

GUNNISON CITY, UTAH

LAND USE ORDINANCES AND LAND USE RESOLUTIONS

EFFECTIVE JANUARY 1, 2011

Prepared for Gunnison City by:

PLANNING AND DEVELOPMENT SERVICES, LLC
Salt Lake City, Utah
801-277-4435

**PART I
GUNNISON CITY
ZONING ORDINANCE**

A LAND USE ORDINANCE OF GUNNISON CITY

**ADOPTED BY THE GUNNISON CITY COUNCIL
NOVEMBER 17, 2010
ORDINANCE 2010 – 2**

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CHAPTER 1

TITLE, PURPOSE, DECLARATION OF INTENT AND EFFECTIVE DATE

Section 101—Short Title:

This Ordinance shall be known and may be referred to as the “Gunnison City Zoning Ordinance.” The Gunnison City Zoning Ordinance may, in subsequent chapters and sections, and in the Administrative Manual be referred to as “Ordinance,” “the Ordinance,” “this Ordinance” or “Zoning Ordinance.” This Ordinance may be codified in the Gunnison City Municipal Code.

Section 102—Authority:

The City Council of Gunnison City, Utah (hereinafter “Council) adopts this Ordinance pursuant to the State of Utah Municipal Land Use, Development, and Management Act, as provided at §10-9a *et seq.* Utah Code Annotated, 1953, as amended (U.C.A.) (hereinafter “the Act”) and other authorities and provisions of Utah and Federal statutory and common law, as applicable. This Ordinance constitutes part, and is a component of, the Gunnison City Land Use Ordinances, as provided and authorized by the Act.

Section 103—Declaration:

This Ordinance provides for the establishment of Zoning Districts, with associated requirements, standards, and other provisions for the guidance, management, and regulation of land uses, buildings and structures, and activities occurring within the municipal boundaries of Gunnison City. This ordinance is declared to be consistent with, and to meet the requirements of the Act.

Section 104—Purpose:

This Ordinance is provided to implement the goals and policies of the Gunnison City General Plan (hereinafter “General Plan”) and the other purposes, as provided by the Act. This Ordinance contains standards, provisions and requirements intended to protect the health, safety, and welfare of the citizens and businesses of Gunnison City, to guide and manage future growth and development, and to promote the orderly use of lands located within the City. It is the purpose of this Ordinance to provide a means of ensuring predictability and consistency in the use and development of land located within the City. These purposes are met by:

- 1) Guiding growth and development in an orderly manner.
- 2) Providing for the implementation of the General Plan.
- 3) Preserving the natural beauty and resources, including open space, wildlife habitat, clean air and water.

- 4) Providing opportunities for the establishment of appropriate business activities to meet the needs of residents and others.
- 5) Preventing the overcrowding of land.
- 6) Reducing damage and injury from natural disasters such as fire, flood, geologic and seismic hazards, and other dangers.
- 7) Directing and managing the type, distribution, and intensity of land uses and activity.
- 8) Providing required public services, facilities, and amenities.
- 9) Protecting landowners from potential adverse impacts from adjoining uses, and
- 10) Securing economy and efficiency in the allocation and expenditure of public funds and resources.

Section 105—Provision of Administrative Guidelines, Standards, and Other Materials – Compliance Required:

- 1) The City may provide a Land Use Ordinances Administrative Manual (hereinafter “Administrative Manual”) to provide administrative guidelines, standards, forms, or other documents to assist the City Staff, City residents, and Applicant(s) in providing and processing applications and interpreting and administering the City’s Land Use Ordinances, including this Ordinance.
- 2) When provided by the Council the Land Use Applications required by this Ordinance shall be reviewed and approved or denied by the Land Authority, as applicable, and in compliance with all requirements and standards of this Ordinance and all guidelines, standards, forms, or other documents, as applicable.

Section 106—Applicability:

- 1) Applications accepted by the City as complete for any approval required by the provisions of this Ordinance shall be processed, reviewed and approved or denied, subject to the provisions of this Ordinance and all other Ordinances and Resolutions of the City, as applicable and in effect at the time the application is determined to be “complete,” by the City Recorder, as required by this Ordinance and Resolutions, as applicable.
- 2) No building or structure shall be erected, and no existing building or structure shall be moved, altered or enlarged nor shall any land, building or premises be used, designed or intended to be used for any use, activity, purpose, or in any manner other than as allowed by this Ordinance.

- 3) The provisions of this Ordinance shall apply to all lands located within the municipal boundaries of Gunnison City, unless exempted by the provisions of this Ordinance, or other lawful exemption.
- 4) The provisions of this Ordinance shall be held to be the minimum requirements necessary to protect the health, safety, and welfare of the citizens of Gunnison City, and achieve the purposes of this Ordinance.

Section 107—Conflict:

This Ordinance shall not nullify any laws, ordinances, or requirements that are more restrictive, but shall prevail notwithstanding such laws, ordinances, or requirements that are less restrictive.

Section 108—Permits and Licenses to Conform to this Ordinance:

All officials, employees, and agents with the duty or authority to issue approvals, permits, or licenses required by this Ordinance shall require that such approvals, permits, or licenses conform to the provisions of this Ordinance and shall not issue any approvals, permits, or licenses for any use(s), activity(ies), building(s), or structure(s) in conflict with the provisions of this Ordinance. Any approval, permit, or license issued in violation of this Ordinance shall be invalid and void.

Section 109—Effective Date:

This Ordinance shall take effect on January 1, 2011 following its adoption by the Council.

Section 110—Omissions not a Waiver:

An omission to specify or enumerate in this Ordinance those provisions of general law applicable to all Utah municipalities shall not be construed to be a waiver of any such laws.

Section 111—Repealer and Effect:

Upon its adoption by the Council, and upon its effective date, this Ordinance shall repeal Chapters 10-1, 10-2, 10-3, 10-4, 10-5, 10-10, 10-11, 10-12 and 10-13 of the Gunnison City Development Code, existing on the effective date of this Ordinance and shall govern and apply to the use of all lands located within the municipal boundaries of Gunnison City, Utah. The provisions of this Ordinance shall be construed to carry out the purposes of this Ordinance and the purposes of the State of Utah enabling laws, including the Act, and to avoid conflict with the laws of the United States of America, the State of Utah, or any other limitations imposed by law. If any chapter, section, subsection, provision, sentence or clause of this Ordinance is declared unconstitutional by a court of competent jurisdiction, such determination shall not impair the validity of the remainder of this Ordinance, which shall remain in effect.

**CHAPTER 2
LAND USE AUTHORITIES**

Section 201—Land Use Authorities:

The Land Use Authorities identified by this Ordinance shall have responsibilities for implementing and administering the General Plan, this Ordinance, the Gunnison City Subdivision Ordinance, and the City’s other Land Use Ordinances and Resolutions, as provided and allowed by the Act. The City’s Land Use Authorities, with their respective responsibilities and other organization and functioning items, are identified by the following Sections.

Section 202—Gunnison City Council:

- 1) The Council is both a Land Use Authority and Appeals Authority, as defined by the Act, and shall have the following powers and duties under this Ordinance:
 - a) To adopt, and to initiate amendments to the General Plan, and all elements of the General Plan.
 - b) To adopt, and to initiate amendments to the City’s Land Use Ordinances, including this Ordinance.
 - c) To adopt and to initiate amendments to the City’s Land Use Resolutions, including the Administrative Manual.
 - d) To approve, approve with conditions, or deny all Conditional Use Applications.
 - e) To approve, approve with conditions, or deny all Conditional Use (C) Sign Applications.
 - f) To approve, approve with requirements, or deny all Preliminary Subdivision (Major) Applications and all Final Subdivision (Major) Applications.
 - g) To approve, approve with requirements, or deny all Business License Applications.
 - h) To render a decision, or appoint a hearing officer to render a recommendation to the Council prior to a Council decision, if an Applicant asserts a deprivation of, or has been subject to a taking of property without just compensation, or asserts some other constitutional invalidity, as provided by Chapter 22.
 - i) To establish a Fee Schedule by Resolution for all approvals, permits and licenses required by this Ordinance.

- j) To appoint a Zoning Administrator for the efficient and consistent administration of this Ordinance and to carry out the other duties and responsibilities as provided by this Ordinance.
 - k) To appoint a Land Use Hearing Officer (hereinafter LUHO”) to carry out the duties and responsibilities as provided by this Ordinance.
 - l) To approve all bylaws, policies, and procedures for the conduct of all duties and meetings, for the consideration of applications, and for any other purposes for the efficient functioning of the City’s Land Use Authorities.
 - m) To take such other action(s) not expressly delegated to any other Land Use Authority.
- 2) **Effective Date of Decisions, Exceptions, Meeting Minutes.** All decisions of the Council, made under this Ordinance, shall take effect on the date of the Council meeting when the decision is made, unless a different date is designated by the Council at the time the decision is made. The minutes of all meetings of the Council shall be filed in the office of the City Recorder. All such records shall be the official record of the Council and shall be available for public review and access in accordance with the State of Utah Government Records and Access Management Act (hereinafter “GRAMA”).

Section 203—Gunnison City Planning Commission:

The Gunnison City Planning Commission (hereinafter “Commission”) was heretofore created and established by the Council pursuant to the Act, or its prior enactments. The Commission is a Land Use Authority, as defined by the Act.

- 1) **Powers and Duties.** The Commission shall be an advisory body to the Council on legislative matters pertaining to the General Plan and Land Use Ordinances. The Commission shall have the following powers and duties under this Ordinance:
 - a) To prepare, or cause to be prepared, the proposed General Plan, any proposed plan element, any amendments thereto, and to transmit such plan, element or amendments to the Council, with the Commission’s recommendation.
 - b) To prepare or cause to be prepared all proposed City Land Use Ordinances, including all maps, any amendments thereto, and to transmit such Land Use Ordinances, maps, or amendments thereto to the Council, with the Commission’s recommendation.
 - c) To hear, review and recommend approval or denial of all Applications for a General Plan Amendment and to transmit such recommendation to the Council.

- d) To hear, review and recommend approval or denial of all Applications for a Land Use Ordinance Amendment (including Land Use Ordinance text and/or map amendments) and to transmit such recommendation to the Council.
- e) To hear, review, and approve, approve with revisions, or deny of all Preliminary Subdivision (Minor) Applications and all Final Subdivision (Minor) Applications.
- f) To hear, review, and approve, approve with revisions, or deny of all Business License Applications required for the establishment of a new business in the City
- g) To hear, review, and recommend approval, approval with conditions, or denial of all Conditional Use Applications and to transmit such recommendation to the Council.
- h) To hear, review, and recommend approval, approval with revisions, or denial of all Preliminary Subdivision (Major) Applications and all Final Subdivision (Major) Applications and to transmit such recommendation to the Council.
- i) To approve, approve with revisions, or deny all Permitted P-2 Use Applications.
- j) To approve, approve with revisions, or deny all Permitted P-2 Sign Applications.
- k) To participate in all Concept Subdivision Application reviews.
- l) To adopt bylaws, policies, and procedures for the conduct of the duties and meetings of the Commission, provided that such bylaws, policies, and procedures are approved by the Council before taking effect.
- m) Advise the Council on all other matters as the Council may direct.

2) Membership: Appointment, Removal, Terms, and Vacancies.

- a) The Commission shall consist of five (5) members, and may include two (2) additional alternate members as may be deemed necessary by the Mayor and Council.
- b) The members of the Commission shall be residents of Gunnison City.
- c) The Mayor, with a majority vote of the Council, shall appoint members of the Commission.
- d) The Mayor, with a majority vote of the Council, shall remove any member of the Commission, with or without cause.
- e) Members of the Commission shall serve with compensation, and the Council shall provide for reimbursement to Commission members for approved actual expenses incurred, upon presentation of proper receipts.

- f) Members of the Commission shall serve a term of four (4) years. Terms shall begin on January 1st of each calendar year. Member’s terms are to be staggered so that not more than two (2) member’s terms shall expire each year on December 31st. A Commission member shall not be automatically reappointed.
 - g) At an annual organizational meeting to be held the first regular meeting in the new calendar year, and at other times as required, the members of the Commission shall, by motion and majority vote of the Commission, appoint one (1) of their members as chair and one (1) of their members as vice-chair. The chair and vice-chair shall serve a term of one (1) year. In the absence of the chair, the vice-chair shall act as chair and shall have all powers of the chair.
 - h) The chair, or in the chair's absence, the vice-chair shall be in charge of all proceedings before the Commission, and shall take such actions as necessary to preserve order and the integrity of all proceedings before the Commission.
 - i) Commission vacancies occurring for any reason shall be filled by the Mayor, with a majority vote of the Council. Vacancies of the Commission occurring in ways other than through the expiration of terms shall be filled for the remainder of the member’s unexpired term.
- 3) **Recording Secretary.** The City Recorder, or designee, shall act as the Recording Secretary of the Commission. The Recording Secretary shall keep the minutes of all proceedings of the Commission, which minutes shall be the official record of all proceedings before the Commission, attested to by a majority vote of the members of the Commission. The minutes of all meetings of the Commission shall be filed in the office of the City Recorder. All such records shall be available for public review and access in accordance with GRAMA. The Recording Secretary shall be compensated as approved by the Council.
- 4) **Quorum and Necessary Vote.** No meeting of the Commission shall be called to order, nor may any business be transacted without a quorum consisting of at least three (3) members of the Commission being present. The chair shall be included for purposes of establishing a quorum and shall act as a voting member of the Commission. All decisions and recommendations of the Commission shall require the concurring vote of a minimum of three (3) members of the Commission. The Commission may transmit reports of its decisions and recommendations to the Council. Any member of the Commission may also make a concurring or dissenting report or recommendation to the Council.
- 5) **Effective Date of Decisions.** All decisions of the Commission shall become effective on the date of the meeting when the decision is made, unless a different date is designated by the Commission at the time the decision is made.
- 6) **Meetings, Hearings, and Procedure.**

- a) The Commission shall establish a regular meeting schedule.
- b) Special meetings may be requested by a majority vote of the Commission, or by the chair of the Commission.
- c) When a matter is postponed due to lack of a quorum, the matter shall be rescheduled. The Recording Secretary shall notify all members of the Commission, and all interested parties, of the date when the rescheduled matter will be heard by the Commission.

Section 204—Gunnison City Land Use Hearing Officer:

The Gunnison City Land Use Hearing Officer (hereinafter “LUHO”) is both a Land Use Authority and Appeals Authority, as defined by the Act.

- 1) **Powers and Duties.** The LUHO shall:
 - a) Hear and decide Applications for a Variance from the terms of this Ordinance, with a finding of an unreasonable hardship as required by the Act, and as provided by Chapter 10.
 - b) Hear and decide Applications for a Determination of a Nonconforming Use, Noncomplying Structure, or other Nonconformity, as provided by Chapter 11.
 - c) To act as an Appeal Authority, as provided by Chapter 13.
 - d) Recommend to the Commission and Council amendments to the General Plan and any City Land Use Ordinance, as the LUHO considers necessary.
 - e) To adopt bylaws, policies, and procedures for the conduct of the duties and meetings of the LUHO, provided that such bylaws, policies, and procedures are approved by the Council before taking effect.

2) The LUHO shall have no power or authority to consider any of the following.

- a) To hear and decide a variance or waiver to any of the standards governing the approval of a General Plan Amendment Application, or Land Use Ordinance Amendment Application.
- b) To hear and decide any Applications for a General Plan Amendment.
- c) To hear and decide any Applications for any Land Use Ordinance Amendment.
- d) Make any decisions or determinations that would have the effect of authorizing a use, which is not identified in Appendix A, Table of Uses.

- e) To take any other action, or make any decision, not expressly provided by Section 204(1).

3) Membership: Appointment, Removal, Terms, and Vacancies.

- a) The LUHO shall consist of a single person.
 - b) The Mayor, with a majority vote of the Council, shall appoint the LUHO.
 - c) The Mayor, with a majority vote of the Council, shall remove the LUHO with or without cause.
 - d) The LUHO shall serve with compensation, and the Council shall provide for reimbursement to the LUHO for approved actual expenses incurred, upon presentation of proper receipts.
 - e) The LUHO shall serve a term of four (4) years. The LUHO shall not be automatically reappointed.
- 4) **Recording Secretary.** The City Recorder, or designee, shall act as the Recording Secretary to the LUHO. The Recording Secretary shall keep the minutes of all proceedings of the LUHO, which minutes shall be the official record of all proceedings before the LUHO. The minutes of all meetings of the LUHO shall be filed in the office of the City Recorder. All such records shall be available for public review and access in accordance with GRAMA. The Recording Secretary shall be compensated as approved by the Council.
- 5) **Effective date of Decisions.** All decisions of the LUHO shall become effective on the date of the meeting when the decision is made, unless a different date is designated by the LUHO at the time the decision is made.
- 6) **Meetings, Hearings, and Procedure.**
- a) Regular meetings of the LUHO shall be held as required.

Section 205—Gunnison City Technical Review Committee:

A Technical Review Committee (hereinafter “TRC”) may be established and created by the Mayor, with a majority vote of the Council.

- 1) **Purpose.** The purpose of the TRC is to assure that any proposed use, activity, building, or structure is consistent with the General Plan and complies with all requirements of the City’s Land Use Ordinances, including this Ordinance, all other applicable ordinances and requirements, and the Administrative Manual.

- 2) **Membership.** The TRC shall consist of persons representing various City Departments, and other persons, as may be designated by the Mayor, responsible for reviewing and coordinating Applications for any approval, permit, or license.

- 3) **Powers and Duties.** The TRC shall act under the direction of the Mayor and shall have the following duties and responsibilities:
 - a) Before a Land Use Authority considers any Permitted P-2 Use or Conditional Use Application, the TRC may review the Application to determine compliance of the Application with the General Plan and all applicable Ordinances, including this Ordinance, and the Administrative Manual.

 - b) The TRC may provide a report to the Land Use Authority identifying compliance of any Permitted P-2 Use or Conditional Use Application with the General Plan and all applicable Ordinances, including this Ordinance, and the Administrative Manual, prior to a review and decision by a Land Use Authority.

 - c) The TRC may provide a report to the Land Use Authority, identifying compliance of any Preliminary Subdivision (Major) or (Minor) Applications and any Final Subdivision (Major) or (Minor) Applications.

 - d) The TRC may provide a report to a Land Use Authority for any General Plan matter, including all elements thereof, and all amendments thereto.

 - e) The TRC may provide a report to a Land Use Authority for any Land Use Ordinance matter, including this Ordinance, all provisions and requirements thereof, and all amendments thereto.

 - f) The TRC may provide a report to a Land Use Authority for any Official Map matter, including all provisions and requirements thereof.

 - g) The TRC may provide a report to the LUHO for any Variance Application.

 - h) The TRC may provide a report to a Land Use Authority for an Application for any approval, permit, or license.

 - i) The TRC may present findings for consideration by a Land Use Authority in the review and decision of any Application for any approval, permit, or license.

- 4) **Conduct of Meetings.** The TRC may establish procedures for the conduct of TRC meetings, the scheduling of meetings, field trips, and any other TRC matters, such procedures being approved by the Mayor, with a majority vote of the Council, before taking effect.

Section 206—Gunnison City Zoning Administrator:

The Mayor, with a majority vote of the Council, shall appoint a person to carry out the administrative responsibilities of this Ordinance. The person so designated is referred to herein as the “Zoning Administrator.” The Zoning Administrator is a Land Use Authority, as defined by the Act.

- 1) **Powers and Duties.** It is the responsibility of the Zoning Administrator to ensure all administrative processes, procedures and other provisions of the Land Use Ordinances are consistently and equitably applied. The Zoning Administrator shall have the following powers and duties:
 - a) To make necessary interpretations of this Ordinance, as provided by the Administrative Manual.
 - b) To approve, approve with revisions, or deny Permitted P-1 Use Applications.
 - c) To approve, approve with revisions, or deny Permitted P-1 Sign Applications.
 - d) To participate in all Concept Subdivision Application reviews.
 - e) To perform and carry out all other duties, as identified by the Administrative Manual.

Section 207—Gunnison City Recorder:

- 1) **Powers and Duties.** The City Recorder shall have the following powers and duties:
 - a) To determine completeness of all Land Use Applications, as required by Chapter 15, Administrative Manual.
 - b) To review and approve or deny all Business License Renewal Applications for the renewal of an existing permanent business and determined to be in good standing and complying with all requirements, as applicable.
 - c) To review and approve or deny all Application for a Temporary Business License.
 - d) To act as the Recording Secretary for all Land Use Authorities and Appeal Authorities, as identified herein.
 - e) To perform and carry out all other duties, as identified by this Ordinance and the Administrative Manual.

Section 208—Support:

The officers and staff of the City shall provide support and assistance to the Council, Commission, LUHO, TRC, and Zoning Administrator, as required to effectively implement the General Plan and Land Use Ordinances.

Section 209—Meetings and Public Hearings:

All meetings and hearings of the Council, Commission, and LUHO required by the Land Use Ordinances, including this Ordinance, shall comply with the provisions for such meetings and hearings, and the requirements of the Utah Code Annotated, as amended, for open and public meetings.

Section 210—Exactions:

A Land Use Authority may impose an exaction, or exactions, on a Land Use Application if:

- 1) An essential link exists between a legitimate governmental interest and each exaction; and
- 2) Each exaction is roughly proportionate, both in nature and in extent, to the impact being created by the proposed use, activity, or development.

Section 211—Acquisition of a Billboard by Eminent Domain – Removal without providing Compensation – Limit on allowing Nonconforming Billboards to be Rebuilt:

The City shall comply with all requirements of the Act when a billboard is acquired by the City by eminent domain, or when the City requires the removal of a billboard without compensation, or when a billboard is determined to be a nonconforming use or noncomplying structure.

Section 212—Acquiring Property:

- 1) The City may acquire property through purchase, gift, voluntary dedication, or eminent domain.
- 2) A Land Use Authority may require the public dedication and improvement of a road, street, or other infrastructure or facility if the road, street, or other infrastructure or facility is found necessary by the City because of a proposed use activity, or development.

CHAPTER 3

LAND USE APPLICATIONS—DECISION MAKING STANDARDS

Section 301—Various Applications Provided:

- 1) This Ordinance and the Administrative Manual provides for a number of Land Use Applications.
- 2) The Land Use Applications required by this Ordinance and the Administrative Manual shall be reviewed and approved or denied by the Land Authority, as applicable, and in compliance with all requirements and standards of this Ordinance and the Administrative Manual, as applicable.

Section 302—Decision Making Standards:

The decision-making standards set forth in this Chapter are provided, based on the distinction between legislative and administrative proceedings. Legislative proceedings establish public law and policy that is applicable generally, while administrative proceedings apply public law and policy to factually distinct, individual circumstances.

1) Legislative Proceedings.

The Council is hereby identified to be the only Land Use Authority of the City authorized to render a decision on any application determined to be a legislative matter and subject to a legislative proceeding. The following applications and actions are declared to be legislative matters and subject to legislative proceedings:

- a) General Plan adoption.
- b) General Plan Amendment Application.
- c) Land Use Ordinance adoption.
- d) Land Use Ordinance Amendment Application.
- e) Zoning Districts Map Amendment Application (Rezoning).
- f) Official Map Amendment Application.
- g) Temporary Land Use Regulations.

2) Legislative Proceedings - Decision Standards.

A decision regarding a legislative matter shall be based on the "reasonably debatable" standard, as follows:

- a) In rendering a decision for a legislative matter, involving a legislative proceeding, the Council may consider the following to promote the public health, safety, the public interest of the City and its residents:
 - i) Reports, information and testimony presented at the public hearing(s) or public meeting(s) when the legislative matter was considered; and

ii) The personal knowledge of Council members regarding the various conditions and activities bearing on the issue.

iii) The Council shall identify the basis, and any findings of fact for the decision, in the public record of the meeting when the legislative matter is decided.

3) Administrative Proceedings.

The following types of applications are hereby declared to be administrative matters and subject to administrative proceedings:

- a) Permitted P-1 Use Application.
- b) Permitted P-1 Sign Application.
- c) Permitted P-2 Use Application.
- d) Permitted P-2 Sign Application.
- e) Conditional Use Application.
- f) Conditional Sign Application.
- g) All Subdivision Applications.
- h) Applications for a Determination of Nonconforming Use(s), Noncomplying Structure(s), and other Nonconformities.
- i) Variance Application.
- j) Determination of Application Completeness.
- k) All other applications for any necessary approval, permit, or license required by the provisions of this Ordinance, and not identified to be a legislative matter, subject to legislative proceedings, as identified by this Chapter.

4) Administrative Proceedings - Decision Standards.

All decisions regarding an administrative matter shall be based on the "substantial evidence" standard including, as a minimum the following:

- a) A statement of the standards for approval applicable to the application.
- b) A summary of the facts and evidence presented to the Land Use Authority at the public hearing(s) or public meeting(s) when the administrative matter was considered
- c) A statement of findings of fact or other factors considered, including the specific references to applicable standards, as set forth in the Land Use Ordinances, or other provisions; and
- d) A statement of approval, approval with revisions or conditions, or disapproval, as applicable.

CHAPTER 4
LAND USE APPLICATIONS – PROCEDURES

Section 401—Purpose:

Land Use Applications, and their accompanying procedures, are formulated to achieve the purposes of this Ordinance.

Section 402—Application Forms:

The Council may provide application forms and may identify submittal requirements and processing procedures for the acceptance and filing of all Land Use Applications. Such requirements and procedures shall be contained in the Administrative Manual.

Section 403—Land Use Application Procedures:

The steps in the review and consideration of the various Land Use Applications, authorized by this Ordinance may be provided with the applicable application form. Such Applications may be contained in the Administrative Manual.

Section 404—Determination of Completeness of Land Use Applications:

All Land Use Applications required by this Ordinance shall be determined to be complete, by the City Recorder, as required by the Administrative Manual, and prior to consideration by a Land Use Authority.

Section 405—Scope of Land Use Application Approvals:

- 1) The rights conferred by a Land Use Application approval by the Land Use Authority shall be limited to those rights granted in the applicable provisions of this Ordinance and subject to any requirements or conditions.
- 2) A Land Use Application approval shall be considered void and invalid one hundred and eighty (180) calendar days after approval by the Land Use Authority, unless the Applicant has proceeded with reasonable diligence to establish the approved use or activity, or construction has commenced.
- 3) A Land Use Application approval shall be invalid and null and void if a use is not conducted, or a building or structure is established in violation of any requirements of all Land Use Ordinances, requirements or conditions of approval.

Section 406—Land Use Authorities to Comply with all Land Use Ordinances and Resolutions:

Each Land Use Authority shall comply with all requirements of all Land Use Ordinances, as applicable, including this Ordinance, and shall comply with all Resolutions, including the Administrative Manual, as applicable.

Section 407—Land Use Permits Required to comply with Land Use Authority Decision:

The approval of a Land Use Application, and the associated Land Use Permit, shall comply with all requirements, conditions, terms and standards of the approval.

Section 408—When an Applicant is Entitled to Approval of an Application – Exceptions – City May Not Impose Unexpressed Requirements – City Required to Comply with the Requirements of this Ordinance:

An Applicant is entitled to the approval of an Application, required by this Ordinance, if such Application conforms to the requirements of this Ordinance, and the City’s other Land Use Ordinances and Resolutions, including the Administrative Manual, as applicable, and in effect when the Application is determined to be complete by the City Recorder unless:

- 1) The Land Use Authority, on the record, finds a compelling, countervailing public interest would be jeopardized by approving the Application; or
- 2) In the manner provided by this Ordinance, and before the Application is submitted or determined to be complete, the City has formally initiated proceedings to amend its Land Use Ordinances in a manner that would prohibit approval of the Application, as submitted.
- 3) The City shall process an Application without regard to proceedings initiated to amend the City’s Land Use Ordinances if:
 - a) One-hundred and eighty (180) calendar days have passed since the proceedings were initiated; and
 - b) The proceedings have not resulted in an enactment that prohibits approval of the Application, as submitted.
- 4) If the Land Use Application conforms fully to the requirements of this Ordinance, the City’s other Land Use Ordinances, all Resolutions including the Administrative Manual, the Land Use Application shall be approved.
- 5) The City shall not impose on an Applicant, or any holder of any approval required by this Ordinance, any requirement that is not expressed:

- a) In the approval required by this Ordinance, or in documents on which such approval is based; or
 - b) In this Ordinance, or in the City’s other Land Use Ordinances and Resolutions.
- 6) The City shall not withhold the issuance of a Certificate of Occupancy because of an Applicant's failure to comply with a requirement that is not expressed:
- a) In the Building Permit, or in documents on which the Building Permit is based.
 - b) In the approval required by this Ordinance, or in documents on which such approval is based; or
 - c) In this Ordinance, or the City’s other Land Use Ordinances and Resolutions, including the Subdivision Ordinance and Administrative Manual.
- 7) The City shall be bound by the terms and standards of this Ordinance, and the City’s other Land Use Ordinances and Resolutions, including the Administrative Manual, as applicable, and shall comply with all mandatory requirements and provisions of such Ordinances and Resolutions.
- 8) The City shall process and render a decision on each Application required by this Ordinance with reasonable diligence.

Section 409—Vesting of Zoning Rights:

On the date of a determination of a complete application by the City Recorder, an Application for any Land Use Application, as may be required by this Ordinance, shall vest pursuant to the terms of this Ordinance in effect, unless such vesting is affected by a pending amendment to this Ordinance, or a temporary zoning regulation.

Section 410—Procedural Irregularities:

- 1) Validity of Action. Notwithstanding any provision of this Ordinance which sets forth a procedure for any matter, no action, inaction or recommendation regarding the matter which is the subject of the procedure shall be void or invalid or set aside by a court due to any error (including, but not limited to, any irregularity, informality, neglect or omission) which pertains to an application, notice, finding, record, hearing, report, recommendation or any other procedural matter whatsoever unless:
- a) The procedure is required by State or Federal law; and
 - b) In an examination of the circumstances, including the record, the court is of the opinion that the procedural error complained of was prejudicial to a substantial right of the complainant as shown by the following:

- i) Had the error not occurred the decision made pursuant to the procedure would have been different, and
 - ii) Because of the error, the complainant suffered an injury for which relief must be given.
- 2) Presumption of Validity. The court shall presume that action taken pursuant to a procedure was done in good faith and shall not presume that an error is prejudicial or that an injury occurred. The complainant shall have the burden of proof to show that an error is prejudicial or that an injury occurred.

