING AT A POINT WHICH LIES ON THE NORTHERLY RIGHT OF WAY LINE OF WASATCH BOULEVARD, SAID POINT LYING NORTH 89°44'23" WEST 2474.59 FEET ALONG THE SECTION LINE AND NORTH 00°13'37" WEST 1037.60 FEET FROM THE SOUTH QUARTER CORNER OF SECTION 22, TOWNSHIP 3 SOUTH, RANGE 1 EAST, SALT LAKE BASE AND MERIDIAN; AND TRAVERSING THENCE ALONG SAID NORTHERLY RIGHT OF WAY LINE THE FOLLOWING TWO (2) COURSES:

- (1) NORTH 75°42'35" EAST 146.57 FEET,
- (2) ALONG AN ARC 55.88 FEET TO THE LEFT, HAVING A RADIUS OF 1063.74 FEET, THE CHORD OF WHICH BEARS NORTH 74°12'17" EAST 55.88 FEET; THENCE

SOUTH 17°18'01" EAST 1.00 FOOT; THENCE ALONG A NON-TANGENT ARC 55.93 FEET TO THE RIGHT, HAVING A RADIUS OF 1064.74 FEET, THE CHORD OF WHICH BEARS SOUTH 74°12'17" WEST 55.93 FEET; THENCE SOUTH 75°42'35" WEST 146.57 FEET; THENCE ALONG AN ARC 275.56 FEET TO THE RIGHT, HAVING A RADIUS OF 748.71 FEET, THE CHORD OF WHICH BEARS SOUTH 86°15'13" WEST 274.01 FEET; THENCE NORTH 06°47'51" EAST 1.00 FOOT TO A POINT WHICH LIES ON SAID NORTHERLY RIGHT OF WAY LINE; THENCE ALONG SAID NORTHERLY RIGHT OF WAY LINE AND A NON-TANGENT ARC 275.20 FEET TO THE LEFT, HAVING A RADIUS OF 747.71 FEET, THE CHORD OF WHICH BEARS NORTH 86°15'13" EAST 273.65 FEET TO THE POINT OF BEGINNING.

CONTAINING 478 SQ. FT.

Exhibit #3 – PC Minutes

Commissioner Joe Baker replied yes. That the fencing that runs lateral to the easement be made optional to the property owner.

Commissioner Joe Baker moved that the Planning Commission determine that the Preliminary Subdivision Plan is complete for the Stonecroft Subdivision, located at 1991 and 2073 Wasatch Blvd., subject to the five conditions in the staff report with the addition of two condition: (1) That the sidewalk on the east side of Stonecroft as it leaves Wasatch is not necessary and adds nothing to the plan and it can be eliminated. (2) That the fencing that runs lateral to the easement be made optional to the property owner.

Commissioner Ron Mortimer seconded the motion. The vote was as follows: Joe Baker, yes; Ron Mortimer, yes; Cyndi Sharkey, no; Jared Clayton, yes; Monica Collard, yes. The vote was four to one in favor.

3. Partial Street Vacation of Wasatch Boulevard (1-Foot Street Vacation) from 1991 E. to 2073 E. [Lone Peak, Community #27] MISC-11-17-5320

The applicant, Rich Welch for Garbett Homes is requesting a partial street vacation of a public street located on the northern section of Wasatch Blvd on the southern property lines of 1991 Wasatch Blvd and 2073 Wasatch Blvd. The partial street vacation is to allow the construction of a masonry wall associated with the Stonecroft Subdivision so that the Home Owners Association (HOA) will maintain the wall.

JANUARY 18, 2018 PLANNING COMMISSION HEARING

This item was scheduled for the January 18, 2018 Planning Commission Meeting, but due to errors in the public noticing, the Planning Commission tabled the item to the February 1, 2018 Planning Commission Meeting.

STAFF RECOMMENDATION

Staff recommends that the Planning Commission forward a positive recommendation to the City Council for the partial street ROW vacation at 1991 and 2073 Wasatch Blvd., based on the following findings and subject to the following conditions of approval:

FINDINGS

1. The partial street vacation action by the City will transfer the ownership of the subject property to the abutting property owner who will use it as part of their development, and therefore good cause for the action exists.
2. That there is neither material injury to either the public interest nor any person by the requested vacation.
3. The Metropolitan Water District easement does not allow for fencing within their easement. Therefore, to balance the public interest of a barrier wall and public improvement of the roadway, it is in the best interest of all parties to allow for this partial vacation.