CHAPTER 5

APPLICATIONS TO AMEND THE GUNNISON CITY GENERAL PLAN

Section 501—Purpose:

This Chapter and the Administrative Manual provides the standards and procedures for the review of Applications to amend the General Plan.

The General Plan, with accompanying Maps, is considered an advisory policy document for the purposes of land use decision-making.

Section 502—Council the Land Use Authority for General Plan Amendment Applications:

The Council is authorized as the Land Use Authority responsible to approve, approve with revisions, or deny all General Plan Amendment Applications.

Section 503— Procedures and Review Standards for General Plan Amendment Applications:

- 1) The procedures for the review of a General Plan Amendment Application are identified by Chapter 9 and Chapter 15, Administrative Manual.
- 2) In considering a General Plan Amendment Application, the Commission in formulating a recommendation, and the Council in deciding a General Plan Amendment Application shall consider the following factors, among others:
 - a) The effect of the proposed amendment on the overall well-being of the City.
 - b) The effect of the proposed amendment on the public health, welfare, and safety.
 - c) The effect of the proposed amendment on the interests of the City, and its residents.
 - d) The ability of the City, and other service providers, as applicable, to provide all infrastructure, facilities, and services required by the proposed uses and activities allowed by the proposed amendment.
 - e) Compatibility of the proposed uses with nearby and adjoining properties.
 - f) The suitability of the properties for the uses and activities proposed.
 - g) The effect of the proposed amendment on the existing goals, objectives, and policies of the General Plan, and listing any revisions to the City’s Land Use Ordinances, and any other Ordinances required to implement the amendment.

Section 504—Findings Required for Approval of a General Plan Amendment Application:

The Commission in making a recommendation, and the Council in deciding a General Plan Amendment Application, shall find that all the procedural requirements and review standards of Section 503 have been met.

Section 505—Effect of Approval of a General Plan Amendment Application:

The approval of a General Plan Amendment Application shall not authorize the development of land. After the Council has approved a General Plan Amendment Application by Ordinance, no development shall occur until the required Land Use Application have been issued by a Land Use Authority, as applicable, consistent with the requirements of the City’s Land Use Ordinances, and other Ordinances, as applicable.

Section 506—Appeals:

Any person aggrieved by a decision of the Council for any General Plan Amendment Application may appeal the decision to the Appeal Authority as identified by Chapter 13.

CHAPTER 6
APPLICATIONS TO AMEND THE GUNNISON CITY LAND USE
ORDINANCES

Section 601—Purpose:

This Chapter and the Administrative Manual provides the standards and procedures for the review of Applications to amend the City’s Land Use Ordinances, including Applications to amend this Ordinance, including a Rezone (Zoning Districts Map amendment) or Official Map Amendment.

All Gunnison City Land Use Ordinances, including this Ordinance, with the accompanying Zoning Districts Map, is considered the City’s land use laws for the purposes of land use decision-making.

Section 602—Council the Land Use Authority for Land Use Ordinance Amendment Applications:

The Council is authorized as the Land Use Authority responsible to approve, approve with revisions, or deny all Land Use Ordinance Amendment Applications.

Section 603—Procedures and Review Standards for Land Use Ordinance Amendment Applications:

- 1) The procedures for the review of a Land Use Ordinance Amendment Application are identified by Chapter 10 and Chapter 15, Administrative Manual.
- 2) In considering a Land Use Ordinance Amendment Application, the Commission in formulating a recommendation, and the Council in deciding a Land Use Ordinance Amendment Application shall consider the following factors, among others:
 - a) The effect of the proposed amendment on the overall well-being of the City.
 - b) The effect of the proposed amendment on the public health, welfare, and safety.
 - c) The effect of the proposed amendment on the interests of the City, and its residents.
 - d) The ability of the City, and other service providers, as applicable, to provide all infrastructure, facilities, and services required by the proposed uses and activities allowed by the proposed amendment.
 - e) Compatibility of the proposed uses, if applicable, with nearby and adjoining properties.
 - f) The suitability of the properties for the uses and activities proposed.

- g) The effect of the proposed amendment on the existing goals, objectives, and policies of the General Plan, and listing any other revisions to the City’s Land Use Ordinances, and any other Ordinances required to implement the amendment.

Section 604—Findings Required for Approval of a Land Use Ordinance Amendment Application:

The Commission in making a recommendation, and the Council in deciding a Land Use Amendment Application, shall find that all the procedural requirements and review standards of Section 603 have been met.

Section 605—Effect of Approval of a Land Use Ordinance Amendment Application:

The approval of a Land Use Ordinance Amendment Application shall not authorize the development of land. After the Council has approved a Land Use Ordinance Amendment Application, by Ordinance, no development shall occur until the required Land Use Application approvals have been issued by a Land Use Authority, as applicable, consistent with the requirements of the City’s Land Use Ordinances, and other Ordinances, as amended and as applicable.

Section 606—Appeals:

Any person aggrieved by a decision of the Council for any Land Use Ordinance Amendment Application may appeal the decision to the Appeal Authority as identified by Chapter 13.

Section 607—Temporary Land Use Regulations:

As provided by the Act the Council may, without receiving a Commission recommendation and without holding a public hearing, adopt a temporary land use regulation for a part or all of the area within the City if the Council makes a finding of a compelling, countervailing public interest, or the area is unregulated.

Section 608—Effect of a Pending a Land Use Ordinance, Official Map Amendment, or Temporary Land Use Regulation:

- 1) An Applicant is entitled to action on a Land Use Application by the Land Use Authority, as applicable, if the application conforms to the requirements all Land Use Ordinances, in effect on the date the City Recorder determines the application complete and all fees have been paid unless:
 - a) The Land Use Authority, on the record, finds a compelling, countervailing public interest would be jeopardized by approving the application; or
 - b) In the manner provided by this Chapter, and before the Land Use Application is filed, the City has formally initiated proceedings to amend a Land Use Ordinance,

- including this Ordinance, or Official Map in a manner that would prohibit or otherwise effect the approval of the application, as submitted; or
- c) The Council, as provided by Section 607, has adopted a temporary land use regulation affecting the application.
- 2) An application for any Land Use Application approval affected by a pending Land Use Ordinance Amendment, Official Map Amendment, or Temporary Land Use Regulation shall be subject to the following:
 - a) The application shall not be acted upon until one hundred eighty (180) days from the date when the pending Land Use Ordinance Amendment, Official Map Amendment, or Temporary Land Use Regulation was first noticed on a Commission or Council agenda, unless:
 - i) The Applicant voluntarily agrees to amend the Land Use Application to conform to the requirements of the pending amendment or temporary land use regulation; or
 - ii) One hundred eighty (180) calendar days have passed since the amendment proceedings were initiated or the adoption of the temporary land use regulation; or
 - iii) A decision concerning the proposed amendment is made sooner than one hundred eighty (180) calendar days since the amendment proceedings were initiated.
 - 2) Upon a decision on a Land Use Ordinance Amendment or Official Map Amendment Application by the Council, all decisions for any approval, permit or license filed during the period the Land Use Ordinance Amendment or Official Map Amendment is pending, or thereafter, shall conform to the requirements of the Land Use Ordinance or Official Map, as amended.
 - 3) A Land Use Authority shall process an application without regard to proceedings initiated to amend a Land Use Ordinance or Official Map if:
 - a) One hundred eighty (180) calendar days have passed since the proceedings were initiated; and
 - b) The proceedings have not resulted in an enactment that would prohibit action on the application, as submitted; or
 - c) One hundred eighty (180) calendar days have passed since the adoption of the temporary land use regulation.
 - 4) An application shall be deemed “filed” when the application is determined complete by the City Recorder.

- 5) When a proposed Land Use Ordinance Amendment or Official Map Amendment Application is pending, an application for any Land Use Application approval, permit, or license, as required by the Land Use Ordinances of the City, which may be affected by the proposed amendment, shall not be entitled to rely on the existing Land Use Ordinances or Official Map, which may be amended.

**CHAPTER 7
PERMITTED USE APPLICATIONS**

Section 701—Purpose:

This Chapter and the Administrative Manual identifies and provides the standards and procedures for the review of all Permitted Use and Permitted Sign Applications and required to determine compliance with this Ordinance.

Section 702—Zoning Administrator and Commission the Land Use Authorities for Permitted Use and Permitted Sign Applications:

- 1) The Zoning Administrator or City Recorder, as applicable, is authorized as the Land Use Authority responsible to approve, approve with revisions, or deny all Permitted P-1 Use Applications and all P-1 Sign Applications..
- 2) The Commission is authorized as the Land Use Authority responsible to approve, approved with revisions, or deny all Permitted P-2 Use Applications and all P-2 Sign Applications.

Section 703— Procedures and Review Standards for Permitted P-1Use, Permitted P-1 Sign, Permitted P-2 Use, and Permitted P-2 Sign Applications:

- 1) The procedures for the review of a Permitted P-1 Use Application, and a Permitted P-1 Sign Application, are identified by Chapter 4, Administrative Manual and Chapter 15, Administrative Manual.
- 2) The procedures for the review of a Permitted P-2 Use Application, and a Permitted P-2 Sign Application, are identified by Chapter 4, Administrative Manual and Chapter 15, Administrative Manual.
- 3) The Zoning Administrator or City Recorder, as applicable, for Permitted P-1 Use Applications and Permitted P-1 Sign Applications, and the Commission for Permitted P-2 Use Applications and Permitted P-2 Sign Applications, shall review the Application and shall determine:
 - a) The proposed use is a Permitted P-1 Use or a Permitted P-2 Use within the Zoning District as identified in Appendix A, Table of Uses.
 - b) The proposed sign is a Permitted P-1 Sign or a Permitted P-2 Sign within the Zoning District, as identified by Chapter 19.
 - c) The proposed use or sign complies with all requirements of the Zoning District, including the minimum area, setbacks, height, and all other requirements as applicable.

- d) The proposed use will be conducted in compliance with the requirements of this Ordinance, all other applicable Land Use Ordinances, and all applicable Federal, State, or Local requirements and regulations.
- e) The property on which the use is proposed is of adequate size to permit the conduct of the use in a manner that will not be detrimental to adjoining and surrounding properties.
- f) The proposed use and site plan or sign complies with all site plan and building requirements, as provided and required by this Ordinance and this Chapter.
- g) The proposed use and site plan complies with all applicable dedication requirements of the City and provides the necessary infrastructure, as required.

Section 704—Findings Required for Approval of Permitted P-1 Use, P-1 Sign, P-2 Use, and P-2 Sign Applications:

In deciding a Permitted Use or Permitted Sign Application the Zoning Administrator or City Recorder, as applicable, for Permitted P-1 Use and Permitted P-1 Sign Applications, and the Commission for Permitted P-2 Use and Permitted P-2 Sign Applications shall find that the procedural requirements and review standards of Section 703 have been met.

Section 705—Decision for a Permitted Use Application:

- 1) If the Permitted Use or Sign Application complies with all the requirements of this Ordinance, the Building Codes, and all other applicable Land Use Ordinances, as adopted, the Zoning Administrator or City Recorder for Permitted P-1 Use or Permitted P-1 Sign Applications, and the Commission for Permitted P-2 Use or Permitted P-2 Sign Applications shall approve the Application, with or without revisions and requirements determined necessary for compliance to the requirements of this Ordinance. The City Recorder shall notify the Applicant of the decision, as required by Section 1207.
- 2) If the Permitted Use or Sign Application does not comply with the requirements of this Ordinance, the Building Codes, or any other applicable Land Use Ordinance, as adopted, the Zoning Administrator or City Recorder for Permitted P-1 Use or Permitted P-1 Sign Applications and the Commission for Permitted P-2 Use or Permitted P-2 Sign Applications shall not approve the Application, and no building permit shall be issued. The City Recorder shall notify the Applicant of the decision, as required by Section 1207.

Section 706—Effect of Approval:

- 1) Approval of a Permitted P-1 Use or Permitted P-1 Sign Application by the Zoning Administrator or City Recorder, shall authorize the establishment of the approved use or sign, subject to any revisions and requirements determined necessary to comply with all Land Use Ordinances of the City. Only when the Permitted P-1 Use or Permitted P-1 Sign Application has been approved by the Zoning Administrator or City Recorder, as applicable, and a Building Permit issued, as required, may any building, activity, construction, or occupancy be commenced. Approval of a Permitted P-1 Use Application or a Permitted P-2 Sign Application shall not be deemed an approval of any other Land Use Application, permit, or license.

- 2) Approval of a Permitted P-2 Use or Permitted P-2 Sign Application by the Commission shall authorize the establishment of the approved use or sign, subject to any revisions and requirements determined necessary to comply with all Land Use Ordinances of the City. Only when the Permitted P-2 Use or Permitted P-2 Application has been approved by the Commission and a Building Permit issued, as required, may any building, activity, construction, or occupancy be commenced. Approval of a Permitted P-2 Use Application or a Permitted P-2 Sign Application shall not be deemed an approval of any other Land Use Application, permit, or license.

Section 707—Appeals:

- 1) Any person aggrieved by a decision of the Zoning Administrator or City Recorder for any Permitted P-1 Use Application or Permitted P-1 Sign Application may appeal the decision to the Appeal Authority as identified by Chapter 13.

- 2) Any person aggrieved by a decision of the Commission for any Permitted P-2 Use Application or Permitted p-2 Sign Application may appeal the decision to the Appeal Authority as identified by Chapter 13.

**CHAPTER 8
CONDITIONAL USE APPLICATIONS**

Section 801—Purpose:

This Chapter and the Administrative Manual provides the standards and procedures for the review of all Conditional Use and Conditional Sign Applications and required to determine compliance with this Ordinance.

Section 802—Council the Land Use Authority for Conditional Use and Conditional Sign Applications:

The Council, following the receipt of a Commission recommendation, is authorized as the Land Use Authority responsible to approve, approve with revisions and conditions, or deny all Conditional Use Applications and Conditional Sign Applications.

Section 803— Procedures and Review Standards for Conditional Use and Conditional Sign Applications:

- 1) The procedures for the review of a Conditional Use Application are identified by Chapter 5 and Chapter 15, Administrative Manual.
- 2) The procedures for the review of a Conditional Sign Application are identified by Chapter 5 and Chapter 15, Administrative Manual.
- 3) In considering a Conditional Use Application, or a Conditional Sign Application. the Commission in formulating a recommendation, and the Council in deciding a Conditional Use or Sign Application shall review the Application and shall determine:
 - a) The proposed use is a Conditional Use within the Zoning District as identified in Appendix A, Table of Uses.
 - b) The proposed sign is a Conditional Use within the Zoning District as identified in Chapter 19.
 - c) The proposed use or sign complies with all requirements of the Zoning District, including the minimum area, setbacks, height, and all other requirements as applicable.
 - d) The proposed use will be conducted in compliance with the requirements of this Ordinance, all other applicable Land Use Ordinances, and all applicable Federal, State, or Local requirements and regulations.
 - e) The property on which the use is proposed is of adequate size to permit the conduct of the use in a manner that will not be detrimental to adjoining and surrounding properties.

- f) The proposed use and site plan or sign complies with all site plan and building requirements, as provided and required by this Ordinance and this Chapter.
- g) The proposed use and site plan complies with all applicable dedication requirements of the City and provides the necessary infrastructure, as required.
- h) The proposed use or sign at the proposed location is necessary or desirable to provide a service or facility which will contribute to the general well-being of the City.

Section 804—Findings Required for Approval of Conditional Use and Conditional Sign Applications:

The Commission in making a recommendation, and the Council in deciding a Conditional Use or Conditional Application, shall find that the procedural requirements and review standards of Section 803 have been met.

Section 805—Reasonable Conditions Authorized for Approval for a Conditional Use or Conditional Sign:

The Council may impose, and the Commission may recommend, such reasonable conditions with respect to location, construction, maintenance, operation, site planning, traffic control, hours of operation, and other items for the approval of a Conditional Use Application or Conditional Sign Application deemed necessary by the Council to mitigate possible detrimental effects of the proposed use or sign, to secure the purposes of this Ordinance, and to protect adjacent properties and the public interest. Reasonable conditions may include;

- 1) Size, configuration, and site plan design and layout.
- 2) Site ingress and egress locations.
- 3) The provision of adequate public facilities and amenities, including roads and streets, water, sewer, storm drainage, public safety and fire protection, and other utilities.
- 4) The location and amount of off-street parking and loading areas.
- 5) Site circulation patterns for vehicular and pedestrian traffic.
- 6) Building(s) size and location(s), building design and exterior building features, building materials, and building colors.
- 7) The location and design of all site features, including the location of proposed building(s), signage, lighting, and refuse collection.

- 8) The provision of open space, public features, and recreational amenities.
- 9) Fencing, screening, buffering, and landscape treatments and other features designed to increase the attractiveness of the site and protect adjoining property owners from adverse impacts.
- 10) Measures designed to minimize or eliminate potential nuisance factors including, but not limited to noise, vibrations, smoke, dust, dirt, odors, gases, noxious matter, heat, glare, electromagnetic disturbances, and radiation.
- 11) Measures designed to protect the natural features of the site, including, but not limited to, wetlands, drainage ways, ground water protection, and slopes.
- 12) The regulation of operating hours.
- 13) Identifying a time for regular review and monitoring to ensure the use continues to operate in compliance with all conditions and requirements of approval.
- 14) Such other conditions determined reasonable and necessary by the Council to allow the operation of the use or sign, at the proposed location, in compliance with the requirements of this Ordinance, all other Land Use Ordinances, and all Federal, State, or Local regulations, as applicable.

Section 806—Decision for a Conditional Use Application or Conditional Sign Application:

- 1) If the Conditional Use or Conditional Sign Application complies with all the requirements of this Ordinance, the Building Codes, as adopted, and all other applicable Land Use Ordinances, as adopted, the Council shall approve the Application, with or without revisions, requirements, and conditions determined necessary for compliance to the requirements of this Ordinance. The City Recorder shall notify the Applicant of the decision, as required by Section 1207.
- 2) If the Conditional Use or Conditional Sign Application does not comply with the requirements of this Ordinance, Building Codes, and all other applicable Land Use Ordinances, as adopted, the Council shall not approve the Conditional Use Application, and no building permit shall be issued. The City Recorder shall notify the Applicant of the decision, as required by Section 1207.

Section 807—Effect of Approval:

Approval of a Conditional Use or Conditional Sign Application by the Council shall authorize the establishment of the approved use or sign, subject to any revisions, requirements, and conditions determined necessary to comply with all Land Use Ordinances of the City. Only when the Conditional Use or Conditional Sign Application has been approved by the Council, and a Building Permit issued, as required, may any building, activity, construction, or occupancy be commenced. Approval of a Conditional Use or Conditional Sign Application shall not be deemed an approval of any other Land Use Application, permit, or license.

Section 808—Appeals:

Any person aggrieved by a decision of the Council for any Conditional Use or Conditional Sign Application may appeal the decision to the Appeal Authority as identified by Chapter 13.

**CHAPTER 9
RESERVED**

**CHAPTER 10
VARIANCE APPLICATIONS**

Section 1001—Purpose:

This Chapter and the Administrative Manual provides the standards and procedures for the review of all Variance Applications and required to determine compliance with this Ordinance.

Section 1002—Land Use Hearing Officer the Appeals Authority for Variance Applications:

The LUHO is authorized as the Appeals Authority responsible to approve, approve with revisions, or deny all Variance Applications.

Section 1003— Procedures and Review Standards for Variance Applications

- 1) The procedures for the review of a Variance Application are identified by Chapter 11 and Chapter 15, Administrative Manual.
- 2) The LUHO shall review the Application and shall determine:
 - a) Literal enforcement of the provisions of this Ordinance would cause an unreasonable hardship for the Applicant with the Applicant providing sufficient evidence demonstrating that the hardship is located on, or associated with the subject property, for which the variance is sought, and is peculiar to the property rather than conditions generally existing on other properties located in the same Zoning District or immediate area.
 - b) The identified hardship is not self-imposed.
 - c) The identified hardship is not economic in nature.
 - d) There exist special circumstances peculiar to the property that do not apply to other properties in the same Zoning District. The LUHO may find an unreasonable hardship exists only if the alleged hardship is located on, or associated with, the property for which the Variance is sought and comes from circumstances peculiar to the property, not from conditions that are general to the neighborhood.
 - e) The Variance is essential to the enjoyment of a substantial property right possessed by other property in the same Zoning District. The LUHO may find that special circumstances are attached to the property exist only if the special circumstances relate to the hardship complained of and deprive the property of privileges granted to other properties in the same Zoning District.

- f) The approval of the Variance Application will not be contrary to the public interest.
- g) The approval of the Variance Application will not have the effect of nullifying in any way the intent and purpose of this Ordinance, or the City’s other Land Use Ordinances.

Section 1004—Findings Required for Approval of Variance Applications:

In deciding a Variance Application the LUHO shall find that all the procedural requirements and review standards of Section 1003 have been met.

Section 1005—Decision for a Variance Application:

- 1) If the Variance Application complies with all the requirements of Section 1003 the LUHO shall approve the Application, with or without revisions and requirements determined necessary for compliance to the requirements of this Ordinance. The City Recorder shall notify the Applicant of the decision, as required by Section 1207.
- 2) If the Variance Application does not comply with all the requirements of Section 1003 the LUHO shall not approve the Application. The City Recorder shall notify the Applicant of the decision, as required by Section 1207.

Section 1006—Variance Requirements:

In approving a Variance Application, the LUHO may require such revisions and requirements that in the judgment of the LUHO are necessary to mitigate any negative effects of approving the Variance Application and to secure the purposes of this Ordinance.

Section 1007—Use Variance Prohibited:

The LUHO may not authorize the establishment of a use in the Zoning District that is not identified in Appendix A, Table of Uses.

Section 1008—Effect of Approval:

The approval of a Variance Application shall not authorize the establishment or extension of any use, or the development, construction, reconstruction, alteration or moving of any building or structure, but is a prerequisite to the preparation, filing, review, and determination of any Land Use Application approval that may be required by this Ordinance.

Section 1009—Appeals:

Any person aggrieved by a decision of the LUHO for any Variance Application may appeal the decision to the Appeal Authority as identified by Chapter 13.

CHAPTER 11

**NONCONFORMING USES, NONCOMPLYING STRUCTURES, AND OTHER
NONCONFORMITIES**

Section 1101 – Purpose:

This Chapter and the Administrative Guidelines provides the standards and procedures for determining the existence, expansion, or modification of a legal nonconforming use, a legal noncomplying structure, or other legal nonconformity, including noncomplying lots and signs.

Section 1102—Land Use Hearing Officer the Land Use Authority for Determinations of Legal Nonconforming Use, Legal Noncomplying Structure, or other Legal Nonconformity Applications:

The LUHO is authorized as the Land Use Authority with the responsibility to determine the existence of any legal nonconforming use, a legal noncomplying structure, or other legal nonconformity.

Section 1103— Procedures and Review Standards for Determinations of Legal Nonconforming Use, Legal Noncomplying Structure, or other Legal Nonconformity Applications:

- 1) The procedures for the review of a Determinations of Legal Nonconforming Use, Legal Noncomplying Structure, or other Legal Nonconformity Application are identified by Chapter 12 and Chapter 15, Administrative Manual.
- 2) The LUHO shall review the Application and shall determine, from the evidence presented by the Applicant, who shall have the burden of proof of establishing the existence of a legal nonconforming use, legal noncomplying structure, lot, sign, or other legal nonconformity, as provided by the Act, If the LUHO finds that sufficient evidence is presented to clearly establish that the use, structure, lot, sign, or other nonconformity legally existed on the date of adoption of this Ordinance, and complied with all prior enactments of this Ordinance, the City’s other Land Use Ordinances, including the Subdivision Ordinance, the LUHO shall approve the Determination of Legal Nonconforming Use, Noncomplying Structure, or other Nonconformity Application.

Section 1104—Findings Required for Approval of Determination of Legal Nonconforming Use, Noncomplying Structure, or other Nonconformity Application:

In deciding a of Determination of Legal Nonconforming Use, Noncomplying Structure, or other Nonconformity Application the LUHO shall find that all the procedural requirements and review standards of Section 1103 have been met and the following

- 1) Documentation and other materials have been presented, and provided from a credible source(s), to clearly establish that the use, structure, lot, sign, or other nonconformity legally existed prior to the date of adoption and effective date of the first Land Use Ordinances, including the Zoning Ordinance and Subdivision Ordinance?
- 2) Documentation and other materials have been presented, and provided from a credible source(s), to clearly establish that the use, structure, lot, sign, or other nonconformity legally existed on the date of adoption of this Ordinance, and complied with all prior enactments of this Ordinance, or the City’s other Land Use Ordinances, including the Subdivision Ordinance?

Section 1105—Decision for a Determination of a Legal Nonconforming Use, Noncomplying Structure, or other Nonconformity Application:

- 1) If it is determined that the Nonconforming Use, Noncomplying Structure, or other Nonconformity Application complies with all the requirements of Section 1103 and Section 1104, the LUHO shall approve the Application. The City Recorder shall notify the Applicant of the decision, as required by Section 1207.
- 2) If it is determined that the Nonconforming Use, Noncomplying Structure, or other Nonconformity Application does not comply with all the requirements of Section 1103 and Section 1104, the LUHO shall deny the Application. The City Recorder shall notify the Applicant of the decision, as required by Section 1207.

Section 1106—Effect of Approval:

- 1) A finding by the LUHO of a legal nonconforming use, noncomplying structure, lot, sign, or other nonconformity shall not authorize the establishment, restoration, reconstruction, extension, alteration, expansion, or substitution of any nonconforming use, noncomplying structure, lot, sign, or other nonconformity.
- 2) A finding by the LUHO of a legal nonconforming use, noncomplying structure, lot, sign, or other nonconformity shall not be deemed an approval of any application, permit, or license.
- 3) A finding by the LUHO of a legal nonconforming use, noncomplying structure, lot, sign, or other nonconformity shall allow the filing of a Land Use Application for any necessary approval, permit, or license, as may be required by the City’s Land Use Ordinances.

Section 1107—Requirements for Nonconforming Uses:

Following a determination by the LUHO of the existence of a legal nonconforming use, the use shall comply with the following requirements:

- 1) A nonconforming use may be continued by the present or future property owner.

- 2) As allowed by the Act, a legal nonconforming use may be extended through the same building, provided no structural alteration of the building is proposed or made for the purposes of the extension. For the purposes of this subsection, the addition of a solar energy device to a building is not a structural alteration.
- 3) Necessary maintenance and repairs may be made to a structure housing a legal nonconforming use by following the procedures for a Land Use Application approval, permit, or license, including the issuance of a Building Permit, for such maintenance and repairs.
- 4) The City may require the termination of a legal nonconforming use by providing a formula establishing a reasonable time period during which the owner can recover or amortize the amount of investment in the nonconforming use.
- 5) The City may not terminate a nonconforming use of a structure that is involuntarily destroyed, in whole or in part, due to fire or other calamity unless the use has been abandoned.
- 6) A nonconforming use of a structure shall terminate if:
 - a) The structure is allowed to deteriorate to a condition that the structure is rendered uninhabitable and is not repaired or restored within six (6) months after written notice is provided to the property owner, by the Zoning Administrator or Building Official, that the structure is uninhabitable and that the nonconforming use will be lost if the structure is not repaired or restored within six (6) months.
 - b) The property owner has voluntarily demolished a majority of the building that houses the nonconforming use.
- 7) Change in Use. A nonconforming use may only be changed to a use allowed in Appendix A, Table of Uses, for the Zoning District in which the property is located by following the Land Use Application approval procedures for such new use, as required by this Ordinance.

Section 1108—Requirements for Noncomplying Structures:

Following a determination by the LUHO of the existence of a legal noncomplying structure, the structure shall comply with the following requirements:

- 1) A noncomplying structure may be continued by the present or future property owner.
- 2) The City may not prohibit the reconstruction or restoration of a noncomplying structure that is involuntarily destroyed, in whole or in part, due to fire or other calamity unless the structure has been abandoned.

- 3) Necessary maintenance and repairs may be made to a legal noncomplying structure by following the procedures for a Land Use Application approval, permit, or license, including the issuance of a Building Permit, for such maintenance and repairs.
- 4) A noncomplying structure shall terminate if:
 - a) The structure is allowed to deteriorate to a condition that the structure is rendered uninhabitable and is not repaired or restored within six (6) months after written notice is provided to the property owner, by the Zoning Administrator or Building Official, that the structure is uninhabitable and that the noncomplying structure will be lost if the structure is not repaired or restored within six (6) months.
 - b) The property owner has voluntarily demolished a majority of the noncomplying structure.

Section 1109—Termination of a Nonconforming Use due to Abandonment:

- 1) Any party claiming a nonconforming use has been abandoned shall have the burden of establishing the abandonment.
- 2) Abandonment may be presumed to have occurred if:
 - a) A majority of the primary structure associated with the nonconforming use has been voluntarily demolished without prior written agreement with the City regarding an extension of the nonconforming use.
 - b) The use has been discontinued for a minimum period of one (1) year; or
 - c) The primary building associated with the nonconforming use remains vacant for a minimum period of one (1) year.
- 3) The property owner may rebut the presumption of abandonment under this Section and shall have the burden of establishing that any claimed abandonment under this Section has not in fact occurred. The LUHO shall have authority to review and decide all disputes relating to abandonment of structures associated with a nonconforming use or noncomplying structures.
- 4) The City may terminate the nonconforming use status of a school district or charter school when the property associated with the school district or charter school use or structure ceases to be used for school district or charter school purposes for a minimum period of one (1) year.

Section 1110—Noncomplying Lots:

- 1) A lot of record, or any parcel of record, legally existing on the effective date of this Ordinance and Subdivision Ordinance shall:
 - a) Be eligible for a Building Permit authorizing the construction of one (1) single family dwelling, even though such lot or parcel may not conform to the requirements of the Zoning District in which it is located, provided:
 - i) That such lot or parcel of land is located in a Zoning District that allows single family dwellings, and
 - ii) The proposed construction can qualify for the issuance of a Building Permit, as required by the building codes, as adopted.

Section 1111—Noncomplying Signs:

This Section shall apply to signs that were legal on the date of adoption of this Ordinance, or its prior enactments, but which may now be determined to be a legal noncomplying structure.

- 1) A noncomplying sign shall not be enlarged.
- 2) A noncomplying sign shall not be moved or replaced, except to bring the sign into compliance with this Ordinance and the City’s other Land Use Ordinances.
- 3) The text message of a noncomplying sign may be changed if such changes do not create any new nonconformities or other noncompliance.
- 4) A noncomplying sign shall be considered abandoned if it advertises a business, service, commodity, or other activity that has been discontinued for a minimum period of one (1) year.

Section 1112—Appeal:

Any person aggrieved by a decision of the LUHO for any Determination of Legal Nonconforming Use, Noncomplying Structure, or other Nonconformity Application may appeal the decision to the Appeal Authority as identified by Chapter 13.

**CHAPTER 12
NOTICE REQUIREMENTS**

Section 1201—Purpose:

As provided by the Act, the City is required to provide notice of all public hearings and public meetings. The notice requirements for public hearings and public meetings required by the City’s Land Use Ordinances, including this Ordinance and the Act, are provided by this Chapter.

Section 1202—Required Notice of Public Hearings and Public Meetings to consider General Plan Adoption and General Plan Amendment Applications:

- 1) **Public Hearings.** The City Recorder for public hearings by the Commission or Council to consider a General Plan Adoption or General Plan Amendment Application shall provide notice as follows:
 - a) Notice of date, time, and place of the public hearing at least ten (10) calendar days before the public hearing which notice shall be:
 - i) Published in a newspaper of general circulation in the City;
 - ii) Mailed to each “affected entity,” as defined by this Ordinance and the Act.
 - iii) Posted in at least three (3) public locations within the City; or on the City’s official website.
 - b) Notice of the date, time, and place of the public hearing shall be mailed at least ten (10) calendar days before the public hearing to each Applicant for a General Plan Amendment Application, as required by this Ordinance and the Act.
- 2) **Public Meetings.** The City Recorder for public meetings by the Commission or Council to consider a General Plan Adoption or General Plan Amendment Application shall provide notice as follows:
 - a) Notice of the date, time, and place of the public meeting, at least twenty-four (24) hours before the meeting, which notice shall be:
 - i) Posted in at least three (3) public locations within the City; or on the City’s official website.
 - b) Notice of the date, time, and place of each public meeting shall be provided at least twenty four (24) hours before the public meeting to each Applicant for a General Plan Amendment Application, as required by this Ordinance and the Act.

Section 1203—Required Notice of Public Hearings and Public Meetings to consider a Land Use Ordinance, Land Use Ordinance Amendment Applications, Official Map, and Official Map Amendment Application:

- 1) **Public Hearings.** The City Recorder for public hearings by the Commission or Council to consider a Land Use Ordinance, Land Use Ordinance Amendment Application, Official Map, or Official Map Amendment Application shall provide notice as follows:
 - a) Notice of the date, time, and place of the public hearing at least ten (10) calendar days before the hearing which notice shall be:
 - i) Published in a newspaper of general circulation in the City.
 - ii) Mailed to each “affected entity” as defined by this Ordinance and the Act.
 - iii) Posted in at least three (3) public locations within the City; or on the City’s official website.
 - b) Notice of the date, time, and place of each public hearing shall be mailed at least ten (10) calendar days before the public hearing to each Applicant for a Land Use Ordinance Amendment Application or Official Map Amendment Application, as required by this Ordinance and the Act.
- 2) **Public Meetings.** The City Recorder for public meetings by the Commission or Council to consider a Land Use Ordinance, Land Use Ordinance Amendment Application, Official Map, or Official Map Amendment Application shall provide notice as follows:
 - a) Notice of the date, time, and place of the public meeting, at least twenty-four (24) hours before the meeting, which notice shall be:
 - i) Posted in at least three (3) public locations within the City, or on the City’s official website.
 - b) Notice of the date, time, and place of each public meeting shall be provided at least twenty-four (24) hours before the public meeting to each Applicant for a Land Use Ordinance Amendment Application or Official Map Amendment Application, as required by this Ordinance and the Act.

Section 1204—Required Notice for other Public Hearings:

When required by the provisions of this Ordinance, the City Recorder shall provide notice of the public hearing as follows:

- 1) Notice of the date, time, and place of each public hearing shall be at least ten (10) calendar days before the public hearing, which shall be:
 - a) Published in a newspaper of general circulation in the City.
 - b) Mailed to each “affected entity” as defined by this Ordinance and the Act.
 - c) Posted in at least three (3) public locations within the City; or on the City’s official website.
- 2) Notice of the date, time, and place of each public hearing shall be mailed at least ten (10) calendar days before the public hearing to each Applicant, as required by this Ordinance and the Act.

Section 1205—Courtesy Notice for Public Hearings:

For public hearings required by this Ordinance, the City Recorder may provide actual notice provided by regular United States mail and postmarked at least ten (10) calendar days prior to the public hearing to all owners of property located within three hundred (300) feet of the property that is the subject of the public hearing.

Section 1206—Required Notice for other Public Meetings:

When required by the provisions of this Ordinance, the City Recorder shall provide notice of the public meeting as follows:

- 1) Notice of the date, time, and place of each public meeting shall be at least twenty-four (24) hours before the public meeting, which shall be:
 - a) Posted in at least three (3) public locations within the City; or on the City’s official website.
- 2) Notice of the date, time, and place of each public meeting shall be provided at least twenty-four (24) hours before the public meeting to each Applicant, as required by this Ordinance and the Act.

Section 1207—Required Applicant Notice – Waiver of Requirements:

For each Land Use Application, the City Recorder shall:

- 1) Notify the Applicant of the date, time, and place of each public hearing and public meeting to consider the Land Use Application.

- 2) Notify the Applicant of any decision on the Application by a Land Use Authority.
- 3) Provide to each Applicant a copy of each Staff Report regarding the Land Use Application at least three (3) business days before the public hearing or public meeting.
- 4) If the City fails to comply fully with the requirements of this Section, an Applicant may waive the failure so that the Land Use Application may stay on the public hearing or public meeting agenda and be considered as if the requirements of this Chapter had been met.

Section 1208—Notice Challenge:

Except for the Courtesy Notice, which is not subject to challenge, if notice given under authority of this Chapter is not challenged, as provided by the Act, within thirty (30) calendar days after the meeting or action for which notice is given, the notice is considered adequate and proper.

**CHAPTER 13
APPEAL AUTHORITIES AND PROCEDURES**

Section 1301—Purpose:

Any person, including the Applicant for any Land Use Application approval, license, or permit required by this Ordinance and any decision-making body or officer of the City, adversely affected by a decision of a Land Use Authority administering or interpreting this Ordinance may appeal the decision to the Appeal Authority, as identified by this Chapter.

Section 1302—Appeal Authorities:

To provide for appeals of decisions of Land Use Authorities and to comply with the Act, the following Appeal Authorities, with their appeal responsibilities are identified.

Section 1303—District Court:

- 1) Any person aggrieved by a decision of the Council may file a petition with District Court.
- 2) Any person aggrieved by a decision of the LUHO may file a petition with District Court.

Section 1304—Council:

- 1) Any person aggrieved by a decision of the Commission may file an Appeal Application with the Council.

Section 1305—LUHO:

- 1) Any person aggrieved by a decision of the Zoning Administrator or City Recorder, as required by this Ordinance, may file an Appeal Application with the LUHO.

Section 1306—Maximum Time Allowed to File Appeal:

A person, including the Applicant for any Land Use Application required by this Ordinance and any decision-making body or officer of the City, adversely affected by a decision of a Land Use Authority administering or interpreting this Ordinance may, within ten (10) calendar days of the date of the decision, appeal the decision to the Appeal Authority identified by this Chapter.

Section 1307—Requirements for an Appeal of a Land Use Authority Decision:

An appeal of a Land Use Authority’s decision shall identify the alleged error in any order, requirement, decision, or determination made by the Land Use Authority.

Section 1308—Condition Precedent to Judicial Review – Appeal Authority Duties:

- 1) As a condition precedent to judicial review, each adversely affected person shall timely and specifically challenge a Land Use Authority's decision, in accordance with the requirements of this Chapter.
- 2) An Appeal Authority shall:
 - a) Act in a quasi-judicial manner; and
 - b) Serve as the final arbiter of issues involving the interpretation or application of Land Use Ordinances, including this Ordinance; and
 - c) May not entertain an appeal of a matter in which the Appeal Authority, or any participating member, had first acted as the Land Use Authority.
- 3) An Appeal Authority shall require an adversely affected party to present every theory of relief that it can raise in District Court.
- 4) An Appeal Authority shall not require an adversely affected party to pursue duplicate or successive appeals before it or another Appeal Authority as a condition of the adversely affected party's duty to exhaust administrative remedies.

Section 1309—Application Required:

An appeal of any order, requirement, decision, or determination of a Land Use Authority shall be made on the Appeal Application, provided by the City and contained in Chapter 15, Administrative Manual.

Section 1310—Meetings, Records, and Action of an Appeal Authority:

Each Appeal Authority shall:

- 1) Notify each of its members of any meeting or hearing;
- 2) Provide each of its members with the same information and access to City resources as any other member;
- 3) Convene only if a quorum of its members is present; and

- 4) Act only upon the vote of a majority of its convened members.
- 5) The Zoning Administrator, City Recorder, and City Attorney shall transmit to the Appeal Authority all materials constituting the full record of the decision of the Land Use Authority.
- 6) Following a written decision by the Appeal Authority, the City Recorder shall provide the Applicant with a copy of the written decision.
- 7) A record of the decisions of the Appeal Authority shall be maintained in the office of the City Recorder, which shall constitute the record of the appeal.

Section 1311—Due Process.

- 1) An Appeal Authority shall conduct each appeal as provided.
- 2) An Appeal Authority shall respect the due process rights of each of the participants.

Section 1312—Burden of Proof.

Any person presenting an Appeal Application alleging an error of a Land Use Authority's order, requirement, decision, or determination has the burden of proof that the Land Use Authority erred.

Section 1313—Standard of Review for Appeals.

- 1) Each Appeal Authority identified by this Chapter shall hear and review all Appeal Applications "on the record," including the review of all factual matters. Each Appeal Authority shall only consider the materials presented and originally before the Land Use Authority in making the decision that is the subject of the appeal.
- 2) The Appeal Authority shall determine the correctness of the order, requirement, decision, or determination of the Land Use Authority.
- 3) Only those decisions where a Land Use Authority has applied the requirements of this Ordinance to a particular application, person, lot, or parcel may be appealed to an Appeal Authority.
- 4) An Appeal Application shall not be used to waive, modify, or amend any requirement, provision, or term of this Ordinance.

Section 1314—Final Decision.

A decision of each Appeal Authority shall take effect on the date when the Appeal Authority, as applicable, issues a written decision, which shall constitute a final decision by the City in the matter.

Section 1315—District Court Review:

1) Required Time for Filing.

- a) No person may challenge in District Court a decision of a Land Use Authority until that person has exhausted all administrative remedies as provided by this Chapter and received a final decision from an Appeal Authority.
- b) Any person adversely affected by a final order, requirement, decision, or determination made in the exercise of or in violation of the provisions of this Ordinance may file a petition for review of the order, requirement, decision, or determination with the District Court within thirty (30) calendar days after the Appeal Authority’s decision is final.

2) Tolling of Time.

- a) The required time for filing for District Court review shall be tolled from the date the person files a request for arbitration of a constitutional taking issue with the property rights ombudsman, as provided by §63-34-13 U.C.A., until thirty (30) days after:
 - i) The arbitrator issues a final award; or
 - ii) The property rights ombudsman issues a written statement under §63-34-13(4)(b) U.C.A., declining to arbitrate or to appoint an arbitrator.
- b) A tolling under this Section operates only as to the specific constitutional taking issue that is the subject of the request for arbitration filed with the property rights ombudsman by a property owner.
- c) A request for arbitration filed with the property rights ombudsman after the time under Subsection (2)(a) to file a petition has expired does not affect the time to file a petition.

3) Standards Governing Court Review.

- a) The Court shall:
 - i) Presume that a final decision made under the authority of the Act is valid; and

- ii) Determine only whether or not the final decision is arbitrary, capricious, or illegal.
- b) A decision, ordinance, or regulation involving the exercise of legislative discretion is valid if the decision, ordinance, or regulation is reasonably debatable and not illegal.
- c) A decision of a Land Use Authority or an Appeal Authority involving the exercise of administrative discretion is valid if the decision is supported by substantial evidence in the record and is not arbitrary, capricious, or illegal.
- d) A determination of illegality requires a determination that the decision, ordinance, or regulation violates a law, statute, or ordinance in effect at the time the decision was made or the ordinance or regulation adopted.
- e) The time requirements for the filing of a petition with District Court, as provided by this Section apply from the date on which the Land Use Authority takes final action on a Land Use Application for any adversely affected third party, if the Land Use Authority conformed with the notice provisions of this Ordinance, as applicable, or for any person who had actual notice of the pending decision.
- f) If the City has complied with the notice requirements, as provided by this Ordinance, a challenge to the enactment of this Ordinance or the enactment of the Gunnison City General Plan may not be filed with the District Court more than thirty (30) calendar days after the enactment.
- g) A petition is barred unless it is filed within thirty (30) calendar days after the Appeal Authority's decision is final.

4) Record on Review.

- a) The Land Use Authority or Appeal Authority, as the case may be, shall transmit to District Court the record of its proceedings, including all minutes, findings, orders, and, if available, a true and correct transcript of its proceedings.
- b) If the proceeding was tape-recorded, a transcript of that tape recording is a true and correct transcript for purposes of this Section.
- c) If there is a record, the District Court's review is limited to the record provided by the Land Use Authority or Appeal Authority, as the case may be.
- d) The District Court may not accept or consider any evidence outside the record of the Land Use Authority or Appeal Authority, as the case may be, unless that evidence was offered to the Land Use Authority or Appeal Authority, respectively, and the court determines that it was improperly excluded.
- e) If there is no record, the Court may call witnesses and take evidence.

- f) The filing of an Appeal does not stay the decision of the Land Use Authority or Appeal Authority, as the case may be.

5) Staying of Decision.

- a) Before filing a petition under this Section, or a request for mediation or arbitration of a constitutional taking issue under §63-34-13 U.C.A., the aggrieved party may petition the Appeal Authority to stay its decision.
- b) Upon receipt of a petition to stay, the Appeal Authority may order its decision stayed pending District Court review, if the Appeal Authority finds it to be in the best interest of the City.
- c) After a petition is filed under this Section, or a request for mediation or arbitration of a constitutional taking issue is filed under §63-34-13 U.C.A., the petitioner may seek an injunction staying the Appeal Authority's decision.

**CHAPTER 14
RESERVED**

**CHAPTER 15
ESTABLISHMENT OF ZONING DISTRICTS**

Section 1501—Zoning by Districts

In accordance with the requirement of the Act, that zoning within municipalities be by districts, Gunnison City, as shown on the Gunnison City Zoning Districts Map, is divided into Zoning Districts that govern the use, intensity and other requirements for the use or activities occurring on all lands located within the City. The map accompanying this Ordinance, the Gunnison City Zoning Districts Map, is incorporated herein by this reference as a part of this Ordinance.

To achieve the purposes of this Ordinance and the Act, the following Zoning Districts are provided:

- 1) Agricultural District
 - a) Agricultural (A-1)

- 2) Residential Estates District
 - a) Single-Family (RR-1)

- 3) Single-Family Residential District
 - a) Single-Family (R-2-10,000)

- 4) Multi-Family Residential District
 - a) Multi-Family (R-4-7,500)

- 5) Mobile Home District
 - a) Single-Family Mobile Home (R-1-MHP)

- 6) Mixed Use District
 - a) Residential and Commercial (R&C-1)

- 7) Commercial District
 - a) Central Commercial (CC-1)

- 8) Manufacturing District
 - a) Light Industrial (I-1)

- 9) Special Purpose District
 - a) Special Institutional (S-1)

Section 1502—Zoning Districts Purposes:

The Gunnison City Zoning Districts are provided and achieve the following purposes:

- 1) The Agricultural District (A-1) is provided to allow for the raising of livestock and/or the growing of crops and to preserve the established uses associated with agricultural activities.
- 2) The Residential Estates District (RR-1) is provided to allow low-density residential neighborhoods with a quality of openness and to provide for certain rural amenities, including, but not limited to, care and keeping domestic livestock and providing agricultural opportunities and livestock related recreational activities on larger lots. The principal land use is single-family dwellings and incidental and accessory uses located in a rural environment.
- 3) The Single-Family Residential (R-2-10,000) District provides areas for single-family and two-family residential uses. This District is provided to maintain and protect areas for residential dwellings and appropriate activities located in residential neighborhoods including the care and keeping of domestic livestock.
- 4) The Residential (R-4-7,500) District is provided to allow the establishment of a variety of dwelling unit types from single-family to multiple-family units with their associated necessary public services and activities.
- 5) The Mobile Home (R-1-MHP) District provides appropriate areas for a choice or residential units by providing areas suitable for the establishment of single-family mobile home parks.
- 6) The Mixed Use Residential and Commercial (R&C-1) District is provided to accommodate opportunities for a mix of residential, retail, and service commercial uses within the same District. The Residential and Commercial (R&C-1) District is established to achieve the following purposes:
 - a) Provide for a variety and diversity of land uses that may be mixed vertically or horizontally in a unified and complimentary manner.
 - b) Achieve convenience for residents and encourage efficiencies in land utilization.
 - c) Strengthen the City's economic base and provide amenities and features that enhance the City.
- 7) The purpose of the Central Commercial (CC-1) District is to provide areas for the location of various types of commercial activities needed to serve the residents and commerce of the city. The development standards provided for this District are intended to minimize any adverse effect of commercial uses on adjoining areas by achieving the compatible integration of land uses and preserving the aesthetic qualities of the area, while providing safe, convenient, and efficient commercial uses.

- 8) The Light Industrial (I-1) District provides the needs of the City for light manufacturing, warehousing, and associated accessory uses in appropriate areas to strengthen the employment base and economic diversity of the City.
- 9) The Special Institutional (S-I) District is provided as an independent and separate stand-alone Zoning District to meet specific needs and goals of the City.

Section 1503—Residential Zoning Districts Identified:

- 1) To achieve the purposes of this Ordinance the following Zoning Districts are identified as “Residential” Districts; Agricultural (A-1), Single-Family (RR-1), Single-Family (R-2-10,000), Multi-Family (R-4-7,500), and Single-Family Mobile Home (R-1-MHP).
- 2) The other Districts provided by this Ordinance are identified as either “Mixed Use,” the Residential and Commercial (R&C-1) District, or “Nonresidential Districts;” Central Commercial (CC-1), Light Industrial (I-1), and Special Institutional (S-1) District.

Section 1504—Regulating Annexed Territory:

- 1) The Council shall assign a Zoning District or a combination of Zoning Districts to territory annexed to the City at the time the territory is annexed.
- 2) If the Council fails to assign a Zoning District at the time the territory is annexed, all land uses within the annexed territory shall be compatible with surrounding uses within the City.

CHAPTER 16
GENERAL DEVELOPMENT STANDARDS APPLICABLE TO ALL PROPERTY
AND LAND USES

Section 1601—Purpose:

The purpose of general development standards is to further the purposes of the General Plan and the City’s Land Use Ordinances. Compliance with all general development standards, as well as all other requirements of this Ordinance, and all other Federal, State and Local requirements, as applicable, is required for the approval of all Land Use Applications.

Section 1602—Consistency and Conformity to the General Plan Required:

No Land Use Application approval and no Land Use Ordinance, or amendment thereto, and no Official Map, or amendment thereto shall be approved unless such Land Use Application approval, amendment, ordinance or map is found to be consistent and conform to the General Plan, as adopted.

Section 1603—Public Uses to Conform to General Plan:

As required by the Act, no publicly-owned road, street, way, place, space, building, structure, or facility, and no public utility line, infrastructure, or facility, whether publicly or privately owned, may be constructed unless:

- 1) It conforms to the General Plan, including consistency with the accompanying map(s), or;
- 2) It has been considered by the Commission and, after receiving the recommendation of the Commission, has been approved by the Council as an amendment to the General Plan.
- 3) Received necessary Land Use Application approval by the Land Use Authority, as applicable.

Section 1604—Effect of Official Maps:

- 1) As provided by the Act, the City may adopt Official Maps, as defined herein.
- 2) An Official Map does not:
 - a) Require a landowner to dedicate and/or construct a street as a condition of development approval, except under circumstances provided by Section 210, or,
 - b) Require the City to immediately acquire property.

Section 1605—Allowed Minimum Use of Legal Lots:

Nothing in this Ordinance shall be construed to prevent the establishment of one (1) Single-Family Dwelling on any legal lot or parcel of land, as determined by the Zoning Administrator, and provided that such legal lot or parcel is located in a Zoning District that permits Single-Family Dwellings, and any proposed construction can qualify for a Building Permit, as required by the Building Code, as adopted.

Section 1606—Illegal Lots, Uses, Buildings and Structures:

Any lot, use, building or structure which was not authorized by a prior Land Use Ordinance, shall remain as an illegal lot, use, building, or structure, unless such lot, use, building, or structure is approved by a Land Use Authority, as applicable, as a lot, use, building or structure allowed by this Ordinance.

Section 1607—Allowed Uses:

All uses allowed by this Ordinance, either as a Permitted Use or Conditional Use, are identified in Appendix A, Table of Uses.

Section 1608—Prohibited Uses:

Any use not specifically provided for in Appendix A, Table of Uses is a Prohibited Use within Gunnison City.

Section 1609—Use Approval and Building Permit Required Prior to Any Construction:

No use shall be established and no construction, alteration, enlargement, repair, or removal of any building, structure, or part thereof shall be commenced until the approval of a Land Use Application and building permit, as required.

Section 1610—Applications Required:

All requests to establish a use, or construction, alteration, enlargement, repair, or removal of any building, structure, or part thereof shall be initiated by the submission of necessary Land Use Application(s), as required, including this Ordinance, the Administrative Manual, and Building Code, as adopted.

Section 1611—All Buildings Taxed as Real Property:

All buildings shall be taxed as real property. For a mobile home an affidavit shall be filed with the State Tax Commission, pursuant to the requirements of the Utah Code Annotated, as amended.

Section 1612—Payment of Taxes and Charges Required:

A Land Use Application approval and any other permit or license approval may provide that the Land Use Application approval is not valid and no building permit shall be issued until all delinquent taxes and charges for the property have been paid to the date of approval.

Section 1613—Uses on Land Purchased, Leased, or otherwise Acquired from Federal or State Government:

Land purchased, leased, or otherwise acquired from any Federal, State or Local agency shall comply with all provisions and requirements of this Ordinance and the Administrative Manual.

Section 1614—All Uses, Buildings, and Structures to Comply with Zoning District Requirements:

Every use established, and all buildings or structures erected, reconstructed, altered, enlarged or moved shall be used, established, or constructed only as allowed by the requirements of this Ordinance, and the City’s other Land Use Ordinances, and Administrative Manual.

Section 1615—Subdivision and Sale of Property:

No person shall subdivide any lands, located wholly or partially within the City, for any purpose, unless approval for such subdivision has been received from the applicable Land Use Authority, as required by the Subdivision Ordinance, and Administrative Manual.

Section 1616—Minimum Lot Frontage Required:

Every lot or parcel created shall have frontage upon a dedicated or publicly approved road or street, or right-of-way providing direct access to a dedicated or publicly approved road or street. The required lot frontage shall be not less than the minimum lot width requirement as measured at the minimum front yard setback, as required by the Zoning District in which the lot is located, except as follows:

- 1) For lots which front upon a curve or cul-de-sac, the distance may be reduced to not less than seventy (70) feet for lots located in an A-1 and RR-1 Zoning District or sixty (60) feet for lots located in all other Zoning Districts, provided that the side lot lines radiate in such a manner that the width of the lot at the minimum front yard setback line is not less than the minimum requirement of the Zoning District in which the lot is located.

Section 1617—Minimum Buildable Area:

Every lot or parcel created after the effective date of this Ordinance shall have a minimum buildable area sufficient to establish a building or structure thereon that meets the minimum standards of the Zoning District in which the lot or parcel is located.

Section 1618—Lot Standards – Creation of Noncomplying-Lots Prohibited:

Every lot or parcel created after the effective date of this Ordinance shall comply with the minimum lot size, frontage, width, depth, and all other requirements of this Ordinance.

Section 1619—All Buildings or Structures to be on a Single Lot:

All buildings or structures shall be located and maintained on a lot, as defined, such lot meeting all requirements of this Ordinance and the City’s other Land Use Ordinances.

Section 1620—Lots in Two (2) or More Zoning Districts:

Where a lot is located in two (2) or more Zoning Districts, the more restrictive Zoning District provisions shall apply.

Section 1621—Required Yard Areas for One Building Only:

- 1) All required yard areas shall be situated on the same lot as the primary building or structure to which it is required.
- 2) No required yard area for any lot or building required for the purposes of complying with the City’s Land Use Ordinances, including this Ordinance, shall be considered as providing the required yard for any other lot or building.
- 3) No area required to meet the lot width, area, setback, or other requirements of this Ordinance for a lot or building may be divided, sold, or leased separately from such lot or building.

Section 1622—Required Yards to be Unobstructed—Exceptions:

All required yard or setback areas shall be open to the sky and unobstructed and all buildings or parts thereof shall comply with the minimum setback requirements of the Zoning District, except for permitted and approved accessory buildings, for the projection of sills and other ornamental features. Unenclosed steps and unwallled stoops, and porches less than eighteen inches (18”) above grade may project up to three feet (3’) into a required minimum setback.

Section 1623—Effect of Official Streets Map:

Wherever a required front yard or side yard abuts on a road or street, the required front yard and side yard setback shall be measured from the mapped street line provided by the Official Map, as adopted.

Section 1624—Exception to Required Front Yard Setback in Certain Districts:

For primary buildings proposed to be located in the R-2-10,000, R-4-7,500, R-1-MHP and the R & C-1 Districts the front setback for a primary building located between two (2) existing primary buildings may be reduced to the average front yard setback of the existing primary buildings, provided the two (2) existing primary buildings are located on the same side of the street right-of-way, and are located within one hundred fifty feet (150') of each other, and provided further that no primary building has a front yard less than twenty feet (20').

Section 1625—Clear View Area Requirements:

- 1) **Street Intersections/Corner Lot.** In all required front yard setback areas, no obstruction to view in excess of three (3) feet in height, or four (4) feet in height for a “Fence – Open” shall be placed on any corner lot within a triangular area formed by the street or road right-of way lines and a line connecting them at points twenty (20) feet from the intersection of the curb lines, or street or road right-of-way lines.
- 2) **Major Roads.** The clear view area on major roads shall be the triangle formed by the road right-of-way lines and a line connecting them at points forty-five (45) feet from their intersection.
- 3) **Driveways.** The clear view area for a driveway shall be the triangle formed by the driveway lines and the street right-of-way line and a line connecting them at points fifteen (15) feet from the intersection of the driveway line and street right-of-way line.
- 4) **Modification of Clear View Area.** A modification of the clear view areas may be made by the Land Use Authority, as applicable. The Land Use Authority is authorized to increase or decrease the required clear view area if it is determined that there is a valid public safety reason to increase or decrease the required clear-view area and the public safety of the area will be maintained.

Section 1626—Maximum and Minimum Height of All Buildings:

The maximum and minimum height of all primary building shall be as identified in Appendix B, Table of Development Standards, for the Zoning District in which the primary building is located.

Section 1627—Exceptions to Maximum Height Limitations:

The requirement for maximum building height shall not apply to:

- 1) Chimneys, wireless or television masts and not used for human occupancy.
- 2) Agricultural buildings, provided such buildings are not used for human occupancy.

Section 1628—Additional Height Allowed for Public Buildings:

For the following buildings a building height greater than the maximum building height, required by the Zoning District in which the building is located may be allowed, provided the building is set back from required setback lines a distance of one (1) foot for each additional foot of building height above the maximum height allowed in the Zoning District.

- 1) Public buildings.
- 2) Flag Poles.
- 3) Churches.

Section 1629—Adequate Public Facilities Requirements:

Land shall be developed only to the extent that adequate infrastructure and services are available, or will be available concurrent with the development activity, and at capacities sufficient to meet the needs of the proposed development. A Land Use Authority may require an analysis to be completed and provided to determine if adequate public facilities and services are available to serve the proposed development and if such development will change the existing levels of service, or will create a demand for services that exceeds available capacities.

Public facilities that may be required by a Land Use Authority to be included in a public facilities analysis include, but are not limited to, road and street facilities and capacities, intersection and bridge capacities, culinary water facilities, sanitary sewer facilities, storm drainage facilities, fire protection and suppression facilities, park and recreational facilities, culinary water facilities, fire and emergency services response times, police protection services, and other required public facilities and services. A Land Use Authority may deny or modify a proposed development activity if the demand for public facilities and services exceeds available capacities or require an Applicant for a Land Use Application approval to provide the required facilities and services, at the capacities required, and concurrent with the demand created by the development activity, consistent with all applicable legal authorities.