CONDITIONS

1. That the approval is conditioned upon the City proceeding through the vacation process through action by the City Council.
2. That the recording of the Road Vacation with the County Recorder's Office be done in coordination with the Stonecroft Subdivision plat recording.

Wade Sanner introduced this item to the Planning Commission.

Commissioner Monica Collard opened this item to public comment and there was none.

Commissioner Jared Clayton moved Planning Commission forward a positive recommendation to the City Council for the partial street ROW vacation at 1991 and 2073 Wasatch Blvd., based on the three findings and two conditions outlined in the staff report.

Commissioner Ron Mortimer seconded the motion. The vote was as follows: Jared Clayton, yes; Ron Mortimer, yes; Cyndi Sharkey, yes; Joe Baker, yes; Monica Collard, yes. The vote was unanimous in favor.

4. **Beans and Brew – Restaurant Preliminary Site Plan and Conditional Use for Drive-Up Window 7455 S. Union Park Ave.**
[High Point, Community #6] SPR-11-17-5316 CUP-11-17-5317

Mr. Marlon Hill, owner of Remo Development, LLC, is requesting that the Planning Commission consider preliminary site plan review for a new Beans and Brew Restaurant and for Conditional Use consideration of a Drive-Up Window. The proposal is for a new "pad site" restaurant building being added to the existing site of the former Sweet Tomatoes restaurant located at 7455 South Union Park Avenue, and which is zoned Special Development Harada (SD)(Harada). The new restaurant building plan includes a vehicle drive-up window, which requires a Conditional Use approval. The former Sweet Tomatoes restaurant building has been previously converted into three smaller for lease spaces, which include a real estate office, a future (eat in) restaurant, and a future office.

STAFF RECOMMENDATION

Staff recommends that the Planning Commission: **approve** the preliminary site plan for the new restaurant proposed for the new pad site located at 7455 South Union Park Avenue; **approve** the building architectural designs, building materials and colors as proposed; and **grant** the Conditional Use request to allow the drive-up window for the restaurant, based on the staff report, the **staff findings 1 to 15** in the analysis of the Conditional Use Standards and the **four additional findings listed below and subject to the following six conditions:**

FINDINGS:

Exhibit #4 – Staff Recommendation



DEPARTMENT OF PUBLIC WORKS

Tom Dolan
Mayor


Scott Bond
Chief Administrative Officer

Michael Gladbach, P.E.
Director

RECOMMENDATION FOR VACATION OF CITY RIGHT-OF-WAY

DATE: November 9, 2017

TO: Wade Sanner, Planner

FROM: Ryan C. Kump, P.E., City Engineer 

SUBJECT: **Project Name:** Stonecroft Subdivision
Plan Case Number: SUB-05-17-005261
Project Address: 2020 East 11620 South

Garbett Homes, the developer of the Stonecroft Subdivision, is required to construct a wall along the back of the sidewalk along Wasatch Boulevard, a public right-of-way.

Metropolitan Water District, the grantee of an existing 30-foot-wide easement, that runs across the private property adjacent to the public right-of-way, will not allow the installation of the wall within the easement.

Given the conflict of interest, it is my recommendation that Sandy City vacate a one-foot strip of right-of-way and deed the property to the developer so the wall can be installed on private property. This way the maintenance of the wall will remain the private property owner's responsibility. In discussion with Parks and Recreation, Planning, Public Utilities, and the developer, this is the preferred course of action.

ORDINANCE 18-06

AN ORDINANCE VACATING A PORTION OF WASATCH BOULEVARD (1-FOOT WIDTH) FROM APPROXIMATELY 1991 EAST TO 2073 EAST.