Section 1630—Culinary Water, Sanitary Sewer, and Fire Protection Requirements:

- 1) All primary buildings requiring culinary water, secondary water, and sanitary sewer services shall be connected to the public culinary water, sanitary sewer, and secondary water systems of the City and shall comply with all requirements of the Culinary Water Authority and Sanitary Sewer Authority, as applicable. The size, location and placement of any extensions and risers and other details concerning the design and construction culinary water, sanitary sewer or secondary water system shall conform to City standards, as directed by the City. These requirements shall also be applicable to any extensions to the irrigation company system.
 - a) Culinary Water. A separate culinary water connection shall be required for each residential dwelling unit and for each separate nonresidential structure (including all commercial and industrial uses) intended for human occupancy. For a residential building, containing Dwelling Units, Multiple-Family, the Land Use Authority may authorize the use of a common connection where:
 - i) Because of the design of the building, separate connections for individual Dwelling Units, Multiple-Family are not reasonably possible; and
 - ii) The Dwelling Units, Multiple-Family, will remain in a single ownership.
 - b) Sanitary Sewer. A separate sanitary sewer connection shall be required for each residential dwelling unit and for each separate nonresidential structure (including all commercial and industrial uses) intended for human occupancy. For a residential building, containing Dwelling Units, Multiple-Family, the Land Use Authority may authorize the use of a common connection where:
 - i) Because of the design of the building, separate connections for individual Dwelling Units, Multiple-Family are not reasonably possible; and
 - ii) The Dwelling Units, Multiple-Family, will remain in a single ownership.
 - c) Secondary Water. Where the proposed development project or individual user lies within the "City SID area," but has been exempted from payment of SID assessments, or lies outside the "City SID area" and is not to be served by the pipeline company (farmers) system, the City may authorize the connection of the user or project to the City system subject to:
 - i) A determination by the City Council that there is adequate capacity in the lines serving the proposed development project or individual user to accommodate the anticipated users, and that the additional demand will not be detrimental to the proper function of the system in the future.

- ii) The installation, by the applicant, of any required extensions to the main line, when applicable, and installation of individual riser, where required (see Section 9-3-5).
 - iii) Conveyance to the City, at no cost, of one (1) share of Gunnison Irrigation Company stock for each one-half (1/2) acre or building lot in the proposed project served, whichever is greater. Also, the applicant shall provide satisfactory evidence that all assessments against the stock with regard to pressurized irrigation system (payment of the costs of holding pond and transmission line and any other joint improvements) have been satisfied (see Section 9-3-4.3).
 - iv) Payment of the applicable irrigation system connection fee.
- 2) All uses and primary buildings shall comply with the requirements of the Fire Authority, as applicable.

Section 1631—Required Roads, Streets, Curb, Gutter, Sidewalks, Fire Protection, Trails, and other Improvements:

- 1) The installation of necessary roads and streets, street widening and improvement(s), curbs, gutters, sidewalks, fire protection facilities, trails, and other improvements required by the Land Use Ordinances shall be required as a condition of any required Land Use Application approval.
- 2) The Council may provide that the installation of necessary roads and streets, street widening and improvement, curbs, gutters, sidewalks, fire protection facilities, trails, and other improvements be delayed until a specified date, or provided as part of any area-wide improvement plan(s). Any action by the Council to delay the installation of any required improvements shall only be with a finding of special circumstances, with the Applicant for a Land Use Application approval providing a written agreement, acceptable to the City Attorney, agreeing to provide the required improvements on the date identified, or participating in any improvement plan(s), at a time determined. The timing of any improvement plan(s) shall be at the sole discretion of the Council.

Section 1632—Infrastructure, Design and Construction Standards and Requirements:

The layout and design of all site plans and subdivisions and the content of all plans, plats, engineering design plans, documentation, and other required materials and submissions and subdivision infrastructure, design and construction standards shall comply with the requirements of this Ordinance, and the Gunnison City Construction and Design Standards.

Section 1633—Guarantee of Installation of Improvements:

A Land Use Authority with responsibility to approve of any required Land Use Application shall guarantee the installation of any required facilities and services by one of the methods specified as follows:

- 1) The Applicant(s) may furnish and file with the City Recorder a bond with corporate surety in an amount equal to the cost of the improvements as estimated by the City Engineer, which bond shall be approved by the City Attorney and shall be filed with the City Recorder.
- 2) The Applicant(s) may deposit in escrow with an escrow holder approved by the Council an amount of money equal to the cost of the improvements as estimated by the City Engineer, which escrow agreement shall be approved by the City Attorney and shall be filed with the City Recorder.

Section 1634—Certificate of Occupancy Required:

- 1) Unless exempted by the Building Code(s), as adopted, no building or structure shall be occupied, or used, until a Certificate of Occupancy has been issued by the Building Official.
- 2) It is unlawful to occupy or use a building or structure until a Certificate of Occupancy has been issued for such building or structure.
- 3) Failure to obtain a Certificate of Occupancy shall be a violation of this Ordinance, and the Building Code(s), as adopted.
- 4) The occupancy or use of any building or structure for which a Certificate of Occupancy has not been issued is declared to be a public nuisance and may be cited and abated as such.

Section 1635—Business License Required – Continuing Obligations:

All activities requiring a business license, as required by the City’s Business License Ordinance, shall be operated in compliance with all requirements of the Land Use Application, as approved, and all business license requirements. Issuance of a business license shall be conditioned upon continued compliance with all requirements and/or conditions of Land Use Application approval. All activities requiring a business license shall comply with all requirements, including annual license renewal.

Section 1636—Lot and Setback Requirements for Primary Buildings:

Appendix B, Table of Development Standards, identifies the minimum lot size, building location requirements, and other requirements for buildings and structures in each Zoning District provided by this Ordinance.

Section 1637—Off-Street Parking Requirements:

All uses shall provide the minimum off-street parking requirements identified by Chapter 18.

Section 1638—Construction Subject to Geologic, Flood, or Other Natural Hazards:

To protect the public health, welfare and safety from geologic, flood, or other natural hazards all Land Use Applications shall be required to provide a geotechnical report if any land area or parcel that has the potential for any soils, earthquake, flood, or other natural hazards. The geotechnical report shall be provided as follows:

- 1) Be prepared at the Applicant’s expense by a registered or licensed geologist, soils engineer, or civil engineer.
- 2) Identify the suitability of the subject property to accommodate the proposed development, identifying all development constraints, limitations, conditions, and mitigation actions, applying best management practices.

Section 1639—Required Property Maintenance:

All buildings, uses, and lots, located in the City shall be maintained and operated in a manner to enhance community pride and beautification. No junk, rubbish, weeds, or other unsightly material or conditions shall be permitted on any lot, parcel, right-of-way, or easement, or as part of any building or use.

Section 1640—Noxious Weeds:

All property owners shall comply with the requirements of the “Utah Noxious Weeds Act,” UCA.

Section 1641—Storage of Abandoned Vehicles, Trash, and Debris Prohibited:

No required yard or setback area or other open space area shall be used for the storage or accumulation of any unlicensed, abandoned, wrecked, or junk vehicles, the storage of trash, or debris, the dismantling of vehicles, machinery or equipment.

CHAPTER 17

**SUPPLEMENTARY DEVELOPMENT STANDARDS APPLICABLE TO
CERTAIN PROPERTY AND LAND USES**

Section 1701—Purpose:

The purpose of supplementary development standards is to further the purposes of this Ordinance and to address the use, location, construction, and operation of particular uses and activities. Compliance with all supplementary development standards, as applicable, as well as all other requirements of this Ordinance, and all other Federal, State, and Local requirements is required.

Section 1702—Home Occupations:

All applications to establish a home occupation shall comply with the following requirements:

- 1) The home occupation is clearly incidental to the use of the dwelling unit for residential purposes and does not change the character of the dwelling unit or any legal accessory building or structure.
- 2) If the home occupation will be conducted within a dwelling the entrance to the home occupation from outside shall be the main entrance or the same entrance used by the residents of the dwelling unit, except when required to be otherwise by the Fire Authority, Board of Health, or other public agency with authority.
- 3) The physical appearance, traffic, and other activities in connection with the home occupation are not contrary or in conflict with the purposes of the Zoning District in which the dwelling unit is located.
- 4) If the home occupation will be conducted within a dwelling no more than twenty-five percent (25%) of the ground floor area of the dwelling unit is used for the home occupation.
- 5) All activities associated with the home occupation shall be conducted entirely within the dwelling unit, or legal accessory building or structure, and shall be conducted by the residents of the dwelling only.
- 6) All activities associated with the home occupation must be conducted within the dwelling unit or legal accessory building or structure.
- 7) The home occupation contains no facilities for the display of goods or merchandise. Any sale of goods or services shall be an incidental part of the home occupation.
- 8) No commercial vehicles are used except one (1) delivery vehicle which does not exceed three-fourth ($\frac{3}{4}$) ton rated capacity.

9) The home occupation shall maintain a valid Gunnison City business license.

Section 1703—Child Care:

- 1) All Child Care facilities, including a “Child Care – Facility,” “Child Care – Hourly,” “Child Care – Licensed Family,” and “Child Care – Residential Certificate” shall comply with all licensure requirements of the State of Utah Department of Child and Family Services.
- 2) All Child Care facilities, including a “Child Care – Facility,” “Child Care – Hourly,” “Child Care – Licensed Family,” and “Child Care – Residential Certificate” shall be inspected and provide a “Fire Clearance” issued by the Fire Authority.
- 3) All Child Care facilities, including a “Child Care – Facility,” “Child Care – Hourly,” “Child Care – Licensed Family,” and “Child Care – Residential Certificate” shall maintain a valid business license as required by the business licensing requirements of the City, as applicable.

Section 1704—Manufactured Homes:

As required by the Act, and for the purposes of this Section, a manufactured home is the same as defined in Section 58-56-3, UCA, except that the manufactured home must be attached to a permanent foundation in accordance with plans providing for vertical loads, uplift, and lateral forces and frost protection in compliance with the applicable building code. All associated accessory buildings and structures shall be built in compliance with the applicable building code.

- 1) A manufactured home may not be excluded from any Zoning District in which a single-family residence would be permitted, provided the manufactured home complies with all Land Use Ordinances, building codes, and any restrictive covenants, applicable to a single-family residence within the Zoning District.
- 2) The City may not:
 - a. Adopt or enforce an ordinance or regulation that treats a proposed development that includes manufactured homes differently than one that does not include manufactured homes; or
 - b. Reject a development plan because the development is expected to contain manufactured homes.

Section 1705—Church:

The establishment of any “church” shall comply with all requirements of the "Utah Religious Land Use Act”.

Section 1706—Accessory Buildings (See also Section 1707):

- 1) All accessory buildings or accessory uses shall only be permitted concurrently with, or following, the establishment of a primary building or primary use.
- 2) Accessory buildings may be detached from the primary building, as provided by Appendix B-1 Standards for Detached Accessory Buildings and Structures.
- 3) Any shipping or cargo container used as an accessory building shall only be permitted as a accessory building(detached), meeting the location standards as provided by Appendix B-1, Standards for Detached Accessory Buildings and Structures.
- 4) Accessory buildings for the housing of animals or fowl shall be located as provided by Appendix B-1, Standards for Detached Accessory Buildings and Structures.
- 5) An accessory building (attached) shall meet all development standards for the location of the primary building.
- 6) No mobile home, travel trailer, or similar recreational vehicle shall be used as an accessory building.
- 7) All accessory buildings shall comply with the requirements of the Building Codes, as adopted, and as applicable.
- 8) No accessory building shall be used as a dwelling unit for human occupancy, unless such accessory building has been approved as an Accessory Dwelling Unit for an Owner or Employee, as provided by Section 1709.
- 9) No separate utility connections or meters shall be allowed for any accessory building.
- 10) Accessory buildings shall not be rented, leased, or sold separately from the rental, lease, or sale of the primary building located on the same lot.
- 11) No portion of any accessory building shall be allowed to extend over any property line.
- 12) No storm water runoff from any accessory building shall be allowed to run onto adjacent property.

Section 1707—Limitations on the Size and Location of Accessory Buildings in Residential Zones:

Appendix B-1, Standards for Detached Accessory Buildings and Structures, identifies the development standards for all detached accessory buildings in residential Zoning Districts.

Section 1708—Smaller Detached Accessory Buildings—Exemption from Building Permit Requirements:

Detached accessory buildings with a maximum height of ten (10) feet and a maximum size less than one-hundred twenty (120) square feet shall not require a building permit, provided all setback requirements for the Zoning District in which the accessory building is located are met, no portion of the accessory building extends over any property line, and no storm water runoff from the accessory building is allowed to run onto adjacent property.

Section 1709—Accessory Dwelling Unit for an Owner or Employee:

- 1) An Accessory Dwelling Unit for an Owner or Employee shall not be rented, leased, or sold separately from the rental, lease, or sale of the primary building located on the same lot.
- 2) The lot proposed for an Accessory Dwelling Unit for an Owner or Employee shall already have an existing primary structure provided, or approved, prior to the consideration of an application to allow an accessory dwelling unit.
- 3) An Accessory Dwelling Unit for an Owner or Employee shall meet the required setbacks for attached or detached accessory buildings and uses as required by the Zoning District in which they are located.
- 4) An Accessory Dwelling Unit for an Owner or Employee shall be connected to, and served by, the same water, sewer, electrical, and gas meters that serve the primary building. No separate utility lines, connections, or meters shall be allowed for an Accessory Dwelling Unit for an Owner or Employee.
- 5) An Accessory Dwelling Unit for an Owner or Employee shall provide a minimum of two (2) off-street parking spaces, located as determined necessary and appropriate for approval of the Accessory Dwelling Unit for an Owner or Employee.
- 6) The construction of an Accessory Dwelling Unit for an Owner or Employee shall meet all requirements of the adopted Building Code, as applicable.
- 7) Mobile homes, travel trailers, boats, or similar recreational vehicles shall not be used as an Accessory Dwelling Unit for an Owner or Employee.
- 8) As a condition of approval required to establish an Accessory Dwelling Unit for an Owner or Employee, the property owner shall record against the deed of the subject property, a deed restriction, in a form approved by the City, running in favor of the City, which shall prohibit the rental, lease or sale of the Accessory

Dwelling Unit for an Owner or Employee separately from the rental, lease, or sale of the primary use or building. Proof that such deed restriction has been recorded shall be provided to the Zoning Administrator prior to the issuance of the Certificate of Occupancy for the Accessory Dwelling Unit for an Owner or Employee.

Section 1710—Requirements for Landscaping in Nonresidential Zoning Districts:

- 1) Site Landscaping and Screening Treatments. Landscape improvements should mitigate building and parking lot impact, add aesthetic interest, and character. Landscape designers shall recognize the following landscape design principles with Landscape Plan(s):
 - a) Landscape Buffers. Landscape buffers between dissimilar or conflicting land uses shall be provided. Landscape buffers shall be provided for off-street parking and service areas and streetscape landscape buffer areas shall be provided on the site perimeter, as required by the Land Use Authority, as applicable.
 - b) Parking Lot Landscaping. All off street parking areas shall be designed and constructed to meet the following minimum landscape requirements. Land Use Application approval by the Land Use Authority may require additional parking area landscaping to achieve the purposes of this Ordinance.
 - i) Minimum Internal Parking Area Landscaping. All off street parking areas, providing twenty (20) or more off-street parking spaces shall provide a minimum of five percent (5%) of the total parking area as landscape treatments. Areas to be landscaped may include;
 - (1) Traffic islands.
 - (2) Peninsulas parallel to individual parking spaces.
 - (3) Planter areas located at the ends of parking rows or other planter areas located within the off-street parking area.
 - ii) The area provided for off street parking shall be the greatest area defined by the distance from the curb-lines or edges of the outermost parking space, aisle, or driveways.
 - iii) No required setback areas shall be included as meeting the required parking area landscaping required by this Section.
 - iv) All required landscaped areas shall be provided with a permanent and adequate means of irrigation and regularly maintained, including weed control.
 - v) All parking lot hard surfacing shall provide a sufficient area around all trees and landscaping to permit water absorption and prevent soil compaction.

- vi) Off-street parking areas shall be screened by landscaped areas and/or screening walls.
- c) Landscape Materials. All proposed plants and landscape materials shall be consistent with (but not uniform) and of a similar scale with existing natural landscape, neighboring landscape, and adjacent areas where appropriate. Drought tolerant plant materials are encouraged.
- d) Screening Walls, Fences, and Other Visual Barriers. Walls, fences, and barriers that create a continuous surface greater than twenty (20) feet in length shall be softened with landscaping.
- e) Non-vegetative Ground Cover. Non-vegetative ground cover treatments may include boulders, small stones less than 1/2 inch in diameter and bark and mulch. Areas of non-vegetative ground cover materials shall be broken up and interspersed with plant materials.
- f) Landscape Maintenance. All landscape plans shall include necessary irrigation plans and shall demonstrate that long-term landscape maintenance has been considered in the landscape design.

Section 1711—Uses in the Residential and Commercial (R&C-1) District:

- 1) The uses allowed within the Residential and Commercial (R&C-1) District are identified in Appendix A, Table of Uses.
- 2) Land Use Applications. All Land Use Applications required to establish and use, or a combination of uses, as allowed by the Residential and Commercial (R&C-1) District shall be submitted, processed, and reviewed in accordance with the procedures for a Permitted P-1 Use, Permitted P-2 Use or Conditional C Use, as applicable, and as provided by this Ordinance. All Land Use Application approvals for any required approval shall be reviewed and approved as provided by this Ordinance.
- 3) Land Use Application Requirements and Standards. All proposed uses and activities proposed in the Residential and Commercial (R&C-1) District shall be approved only if such uses and activities comply fully with the standards, as contained in Table 17-1, Standards for the Residential and Commercial (R&C-1) District, as well as all other applicable requirements of this Ordinance.

Table 17-1
STANDARDS FOR THE RESIDENTIAL & COMMERCIAL (R&C-1) DISTRICT

REQUIREMENT	STANDARD
Allowed Uses	As allowed by Appendix A.
Required Use Approval Procedure	As identified by Appendix A.
Allowed Residential Density	As provided by Appendix B.
Minimum Lot Size	All lots shall be of sufficient size to provide compliance with all minimum yard requirements, landscaping, access, parking, and other standards as required for Land Use Application approval, as provided by this Ordinance.
Maximum Building Size	As required for Land Use Application approval, as provided by this Ordinance.
Minimum and Maximum Building Height	As required by Appendix B.
Minimum Required Front Yard Setback	As required by Appendix B.
Minimum Required Side Yard Setback	As required by Appendix B.
Minimum Required Rear Yard Setback	As required by Appendix B.
Minimum Off-Street Parking Requirements	Total required off-street parking spaces shall be the cumulative total of the minimum required off-street parking spaces required for all uses proposed, as identified by Table 18-1, or may be determined by the review and acceptance by the Land Use Authority of a Shared Parking Analysis, conducted using accepted information and analysis methods, and approved and accepted as part of Land Use Application approval.
Location of Off-Street Parking Areas	The location of all parking areas shall be considered understanding the visual and pedestrian amenity impacts of off-street parking areas. The relationships and placement of buildings, open spaces, vehicle and pedestrian

REQUIREMENT	STANDARD
	facilities and off-street parking areas is a critical design element in the Residential and Commercial (R&C-1) District and shall be required as part of Land Use Application approval.
Architectural Design and Materials Requirements	All buildings shall possess a similar architectural theme and have common architectural elements creating a unifying development character and design theme. All sides of buildings shall receive equal design consideration, particularly where exposed to pedestrian and/or vehicular traffic and adjacent properties.
Building Orientation	All buildings shall address the street and provide architectural and other design elements to create a presence and attractive and inviting building-street relationship.
Signs	All uses proposed in a Residential and Commercial (R&C-1) District shall provide a consistent and unified signage scheme, such signage complying with the site and building design requirements and approval procedures, as provided by this Ordinance.
Required Landscaping	All landscaping shall comply with the requirements of this Ordinance.
Building and Site Lighting	All building and site lighting shall comply with the requirements of this Ordinance.
Other Site Design Requirements and Features	For all other building and site design elements the building and site design plans shall comply with the site and building design requirements and approval procedures, as provided and required by this Ordinance, or as may be further identified and required for Land Use Application approval, as required by the Land Use Authority, as applicable.
Nuisance	No use shall be designed or operated to expose adjoining properties and uses to offensive noise, odors, dust, electrical interference, and/or vibration, or create any other nuisance.

Section 1712—Fences and Walls:

- 1) Before commencing construction, plans for all fences and walls shall first be submitted to and reviewed/approved by the Zoning Administrator.
- 2) Height.
 - a) Unless required for Land Use Application approval no fence, wall, hedge, or similar shall be erected on any rear or side yard property line to a height in excess of six (6) feet, except as follows;
 - i) fences located on the front property line or on the side property line within the front yard shall not be higher than thirty-six (36) inches; or
 - ii) forty-eight (48) inches if the fence is an open fence as defined by this Ordinance (See Fence, Open).
 - b) On corner lots all fences shall comply with this Section and Section 1625.
 - c) All fences higher than six (6) feet, measured from finished grade, shall obtain an approved Building Permit.
 - d) A fence or wall located along a property line with a grade difference, the fence or wall may be erected to the maximum height permitted by the highest grade at the property line. No ground shall be bermed to exceed the maximum allowed height for fences or walls.
 - e) Pasture Fence. A fence surrounding a pasture and complying with the requirements for a Fence, Open.
- 2) Quality of Construction.
 - a) All fences and walls shall be constructed in a workman-like manner according to industry standards.
 - b) All fences and walls shall be constructed of substantial material and the design and construction shall be consistent with the quality of dwellings and other improvements within the surrounding area.

Section 1713—Swimming Pools:

- 1) All swimming pools, or other artificially created pools more than eighteen (18) inches deep, shall be surrounded by a safety fence.
- 2) The safety fence shall be no less than four feet six inches (4'6") high for pools situated on property used for a dwelling.

- 3) The safety fence must be constructed of approved materials. The fence exterior shall be smooth (free of projections which would aid climbing) and shall have no opening which exceeds four (4) inches in horizontal dimension.
- 4) Gates shall be constructed of approved materials, shall be self-closing, self-latching, and not over four (4) feet wide. Latching hardware shall be installed at a height of not less than fifty-two (52) inches.
- 5) Space adjacent to the exterior of the fence, which falls within the area described by a radius equal in length to the height of the enclosure, and centered at the top of the enclosure fence, must be kept clear of all natural or man-made objects which could be used to gain access into the enclosure.
- 6) Outdoor jacuzzi tubs, or other similar small pools, may be protected by a solid locking cover in lieu of a fence. In the absence of a solid locking cover, the requirements for a safety fence provided by this Section shall be provided.
- 7) Access to indoor pools shall be restricted by the surrounding structure in a manner that is at least as secure as provided for outdoor pools, as provided by this Section.

Section 1714—Bed and Breakfast Inn:

A Bed and Breakfast Inn shall be conducted only in a single-family dwelling and only by the owner of the dwelling that complies with the following requirements:

- 1) The single-family dwelling proposed as a Bed & Breakfast Inn shall meet all applicable requirements of this Ordinance, other Land Use Ordinances, adopted Building Code, and Health Code, as applicable.
- 2) The Fire Authority shall inspect the premises and be satisfied that the dwelling and premises comply with the applicable Fire Code, as adopted.
- 3) A hard-surfaced off street parking area of one (1) parking space for each guest room, in addition to the parking requirements for the single-family dwelling shall be provided.
- 4) No accessory structure, motor home, travel trailer, boat, or similar recreational vehicle or facility shall be used as guest rooms.

Section 1715—Residential Facilities for Elderly Persons:

The approval of a Residential Facility for Elderly Persons is nontransferable and terminates if the structure is devoted to a use other than a Residential Facility for Elderly Persons, or if the structure fails to comply with the requirements of this Section.

- 1) No Residential Facility for Elderly Persons shall be established unless:
 - a. It is proposed in a building that complies with all Land Use Ordinances and Building Code(s), as adopted, and as applicable to similar structures in the Zoning District in which the Residential Facility for Elderly Persons is proposed.
 - b. The Residential Facility for Elderly Persons proposes no fundamental change in the character of the neighborhood.
- 2) No Residential Facility for Elderly Persons shall be approved that would allow more than six (6) occupants.
- 3) The Land Use Authority in reviewing an application to establish a Residential Facility for Elderly Persons may to the extent necessary modify the requirements of this Section if such modification is deemed necessary to make a reasonable accommodation to afford persons residing in such facilities equal opportunity in the use and enjoyment of the facility.

Section 1716—Residential Facilities for Persons with a Disability:

The approval of a Residential Facility for Persons with a Disability is nontransferable and terminates if the structure is devoted to a use other than a Residential Facility for Persons with a Disability, or if the structure fails to comply with the requirements of this Section.

- 1) No Residential Facility for Persons with a Disability shall be established unless:
 - a) It is proposed in a building that complies with all Land Use Ordinances and Building Code(s), as adopted, as applicable to similar structures in the Zoning District in which the Residential Facility for Persons with a Disability is proposed.
 - b) The Residential Facility for Persons with a Disability proposes no fundamental change in the character of the neighborhood.

2) Maximum Number of Occupants (Consumers and Staff).

For any building proposed to be used as a Residence for Persons with a Disability, the building plans shall be reviewed by the Building Official, considering the Categorical Standards for physical facilities, as established by the State of Utah Department of Human Services. Following this review the Building Official shall establish the maximum number of persons allowed to reside in the Residence for Persons with a Disability.

3) State of Utah Department of Human Services License.

At the time of Application to establish a Residence for Persons with a Disability, or within forty-five (45) calendar days following approval, the owner or provider shall provide to the City Recorder evidence that the Residence is licensed by the State of Utah Department of Human Services for the type of Residence being considered by the City. The Land Use Authority shall condition any approval on the presentation of evidence that the Residence is licensed by the State of Utah Department of Human Services, as required by this Section. Failure to provide such evidence shall be grounds for the City to invalidate any existing or pending approval.

4) Continued Compliance with the Licensure Requirements of the Department of Human Services.

The responsibility to license programs, or owners or providers that operate a Residence for Persons with a Disability, as well as require and monitor the provision of adequate services to consumers residing therein shall rest with the State of Utah Department of Human Services.

5) Approval to Operate a Residence for Persons with a Disability Non-transferable.

An approval to operate a Residence for Persons with a Disability, as authorized by this Section, is nontransferable and shall only be valid to the owner or provider identified on the application authorizing the operation of the Residence, and as identified as the owner or provider as licensed by the State of Utah Department of Human Services. An approval to operate a Residence for Persons with a Disability terminates if the building is devoted to another use or if the building fails to comply with any of the standards established herein.

6) Reasonable Accommodations.

The Land Use Authority, in reviewing an application to establish and operate a Residence for Persons with a Disability may modify the requirements of this Section if the Land Use Authority determines such modification is necessary in order to make a reasonable accommodation to afford persons residing in a Residence for Persons with a Disability equal opportunity in the use and enjoyment of the Residence.

Section 1717—Residential Facilities for Persons with a Disability that are Substance Abuse Facilities and are Located within Five Hundred (500) Feet of a School:

In addition to the requirements for a Residence for Persons with a Disability, as provided by Section 1716, the following requirements shall apply to all Residences for Persons with a Disability that are substance abuse facilities and proposed within five hundred (500) feet of a school:

- 1) In accordance with the rules established by the Department of Human Services under Title 62A *et. seq.* Licensure of Programs and Facilities, U.C.A. shall provide;
 - a) A security plan satisfactory to the Gunnison City Police Department.
 - b) Twenty-four (24) hour supervision for residents; and
 - c) Other twenty-four (24) hour security measures.

Section 1718—Household Pets:

The keeping of household pets for noncommercial purposes shall comply with the following requirements:

- 1) All household pets shall be kept in a manner that they do not disturb the peace, comfort, or health of any person or animal.
- 2) Yards, shelters, cages, areas, places, and premises where they are kept shall be maintained so that flies or odors do not disturb the peace, comfort, or health of any person or animal.
- 3) “Household Pets” are identified as a P-1 Use in Appendix A, Table of Uses but shall be exempt from the requirement to receive a P-1 Use approval if household pets are kept in the manner required by this Section.

Section 1719—Keeping of Domestic Livestock and Fowl:

The raising, care and keeping of limited numbers of domestic animals and fowl by the owner may be allowed, subject to the following requirements:

- 1) Each lot or parcel upon which domestic livestock or fowl are to be kept shall contain a designated Livestock Management Area as defined by this Section.

- 2) The total number of domestic livestock or fowl kept on any lot shall not exceed one (1) Animal Unit (see Appendix A, Table of Uses for definition) for each four thousand five hundred (4,500) square feet of Livestock Management Area, provided that no bovine, equine or similar large animal shall be kept on any lot or parcel where the Livestock Management Area is less than nine thousand (9,000) square feet.

- 3) On any lot which contains a dwelling unit the Livestock Management Area shall not include the area required to meet the minimum lot size requirement for the primary use. (For example, the first 10,000 square feet for a single family dwelling unit located in the R-2-10,000 District shall not be included in the area required to determine the Livestock Management Area.)

- 4) All barns, corrals, stables, coops, pens or runs used for the feeding, housing, or confinement of domestic livestock or fowl shall not be located closer than seventy-five (75) feet to an existing dwelling or other occupied structure located on an adjacent lot or forty (40) feet to a dwelling located on the same lot.

- 5) Where the Livestock Management Area includes a pasture the fence forming the boundary of the pasture shall be located not less than the required minimum side setback distance of the Zoning District from any dwelling located on the same or any adjacent lot. If at any time the enclosed area no longer functions as a pasture the setback provisions of Subsection 4 above shall apply.

- 6) The parcel or any portion thereof proposed to be used for the keeping of domestic livestock or fowl shall be approved by the Zoning Administrator as a qualified Livestock Management Area.

Section 1720—Prohibited Animals:

No animals or fowl that are inherently or potentially dangerous shall be kept on any lot or parcel located within the City.

Section 1721—Commercial Kennels:

All Commercial Kennels shall comply with the following:

- 1) Meet all State, County, and Local ordinances.

- 2) Be kept in such a way as to not disturb the health and safety of any person or animal.

- 3) All enclosed pens, shelters, cages, areas, and premises where animals are held or kept shall be completely soundproofed, so that at no noise is discernable from the kennel that could create a nuisance to adjoining properties.
- 4) All pens, yards, shelters, cages, areas, and premises where animals are held or kept shall be maintained so that no flies, insects, vermin, rodent harborage, odors, ponded water, the accumulation of garbage or other materials do not disturb the health and safety of any person or animal.
- 5) No pens, yards, shelters, cages, areas, and premises where animals are held or kept shall be closer than seventy-five (75) feet from any residential structure located on adjacent lots.
- 6) The required side yard and rear yard setbacks for the zone in which the kennel is located shall be met or twenty (20) foot side and rear yard setbacks shall be provided, whichever is greater.

Section 1722—Wireless Telecommunications Site/Facility:

This Section provides standards for wireless telecommunication facilities to promote compatibility with adjoining uses to the extent permitted by the Telecommunications Act of 1996, as amended.

- 1) Scope. The requirements of this Section shall apply to all wireless telecommunication facilities such as “cellular” or “PCS” (Personal Communications System) communications and paging systems. This Section shall not apply to radio antennas complying with the ruling of the Federal Communications Commission in “Amateur Radio Preemption, 101 FCC 2nd 952 (1985)” or a regulation related to amateur radio service adopted under 47 C.F.R Part 97.
- 2) Facility Types. The following types of wireless telecommunication facilities shall be governed by this Section:
 - a) Stealth Design Antennas.
 - b) Roof – Mounted Antennas.
 - c) Wall – Mounted antennas.
 - d) Monopoles – monopoles with antennas and antenna support.
- 3) Prohibited Facility Types. Unless a facility is a wireless telecommunication facility identified by (2) above, all other types of facilities are determined to be prohibited facilities within City, including the following facilities:

- a) All other types of wireless telecommunication facilities unless otherwise required to comply with State or Federal law.
- 4) Other Laws. The requirements of this Section shall not be construed to prohibit or limit other applicable provisions of this Ordinance or other laws, including regulations of the Federal Communications Commission and the Federal Aviation Administration.
- 5) Existing Facility Plan Required. When a carrier applies for an approval under this Section, the carrier shall submit a plan showing by location and type of the carrier’s existing and planned facilities within the City and within one (1) mile of the City’s boundary.
- 6) Screening. Any associated mechanical or electrical equipment shall be screened with a decorative screening fence, and/or landscaping.
- 7) Location. The proposed facility, including associated mechanical and electrical equipment, shall not be located within any public right-of-way.
- 8) Compliance Required. The proposed facility shall conform to the requirements of this Section and other applicable Federal, State, or Local laws, including regulations of the Federal Communications Commission and the Federal Aviation Administration.
- 9) Permits Required. At the time of Application to establish a Wireless Telecommunications Site/Facility, or within forty-five (45) calendar days following approval, the owner or provider shall provide to the City Recorder evidence that the Site/Facility is licensed by the Federal and/or State agencies, as required. The Land Use Authority shall condition any approval on the presentation of evidence that the Site/Facility is licensed as required by this Section. Failure to provide such evidence shall be grounds for the City to invalidate any existing or pending approval.
- 10) Stealth Design Antennas. The following provisions shall apply to all stealth-design antennas. The intent of this Section is to allow creativity in designing a proposed facility so that it will have limited visual impact.
 - a) Stealth designs may include, but are not limited to, the use of one (1) or more of the following:
 - i) Screening, structure, and/or antenna design which blend with the architecture of the existing structure upon which the antenna will be mounted.
 - ii) Screening, structure, antenna and/or location design which blend with and/or take advantage of existing vegetation and/or features of a site; and
 - iii) Color schemes that make the antenna less noticeable.

- b) All Stealth Design Antennas shall comply with all other Sections, as applicable, including screening and location requirements. associated mechanical or electrical equipment shall be screened from view.
- 11) Roof-Mounted Antennas. The following provisions shall apply to roof-mounted antennas.
- a) Roof-mounted antennas may only be allowed if determined to be a stealth design as set forth in this Section.
 - b) The maximum height of any roof-mounted antenna shall comply with the maximum building height allowed in the Zoning District in which the roof-mounted antenna is located.
 - c) Roof-mounted antennas, equipment, and the supporting structure shall be painted to match the color of the building or structure or the background against which they are most commonly seen.
 - d) The maximum number of roof-mounted antennas shall be one (1) roof-mounted antenna per building or structure.
 - e) All wall-mounted antennas shall be approved stealth-design antennas as set forth in this Section.
- 12) Wall-Mounted Antennas. Wall-Mounted antennas may only be allowed if determined to be a stealth design as set forth in this Section. The following provisions shall apply to flush- and non-flush mounted wall antennas.
- a) Wall-mounted antennas shall not:
 - i) Extend above the maximum building height allowed in the Zoning District in which the wall-mounted antenna is located.
 - ii) Extend more than one (1) foot horizontally from the wall surface.
 - b) Wall-mounted antennas, equipment, and the supporting structure shall be painted to match the color of the building or structure or the background against which they are most commonly seen.
 - c) The maximum number of wall-mounted antennas shall be one (1) wall-mounted antenna per building or structure.
 - d) All wall-mounted antennas shall be approved stealth-design antennas as set forth in this Section.
- 13) Monopoles and Antenna Support Structures. Monopoles with antennas support structures shall only be allowed if determined to be a stealth design, as set forth in

this Section. The following provisions shall apply to monopoles and antenna support structures.

- a) The maximum height of any monopole, including antennas and antenna support structures, shall comply with the maximum building height allowed in the Zoning District in which the monopole, including antennas and antenna support structures is located, measured from the natural grade at the base of the monopole to the highest point of the pole, antennas, or support structures.
- b) The location of a monopole, and its associated equipment and facilities, shall be as follows:
 - i) All accessory equipment not located within an accessory building shall be screened with a decorative screening fence, and/or landscaping.
 - ii) A monopole, and associated equipment and facilities, shall be a stealth design, as provided by this Section.
 - iii) A monopole, and its associated equipment and facilities, shall comply with the minimum yard setback requirements of the Zoning District in which it is located.
 - iv) A monopole, and its associated equipment and facilities shall not be located within, four (4) feet for every one (1) foot of pole height, of any residential Zoning District boundary.
 - v) A monopole, and its associated equipment and facilities, shall not be located within one thousand (1,000) linear feet from another monopole.
 - vi) All communication and power lines to or between any accessory building, accessory equipment, and antenna structures, shall be located underground.

14) Alternative Locations. In considering applications to locate wireless telecommunications facilities, the Land Use Authority shall consider whether the location of the antenna on other existing structures in the same vicinity, such as other towers, buildings, athletic field lights, parking lot lights, etc., is possible without significantly affecting antenna transmission or reception.

15) Non-Maintained and Abandoned Facilities—Letter Agreement. Prior to approval of an application for a wireless telecommunication facility, the Applicant shall provide the Land Use Authority a letter agreeing to the requirements of this Section. The letter agreement shall State that if technology renders the facility obsolete, the facility is not maintained, the facility is abandoned, or the facility is vacated, the carrier will provide the City Recorder with a copy of a "Notice to Abandon" to be filed with the Federal Communications Commission and will remove the facility.

16) If the Zoning Administrator determines that a facility is not maintained, is abandoned, or is vacated, the Zoning Administrator shall send the owner a Notice of Non-Maintenance or Abandonment by certified mail. If a facility subject to the notice has not been repaired, put into use, or removed within thirty (30) calendar days of receipt of the notice, the Zoning Administrator shall send the owner a certified Notice to Remove, which shall give the owner thirty (30) calendar days from the receipt of the notice to remove the facility. In the event a facility is not removed as required, the City may undertake legal proceedings to enforce removal as set forth in this Section, or other applicable Ordinances of the City.

Section 1723—Amateur Radio Antennas:

As required by the Act, the City may not enact or enforce an Ordinance that does not comply with the ruling of the Federal Communications Commission in "Amateur Radio Preemption, 101 FCC 2nd 952 (1985)" or a regulation related to amateur radio service adopted under 47 C.F.R. Part 97.

If the City adopts an Ordinance involving the placement, screening, or height of an amateur radio antenna based on health, safety, or aesthetic conditions, the Ordinance shall:

- 1) Reasonably accommodate amateur radio communications; and
- 2) Represent the minimal practicable regulation to accomplish the City's purpose.

Section 1724—Sale, Distribution, and Consumption of Alcoholic Beverages and Alcoholic Products:

All applications for a Beer License, as provided by Utah law, shall comply with the procedures and requirements of the City's Alcoholic Beverage Ordinance, as adopted.

Section 1725—Sexually Oriented Business:

A sexually oriented business may be authorized as a Conditional Use, in the Zoning District identified by Appendix A, Table of Uses, subject to the following conditions:

- 1) No sexually oriented business shall be located less than one thousand (1,000) feet of:
 - a) A building which is used primarily for religious worship and related religious activities.
 - b) A public or private educational facility, including, but not limited to, child daycare facilities, nursery schools, preschools, kindergartens, elementary schools, private schools, intermediate schools, junior high schools, middle schools, high schools, vocational schools, junior colleges and universities. "School" includes the school grounds, but does not include facilities used primarily for another purpose and only incidentally as a school.

- c) A public park or recreational area which has been designated for park or recreational activities, including, but not limited to, a park, playground, nature trail, swimming pool, reservoir, athletic field, basketball or tennis court, pedestrian/bicycle path, wilderness area, or other similar public land within the City which is under the control, operation or management of the City.
 - d) An entertainment business which is oriented primarily towards children or family entertainment.
 - e) Any private club or tavern;
 - f) A boundary of a "residential district", as defined in this Ordinance; or
 - g) The property line of a lot devoted to a residential use.
- 2) For the purpose of this Section, measurements shall be made in a straight line, without regard to the intervening structures or objects from the nearest portion of the building or structure used as part of the premises where a sexually oriented business is conducted, to the nearest property line of the premises of a use listed in this Section. Presence of a City, County, or other political subdivision boundary shall not be considered for purposes of calculating and applying the distance requirements of this Section.
- 3) For the purpose of this Section, the distance between any two (2) sexually oriented businesses shall be measured in a straight line, without regard to the intervening structures or objects or political boundaries, from the closest exterior wall of the structure in which each business is located.
- 4) Signs for sexually oriented businesses shall be limited as follows:
- a) No more than one (1) exterior wall sign or awning sign shall be allowed.
 - b) No sign shall be allowed to exceed eighteen (18) square feet.
 - c) No animation shall be permitted on, or around any sign, or on the exterior walls or roof of such premises.
 - d) No descriptive art or designs depicting any activity related to or inferring the nature of the business shall be allowed on any sign. Said signs shall contain alphanumeric copy only.
 - e) Painted wall advertising shall not be allowed.
- 5) Other than the signs specifically allowed by this Section, sexually oriented businesses shall not attach, construct, or allow to be attached or constructed, any temporary

signs, banner, light, or other device designed to draw attention to the business location.

Section 1726—Wind Energy Systems:

This Section provides the minimum standards for the placement, construction and modification of Wind Energy Systems while promoting the safe, effective and efficient use of such systems.

- 1) Location. A Wind Energy System may be authorized as provided by Appendix A, Table of Uses.
- 2) All Wind Energy Systems shall be set back from the nearest property line, public road right-of-way, communication and electrical line not less than 1.5 times the height of any Wind Energy System tower.
- 3) No Wind Energy System shall be established on any parcel or lot less than one (1) acre in size.
- 4) Maximum Height. The maximum height of any Wind Energy System shall comply with the maximum height requirements as provided by Table 17-3. Maximum Height of Wind Energy Systems.

**Table 17-3
 Maximum Height of Wind Energy Systems**

PARCEL OR LOT SIZE	MAXIMUM TOWER HEIGHT WIND ENERGY SYSTEM (FEET)
Less than One (1) Acre	Wind Energy System Not Allowed
One (1) Acre to Less than Three (Acres)	50
Three (3) Acres to Less than Five (5) Acres)	65
Five (5) Acres to Less than Ten (10) Acres	80
Ten (10) Acres and More	100

- 5) Design Standards. A Wind Energy System shall demonstrate that any structures, location and siting will not result in shadow flicker, noise, or ice throw on an adjacent property or structure, including a finding that the Wind Energy System can be approved complying with all requirements of this Section. In addition, the Land Use Authority shall require the following:
 - a) Monopole or Freestanding Design. All Wind Energy Systems shall be of a monopole or freestanding design without guy wires.

- b) Minimum Blade Height. The minimum height of the lowest extent of a turbine blade shall be thirty (30) feet above natural or finished grade and thirty (30) feet above any structure or obstacle within one-hundred (100) feet of the tower.
- c) No tower shall have any climbing apparatus within fifteen (15) feet of the ground.
- d) Noise. No Wind Energy System shall exceed sixty decibels (60 dBA) measured at the property line or fifty decibels (50 dBA) measured at the nearest dwelling.
- e) No Wind Energy System shall be lighted unless required by the Federal Aviation Administration (FAA).
- f) All electrical connections shall comply with all Building Code, as applicable.
- g) All Wind Energy Systems shall be equipped with both manual and automatic over-speed controls.

CHAPTER 18
OFF-STREET PARKING AND LOADING STANDARDS

Section 1801—Purpose:

The purpose of this Chapter is to achieve the purposes of the General Plan, this Ordinance, all other Land Use Ordinances, and to promote traffic and pedestrian safety and convenience.

Section 1802—General Provisions:

- 1) Off-street parking spaces shall be provided, meeting the requirements of this Chapter, for all new buildings, all additions, or enlargements to an existing building, the establishment of any new use, or the expansion of any existing use.
- 2) If an existing, legally established building is expanded by more than thirty percent (30%) of the existing gross floor area, all off-street parking spaces and areas shall comply with the requirements of this Chapter, as applicable.
- 3) Required off-street parking spaces shall not be used for the repair of motor vehicles or the display or sale of goods and services of any kind, unless authorized by a Land Use Application approval.
- 4) Oil separators and other pollution control devices may be required as part of Land Use Application approval, as may be required by a Land Use Authority, as applicable.
- 5) No sidewalk, trail, or required landscape area shall be used for the off-street parking of any vehicle(s), or as a loading area.
- 6) Off-street parking is prohibited in all access ways, fire lanes or similar areas not designated for parking purposes.
- 7) No off-street parking area shall be used for the overnight occupancy of any vehicle including motor homes, campers, or trailers, unless authorized by a Land Use Application approval.

Section 1803—Size of Off-Street Parking and Loading Spaces:

- 1) The minimum dimension of all off-street parking spaces, other than parallel spaces, shall be ten (10) feet wide by eighteen (18) feet long. The minimum dimension of all parallel off-street parking spaces shall be nine (9) feet wide by twenty-five (25) feet long.

- 2) All required loading spaces shall have a minimum dimension as required by the Land Use Authority, depending on their location and the nature of the use.

Section 1804—Access Requirements:

- 1) All ingress and egress locations from an adjacent road or street to any off-street parking areas, including curb cuts, drive approaches, or other accesses, shall be approved by the City or the Utah Department of Transportation, as applicable.
- 2) A single-family residential lot shall have no more than two (2) driveways, each of which shall be a maximum of twenty (20) feet wide at the street lot line. Such driveways shall not be closer to each other than twelve (12) feet. No driveway shall be closer to a side property line than three (3) feet.
- 3) The location and dimension of all driveways shall be as approved by the Land Use Authority with use approval, as applicable.

Section 1805—Combination of Uses:

Where there is a combination of uses on the same lot, the total number of off-street parking spaces provided shall be the sum of the off-street parking requirements for each individual use. The total number of spaces required may be reduced if the Land Use Authority, as part of Land Use Application review, approves a parking study, conducted by a professional traffic engineer, demonstrating that a reduction of parking spaces is appropriate, with shared parking possible by the nature of the uses proposed.

Section 1806—Required Adjoining Parking Area Connections:

Interconnections between adjoining parking areas, located on adjacent lots, shall be required by the Land Use Authority as part of Land Use Application approval, and necessary to promote efficiency, convenience, and safety of vehicle movements. Permanent cross-access and maintenance agreements may be required by the Land Use Authority as part of Land Use Application approval.

Section 1807—Location of Required Off-Street Parking:

All required off-street parking spaces shall be located on the same lot as the use or building it serves, except required off-street parking spaces may be allowed on a separate lot that is within three hundred (300) feet of the use or building it serves, provided a non-revocable written parking agreement is in place prior to, or concurrent with, Land Use Application approval.

Section 1808—Required Off-Street Parking Area Landscaping:

Minimum required off-street parking area landscaping shall be provided as required and identified by Section 1710. A Land Use Authority may require additional parking area landscaping to achieve the purposes of this Ordinance.

Section 1809—Required Off-Street Parking Area Lighting:

All off-street parking area lighting shall be designed and installed to meet the following minimum requirements.

- 1) Parking lot lighting may be provided in all parking areas, with emphasis placed on appropriate lighting at entrances and exits. All parking lot lighting shall be integrated with landscape features.
- 2) The height of all pole-mounted lighting fixtures shall not exceed twenty-five (25) feet, measured to the top of the pole or luminary from the finished or natural grade, whichever is lower.
- 3) All light fixtures, including security lighting, shall be fully hooded or shielded and aimed so that all direct illumination shall be confined to the property. All motion sensing light fixtures shall be fully shielded and adjusted, according to the manufacturer’s specifications.

Section 1810—Maintenance of Parking Spaces and Areas:

Public or private off-street parking areas shall be constructed and maintained in compliance with the following requirements:

- 1) Surfacing. All off-street parking areas shall be surfaced with a surface adequate in relation to its location and use. All parking areas shall be surfaced to provide a dustless surface. Storm water drainage systems shall be provided for all off-street parking areas, as required by the Land Use Authority. If storm water is to be carried to adjacent streets, adequate detention shall be required to meet City requirements, and it shall be piped under all sidewalks.
- 2) Screening. The sides and rear of any off-street parking area that adjoins a Residential Zoning District shall be screened by a decorative masonry fence, and/or landscaping.
- 3) Traffic control signs and/or striping shall be provided, as required by the Land Use Authority necessary to minimize vehicular and pedestrian conflicts.

Section 1811—Number of Required Off-Street Parking Spaces:

The number of required off-street parking spaces shall be provided as required by Table 18-1, Minimum Off-Street Parking Requirements, and shall comply with the following:

- 1) Fractional Amount. In calculating the total number of required off-street parking spaces, fractional amounts shall be rounded to the nearest whole number.
- 2) Unspecified Uses. The Land Use Authority, based on the requirements for similar uses, shall determine the off-street parking requirements for any use not specifically listed.

**Table 18-1
 MINIMUM OFF-STREET PARKING REQUIREMENTS**

USE	MINIMUM OFF-STREET PARKING STANDARD
Accessory Building/Structure (Attached) Accessory Building/Structure (Detached) Accessory Use Agricultural Building Agriculture Animal Unit (The Keeping of Domestic Livestock and Fowl) Barn, Corral, Stable, Coop, Pen or Animal Run Child Care – Home Day Care Child Care – Residential Facility Class A – Beer Licenses – Off Premises Consumption Class A Liquor Licenses – Private Club Home Occupation Household Pets Wind Energy System Wireless Telecommunications Site/Facility	No Separate Requirement
Accessory Dwelling Unit for a Relative or Employee Dwelling Unit, Condominium Dwelling Unit, Manufactured Home Dwelling Unit, Mobile Home Dwelling Unit, Multiple-Family Dwelling Unit, Single-Family Dwelling Unit, Two-Family	Two (2) spaces per dwelling unit.

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USE	MINIMUM OFF-STREET PARKING STANDARD
Airport Animal Control Facility Child Care – Facility Child Care – Licensed Family Correctional Facility Educational Facility Major Facility of a Public Utility Minor Facility of a Public Utility Mixed Use Open/Outdoor Storage (Stand Alone) Public Use Self-Service Storage Sewer Treatment Facility Temporary Use Vehicle and Equipment Rental or Sale, New or Used Water Treatment Facility	As approved by the Land Use Authority with Land Use Application approval, dependent on the type, size, location, accessory uses, and nature of the use or facility.
Animal Hospital (Veterinary Clinic), With Outdoor Holding Facilities Animal Hospital (Veterinary Clinic), Without Outdoor Holding Facilities	One (1) space for six hundred (600) square feet of gross floor area.
Automotive Care Bank, Credit Union or other Financial Institution(see also Drive through/Drive up Facility) Commercial Retail Sales and Services Construction Sales and Service Contractor’s Office/Contractor’s Storage Yard Office Personal Care Service Personal Instruction Service Sexually Oriented Business Vehicle and Equipment Repair	One (1) parking space for each four hundred (400) square feet of gross floor area.
Bed and Breakfast Inn	One (1) parking space for each guest room in addition to requirements of the owner’s dwelling unit.
Campground	One (1) space for each campsite.
Car Wash	Two (2) stacking spaces per each wash bay, excluding any spaces located in the wash bay.

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USE	MINIMUM OFF-STREET PARKING STANDARD
Church Commercial Recreation (Indoor) Commercial Recreation (Outdoor) Theater, Indoor Reception Hall, Reception Center	One (1) parking space for each Four (4) seats in the assembly area, or one (1) space for each two hundred (200) square feet of gross floor area, whichever is less.
Child Care – Hourly Commercial Day Care/Preschool Center	One (1) parking space for each staff member plus one (1) space for each ten (10) students.
Commercial Kennel	One (1) space for eight hundred (800) square feet of gross floor area.
Commercial Plant Nursery	One (1) space for each person employed during regular working hours plus one (1)space for each one thousand two hundred (1,200)square feet of gross plant display area.
Automotive Self-Service Station Convenience Store	One (1) space for each three hundred (300) square feet of gross floor area plus two (2) spaces per each gasoline pump provided.
Day Care Center/Assisted Care Center	One (1) parking space for each staff member plus one (1) space for each eight (8) attendees/patients.
Drive through/Drive up Facility	One (1) space located at the facility plus a minimum of sixty (60) feet of stacking area to accommodate the stacking of three (3) vehicles in the drive through/drive up lane.
Emergency Care Facility Medical and Dental Clinic	One (1) space for each two hundred (200) square feet of gross floor area.
Golf Course	Four (4) spaces per green.
Hospital	One (1) parking space for each patient bed.
Hotel Motel	One (1) space for each sleeping unit plus one (1) space for each employee on the regular shift.
Laundry, Self-Serve or Dry Cleaning	One (1) space for each three hundred (300) square feet of gross floor area.
	One (1) space for each person employed during regular working hours, plus one (1) space for each company owned vehicle.

USE	MINIMUM OFF-STREET PARKING STANDARD
Manufacturing, Major Manufacturing, Minor	One (1) space for each employee on the regular shift, plus one (1) space for each commercial vehicle used in association with the Manufacturing, Minor use.
Medical or Dental Laboratory	One (1) space for each employee on the regular shift.
Mortuary, Funeral Home	One (1) parking space for each four (4) fixed seats in the assembly area, plus one (1) for each commercial funeral vehicle.
Nursing Home, Convalescent Care Center	One (1) parking space for each two (2) patient beds.
Recycling Collection Center	Two (2) spaces for each collection bin/area.
Residential Facility for Elderly Persons Residential Facility for Persons with a Disability (Substance Abuse Facility located within 500 feet of a School) Residential Facility for Persons with a Disability	Two (2) spaces plus one (1) for each two (2) employees during regular hours.
Restaurant, Fast Food (See also Drive through/Drive up Facility) Restaurant, Sit Down	One (1) space for each four (4) seats or one (1) space for each one hundred (100) square feet of gross floor area, whichever is less.

Section 1812—Disabled Persons Parking:

Designated parking for persons with a disability shall be provided for all uses, meeting the requirements and specifications of the Americans with Disabilities Act.

Section 1813—Reduction of Off-Street Parking Requirements:

Requests to reduce off-street parking requirement(s) may be granted by the Land Use Authority if the Applicant shows, by the presentation of information and materials, that a reduced number of off-street parking spaces will meet the demands of the proposed use without increasing traffic or on-street parking problems in adjacent areas and neighborhoods.

Section 1814—Off-Street Loading Requirements:

Every building or use receiving or distributing materials or merchandise by truck shall provide and maintain on the same lot as the building or use the number of required off-street loading spaces as required by the Table 18-2, Minimum Off-Street Loading Requirements. No loading space(s) shall be considered as meeting any off-street parking requirements of this Chapter.

Section 1815—Size of Loading Spaces:

All required off-street loading spaces shall have a minimum dimension as approved by the Land Use Authority.

**Table 18-2
MINIMUM OFF-STREET LOADING REQUIREMENTS**

TOTAL GROSS FLOOR AREA OF BUILDING	MINIMUM NUMBER OF LOADING SPACES REQUIRED
Less than 30,000 square feet	1
30,000 and Greater	2

Section 1816—Location of Loading Spaces:

No required off-street loading spaces shall be permitted in any front yard or in any street side yard. All loading spaces shall be screened from view from any road or street by a decorative masonry fence, and/or landscaping. Off-street loading spaces are encouraged to be located in rear yard areas, and encouraged to be partially or entirely enclosed within a building. The location of all loading areas shall not interfere with parking lot circulation patterns.

**CHAPTER 19
SIGN STANDARDS**

Section 1901—Purpose:

This Chapter is provided to achieve the purposes of the General Plan, this Ordinance, and all other Land Use Ordinances, and to achieve the following additional purposes:

- 1) To provide for the identification of businesses, sites and buildings.
- 2) To provide a convenient method of public communication without unnecessary clutter.
- 3) To avoid confusion of allowed signs with required traffic signs and other regulatory and public safety signs.
- 4) To minimize any adverse effects of signs and associated lighting on adjacent properties.

Section 1902—General Provisions:

- 1) No sign shall be erected, moved, reconstructed, enlarged, or structurally altered except in compliance with the requirements of this Chapter.
- 2) This Chapter shall apply to all signs, but does not apply to any signs located within the interior of any buildings or structures, or hand-held placards and other similar devices traditionally used for public protest and the non-commercial exercise of free speech.
- 3) No sign shall be erected, moved, reconstructed, enlarged, or structurally altered unless a valid Land Use Application has been approved by the Land Use Authority, as applicable, and a valid Building Permit has been issued by the Building Official, as applicable.
- 4) No part of any sign shall be permitted within three (3) feet any road or street right-of-way or utility easement and all signs must maintain necessary clearances from underground or overhead power transmission lines, as required by the electrical power provider.
- 5) No sign, or part thereof, shall be permitted in a manner that any portion of its surface or support(s) will interfere with the free use of fire protection appliances; including hydrants, standpipes, automatic fire sprinkler connections, and similar fire protection and suppression equipment. No sign or sign structure shall obstruct any fire lane.

- 6) No sign shall be permitted to be located in any clear view area, and no sign shall be permitted that creates any traffic or pedestrian hazard. (See Section 1625).

Section 1903—Building Permit Required:

- 1) In compliance with the Building Code, as adopted, and as applicable, no sign shall be erected, moved, reconstructed, enlarged, or structurally altered unless and until a valid Building Permit application has been approved.
- 2) The requirement for a Building Permit shall apply to all new signs and existing signs that are proposed to be erected, moved, reconstructed, enlarged, or structurally altered.
- 3) The Building Official, or designee, shall inspect, or re-inspect, any sign for which a Building Permit has been issued and for which an inspection is required. Such inspections shall ensure that all signs are in conformance with this Ordinance and Building Code, as adopted.
- 4) The expiration date for all Building Permits required for signs shall be as provided by the Building Code, as adopted.

Section 1904—Standards of Construction:

- 1) All signs shall comply with the Building Code, as adopted, and as applicable.
- 2) No sign involving any electrical components, wiring or connections shall be erected or installed, except by a licensed and bonded electrical contractor or sign contractor.
- 3) All Land Use Applications for any sign shall demonstrate conformance with the applicable provisions of the Building Code, as adopted and as applicable.

Section 1905—Required Maintenance for all Signs:

All signs shall be structurally sound and maintained in good repair and condition.

Section 1906—Valid Business License Required:

All businesses and services advertised on any sign located within the City shall maintain all necessary approvals, including a valid business license, as applicable.

Section 1907—Enforcement:

Any sign determined to be a hazard to the public health or safety, or determined to be a nuisance because of inadequate maintenance, dilapidation, or be a Land Use Ordinance or Building Code violation shall be remedied and corrected upon notice by the Zoning Administrator, or Building Official. Any sign not remedied or corrected within thirty (30) calendar days written notice by the Zoning Administrator or Building Official shall

be subject to removal by the City, or other remedies that may be available to the City under the law.

Section 1908—Type of Sign Application Required:

The type of Land Use Application required to erect, reconstruct, enlarge, or structurally alter a sign associated with a proposed or existing use or activity, shall be a Permitted P-1 or P-2 Sign Application or a Conditional Sign Application, depending upon the nature of associated use.

Section 1909—Land Use Authorities for Sign Applications:

- 1) Consistent with Chapter 7, the Zoning Administrator is authorized as the Land Use Authority for Permitted P-1 Sign Applications.
- 2) Consistent with Chapter 7, the Commission is authorized as the Land Use Authority for Permitted P-2 Sign Applications.
- 3) Consistent with Chapter 8, the Council is authorized as the Land Use Authority for Conditional Sign Applications.

Section 1910—Minimum Requirements for Approval and Findings and Standards for Approval of Sign Applications, other Provisions:

- 1) The minimum requirements for approval and findings and standards for approval of a Permitted P-1 Sign Application shall be as provided by Chapter 7 herein and Chapter 4, Administrative Manual.
- 2) The minimum requirements for approval and findings and standards for approval of a Permitted P-2 Sign Application shall be as provided by Chapter 7 herein and Chapter 4, Administrative Manual.
- 3) The minimum requirements for approval and findings and standards for approval of a Conditional Sign Application shall be as provided by Chapter 8 herein and Chapter 5, Administrative Manual.

Section 1911—Allowed Signs:

The types of signs allowed within the City are identified in Table 19-1, Allowed Signs.

Section 1912—Sign Lighting Requirements:

In addition to the sign requirements provided in Table 19-1, Allowed Signs, the following sign lighting requirements are provided to achieve the purposes of this Chapter and this Ordinance.