WHEREAS, the Sandy City Council has been granted specific authority to regulate, plan and establish public streets within Sandy city and may amend such regulations and plans or vacate a street according to the provisions of Sections 10-8-8 and 10-9a-607 through 10-9a-609.5, Utah Code Annotated; and

WHEREAS, a proposal to vacate a 1-foot wide portion of Wasatch Boulevard, from approximately 1991 East to 2073 East, was made to allow a masonry wall to be constructed along Wasatch Boulevard, outside of the public right-of-way, and to be owned and maintained by the adjacent property owner; and

WHEREAS, the Planning Commission held a public meeting on February 1, 2018, to consider the vacation, which meeting was preceded by publication of the meeting agenda by posting in Sandy City Hall, the Sandy City Parks & Recreation Building, on the Sandy City Website - <http://www.sandy.utah.gov>, and the Utah Public Notice Website - <http://pmn.utah.gov> at least twenty-four hours prior to the meeting; and

WHEREAS, the Planning Commission determined that good cause exists for vacation and that there is neither material injury to either the public interest nor any person by the requested vacation, and forwarded a positive recommendation to the City Council; and

WHEREAS, a public hearing was held by the Sandy City Council on March 13, 2018, to consider adoption of the proposed vacation, which meeting was preceded by publication in the Salt Lake Tribune, on February 13, 2018, and by posting in Sandy City Hall, the Sandy City Parks & Recreation Building, on the Sandy City Website - <http://www.sandy.utah.gov>, and the Utah Public Notice Website - <http://pmn.utah.gov>, on February 13, 2018; and

WHEREAS, the City Council has determined that good cause exists for vacation of said street and that neither the public interest nor any person will be materially injured by the vacation; and

WHEREAS, vacation of the portion of Wasatch Boulevard from approximately 1991 East to 2073 East, is in the best interest of the health, safety and welfare of the City's residents.

NOW, THEREFORE, BE IT ORDAINED by the City Council of Sandy City, State of Utah, that it is hereby vacating a portion of Wasatch Boulevard from approximately 1991 East to 2073 East, as shown on **Exhibit A** and described in **Exhibit B**, which are attached hereto and by this reference made a part hereof.

Section 1. Effect of Vacation. The vacation herein shall operate as a relinquishment of the City's fee in the vacated portion of street and the ownership of the property shall be vested in the adjacent property owner, Stonecroft Development Corporation. Pursuant to section 10-9a-609.5, Utah Code Annotated, the City Council's vacation of the right-of-way described herein operates to

the extent to which it is vacated as a revocation of the acceptance of and the relinquishment of the City's fee in the vacated street right-of-way and may not be construed to impair any right-of-way or easement of any lot owner, easement holder or the franchise rights of any public utility.

Section 2. Severable. If any part of this ordinance or the application thereof to any person or circumstances shall, for any reason, be adjudged by a court of competent jurisdiction to be unconstitutional or invalid, such judgment shall not affect, impair or invalidate the remainder of this ordinance or the application thereof to other persons and circumstances, but shall be confined in its operation to the section, subdivision, sentence or part of the section and the persons and circumstances directly involved in the controversy in which such judgment shall have been rendered. It is hereby declared to be the intent of the City Council that this section would have been adopted if such invalid section, provisions, subdivision, sentence or part of a section or application had not been included.

Section 3. Effective. This ordinance shall become effective upon publication of a summary thereof.

PASSED AND APPROVED this 13th day of March, 2018.

Linda Martinez Saville, Chairman
Sandy City Council

ATTEST:

City Recorder

PRESENTED to the Mayor of Sandy City for his approval this _____ day of _____, 2018.

APPROVED this _____ day of _____, 2018.

Kurt Bradburn, Mayor

ATTEST:

City Recorder

PUBLISHED this _____ day of _____, 2018.