- 1) Externally illuminated signs are permitted as follows:

- a. All externally lit signs shall be illuminated with steady, fully shielded light sources aimed directly onto the sign. Light bulbs or lighting tubes used for illuminating a sign shall not be visible from any location.
 - b. The intensity of sign lighting shall not exceed that necessary to illuminate a sign from the closest adjacent public right-of-way.
 - c. No fixture used to illuminate signs shall be directed toward any adjacent property.
 - d. All light sources shall be fully shielded or hooded.
- 2) Internally illuminated signs are permitted as follows:
- a. Individual back-lit letters that are silhouetted against an illuminated wall.
 - b. Individual letters with translucent faces, containing soft lighting elements inside each letter.
 - c. Metal-faced box signs with cutout letters and soft-glow fluorescent tubes.
 - d. The intensity of sign lighting shall not exceed that necessary to illuminate a sign from the closest adjacent public right-of-way.
- 3) Lighting Times. A sign shall only be illuminated during the hours of operation of the use, business or activity being identified or advertised.
- 4) Changeable Copy Signs and Electronic Message Centers may be installed as a part of an allowed sign but shall not exceed fifty percent (50%) of the Sign Face Area.

Section 1913—Exempt Signs:

The signs identified in Table 19-5, Exempt Signs, are exempt from the requirements of this Chapter and this Ordinance, provided such signs are not determined to be a Prohibited Sign, as provided by Section 1914.

Section 1914—Prohibited Signs:

All signs allowed within the City are identified in Table 19-1, Allowed Signs, or Table 19-5, Exempt Signs. All other signs are hereby declared to be Prohibited Signs including, but not limited to, the following signs:

- 1) All off-premise signs designed or intended to direct attention to a business, product, or service that is not sold, offered, or existing on the property where the sign is located, including all billboards.

- 2) Signs on any City-owned property, except for signs maintained by the City.
- 3) All signs erected, moved, reconstructed, enlarged, or structurally altered without receiving the necessary Sign Application approval.
- 4) Signs placed on private property without the approval of the owner.
- 5) All signs having intermittent or flashing illumination, animated or moving parts, rotating or simulating movement by any means of fluttering, spinning or reflection devices or that emits sound.
- 6) Flashing signs or lights that contain intermittent, pulsating, or flashing light sources.
- 7) All signs that project an image or message onto a wall or other surface.
- 8) Any text or shape that obstructs the view of motor vehicle operators, bicyclists and pedestrians entering a public roadway from any parking area, driveway, alley or other thoroughfare.
- 9) All signs that obstruct free ingress to or egress from required door, window, fire escape or other required exit.
- 10) Signs attached to any fences, utility poles, trees, shrubs, rocks or other natural objects, unless specifically included in the design, unless specifically provided for by law including no trespassing and no hunting.
- 11) All signs constituting a hazard to public health, welfare, or safety.
- 12) All roof-mounted signs.
- 13) All signs providing a lighting source that is exposed or directly visible from any public right-of-way or adjacent property.
- 14) Any sign, statement, symbol or picture of an obscene nature.

Section 1915—Noncomplying Signs:

All signs permitted within the City shall comply with Table 19-1, Allowed Signs, or Table 19-5, Exempt Signs unless such signs are determined to be a legal noncomplying structure. All legal noncomplying sign may continue, subject to the requirements of Chapter 11.

Section 1916—Unused and Abandoned Signs:

A sign shall be considered unused or abandoned and shall be removed after the use, activity, product, business, or service, which it advertised, has ceased or has

vacated the building, structure, lot or parcel for a period not less than one (1) calendar year. All unused or abandoned signs shall be removed by the property owner, upon written notice by the Zoning Administrator and shall be subject to removal by the City, if not removed by the property owner within thirty (30) calendar days of notice by the Zoning Administrator or other remedies that may be available to the City.

**Table 19-1
 ALLOWED SIGNS**

SIGN REQUIREMENT	SIGN TYPE					
	FREE STANDING – PYLON	FREE STANDING – MONUMENT	WALL	CANOPY	AWNING	LIMITED
Zoning Districts Allowed	May be approved by the Land Use Authority, as applicable, in the CC-1 District and I-1 District.	May be approved by the Land Use Authority, as applicable, in the CC-1, I-1, and the S-1 District.	May be approved by the Land Use Authority, as applicable, in the R&C-1, CC-1, and I-1 District.	May be approved by the Land Use Authority, as applicable, in the R&C-1, CC-1 and I-1 District.	May be approved by the Land Use Authority, as applicable, in the R&C-1, CC-1 and I-1 District.	May be approved by the Zoning Administrator, acting as the Land Use Authority, in the R&C-1, CC-1, and I-1 District.
Number of Signs Allowed	One (1) free-standing pylon or One (1) free-standing monument sign for each lot or parcel meeting the minimum lot frontage requirements of Table 19-2.	One (1) free-standing monument or One (1) free-standing pylon sign for each lot or parcel meeting the minimum lot frontage requirements of Table 19-3.	One (1) wall sign for each building wall that faces directly toward a public road or street with a maximum of two (2) wall signs for each building or structure. No wall sign shall be permitted on any	One (1) canopy sign for each canopy side that faces directly toward a public road or street with a maximum of two (2) canopy signs for each canopy. No canopy sign shall be permitted that does not face	One (1) awning sign for each building wall that faces directly toward a public road or street with a maximum of two (2) awning signs for each building or structure. No	As approved by the Zoning Administrator.

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SIGN REQUIREMENT	SIGN TYPE					
	FREE STANDING – PYLON	FREE STANDING – MONUMENT	WALL	CANOPY	AWNING	LIMITED
			building façade that does not face directly toward a public road or street. No more than two (2) wall or awning signs for each building or structure. All Wall Signs shall meet the minimum wall area requirements of Table 19-4.	directly toward a public road or street.	awning sign shall be permitted that does not face directly toward a public road or street. No more than two (2) awning or wall signs for each building or structure.	
Maximum Sign Area	As provided by Table 19-2.	As provided by Table 19-3.	As provided by Table 19-4.	Forty percent (40%) of the total area of the canopy.	Forty percent (40%) of the total area of the awning.	Forty-eight (48) square feet.
Maximum Height	Twenty-five (25) feet above natural or finished grade, whichever is	Eight (8) feet above natural or finished grade, whichever is higher.	No higher than the eave line or top of the parapet wall of the building or structure.	No higher than the canopy.	No higher than the top of the awning.	Six (6) feet.

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SIGN REQUIREMENT	SIGN TYPE					
	FREE STANDING – PYLON	FREE STANDING – MONUMENT	WALL	CANOPY	AWNING	LIMITED
	higher.					
Minimum Sign Clearance	A minimum clearance of nine (9) feet above grade or as approved by the Land Use Authority, as applicable.	No Requirement	No wall sign shall project above or below the highest or lowest part of the wall upon which the sign is mounted or painted.	The minimum clearance of the canopy but no less than thirteen (13) feet above grade or as approved by the Land Use Authority.	The minimum clearance of the awning but no less than nine (9) feet above grade or as approved by the Land Use Authority.	As approved by the Zoning Administrator
Sign Location	As approved by the Land Use Authority, as applicable.		Must meet the requirements of the building or structure with which it is associated.	Must meet the requirements of the canopy with which it is associated.	Must meet the requirements of the awning with which it is associated.	As approved by the Zoning Administrator. All signs must maintain Clear View requirements.
Maximum Projection	No part within three (3) feet of any road or street right-of way, property line, or utility easement and all signs must maintain necessary clearances from underground or overhead power transmission lines, as required by the electrical power provider. All signs must maintain Clear View requirements.		No part of over the property line or into any road or street right-of-way or utility easement. No wall sign shall project	No part within three (3) feet of any road or street right-of way, property line, or utility easement and all signs must maintain necessary	No part over the property line or into any road or street right-of-way or utility easement and must maintain necessary clearances	No part over the property line or into any road or street right-of-way or utility easement and must maintain necessary clearances from underground or

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SIGN REQUIREMENT	SIGN TYPE					
	FREE STANDING – PYLON	FREE STANDING – MONUMENT	WALL	CANOPY	AWNING	LIMITED
			more than twelve (12) inches from the wall surface.	clearances from underground or overhead power transmission lines, as required by the electrical power provider. All Canopy signs shall be attached or painted flat against a Canopy made of rigid materials.	from underground or overhead power transmission lines, as required by the electrical power provider. All Awning signs shall be attached, painted or appliquéd flat against an Awning made of rigid materials.	overhead power transmission lines, as required by the electrical power provider.
Minimum Setback Requirements	May be located in the required yard setback area, provided no portion of the sign is closer than three (3) feet to any property line, road, or street right-of-way.		Must meet the requirements of the building or structure with which it is associated.			As approved by the Zoning Administrator.
Illumination	Shall comply with Section 1912.					No illumination allowed.

SIGN REQUIREMENT	SIGN TYPE					
	FREE STANDING – PYLON	FREE STANDING – MONUMENT	WALL	CANOPY	AWNING	LIMITED
Design	Designed to be an integral site design element. All signs shall be compatible in design, style, color, and materials with the existing or proposed buildings or structures to which the sign is associated.					As approved by the Zoning Administrator.
Off-premise Signs Prohibited	All signs shall only be permitted at the location of the activity, business, or service connected with the message of the sign.					
Fire Suppression Access	No sign or sign structure shall be permitted in a manner that any portion of its surface or supports will interfere with free use of all fire appliances; including hydrants, standpipes, automatic fire sprinkler connections, and similar fire protection and suppression equipment. No sign or sign structure shall obstruct any fire lane.					
Clear View Area	No sign shall be permitted to be located in any clear view area and no sign shall be permitted that creates any traffic or pedestrian hazard.					
Building Permit Required	A valid Building Permit approval may be necessary, as required by the adopted Building Code. All signs for which a Building Permit is required, including necessary footings, structural permits, or electrical permits, shall comply with the requirements of the Building Code, as adopted, and shall be subject to inspection.					
Sign Validity	A sign is authorized and valid only for the approved location.					
Valid Business License Required	All businesses and services advertised shall maintain necessary licenses and permits, as may be required by State of Utah and the City’s business licensing requirements, as applicable.					
Sign Maintenance	All signs shall be structurally sound and maintained in good repair.					
Enforcement	Any sign determined to be a hazard to the public health, welfare, or safety, or determined to be a nuisance because of inadequate maintenance, dilapidation, or Building Code violation shall be remedied upon notice by the Zoning Administrator, or Building Official. Any sign not remedied within thirty (30) days notice by the Zoning Administrator, or Building Official, shall be subject to removal by the City, or other remedies that may be available to the City.					

Notes:

Maximum Sign Height. The height from the highest point of the structure to the lowest point of the finished or natural grade, immediately adjacent to the structure. No ground shall be bermed, or other earthwork provided, that would have the effect to exceed the maximum allowed sign structure height.

Maximum Sign Area, The area of the sign calculated by multiplying the highest point of the sign by the longest length of the sign and including all text, insignia, logo, or other advertising or identification materials.

Table 19-2
MAXIMUM ALLOWED SIZE OF FREE-STANDING PYLON SIGNS

LOT FRONTAGE (FEET)	MAXIMUM PYLON SIGN AREA (SQUARE FEET)
< 70	0
70 – 79	45
80 – 89	50
90 – 99	55
100 – 109	60
110 – 119	65
120 – 129	70
130 – 139	75
140 – 149	80
150 – 159	85
160 – 169	90
150 – 159	95
≥ 160	100

Table 19-3
MAXIMUM ALLOWED SIZE OF FREE-STANDING MONUMENT SIGNS

LOT FRONTAGE (FEET)	MAXIMUM MONUMENT SIGN AREA (SQUARE FEET)
< 50	0
50 – 59	50
60 – 69	55
70 – 79	60
80 – 89	65
90 – 99	70
100 – 109	75
110 – 119	80
120 – 129	85
130 – 139	09
140 – 149	95
≥ 150	100

**Table 19-4
 MAXIMUM ALLOWED SIZE OF WALL SIGNS**

WALL AREA (SQUARE FEET)	MAXIMUM WALL SIGN AREA (SQUARE FEET)	WALL AREA (SQUARE FEET)	MAXIMUM WALL SIGN AREA (SQUARE FEET)
< 100	0	1,600 – 1,699	130
100 – 199	10	1,700 – 1,799	135
200 – 299	20	1,800 – 1,899	140
300 – 399	20	1,900 – 1,999	145
400 – 499	40	2,000 – 2,099	150
500 – 599	50	2,100 – 2,199	155
600 – 699	60	2,200 – 2,299	160
700 – 799	70	2,300 – 2,399	165
800 – 899	80	2,400 – 2,499	170
900 – 999	90	2,500 – 2,599	175
1,000 – 1,099	95	2,600 – 2,699	180
1,100 – 1,199	100	2,700 – 2,799	185
1,200 – 1,299	110	2,800 – 2,899	190
1,300 – 1,399	115	2,900 – 2,999	196
1,400 – 1,499	120	≥3,000	200
1,500 – 1,599	125		

**Table 19-5
 EXEMPT SIGNS**

SIGN TYPE	SIGN REQUIREMENT
Community Events Posters and Announcements	Posters and flyers announcing or promoting community events provided such posters or flyers do not advertise products or services not associated with the community event.
Directional Signs	Directional signs such as “Enter” and “Exit” provided: 1) There shall be no more than two (2) directional signs per driveway entrance to a lot or parcel. 2) No directional sign shall be greater than four (4) square feet in area and have a height greater than three (3) feet above grade.
Flags	Any flag of any nation, state, county, city, civic, religious organization, or educational institution.
Historic Plaques	Plaques erected for the purposes of identifying an historic site, building, or structure.
Holiday Promotion Signs	A commercial business located within the City may advertise a special service, product or sale during the following holiday periods but limited as follows; 1) Only one (1) sign, not to exceed forty (40) square feet, such sign being secured to a building. 2) The sign shall be removed the first business day after the end of the holiday period. 3) Holiday periods when a Holiday Promotion Sign is allowed: a) Presidents Day and Valentines Day – Five (5) business days including the holiday. b) Easter – Five (5) business days including the holiday. c) Memorial Day – Five (5) business days including the holiday. d) Independence Day – Five (5) business days including the holiday. e) Pioneer Day – Five (5) business days including the holiday. f) Labor Day – Five (5) business days including the holiday.

SIGN TYPE	SIGN REQUIREMENT
	g) Thanksgiving – Seven (7) days including the holiday. h) Hanukkah, Christmas, New Year's Day – a maximum of thirty-five (35) days beginning no sooner than December 1 st .
Hours of Operation	One (1) unlighted “Hours of Operation” sign allowed per entrance not larger than one (1) square feet in area.
Official Notices	Official government notices and notices posted by government officers or employees in the performance of their duties.
Political Signs	Political signs used to identify and for the support of candidates for national, state, county, city, school board, service district, or other public office provided such signs meet the following requirements: <ol style="list-style-type: none"> 1) Are stationary and unlighted. 2) Are not erected earlier than sixty (60) days prior to the specified voting day. 3) Are removed within seven (7) days after the specified voting day. 4) Is not located within any clear view area. 5) Signs placed on private property are permitted only with the permission of the property owner.
Public Necessity Signs	Signs required for safety or instructional purposes, installed, and maintained by Gunnison City, or other Federal or State agency.
Real Estate Signs	A real estate sign advertising real property for sale, lease or rent within the City provided such signs meet the following requirements: <ol style="list-style-type: none"> 1) A maximum of one (1) real estate sign per street frontage. 2) Is placed on the property that is for sale, lease, or rent, or adjacent thereto. 3) Such signs are stationary and unlighted. 4) Signs must be professionally prepared, neat in appearance, and well maintained. 5) Are removed within thirty (30) days from the date of sale, lease, or rental. 6) Shall not exceed eight (8) square feet in area and four (4) feet in height. 7) Is not located within any clear view area or placed where it creates a safety hazard.

SIGN TYPE	SIGN REQUIREMENT
	8) Signs placed on private property are permitted only with the permission of the property owner.
Religious Symbols	Any religious symbol attached to a place of religious worship.
Residential Nameplates, Home Occupation Signs, Street Address or Combination	One (1) nameplate sign showing the name of the occupant of a dwelling, the address of the dwelling or the name and nature of the home occupation conducted within the dwelling. . The sign shall not exceed two (2) square feet in area.
Restaurant Menu Boxes	Restaurant menu boxes of up to eight (8) square feet for displaying menus. A freestanding, or wall sign permit approval shall be obtained for restaurant menu boxes larger than eight (8) square feet, and included in the total allowed freestanding or wall signs.
Seasonal Decorations	Decorations or displays, when such are clearly incidental to, and are customarily or commonly associated with, any national, Local or religious celebration provided that such decorations or displays are maintained in an attractive condition and do not constitute a fire hazard.
Signs Authorized by Law	Signs required or specifically authorized for a public purpose by any law, statute, or ordinance, including traffic control signs.
Site Development and Subdivision Identification Signs	<p>A sign used to identify a site development or subdivision that may include multiple lots and/or multiple buildings, and typically located at the entrance of such project and provided such signs meet the following requirements:</p> <ol style="list-style-type: none"> 1) Not more than one (1) sign for each entrance to the project, indicating only the name, symbol, logo, or other graphic identification of the project. 2) Such signs are stationary and unlighted. 3) Signs must be professionally prepared, neat in appearance, and well maintained. 4) Are removed when the project is completed or all lots or units are sold. 5) Shall not exceed thirty two (32) feet in area and eight (8) in height. 9) Is not located within any clear view area or placed where it creates a safety

SIGN TYPE	SIGN REQUIREMENT
	hazard. 6) Signs placed on private property are permitted only with the permission of the property owner. 7) The Land Use Authority shall approve identification signs, including their size and location, at the time of Land Use Application approval.
Site and Building Features	Pieces of art, monuments, statuary, sculpture, water features, fountains, and other similar features, not containing any corporate advertising, logo, insignia, or other symbol, and used to identify or distinguish a site or building.
Street Address Numbers	Street address numbers no higher than twelve (12) inches.
Time and Date Signs	Electronic message signs that change copy electronically identifying the “time, date, and temperature” only provided no electronic message sign shall exceed forty percent (40%) of the maximum sign face area.
Vehicle Signs	Signs displayed on motor vehicles or trailers being operated in the normal course of business, such signs indicating the name of the owner or business if the primary purpose of such vehicles is not for the display of signs.
Warning Signs	Temporary or permanent signs erected by a government agency, utility companies, or construction company to warn of danger, or hazardous conditions.
Window Signs	A sign affixed or attached to a window and visible from outside of the building. All window signs shall be no larger than the window with which the sign is associated. No window sign shall project beyond the exterior surface of the window. All window sign lighting sources shall be fully shielded and no lighting source shall be exposed or visible from any road, street, or adjacent property. No window sign shall be allowed in any residential zone.

**CHAPTER 20
RESERVED**

**CHAPTER 21
ENFORCEMENT**

Section 2101—Purpose:

This Chapter establishes procedures, remedies, and penalties for violations of the City’s Land Use Ordinances, including this Ordinance.

- 1) The City, or any adversely affected owner of real estate within the City, in which violations of this Ordinance occur, or are about to occur may, in addition to other remedies provided by law, institute:
 - a) Injunctions, Mandamus, Abatement, or any other appropriate actions; or
 - b) Proceedings to prevent, enjoin, abate, or remove the unlawful building, use, or act.

Section 2102—Violations and Building Permits:

- 1) The City may enforce this Ordinance, or other City Land Use Ordinances, by withholding building permits.
- 2) It is unlawful to erect, construct, reconstruct, alter, or change the use of any building or other structure within the City without the necessary Land Use Application approval, license or permit, and the issuance of a valid building permit, as applicable.
- 3) The City shall not issue a building permit unless the plans for the proposed erection, construction, reconstruction, alteration, or use fully conform and comply with all Land Use Ordinances, including this Ordinance, and the Building Codes, as adopted.

Section 2103—Types of Violations:

It shall be unlawful for any person to violate any provision of this Ordinance, cause the violation of any provision of this Ordinance, or fail or refuse to do some act required under this Ordinance, including:

- 1) To engage in any development, use, construction, remodeling, or other activity of any nature upon the land and improvements without required Land Use Application approvals.
- 2) To engage in any development, use, construction, remodeling, or other activity that is contrary to the terms and conditions of any Land Use Application approval.
- 3) To violate, by act or omission, any lawful requirement or condition imposed by the Land Use Authority, as applicable, upon a required Land Use Application approval.

- 4) To erect, construct, reconstruct, remodel, alter, maintain, move, or use any building or structure, or to use any land in violation of this Ordinance, the Building Codes, or other City Land Use Ordinances, as applicable.
- 5) To reduce or diminish any lot or parcel area so that minimum area, setbacks or open spaces shall be smaller than prescribed by this Ordinance, or other City Land Use Ordinances, or required for Land Use Application approval or Subdivision Application approval.
- 6) To increase the density or intensity of use of any land or structure without the necessary Land Use Application approval.
- 7) To remove, deface, obscure, or otherwise interfere with any notice required by this Ordinance, or other City Land Use Ordinances.

Section 2104—Continuing Violation:

Each day a violation of this Ordinance occurs, it shall constitute a separate offense.

Section 2105—Legal Nonconformity an Affirmative Defense:

It shall be an affirmative defense to the enforcement of this Ordinance that the violation being enforced exists as a legal nonconforming use, legal noncomplying structure or other legal nonconformity of this Ordinance.

Section 2106—Revocation of Land Use Application Approvals:

- 1) A Land Use Authority may revoke a Land Use Application approval if it is determined that the application was based on inaccurate, misleading, or incomplete information provided by the Applicant.
- 2) A Land Use Application approved may be revoked by the Land Use Authority if any of the requirements, terms or conditions of approval are not met, or if the permit is used to violate any law or Ordinance.

Section 2107—Procedures for Revocation or Modification of a Land Use Application Approval:

The Zoning Administrator or City Recorder shall notify the Applicant by certified mail of any Land Use Application approval violation. If no attempt to correct the violation is made within ten (10) calendar days after notification, the Land Use Application may be revoked by the Land Use Authority and considered null and void. A Land Use Application approval may be revoked by the Land Use Authority, if the Land Use Authority finds that one or more of the following exist:

- 1) The Land Use Application approval was obtained in a fraudulent manner.
- 2) One or more of the requirements, terms or conditions of the Land Use Application approval has not been met.
- 3) A Land Use Authority may modify the requirements, terms, or conditions of a Land Use Application approval if the Land Use Authority finds that the use is creating a nuisance.

Section 2109—Stop Work:

In accordance with its power to stop work under the Building Code, as adopted, the Building Official may issue a stop work order, with or without revoking permits, on any building or structure on land where there exists an uncorrected violation of the Building Code.

Section 2110—Penalties for Violations:

A violation of any of the provisions of this Ordinance is punishable as a Class C misdemeanor upon conviction either:

- 1) As a Class C misdemeanor; or
- 2) By imposing the appropriate civil penalty.

Section 2111—Civil Penalties:

The Council hereby establishes civil penalties for violations of any of the provisions of this Ordinance as follows:

- 1) Twenty-five dollars (\$25.00) per day for the first violation.
- 2) Fifty dollars (\$50.00) per day for the second and further violations.
- 3) Each day a violation occurs shall be considered a separate violation.

Section 2112—Appeal:

Any person aggrieved by an enforcement decision of a Land Use Authority may appeal the decision to the Appeal Authority as identified by Chapter 13.

**CHAPTER 22
CONSTITUTIONAL TAKINGS**

Section 2201—Purpose:

- 1) The policies of the City, favor the careful consideration of matters involving constitutional taking claims, in fairness to the owner of private property bringing the claim, and in view of the uncertainty and expense involved in defending such issues. At the same time, the legitimate role of the City in lawfully regulating real property must be preserved and the public's right to require the dedication or exaction of property, consistent with the Constitution. Consistent with these policies, this Chapter establishes a procedure for the review of actions that may involve the issue of constitutional takings, as well as providing guidelines for such considerations. This chapter is intended and shall be construed to objectively and fairly review claims that a specific City action should require payment of just compensation, while preserving the ability of the City to lawfully regulate real property and fulfill its obligations, duties and functions.
- 2) This Chapter, and Chapter 13 and Chapter 15, Administrative Manual, identifies and provides the standards and procedures for the review of all Constitutional Takings Review Applications.

Section 2202—Guidelines Advisory:

The guidelines adopted and decisions rendered pursuant to this Chapter are advisory only, and shall not be construed to expand or limit the scope of the City's liability for a constitutional taking.

Section 2203—Review of Takings Application Required:

Any owner of private real property who claims there has been a constitutional taking of private real property by an action of the City shall request a review of a final decision by filing a Constitutional Takings Review Application.

Section 2204—Results of Review:

After completing the review, the Council, or designee, shall make a determination regarding the issues and where determined to be necessary and appropriate, shall make a recommendation to the Land Use Authority that made the decision that gave rise to the constitutional takings claim.

APPENDIX A

TABLE OF USES, DEVELOPMENT STANDARDS, AND DEFINITIONS

Appendix A—Appendix A, Table of Uses:

Appendix A, identifies the uses allowed by the City within each Zoning District and provides a definition for each use. The Appendix A, Table of Uses identifies uses allowed as a Permitted Use (identified as “P-1” or “P-2”), and uses allowed as a Conditional Use (identified as “C”). Uses identified as an “X” in Appendix A, Table of Uses are determined to be a Prohibited Use in the Zoning District. Any use not included in Appendix A, Table of Uses are determined and declared to be Prohibited Uses within the City.

Appendix B—Tables of Development Standards:

Appendix B identifies the development standards required for all primary buildings and structures established within the City.

Appendix B-1 identifies the development standards required for all detached accessory buildings and structures established within the City.

Appendix C—Definitions:

Appendix C – Definitions provides definitions of terms used throughout this Ordinance for which a definition is considered necessary.

**Appendix A
 TABLE OF USES**

P-1 = Permitted Use; P-2 = Permitted Use; C = Conditional Use; X = Use Prohibited in the Zoning District (Zone)
 A Use that is not identified in the Table of Uses is determined to be a Prohibited Use within Gunnison City.

USES	ZONING DISTRICTS								
	A-1	RR-1	R-2-10,000	R-4-7,500	R-1-MHP	R & C -1	CC	L-1	S-1
Accessory Building/Structure (Attached). A building incidental and subordinate to an existing primary building and located ten (10) feet or less from the primary building and on the same lot as the primary building, and meeting all requirements of the Land Use Ordinances and Building Codes, as adopted. Accessory Building/Structure (Attached) shall comply with the minimum setback requirements applicable to the primary building or structure. (See Section 1706 and Section 1707).	P-1	P-1	P-1	P-1	P-1	P-1	P-1	P-1	P-1
Accessory Building/Structure (Detached). A building incidental and clearly subordinate to an existing primary building and located more than ten (10) feet from the primary building and on the same lot as the primary building, and meeting all requirements of the Land Use Ordinances and Building Codes, as adopted. (See Section 1706 and Section 1707).	P-1	P-1	P-1	P-1	P-1	P-1	P-1	P-1	P-1

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USES	ZONING DISTRICTS								
	A-1	RR-1	R-2-10,000	R-4-7,500	R-1-MHP	R & C -1	CC	L-1	S-1
<p>Accessory Dwelling Unit for a Relative or Employee. An attached, or detached, dwelling unit for the occupancy by the owner, or a relative or an employee of the owner and incidental and clearly subordinate to the existing primary building and located on the same lot as the primary building and connected to the same utilities and utility meters as the primary building. No mobile home, travel trailer, boat, or similar recreational vehicle shall be used as an Accessory Dwelling Unit for a Relative or Employee. (See Section 1709).</p>	P-2	P-2	P-2	X	X	P-2	P-2	P-2	X
<p>Accessory Use. A use clearly incidental and subordinate to the existing primary use and customarily found in connection with the primary use and located on the same lot as the primary use. (See Section 1706).</p>	P-1	P-1	P-1	P-1	P-1	P-1	P-1	P-1	P-1
<p>Agricultural Building. A structure used solely in conjunction with agriculture and not used for human occupancy, and complying with the requirements of §58-56-4, Utah Code Annotated, 1953, as amended. To qualify as an agricultural building the structure must be located outside of a residential area, as defined by §58-56-4(1), Utah Code Annotated, 1953, as amended.</p>	P-1	P-1	P-1	P-1	P-1	P-1	P-1	P-1	P-1

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USES	ZONING DISTRICTS								
	A-1	RR-1	R-2-10,000	R-4-7,500	R-1-MHP	R & C -1	CC	L-1	S-1
Agriculture. An area of five (5) contiguous acres, or larger, which is used for the commercial production, keeping, or maintenance for sale of plants and domestic animals typically found in central Utah, or lands devoted to a soil conservation or forestry management program, but excluding the keeping of exotic or prohibited animals, Agriculture excludes Commercial Plant Nursery, as defined herein, and Concentrated Animal Feeding Operation, as defined by the Utah Code Annotated, 1953, as amended, and similar activities.	P-1	P-1	P-1	P-1	P-1	P-1	P-1	P-1	P-1
Airport. An area, with associated buildings and structures for the operation of aircraft, including take-off and landing, and necessary storage, service and maintenance facilities.	X	X	X	X	X	X	X	X	C
Animal Control Facility. A public or publicly licensed private facility to temporarily detain and/or dispose of stray dogs, cats and other animals.	X	X	X	X	X	X	X	C	C
Animal Hospital (Veterinary Clinic), With Holding Facilities. A facility for the diagnosis, treatment, hospitalization, and boarding of animals that does not include outdoor holding facilities But which may include indoor holding and boarding facilities.	X	X	X	X	X	X	C	C	X
Animal Hospital (Veterinary Clinic), Without Holding or Boarding Facilities. A facility for the diagnosis, treatment, hospitalization, and boarding of animals that does not include indoor or outdoor holding or boarding facilities.	X	X	X	X	X	X	C	P-2	X

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USES	ZONING DISTRICTS								
	A-1	RR-1	R-2- 10,000	R-4- 7,500	R-1- MHP	R & C -1	CC	L-1	S-1
<p>Animal Unit (The Keeping of Domestic Livestock and Fowl). (See Section 1719). Limited to one (1) or a proportionate combination of the following:</p> <ul style="list-style-type: none"> a. One domesticated cow or one (1) domesticated horse. b. Four (4) domesticated sheep or four (4) domesticated goats. c. Twenty (20) domestic fowl. d. Thirty (30) pigeons, or similar small domesticated birds. e. Thirty (30) rabbits, or similar small animals. <p>For animals not listed above, the LUHO shall determine the number of animals that would constitute an Animal Unit, except that domesticated pigs (Suidae), mink, peacocks, guinea fowl, emus, ostriches, and inherently or potentially dangerous animals, fowl, reptiles, or exotic animals shall not be permitted. Animal Unit shall not include the unweaned offspring that are less than six (6) months old of any animal or fowl.</p>	P-1	P-1	P-1	P-1	P-1	P-1	P-1	P-1	P-1

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USES	ZONING DISTRICTS								
	A-1	RR-1	R-2-10,000	R-4-7,500	R-1-MHP	R & C -1	CC	L-1	S-1
<p>Automotive Care. An establishment providing motor vehicle repair or maintenance services within completely enclosed buildings. Typical uses include businesses engaged in the following activities: electronic tune-ups, brake repairs (including drum turning), air conditioning repairs, generator and starter repairs, tire repairs, front-end alignments, battery recharging, lubrication, and sales, repair and installation of minor parts and accessories such as tires, batteries, windshield wipers, hoses, windows, etc.</p>	X	X	X	X	X	X	C	C	X
<p>Automotive Self-Service Station. A place where flammable or combustible liquids or gases used as fuel are stored and dispersed from fixed equipment into the fuel tanks of motor vehicles. Such an establishment may offer the retail sale of convenience items as an accessory use. Automotive Self-Service Station specifically excludes and does not allow any servicing, repair or maintenance of motor vehicles, trailers, and similar mechanical equipment, including engine, brake, muffler, tire repair and change, lubrication and tune-ups.</p>	X	X	X	X	X	X	C	C	X
<p>Bank, Credit Union or other Financial Institution. A financial company or corporation providing the extension of credit, and the custody, loan or exchange of money. A bank, credit union or other financial institution proposing to provide drive-through service shall be required to secure a Conditional Use Permit approval for such drive through facility.</p>	X	X	X	X	X	C	P-2	P-2	X

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USES	ZONING DISTRICTS								
	A-1	RR-1	R-2-10,000	R-4-7,500	R-1-MHP	R & C -1	CC	L-1	S-1
Barn, Corral, Stable, Coop, Pen or Animal Run. A structure or fenced area, and its associated buildings and structures, for the feeding, housing, or confinement of domestic animals, as defined herein. Stable includes a building, or a portion thereof, used to shelter and feed horses and ponies. (See Section 1719).	P-1	P-1	P-1	X	X	X	X	X	X
Bed and Breakfast Inn. A residential structure, located on a legal lot offering transient lodging accommodations in separate guest rooms and where meals may be provided. A Bed and Breakfast Inn shall provide no more than four (4) guest rooms and shall meet all applicable requirements of the Land Use Ordinances and Building Codes, as adopted. A guest room is one (1) room having no kitchen facilities. (See Section 1714).	C	C	X	X	X	C	C	X	X
Billboard. A freestanding sign designed or intended to direct attention to a business, product, or service that is not provided, sold, offered, or existing on the property where the sign is located.	X	X	X	X	X	X	X	X	X
Campground. An area of land upon which two (2) or more campsites are located, established or maintained for occupancy by a tent or recreational vehicle as a temporary dwelling unit, not to exceed forty-five (45) days, for recreational or vacation purposes.	C	X	X	X	X	X	C	X	X

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USES	ZONING DISTRICTS								
	A-1	RR-1	R-2-10,000	R-4-7,500	R-1-MHP	R & C -1	CC	L-1	S-1
<p>Car Wash. A structure with machine- or hand-operated facilities used principally for the cleaning, washing, polishing, or waxing of motor vehicles. A facility of this type may be able to accommodate more than one vehicle at the same time.</p>	X	X	X	X	X	X	C	C	X
<p>Child Care – Facility. A facility that provides child care in a place other than the owner’s home for five (5) or more children for less than twenty four (24) hours per day, having a regularly scheduled, ongoing enrollment, for direct or indirect compensation and licensed as required by the laws and rules of the State of Utah, A Fire Clearance shall be provided by the Fire Authority and this use shall comply with all business-licensing requirements of the City. (See Chapter 17). Child Care – Facility also includes Child Preschool providing instruction in a home for five (5) or more children for less than 24 hours a day.</p>									

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USES	ZONING DISTRICTS								
	A-1	RR-1	R-2-10,000	R-4-7,500	R-1-MHP	R & C -1	CC	L-1	S-1
<p>Child Care – Home Day Care. The care of children who are family and non-family members in an occupied dwelling unit, and complying with all State standards and licensing, by a resident of the dwelling unit for more than five (5) children, but fewer than nine (9) children. The total number of children being cared for shall include children under the age of four (4) years residing in the dwelling unit, who are under the supervision of the provider during the period of time the childcare is provided. Of the allowed eight (8) children, only two (2) may be under age two (2). Home Day Care may use the entire residential living area and additionally may use yard space for play purposes. This use is required to comply with all business licensing requirements of the City.</p>	P-1	P-1	P-1	P-1	P-1	P-1	P-1	P-1	X
<p>Child Care – Hourly. A person providing child care not in a personal residence for five (5) or more children for less than twenty four 24 hours a day, but not on a regular schedule; and receiving direct or indirect compensation and licensed as required by the laws and rules of the State of Utah, A Fire Clearance shall be provided by the Fire Authority and this use shall comply with all business-licensing requirements of the City. (See Chapter 17). Child Care – Hourly also includes Child Preschool providing instruction for five (5) or more children for less than twenty four 24 hours a day.</p>									

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USES	ZONING DISTRICTS								
	A-1	RR-1	R-2- 10,000	R-4- 7,500	R-1- MHP	R & C -1	CC	L-1	S-1
<p>Child Care – Licensed Family. (1) A person who provides child care in a home for nine (9) to sixteen (16) children unrelated to the licensee for less than 24 hours a day, with a regularly scheduled, on-going enrollment, for direct or indirect compensation must be licensed as a family group child care program, as required by the laws and rules of the State of Utah, (See Chapter 17).</p> <p>(2) A person who provides child care in a home for less than nine (9) unrelated children for less than 24 hours per day, having a regularly scheduled, ongoing enrollment, for direct or indirect compensation may be licensed as a family child care program, as required by the laws and rules of the State of Utah, A Fire Clearance shall be provided by the Fire Authority and this use shall comply with all business-licensing requirements of the City. (See Chapter 17).</p> <p>A Fire Clearance shall be provided by the Fire Authority for a Child Care – Licensed Family and shall comply with all business-licensing requirements of the City. (See Chapter 17).</p> <p>Child Care – Licensed Family also includes Child Preschool providing instruction in a home for nine (9) to sixteen (16) children unrelated to the licensee for less than 24 hours a day.</p>									

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USES	ZONING DISTRICTS								
	A-1	RR-1	R-2-10,000	R-4-7,500	R-1-MHP	R & C -1	CC	L-1	S-1
<p>Child Care – Residential Certificate. The care of children in the home of the provider for five (5) to eight (8) children and having a regularly scheduled, ongoing enrollment, for direct or indirect compensation and licensed as required by the laws and rules of the State of Utah, A Fire Clearance shall be provided by the Fire Authority and this use shall comply with all business-licensing requirements of the City. (See Chapter 17). Child Care – Residential Certificate also includes Child Preschool providing instruction in a home for five (5) to eight (8) children unrelated to the licensee for less than 24 hours a day.</p>									
<p>Church. A facility principally used as a location for people to gather for religious worship or other religious activities. One (1) accessory dwelling unit for the housing of the pastor or similar church leader of the church and their family shall be permitted. (See Section 1705).</p>	X	P-2	P-2	P-2	P-2	P-2	P-2	X	X
<p>Class A Beer Licenses - Off Premises Consumption. A Class A retail license shall entitle the licensee to sell beer on the licensed premises in the original containers for consumption off the premises only, in accordance with the Utah Alcoholic Beverage Control Act and the Ordinances of the City, and to deliver the same to the residence of the purchaser; provided, however, that it is unlawful for the licensee to sell or distribute beer in any container larger than two (2) liters. A Class A License shall be conducted in compliance with all requirements for the issuance of such license</p>	X	X	X	X	X	X	C	C	X

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USES	ZONING DISTRICTS								
	A-1	RR-1	R-2- 10,000	R-4- 7,500	R-1- MHP	R & C -1	CC	L-1	S-1
<p>Class A Liquor Licenses – Private Club. A Class A liquor license shall entitle the licensee to serve, sell, and store liquor, in accordance with the Utah Alcoholic Beverage Control Act and the Ordinances of the City. All sales under a private club license shall be to bona fide members of the licensed club, guest members, or their visitors accompanied by members or guest members, and not to the public. A Class A License shall be conducted in compliance with all requirements for the issuance of such license.</p>	X	X	X	X	X	X	C	C	X

GUNNISON CITY ZONING ORDINANCE – A LAND USE ORDINANCE
 ORDINANCE 2010-2

USES	ZONING DISTRICTS								
	A-1	RR-1	R-2-10,000	R-4-7,500	R-1-MHP	R & C -1	CC	L-1	S-1
<p>Commercial Day Care/Preschool Center. A facility, operated by a person qualified and licensed by the State of Utah, which provides children with day care and/or preschool instruction as a commercial business and complying with all applicable State standards and licensing and having regularly scheduled, ongoing enrollment for direct or indirect compensation that provides child care for less than twenty four (24) hours per day. Commercial Day Care/Preschool Center excludes the following: (a) Kindergartens or nursery schools or other daytime programs operated by public or private elementary or secondary schools or institutions of higher learning; (b) Facilities operated in connection with a fitness center, shopping center or other activity where children are cared for temporarily while parents or custodians of the children are occupied on the premises or are in the immediate vicinity and readily available; or (c) Special activities or programs, including athletics, crafts instruction and similar activities, conducted on a periodic basis by civic, charitable, private, or governmental organizations; (d) or clearly identified as an Accessory Use.</p>	X	X	X	X	X	C	C	X	X
<p>Commercial Kennel. Any premises or establishment where four (4) or more dogs, older than four (4) months, are kept for the purpose of Boarding, breeding, raising or training dogs for a fee or on a nonprofit basis. (See Section 1721).</p>	C	X	X	X	X	X	X	C	X

GUNNISON CITY ZONING ORDINANCE – A LAND USE ORDINANCE
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USES	ZONING DISTRICTS								
	A-1	RR-1	R-2-10,000	R-4-7,500	R-1-MHP	R & C -1	CC	L-1	S-1
Commercial Plant Nursery. A use wholly, or partially, contained within one or more greenhouses where trees, shrubs, flowers, or vegetable plants are grown and sold to retail customers. Commercial Plant Nursery does not include wholesale nurseries or greenhouses.	X	X	X	X	X	X	P-2	P-2	X
Commercial Recreation (Indoor). Any use, either public or private, providing amusement, pleasure, or sport, which is operated entirely within an enclosed building, including but not limited to live theater, and movie houses, indoor tennis, bowling, and skating, baseball batting cages, paintball, horse riding or similar activities. This use may include associated eating and drinking areas, retail sales areas and staff offices.	X	X	X	X	X	X	C	C	X
Commercial Recreation (Outdoor). An area or facility that offers entertainment or recreation outside. This use is limited to a golf driving range, baseball batting cages, riding arena, tennis facility, miniature golf, and swimming pool, and may include, as accessory uses, associated eating and drinking areas, retail sales areas and staff offices. This use specifically excludes shooting range, go-cart, motor vehicle and/or motorbike tracks, or similar activities that may create noise, dust, or other nuisances to adjoining and surrounding uses.	C	C	X	X	X	X	X	C	X

GUNNISON CITY ZONING ORDINANCE – A LAND USE ORDINANCE
 ORDINANCE 2010-2

USES	ZONING DISTRICTS								
	A-1	RR-1	R-2-10,000	R-4-7,500	R-1-MHP	R & C -1	CC	L-1	S-1
Construction Sales and Service. An establishment engaged in the retail or wholesale sale of materials and services used in the construction of buildings or other structures, as well as the outdoor storage of construction equipment or materials on lot or parcel other than a construction site. Typical uses include lumberyards, home improvement centers, lawn and garden supply stores, construction equipment sales and rental, electrical, plumbing, air conditioning and heating supply stores, and swimming pool sales.	X	X	X	X	X	X	P-2	P-2	X
Contractor’s Office/Contractor’s Storage Yard. A facility providing building construction and maintenance, including carpentry, plumbing, roofing, electrical, air conditioning and heating, within a totally enclosed building, and which may include the open storage of any building materials, equipment, or vehicles.	X	X	X	X	X	X	C	C	X
Convenience Store. A retail establishment selling consumer products including prepackaged food and drink. A convenience store may also provide associated retail sale of gasoline and other petroleum products.	X	X	X	X	X	C	P-2	P-2	X
Correctional Facility. A public or private facility providing confinement, housing, and care for individuals legally confined for violations of the law.	X	X	X	X	X	X	X	X	C

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 ORDINANCE 2010-2

USES	ZONING DISTRICTS								
	A-1	RR-1	R-2-10,000	R-4-7,500	R-1-MHP	R & C -1	CC	L-1	S-1
Day Care Center/Assisted Care Center. A facility which provides less than 24-hour assisted care or supervision for five (5) or more persons, 14 years of age and older and who are not related by blood, marriage or adoption to the owner or operator, with or without compensation for such care, and with or without a Stated educational purpose.	X	X	X	X	X	C	C	X	X
Drive through/Drive up Facility. A facility where goods and services are provided to customers within a vehicle.	X	X	X	X	X	X	C	C	X
Dwelling Unit, Condominium. An individually owned dwelling unit, meeting the definition of a condominium, as provided by Section 57-8-1, Utah Code Annotated, 1953, as amended, and complying with all requirements of the “Condominium Ownership Act,” Section 57-8-1 Utah Code Annotated, 1953, as amended. Must meet allowed all density and development requirements and standards of the applicable Zone.	X	X	X	C	C	C	X	X	X
Dwelling Unit, Manufactured Home. A dwelling unit constructed in accordance with the Federal Home Construction and Safety Standards Act of 1974 (HUD Code) as identified by the manufacturer’s data plate bearing the date the unit was manufactured and a HUD label attached to the exterior of the home certifying the home was manufactured to HUD standards. A Dwelling Unit, Manufactured Home shall meet all requirements of the City’s Building Code, as applicable.	P-1	P-1	P-1	P-1	P-1	P-1	P-1	P-1	P-1

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USES	ZONING DISTRICTS								
	A-1	RR-1	R-2-10,000	R-4-7,500	R-1-MHP	R & C -1	CC	L-1	S-1
Dwelling Unit, Mobile Home: A transportable factory built dwelling unit built prior to June 15, 1976, in accordance with a State mobile home code that existed prior to the Federal Manufactured Housing and Safety Standards Act (HUD Code).	X	X	X	X	X	X	X	X	X
Dwelling Unit, Multiple-Family. A building containing three (3) or more dwelling units.	X	X	X	C	X	C	X	X	X
Dwelling Unit, Single-Family. A building containing one (1) dwelling unit.	P-1	P-1	P-1	P-1	P-1	P-1	P-1	P-1	P-1
Dwelling Unit, Two-Family. A building containing two (2) attached dwelling units.	X	X	C	C	C	C	X	X	X
Educational Facility. Public schools, colleges or universities qualified by the State of Utah Board of Regents or State of Utah Board of Education to provide academic instruction. Privately owned buildings and uses for educational or research activities that has a curriculum for technical or vocational training, kindergarten, elementary, secondary or higher education.	X	C	C	C	C	C	X	X	X
Emergency Care Facility. A health care facility providing primarily outpatient emergency care for the diagnosis and treatment of individuals.	X	X	X	X	X	X	C	X	X
Home Occupation. Any use or activity conducted entirely within a dwelling, or legal accessory building or structure, which is clearly incidental and secondary to the use of the dwelling for dwelling purposes and does not change the character thereof and in connection with which there is no display, nor stock in trade. This use is required to comply with all business licensing requirements of Gunnison City. (See Section 1702).	P-2	P-2	P-2	P-2	P-2	P-2	P-2	P-2	X

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USES	ZONING DISTRICTS								
	A-1	RR-1	R-2-10,000	R-4-7,500	R-1-MHP	R & C -1	CC	L-1	S-1
Hospital. A facility licensed by the State of Utah Department of Health providing clinical, temporary or emergency service of a medical, obstetrical or surgical nature to human patients.	X	X	X	X	X	C	C	X	X
Hotel. A building offering temporary lodging accommodations, or overnight accommodations for guests, with access provided through a common entrance, lobby or hallway to four (4) or more guestrooms, and which may include additional services, such as restaurants, meeting rooms, entertainment, and recreational facilities.	X	X	X	X	X	C	C	X	X
Household Pets. Domesticated animals and birds ordinarily permitted in a dwelling unit and kept for company or pleasure of the owner. (See Section 1718).	P-1	P-1	P-1	P-1	P-1	P-1	P-1	P-1	P-1
Laundry, Self Serve or Dry Cleaning. An establishment providing home-type washing, drying, and/or ironing machines, household laundry and dry cleaning services, classified as low hazard in applicable codes, with customer drop-off and pick-up.	X	X	X	X	X	C	C	C	X
Major Facility of a Public Utility. Any electric transmission lines (greater than 140,000 volts), power plants or substations of electric utilities; gas gathering facility, regulator stations, transmission and gathering pipelines and storage areas of utilities providing natural gas or petroleum derivatives; and their appurtenant facilities, water treatment plant, sewage treatment plant.	C	X	X	X	X	X	C	C	C

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USES	ZONING DISTRICTS								
	A-1	RR-1	R-2-10,000	R-4-7,500	R-1-MHP	R & C -1	CC	L-1	S-1
Manufacturing, Minor. Includes the processing and fabrication of finished products that do not create noise, smoke, fumes, odors, glare, or health or safety hazards outside of the building and where such assembly, fabrication or processing takes place entirely within a building with a maximum building size of 15,000 square feet.	X	X	X	X	X	X	X	P-2	X
Manufacturing, Major. Includes the processing and fabrication of finished products, predominantly from previously prepared materials, and includes the assembly, fabrication or processing of goods and materials using processes that do not create noise, smoke, fumes, odors, glare, or health or safety hazards outside of the building and where such assembly, fabrication or processing takes place entirely within a building. Excludes gravel pit, quarry, extractive industries.	X	X	X	X	X	X	X	C	X
Medical and Dental Clinic. An organization of doctors, dentists, or other health care professional providing physical or mental health service and medical or surgical care of the sick or injured but which does not include in-patient or overnight accommodations.	X	X	X	X	X	C	C	X	X
Medical or Dental Laboratory. An establishment that conducts basic medical or dental research and analysis. This term does not include a facility providing any type of in-house patient services typically provided by hospitals and clinics.	X	X	X	X	X	X	C	P-2	X

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USES	ZONING DISTRICTS								
	A-1	RR-1	R-2-10,000	R-4-7,500	R-1-MHP	R & C -1	CC	L-1	S-1
<p>Minor Facility of a Public Utility. A use operated exclusively by a public body or quasi-public body, such use having the purpose of serving the public health, safety or general welfare, and including streets, parks, recreational facilities, administrative and service facilities, and public utilities, and found by the Gunnison City Planning Commission to conform to the General Plan, or has been considered by the Gunnison City Planning Commission and, after receiving the advice of the Planning Commission, the Gunnison City Council has approved the proposed location and/or Public Use as an amendment to the General Plan. Public Uses and Utilities do not include “Major Facility of a Public Utility,” as defined herein.</p>	C	C	C	C	C	C	C	C	C
<p>Mixed Use. The arrangement of a combination of compatible residential and nonresidential uses on the same lot or parcel of land or within the same building and complying within the requirements of this Ordinance. (See Section 1711).</p>	X	X	X	X	X	C	C	X	X
<p>Mortuary, Funeral Home. An establishment in which the dead are prepared for burial or cremation. The facility may include a chapel and other rooms to conduct funeral services.</p>	X	X	X	X	X	C	P-2	X	X

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USES	ZONING DISTRICTS								
	A-1	RR-1	R-2- 10,000	R-4- 7,500	R-1- MHP	R & C -1	CC	L-1	S-1
Motel. A building or group of buildings containing four (4) or more guest rooms, some or all of which may have a separate entrance leading directly from the outside of the building with a garage or parking space located on the lot and designed, used or intended wholly or in part for the accommodation of persons usually traveling by private automobile or motor coach and which may include additional services, such as restaurants, meeting rooms, entertainment and recreational facilities.	X	X	X	X	X	C	P-2	X	X
Nursing Home, Convalescent Care Center. A facility that provides 24-hour residential care to persons who are not related by blood, marriage, or adoption to the owner, operator, or manager of the facility. A Nursing Home or Convalescent Care Center provides some level of skilled nursing or medical service to the residents.	X	X	C	C	C	C	X	X	X

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USES	ZONING DISTRICTS								
	A-1	RR-1	R-2-10,000	R-4-7,500	R-1-MHP	R & C -1	CC	L-1	S-1
<p>Office. A building, room, or other space where executive, management, administrative or professional services are provided, except medical services, and excluding the sale of merchandise, except as incidental to a principal use. Typical uses include real estate brokers, insurance agencies, credit reporting agencies, property management firms, investment firms, employment agencies, travel agencies, advertising agencies, secretarial services, data processing, telephone answering, telephone marketing, paging and beeper services and facsimile transmission services; post offices and express mail offices, excluding major mail processing and distribution; offices for utility bill collection; professional or consulting services in the fields of law, architecture, design, engineering, accounting and similar professions; interior decorating consulting services; and business offices of private companies, utility companies, public agencies, trade associations, unions and nonprofit organizations.</p>	X	X	X	X	X	C	P-2	P-2	X
<p>Open/Outdoor Storage (Stand Alone). The storage of goods or product in an open, unenclosed area, including but not limited to, automotive, truck, recreational vehicle, trailer, and manufactured home sales lots, repair yards, open storage areas, and all similar outside display and storage areas of goods, materials, equipment, and vehicles, and not an Accessory Use to any established primary use.</p>	X	X	X	X	X	X	X	X	X

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USES	ZONING DISTRICTS								
	A-1	RR-1	R-2- 10,000	R-4- 7,500	R-1- MHP	R & C -1	CC	L-1	S-1
<p>Personal Care Service. An establishment primarily engaged in the provision of frequently or recurrently needed services of a personal nature. Typical uses include beauty and barbershops, custom tailoring and seamstress shops, electrolysis studios, portrait studios, shoe repair shops, tailors, tanning and nail salons, and weight loss centers.</p>	X	X	X	X	X	C	P-2	C	X
<p>Personal Instruction Service. An establishment primarily engaged in the provision of informational, instructional, personal improvement and similar services of a nonprofessional nature or by a nonprofit organization. Typical uses include art and music schools, driving and computer instruction, gymnastic and dance studios, handicraft or hobby instruction, health and fitness studios, massage therapist instruction, martial arts training, and swimming clubs.</p>	X	X	X	X	X	C	P-2	P-2	X

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USES	ZONING DISTRICTS								
	A-1	RR-1	R-2- 10,000	R-4- 7,500	R-1- MHP	R & C -1	CC	L-1	S-1
<p>Public Use. A use operated exclusively by a public body, or quasi-public body, such use having the purpose of serving the public health, safety, or general welfare, and including but not limited to, parks, recreational facilities, administrative and service offices and facilities, and public utilities, and found by the Commission to conform to the General Plan, or has been considered by the Commission and the Council has approved the proposed location and/or Public Use as an amendment to the General Plan. Public Uses do not include “Major Facility of a Public Utility” or an “Airport,” “Correctional Facility,” “Animal Control Facility,” “Water Treatment Plant” or “Sewer Treatment Plant,” as defined herein. (See Chapter 16).</p>	C	C	C	C	C	C	C	C	C
<p>Reception Hall, Reception Center. A facility for the holding of events including but not limited to weddings, wedding receptions, community meetings, and group gatherings.</p>	X	X	X	X	X	C	P-2	C	X

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USES	ZONING DISTRICTS								
	A-1	RR-1	R-2-10,000	R-4-7,500	R-1-MHP	R & C -1	CC	L-1	S-1
<p>Recycling Collection Center. A center for the acceptance and temporary storage of recyclable materials to be transferred to a recycling processing facility. Recycling Collection Centers involve no more than 3 collection containers up to 40 cubic yards in total size. Collection centers located in parking lots may not occupy required parking spaces. A collection center must be arranged to not impede traffic flow. The operator of the collection center shall remove products stored at the site at least once a week. The operator of the collection center shall keep the collection center in proper repair and the exterior must have a neat and clean appearance. Automated can recycling machines are limited to two (2) per site.</p>	X	X	X	X	X	C	P-2	P-2	X
<p>Residential Facility for Elderly Persons. A single-family or multiple-family dwelling unit that does not operate as a business and is owned by one of the residents, or an immediate family member of one of the residents, or the title is placed in trust for a resident, and that meets the requirements of Sec. 10-9a-103; Sec. 10-9a-501; and Sec. 10-9a-502, Utah Code Annotated, as amended, meeting all applicable International Building Code, Zoning and Health Code requirements, and is occupied on a 24-hour-per-day basis by eight (8) or fewer elderly persons in a family-type arrangement. Adequate off-street parking shall be provided and the facility must be capable of use as a residential facility for elderly persons without structural or landscaping alterations that would change the structure's</p>	P-2	P-2	P-2	P-2	P-2	C	X	X	X

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USES	ZONING DISTRICTS								
	A-1	RR-1	R-2- 10,000	R-4- 7,500	R-1- MHP	R & C -1	CC	L-1	S-1
<p>residential character.</p> <p>No person being treated for alcoholism or drug abuse shall be placed in a residential facility for elderly persons; and placement in a residential facility for elderly persons is on a strictly voluntary basis and not a part of, or in lieu of, confinement, rehabilitation, or treatment in a correctional facility. Elderly Person means a person who is 60 years old or older, who desires or needs to live with other elderly persons in a group setting, but who is capable of living independently. Residential Facility for Elderly Persons does not include a health care facility as defined by §26-21-2, Utah Code Annotated, 1953, as amended. (See Section 1715).</p>									

USES	ZONING DISTRICTS								
	A-1	RR-1	R-2- 10,000	R-4- 7,500	R-1- MHP	R & C -1	CC	L-1	S-1
<p>Residential Facility for Persons with a Disability (Substance Abuse Facility located within 500 feet of a School). A residence in which more than one (1) person with a disability resides; and is licensed or certified by the Department of Human Services under Title 62A, Chapter 2, Licensure of Programs and Facilities. Disability means a physical or mental impairment that substantially limits one or more of a person’s major life activities, including a person having a record of such impairment or being regarded as having such impairment. (§57-21-2(9)(a) Utah Code Annotated, 1953, as amended). Disability does not include current illegal use of, or addiction to any Federally controlled substance, as defined in Section 102 of the Controlled Substances Act, 21 U.S.C. 802. (§57-21-2(9)(b) Utah Code Annotated, 1953, as amended). Disability does not include placement in lieu of confinement, rehabilitation, or treatment in a correctional facility. (See Section 1717).</p>									

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USES	ZONING DISTRICTS								
	A-1	RR-1	R-2-10,000	R-4-7,500	R-1-MHP	R & C -1	CC	L-1	S-1
<p>Residential Facility for Persons with a Disability. A residence in which more than one (1) person with a disability resides; and is licensed or certified by the Department of Human Services under Title 62A, Chapter 2, Licensure of Programs and Facilities; or is licensed or certified by the Department of Health under Title 26, Chapter 21, Health Care Facility Licensing and Inspection Act. Disability means a physical or mental impairment that substantially limits one or more of a person’s major life activities, including a person having a record of such impairment or being regarded as having such impairment. (§57-21-2(9)(a) Utah Code Annotated, 1953, as amended). Disability does not include current illegal use of, or addiction to any Federally controlled substance, as defined in Section 102 of the Controlled Substances Act, 21 U.S.C. 802. (§57-21-2(9)(b) Utah Code Annotated, 1953, as amended). Disability does not include placement in lieu of confinement, rehabilitation, or treatment in a correctional facility. (See Section 1716).</p>									
<p>Restaurant, Fast Food. A building or facility that sells food and beverages primarily over a counter, rather than by waitress or waiter; packages its food in wrappers, boxes or cartons regardless if the food is consumed on or off the restaurant premises; and typically provides a drive through/drive up facility.</p>	X	X	X	X	X	C	C	C	X

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USES	ZONING DISTRICTS								
	A-1	RR-1	R-2-10,000	R-4-7,500	R-1-MHP	R & C -1	CC	L-1	S-1
Restaurant, Sit Down. A building or facility for the preparation, retail sale, and on-site consumption of food and beverages.	X	X	X	X	X	C	P-2	X	X
Retail Sales and Services. Establishments engaged in the sale of goods and services on a for-profit or not-for-profit basis.	X	X	X	X	X	X	P-2	P-2	X
Riding Arena (Equestrian Arena). An area or structure used for horse riding and equestrian-related activities.	C	C	X	X	X	X	X	X	C
Self-Service Storage. An enclosed storage facility of a commercial nature containing independent, fully enclosed bays, which are leased to persons exclusively for storage of their household goods or personal property.	X	X	X	X	X	X	X	C	X
Sewer Treatment Facility. A licensed facility that treats sanitary sewer effluent to a minimum level as established by State and/or Federal environmental protection agencies.	X	X	X	X	X	X	X	X	C
Sexually Oriented Business. An activity identified, and conducted in compliance with the requirements of this Ordinance. (See Section 1725).	X	X	X	X	X	X	X	C	X
Special Use. A use established to meet a particular need or activity for a specific period, but not to exceed three hundred sixty (360) days, and conducted in compliance with all the requirements of this Ordinance, such use being discontinued and completely removed after the expiration of the specific period.	C	C	C	C	C	C	C	C	C