Exhibit A

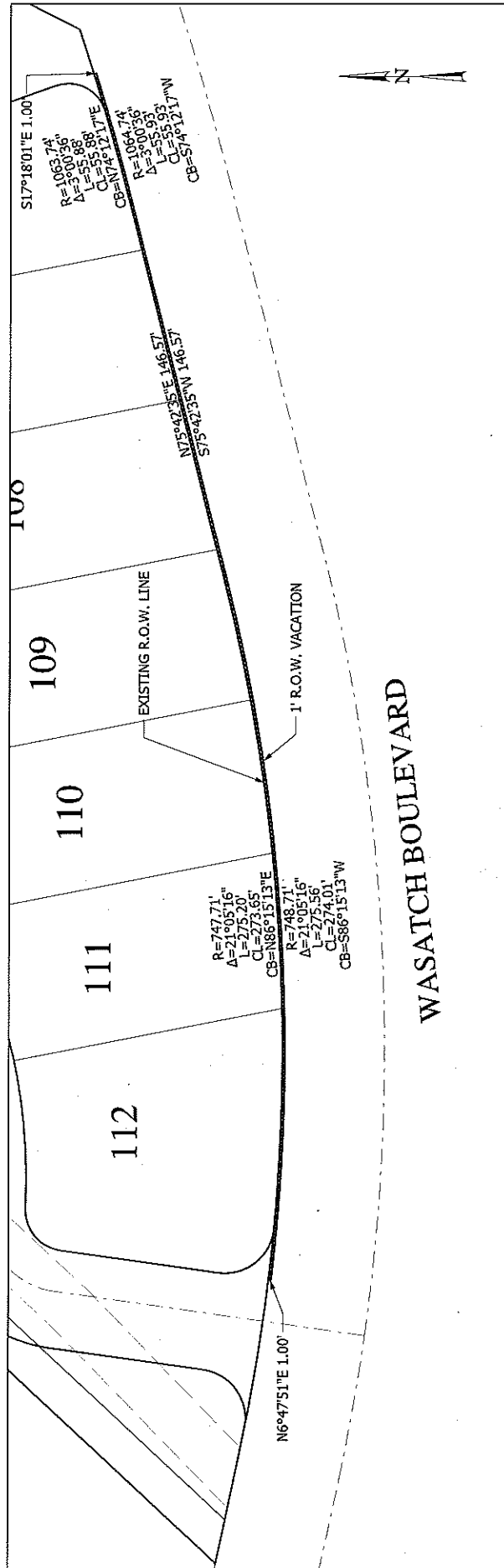


Exhibit B

BOUNDARY DESCRIPTION – WASATCH BOULEVARD 1' R.O.W. VACATION

BEGINNING AT A POINT WHICH LIES ON THE NORTHERLY RIGHT OF WAY LINE OF WASATCH BOULEVARD, SAID POINT LYING NORTH 89°44'23" WEST 2474.59 FEET ALONG THE SECTION LINE AND NORTH 00°13'37" WEST 1037.60 FEET FROM THE SOUTH QUARTER CORNER OF SECTION 22, TOWNSHIP 3 SOUTH, RANGE 1 EAST, SALT LAKE BASE AND MERIDIAN; AND TRAVERSING THENCE ALONG SAID NORTHERLY RIGHT OF WAY LINE THE FOLLOWING TWO (2) COURSES:

- (1) NORTH 75°42'35" EAST 146.57 FEET,
- (2) ALONG AN ARC 55.88 FEET TO THE LEFT, HAVING A RADIUS OF 1063.74 FEET, THE CHORD OF WHICH BEARS NORTH 74°12'17" EAST 55.88 FEET; THENCE

SOUTH 17°18'01" EAST 1.00 FOOT; THENCE ALONG A NON-TANGENT ARC 55.93 FEET TO THE RIGHT, HAVING A RADIUS OF 1064.74 FEET, THE CHORD OF WHICH BEARS SOUTH 74°12'17" WEST 55.93 FEET; THENCE SOUTH 75°42'35" WEST 146.57 FEET; THENCE ALONG AN ARC 275.56 FEET TO THE RIGHT, HAVING A RADIUS OF 748.71 FEET, THE CHORD OF WHICH BEARS SOUTH 86°15'13" WEST 274.01 FEET; THENCE NORTH 06°47'51" EAST 1.00 FOOT TO A POINT WHICH LIES ON SAID NORTHERLY RIGHT OF WAY LINE; THENCE ALONG SAID NORTHERLY RIGHT OF WAY LINE AND A NON-TANGENT ARC 275.20 FEET TO THE LEFT, HAVING A RADIUS OF 747.71 FEET, THE CHORD OF WHICH BEARS NORTH 86°15'13" EAST 273.65 FEET TO THE POINT OF BEGINNING.

CONTAINING 478 SQ. FT.