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USES	ZONING DISTRICTS								
	A-1	RR-1	R-2-10,000	R-4-7,500	R-1-MHP	R & C -1	CC	L-1	S-1
<p>Temporary Use. A special event or use proposed to be established for a maximum period of ninety (90) days, such event, or use being discontinued after the expiration of ninety (90) days, and conducted in compliance with all the requirements of this Ordinance. Such uses may included, but are not limited to, seasonal commercial activities, including Christmas tree lots and snow cone shacks, nonprofit fund-raising activities, organized events, educational, historic, religious and patriotic displays or exhibits, including athletic or recreational events, festivals, arts and crafts fairs, and other organized events. All family gatherings shall be exempt from the requirements of a Temporary Use Application approval.</p>	X	X	X	X	X	P-1	P-1	P-1	P-1
<p>Theater, Indoor. A building or part of a building devoted to the showing of moving pictures, or the presentation of live performances.</p>	X	X	X	X	X	C	C	X	X
<p>Vehicle and Equipment Rental or Sale, New or Used. An establishment engaged or licensed to engage in the business of buying, selling, or exchanging new or used vehicles, vessels, or outboard motors either outright or on conditional sale, bailment, lease, chattel mortgage, or otherwise or who has an established place of business for the sale, lease, trade, or display of vehicles, vessels, or outboard motors. Typical uses include new and used truck sales and rental, boat sales, recreational vehicles, construction equipment rental yards, moving truck and trailer rental, and farm equipment and machinery sales and rental.</p>	X	X	X	X	X	X	C	C	X

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USES	ZONING DISTRICTS								
	A-1	RR-1	R-2-10,000	R-4-7,500	R-1-MHP	R & C -1	CC	L-1	S-1
Vehicle and Equipment Repair. An establishment primarily engaged in the major repair or painting of motor vehicles or heavy equipment, including auto body repairs, installation of major accessories and transmission and engine rebuilding services. Typical uses include major automobile repair garages, farm equipment repair, paint, and body shops.	X	X	X	X	X	X	C	C	X
Water Treatment Facility. A licensed facility that treats raw water to a quality as established by State and/or Federal agencies to provide culinary water suitable for human consumption.	X	X	X	X	X	X	X	X	C
Wind Energy System. A wind energy conversion system consisting of one (1) wind turbine and tower and associated control and/or conversion electronics which have a rated capacity of less than three kilowatts (3kW) and providing wind generated electrical power to be used for on-site consumption.	C	C	C	X	X	X	X	C	C

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USES	ZONING DISTRICTS								
	A-1	RR-1	R-2- 10,000	R-4- 7,500	R-1- MHP	R & C -1	CC	L-1	S-1
<p>Wireless Telecommunications Site/Facility. A facility used for the transmission or reception of electromagnetic or electro-optic information, which is placed on a structure. This use is not required to be located on a building lot or to comply with the minimum lot size requirement for the district in which it is located, but is required to meet location requirements, as established for such uses, as provided by this Ordinance. Telecommunications Site/Facility does not include Amateur Radio equipment that complies with the ruling of the Federal Communications Commission in “Amateur Radio Preemption, 101 FCC 2nd 952 (1985)” or amateur radio service adopted under 47 C.F.R. Part 97. A facility may be located on any property owned by the City. (See Section 1722).</p>	X	X	X	X	X	X	X	C	C

**APPENDIX B
 STANDARDS FOR PRIMARY BUILDINGS AND STRUCTURES**

REQUIREMENTS	ZONING DISTRICTS								
	A-1	RR-1	R-2-10,000	R-4-7,500	R-1-MHP	R & C - 1	CC	L-1	S-1
Building Requirements	All buildings and structures shall be constructed in compliance with all requirements of this Ordinance and the Building Code, as adopted and as applicable. All buildings and structures shall be located on and permanently attached to a site-built permanent foundation that meets the Building Code, as adopted.								
Minimum Lot Size	40 acres	1 acre – Single-Family, 2.5 acres – Church, 5 acres – School.	10,000 sq ft. Single-Family. 15,000 sq ft. Two-Family, 2.0 acres – Church, 5.0 acres – School.	7,500 sq ft. Single-Family. 10,000 sq ft. Two-Family 12,500 sq ft. Three-Family 15,000 sq ft. Four-Family, 2.0 acres – Church, 5 acres – School.	7,500 sq ft. Single-Family. 10,000 sq ft. Two-Family 12,500 sq ft. Three-Family 15,000 sq ft. Four-Family, 2.0 acres – Church, 5 acres – School.	7,500 sq ft. Single-Family. 10,000 sq ft. Two-Family. 12,500 sq ft. Three-Family 15,000 sq ft. Four-family, 2.0 acres – Church, 5 acres – School.	7,500 sq ft. Single-family. 10,000 sq ft. Two-family. 12,500 sq ft. Three-family 15,000 sq ft. Four-family, 2.0 acres – Church, 5 acres – School.	As required by the Land Use Authority for Land Use Application approval.	

GUNNISON CITY ZONING ORDINANCE – A LAND USE ORDINANCE
 ORDINANCE 2010-2

REQUIREMENTS	ZONING DISTRICTS									
	A-1	RR-1	R-2-10,000	R-4-7,500	R-1-MHP	R & C - 1	CC	L-1	S-1	
Minimum Lot Size for Corner Lots	40 acres	1 acre – Single-Family, 2.5 acres – Church, 5 acres – School.	12,000 sq ft. Single-Family. 18,000 sq ft. Two-Family, 2.0 acres – Church, 5 acres – School.	9,000 sq ft. Single-Family. 12,000 sq ft. Two-Family 15,000 sq ft. Three-Family 18,000 sq ft. Four-Family, 2.0 acres – Church, 5 acres – School.	9,000 sq ft. Single-Family. 12,000 sq ft. Two-Family 15,000 sq ft. Three-Family 18,000 sq ft. Four-Family, 2.0 acres – Church, 5 acres – School.	9,000 sq ft. Single-Family. 12,000 sq ft. Two-Family 15,000 sq ft. Three-Family 18,000 sq ft. Four-Family, 2.0 acres – Church, 5 acres – School.	9,000 sq ft. Single-family. 12,000 sq ft. Two-family 15,000 sq ft. Three-family 18,000 sq ft. Four-family, 2.0 acres – Church, 5 acres – School.	As required by the Land Use Authority for Land Use Application approval.		
Minimum Lot Width	200 feet	130 feet– Single-Family, 200 feet – Church, 200 feet – School. See	100 feet – Single-Family. 150 feet – Two-Family, 200 feet – Church, 200	75 feet – Single-Family 90 feet – Two-Family	75 feet – Single-Family 90 feet – Two-Family	75 feet – Single-Family 90 feet – Two-Family	As required by the Land Use Authority for Land Use Application approval.			

GUNNISON CITY ZONING ORDINANCE – A LAND USE ORDINANCE
 ORDINANCE 2010-2

REQUIREMENTS	ZONING DISTRICTS								
	A-1	RR-1	R-2-10,000	R-4-7,500	R-1-MHP	R & C - 1	CC	L-1	S-1
		also Section 1115 for cul-de-sac lots.	feet – School. See also Section 1115 for cul-de-sac lots.	100 feet – Three-Family 110 feet – Four-Family, 200 feet – Church, 200 feet – School. See also Section 1115 for cul-de-sac lots.	100 feet – Three-Family 110 feet – Four-Family, 200 feet – Church, 200 feet – School. See also Section 1115 for cul-de-sac lots.	100 feet – Three-Family 110 feet – Four-Family, 200 feet – Church, 200 feet – School. See also Section 1115 for cul-de-sac lots.			
Minimum Lot Width for Corner Lots	240 feet	160 feet– Single-Family, 240 feet – Church, 240 feet – School.	120 feet – Single-Family. 180 feet – Two-Family, 240 feet – Church, 240 feet –	90 feet – Single-Family 110 feet – Two-Family 120	90 feet – Single-Family 110 feet – Two-Family 120 feet	90 feet – Single-Family 110 feet – Two-Family	As required by the Land Use Authority for Land Use Application approval.		

GUNNISON CITY ZONING ORDINANCE – A LAND USE ORDINANCE
 ORDINANCE 2010-2

REQUIREMENTS	ZONING DISTRICTS								
	A-1	RR-1	R-2-10,000	R-4-7,500	R-1-MHP	R & C - 1	CC	L-1	S-1
			School.	feet – Three-Family 135 feet – Four-Family, 240 feet – Church, 240 feet – School.	– Three-Family 135 feet – Four-Family, 240 feet – Church, 240 feet – School.	120 feet – Three-Family 135 feet – Four-Family, 240 feet – Church, 240 feet – School.			
Minimum Yard Requirements:									
Front	40 feet	25 feet	25 feet.	25 feet.	25 feet.	25 feet.	As required by the Land Use Authority for Land Use Application approval	25 feet, except if any portion of the front yard is proposed to be used for any off-street	As required by the Land Use Authority for Land Use Application approval

GUNNISON CITY ZONING ORDINANCE – A LAND USE ORDINANCE
 ORDINANCE 2010-2

REQUIREMENTS	ZONING DISTRICTS								
	A-1	RR-1	R-2-10,000	R-4-7,500	R-1-MHP	R & C - 1	CC	L-1	S-1
							al.	parking the minimum front yard shall be 40 feet.	al.
Side	30 feet	15 feet	8 feet on one side, 20 feet combined	8 feet on one side, 20 feet combined	8 feet on one side, 20 feet combined	8 feet on one side, 20 feet combined	As required by the Land Use Authority for Land Use Application approval.	20 feet or 25 feet when the side yard is adjacent to any road or street, except if any portion of a side yard adjoining any road or street is	As required by the Land Use Authority for Land Use Application approval.

GUNNISON CITY ZONING ORDINANCE – A LAND USE ORDINANCE
 ORDINANCE 2010-2

REQUIREMENTS	ZONING DISTRICTS								
	A-1	RR-1	R-2-10,000	R-4-7,500	R-1-MHP	R & C - 1	CC	L-1	S-1
								proposed to be used for any off-street parking the minimum side yard shall be 40 feet.	
Rear	60 feet	30 feet	20 feet	20 feet	20 feet	20 feet	As required by the Land Use Authority for Land Use Application approval.	20 feet or 25 feet when the rear yard is adjacent to any road or street, except if any portion of a rear	As required by the Land Use Authority for Land Use Application approval.

GUNNISON CITY ZONING ORDINANCE – A LAND USE ORDINANCE
 ORDINANCE 2010-2

REQUIREMENTS	ZONING DISTRICTS								
	A-1	RR-1	R-2-10,000	R-4-7,500	R-1-MHP	R & C - 1	CC	L-1	S-1
								yard adjoining any road or street is proposed to be used for any off-street parking the minimum rear yard shall be 40 feet.	
Minimum Yard Requirements for Corner Lots:									
Front	40 feet	25 feet	25 feet	25 feet	25 feet	25 feet	As required by the Land Use	As required by the Land Use	As required by the Land Use

GUNNISON CITY ZONING ORDINANCE – A LAND USE ORDINANCE
 ORDINANCE 2010-2

REQUIREMENTS	ZONING DISTRICTS								
	A-1	RR-1	R-2-10,000	R-4-7,500	R-1-MHP	R & C - 1	CC	L-1	S-1
							Authority for Land Use Application approval.	Authority for Land Use Application approval.	Authority for Land Use Application approval.
Side	30 feet on interior side yard, 40 feet on side yard adjacent to any road or street	15 feet on interior side ward, 25feet on side yard adjacent to any road or street	8 feet on interior side, 20 feet on side yard adjacent to road or street	8 feet on interior side, 20 feet on side yard adjacent to any road or street	8 feet on interior side, 20 feet on side yard adjacent to any road or street	8 feet on interior side, 20 feet on side yard adjacent to any road or street	As required by the Land Use Authority for Land Use Application approval.	As required by the Land Use Authority for Land Use Application approval.	As required by the Land Use Authority for Land Use Application approval.
Rear	60 feet	30 feet	20 feet	20 feet	20 feet	20 feet	As required by the Land Use Authority for	As required by the Land Use Authority for	As required by the Land Use Authority for

GUNNISON CITY ZONING ORDINANCE – A LAND USE ORDINANCE
 ORDINANCE 2010-2

REQUIREMENTS	ZONING DISTRICTS								
	A-1	RR-1	R-2-10,000	R-4-7,500	R-1-MHP	R & C - 1	CC	L-1	S-1
							Land Use Application approval.	Land Use Application approval.	Land Use Application approval.
Minimum Yard Setbacks – Adjacent to a Residential Zone									
Front	Not Applicable						As required by the adjacent residential zone for a minimum distance of 100 feet.		
Side	Not Applicable						20 feet or one (1) foot for every one (1) foot of building height, whichever is greater.		
Rear	Not Applicable						20 feet or one (1) foot for every one (1) foot of building height, whichever	20 feet or one (1) foot for every one (1) foot of building height, whichever	20 feet or one (1) foot for every one (1) foot of building height, whichever

GUNNISON CITY ZONING ORDINANCE – A LAND USE ORDINANCE
 ORDINANCE 2010-2

REQUIREMENTS	ZONING DISTRICTS								
	A-1	RR-1	R-2-10,000	R-4-7,500	R-1-MHP	R & C - 1	CC	L-1	S-1
							ver is greater.	ver is greater.	ver is greater.
Minimum Building Height	10 feet, or one (1) story entirely above grade measured from the lowest point of the natural or finished grade immediately adjacent to an exterior wall to the highest point of the roofline.								
Maximum Building Height	35 feet, or two (two) stories measured from the lowest point of the natural or finished grade immediately adjacent to an exterior wall to the highest point of the roofline. The maximum height measurement includes the height of all roof-mounted mechanical and ancillary equipment, and including, but not limited to, towers, stairways, tanks, ventilating fans, or similar equipment required to operate and maintain a building, and fire or parapet walls.						40 feet, or 35 feet when the lot is adjacent to a Residential Zoning District, measured from the lowest point of the natural or finished grade immediately adjacent to an exterior wall to the highest point of the roofline. The maximum height measurement includes the height of all roof-mounted mechanical and ancillary equipment, and including, but not limited to, towers, stairways, tanks, ventilating fans, or similar equipment required to operate and maintain a building, and fire or parapet walls.		
Minimum Dwelling Unit Dimension	All dwelling units shall be a minimum of twenty-four (24) feet wide at the narrowest point, excluding any attached accessory structure. The building width shall be considered the lesser of the two (2) primary dimensions of the building.						No Requirement		

*GUNNISON CITY ZONING ORDINANCE – A LAND USE ORDINANCE
ORDINANCE 2010-2*

REQUIREMENTS	ZONING DISTRICTS								
	A-1	RR-1	R-2-10,000	R-4-7,500	R-1-MHP	R & C - 1	CC	L-1	S-1
Minimum Landscaping Required	No Requirement						15% of Total Site	10% of Total Site	No Requirement

Appendix B-1
STANDARDS FOR DETACHED ACCESSORY BUILDINGS AND STRUCTURES

REQUIREMENTS	ZONING DISTRICT								
	A-1	RR-1	R-2- 10,000	R-4- 7,500	R-1- MHP	R & C -1	CC	L-1	S-1
Location	<p>No Accessory Building/Structure shall be located in any required Front Yard area.</p> <p>An Accessory Building/Structure located ten (10) feet or less, measured to the closest point, from the Primary Building shall be considered an attached structure and shall comply with all setback standards required for the Primary Structure, as provided by Appendix B. An Accessory Building/Structure located a distance greater than ten (10) feet from a primary building, at the closest point, shall be considered as detached and shall comply with the requirements of this Table.</p> <p>All accessory buildings located ten (10) feet or more away from the primary building or structure, at the closest point, and twenty (20) feet or more from any property line that abuts a road or street, at the closest point, may be located not less than three (3) feet from the side or rear property line(s), provided no accessory buildings are located in the required front yard or within an area containing a recorded easement and provided that the accessory building meets a one (1) hour, or more, fire rated construction, and no drainage from the accessory building is permitted to drain onto any adjacent property.</p>						<p>No Accessory Building/Structure shall be located in any required Front Yard area.</p> <p>An Accessory Building/Structure located ten (10) feet or less from the Primary Building, measured at the closest point, shall be considered an attached structure and shall comply with all setback standards required for the Primary Structure, as provided by Appendix B. An Accessory Building/Structure located a distance greater than ten (10) feet from a primary building, at the closest point, shall be considered as detached and shall comply with the requirements of this Table.</p> <p>All accessory buildings located ten (10) feet or more away from the primary building or structure, at the closest point, and twenty (20) feet or more from any property line that abuts</p>		

GUNNISON CITY ZONING ORDINANCE – A LAND USE ORDINANCE
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REQUIREMENTS	ZONING DISTRICT								
	A-1	RR-1	R-2-10,000	R-4-7,500	R-1-MHP	R & C -1	CC	L-1	S-1
							a road or street, at the closest point, shall be located as required by the Land Use Authority for Site Plan approval.		
Smaller Detached Accessory Buildings	See Section 1708								
Maximum Accessory Building Size	Accessory buildings shall not be larger than twenty-five percent (25%) of the required rear yard area.						As required by the Land Use Authority for Site Plan approval.		
Maximum Accessory Building Height	No detached accessory building shall be higher than eighteen (18) feet, measured to the top of the wall plate or twenty-five (25) feet to the highest point of the roofline, whichever is greater.						As required by the Land Use Authority for Site Plan approval.		
Minimum Side Yard	Three (3) feet, provided no accessory buildings are located in the required front yard or within a recorded easement and provided that the accessory building meets a one (1) hour, or more, fire rated construction, and no drainage from the accessory building is permitted to drain onto any adjacent property.						As required by the Land Use Authority for Site Plan approval.		
Minimum Site Yard – Corner Lots	40 feet on side yard adjacent to any road or street	25 feet on side yard adjacent to any road or street	20 feet on side yard adjacent to road or street	20 feet on side yard adjacent to any road or street	20 feet on side yard adjacent to any road or street	20 feet on side yard adjacent to any road or street	As required by the Land Use Authority for Site Plan approval.		
Minimum Side Yard – Detached	40 feet and provided	25 feet and provided	20 feet and provided	20 feet on and provided	20 feet and provided	20 feet and provided	As required by the Land Use Authority for Site Plan approval.		

GUNNISON CITY ZONING ORDINANCE – A LAND USE ORDINANCE
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REQUIREMENTS	ZONING DISTRICT								
	A-1	RR-1	R-2-10,000	R-4-7,500	R-1-MHP	R & C -1	CC	L-1	S-1
Accessory Buildings housing animals or fowl	the Minimum Distance to a Residence are met (Section 1719)	the Minimum Distance to a Residence are met (Section 1719)	the Minimum Distance to a Residence are met (Section 1719)	the Minimum Distance to a Residence are met (Section 1719)	the Minimum Distance to a Residence are met (Section 1719)	the Minimum Distance to a Residence are met (Section 1719)			
Minimum Site Yard – Corner Lots – Detached Accessory Buildings housing animals or fowl	40 feet on side yard adjacent to any road or street and provided the Minimum Distance to a Residence are met (Section 1719)	25 feet on side yard adjacent to any road or street and provided the Minimum Distance to a Residence are met (Section 1719)	20 feet on side yard adjacent to road or street and provided the Minimum Distance to a Residence are met (Section 1719)	20 feet on side yard adjacent to any road or street and provided the Minimum Distance to a Residence are met (Section 1719)	20 feet on side yard adjacent to any road or street and provided the Minimum Distance to a Residence are met (Section 1719)	20 feet on side yard adjacent to any road or street and provided the Minimum Distance to a Residence are met (Section 1719)	As required by the Land Use Authority for Site Plan approval.		
Minimum Rear Yard	Three (3) feet, provided no accessory buildings are located in the required front yard or within a recorded easement and provided that the accessory building meets a one (1) hour, or more, fire rated						As required by the Land Use Authority for Site Plan approval.		

GUNNISON CITY ZONING ORDINANCE – A LAND USE ORDINANCE
 ORDINANCE 2010-2

REQUIREMENTS	ZONING DISTRICT								
	A-1	RR-1	R-2- 10,000	R-4- 7,500	R-1- MHP	R & C -1	CC	L-1	S-1
	construction, and no drainage from the accessory building is permitted to drain onto any adjacent property.								
Minimum Rear Yard – Detached Accessory Buildings housing animals or fowl	60 feet provided the Minimum Distance to a Residence are met (Section 1719)	30 feet provided the Minimum Distance to a Residence are met (Section 1719)	20 feet provided the Minimum Distance to a Residence are met (Section 1719)	20 feet provided the Minimum Distance to a Residence are met (Section 1719)	20 feet provided the Minimum Distance to a Residence are met (Section 1719)	20 feet provided the Minimum Distance to a Residence are met (Section 1719)	As required by the Land Use Authority for Site Plan approval.		
Minimum Distance to a Residence for Accessory Buildings housing animals or fowl	No accessory building or structure used for the housing of animals or fowl shall be located less than forty (40) feet from a dwelling located on the same lot and not less than seventy-five (75) feet from a dwelling on any adjacent lot.						No accessory building or structure used for the housing of animals or fowl shall be located less than seventy-five (75) feet from a dwelling on any adjacent lot.		
Clear View	See Section 1625								

**APPENDIX C
DEFINITIONS**

Purpose and Conflicts:

Appendix C provides definitions of general terms used throughout this Ordinance for which a definition is considered necessary. The words and terms defined in this chapter shall have the meanings as indicated. Words used in the present tense include the future, words in the singular number include the plural, and words in the plural include the singular. The word "shall" is mandatory the word "may" is permissive. The word "herein" means "in these regulations"; the word "regulations" means "these regulations"; "used" or "occupied" as applied to any land or building shall be construed to include the words "intended, arranged, or designed to be used or occupied". Words not defined herein shall have a meaning consistent with Webster's New Collegiate Dictionary, latest edition. For the convenience of users of this Ordinance, certain terms may be illustrated. If a conflict arises between an illustration and a definition, the definition shall apply.

Access: The provision of vehicular and/or pedestrian ingress and egress to lot, parcel, building, or structure.

Access Right of Way: A strip of land which is part of a lot and provides access to the part thereof used or to be used for buildings or structures.

Act: Means the State of Utah Municipal Land Use, Development, and Management Act, and as provided at §10-9a *et seq.* Utah Code Annotated, 1953, as amended.

Active or Valid Building Permit: A building permit that has not expired.

Adjacent Property/Landowners: A lot or parcel of property, or the owner of record of such, according to the records of the Sanpete County Recorder that has a common immediately contiguous boundary line.

Affected Entity: means a county, municipality, independent special district under Title 17A, Chapter 2, Independent Special Districts, Local district under Title 17B, Chapter 2, Local Districts, school district, interlocal cooperation entity established under Title 11, Chapter 13, Interlocal Cooperation Act, specified public utility, or the Utah Department of Transportation, if: (a) the entity's services or facilities are likely to require expansion or significant modification because of an intended use of land; (b) the entity has filed with the municipality a copy of the entity's general or long-range plan; or (c) the entity's boundaries or facilities are within one mile of land which is the subject of a general plan amendment or land use ordinance change.

Agent: The person with written authorization to represent an owner.

Alcoholic Beverages: Means and includes beer and liquor as those terms are defined in the Utah Alcoholic Beverage Control Act, as amended.

Alteration: Any change, addition, or modification in construction of a building or structure.

Appeal Authority: Means the person, board, commission, agency, or other body designated by this Ordinance to decide an appeal of a decision of a Land Use Authority or review a Variance Application.

Applicant(s): Any person, partnership or corporation applying for any Land Use Application approval, permit or license required by this Ordinance.

Application: A written request, completed in a manner prescribed in this Ordinance, for review, approval, or issuance of an approval, permit, or license.

Application, Complete: An application that includes all information requested on the appropriate form and payment of all applicable fees.

Application, Incomplete: An application that lacks information requested on the appropriate form or the payment of all applicable fees.

Architectural Projection: Any projection which is not intended for occupancy and which extends beyond the face of an exterior wall of a building, but shall not include signs or balconies.

Authorized Officers: Those persons authorized by the city or other entities to inspect businesses and enforce the provisions of this Ordinance, the Municipal Code, or other applicable regulations, including peace officers, employees of the health department, fire and rescue department, Zoning Administrator and Building Official.

Basement: A story partly underground and having at least one-half (1/2) its height below the average level of the adjoining ground.

Beer: As defined by the Utah Alcoholic Beverage Control Act, as amended.

Berm: A mound of earth.

Best Management Practices (BMPs): A practice, or combination of practices, determined to be the most effective (including technological, economic, and institutional considerations) means of preventing or reducing disturbance or disruption to the natural environment.

Billboard: A freestanding sign designed or intended to direct attention to a business, product, or service that is not sold, offered, or existing on the property where the sign is located.

Building: Any structure, whether permanent or temporary, including but not limited to dwelling units, which are designed, intended or used for occupancy by any person, animals, possessions, or for storage of property or goods of any kind.

Buildable Area: That area of a lot or parcel which is outside of any required setback areas and outside of any other areas regulated by this Ordinance.

Building Code: The International Building Code, as adopted by the City.

Building Facade: That portion of an exterior elevation of a building extending from grade to the top of the parapet wall or eaves and the entire width of the building elevation.

Building Frontage: The horizontal, linear dimension of that side of a building facing a street, a parking area, or other circulation area open to the public.

Building, Height: The vertical distance from the natural or finished grade to the highest point of the building or structure.

Building Line, Front: A line parallel to the front lot line and at a distance there from equal to the required depth of the front yard setback and extending across the entire width of the lot or parcel.

Building Line, Rear: A line parallel to the rear lot line and at a distance there from equal to the required depth of the rear yard setback and extending across the entire width of the lot or parcel.

Building Line, Side: A line parallel to the side lot line and at a distance there from equal to the required depth of the side yard setback and extending between the front and rear building lines.

Building Line: The line circumscribing the buildable area of a lot.

Building Official: The official, or other person, charged with the administration and enforcement of the Building Code.

Building Permit: A permit required by the Building Code and issued by the Building Official authorizing a construction activity.

Business: Means and includes all trades, occupations, professions or activities engaged in within the City and carried on for the purpose of gain or economic profit.

Business License: The license required by the Business License Ordinance of the City.

Carpport: A roofed structure designed for the shelter of a motor vehicle and open on at least two sides and subject to all requirements prescribed for a private garage.

Certificate of Occupancy: A certificate issued by the Building Official authorizing occupancy of a building or structure requiring a building permit.

Chief Executive Officer: Means the Gunnison City Mayor.

City Engineer: A registered civil engineer so appointed by the City.

Clear View Area: Areas at intersecting streets and driveways where unobstructed vision is maintained, as required by this Ordinance. (See Section 1625).

Cluster Development: A design that concentrates buildings in specific areas on a site to allow the remaining land to be used, but not limited to, recreation, open space, and preservation of sensitive land areas.

Code: The Gunnison City Municipal Code, as adopted.

Commission: The Planning Commission of Gunnison City, Utah.

Common Area: Facilities, land areas, and yards under common ownership.

Common Open Space: The land area reserved and set aside for recreational uses, landscaping, open green areas, parking and driveway areas for the common use and enjoyment of the owners.

Conditional Use: As defined by the Act.

Conditional Use Permit: The approval granted by a Land Use Authority to establish a Conditional Use, which may provide for reasonable conditions to establish such use.

Constitutional Taking: Means a governmental action that results in a taking of private property so that compensation to the owner of the property is required by the: (a) Fifth or Fourteenth Amendment of the Constitution of the United States; or (b) Utah Constitution.

Construction: The materials, architecture, assembly, and installation of a building or structure.

Construction Activity: All grading, excavation, construction, grubbing, mining, or other development activity which disturbs or changes the natural vegetation, grade, or any existing structure, or the act of adding an addition to an existing structure, or the erection of a new primary or accessory structure on a lot or parcel.

Council: The City Council of Gunnison City Utah.

County: The unincorporated area of Sanpete County, Utah or the Board of County Commissioners of Sanpete County, Utah.

Cul-de-sac: A street with only one (1) outlet and an area for the safe and convenient turning of vehicles.

Culinary Water Authority: Means the department, agency, or public entity with responsibility to review and approve the feasibility of the culinary water system and sources for the subject property.

Cut: The process of lowering the natural grade for a portion of the development site, or the depth or the volume of such material removal. The reference for a cut shall be measured from natural to finished grade.

Decibel (dB): A unit of measure used to express intensity of noise.

Declaration: The legal instrument by which property is subjected to the provisions of the Utah Condominium Ownership Act, or a declaration of covenants, conditions, and restrictions.

Dedication: The setting aside of land by an owner for a public use or purpose.

Demolish or Demolition: Any act or process that destroys, in part or in whole, a building or structure.

Density: The intensity or number of non-residential and residential uses expressed in terms of unit equivalents per acre or lot or units per acre. Density is a function of both the number and type of dwelling units and/or non-residential square footage and the land area.

Density Base: The number of dwelling units per acre allowed in a Zoning District.

Density, Gross: The number of dwelling units per acre within a subdivision or other development based on the total area whether developable or not, including streets, public areas, water areas, open space areas, and sensitive lands.

Density, Incentive: The number of additional dwelling units per acre allowed in addition to base density.

Density, Net: The number of dwelling units per acre within a subdivision or other development and excluding all areas used for streets, public areas, water areas, open space areas, sensitive lands, or encumbered in any other way or any other purpose.

Developer: A person or organization that develops, or intends to develop or sell property for the purpose of future development subject to the provisions of this Ordinance or the Gunnison City Subdivision Ordinance.

Development Activity: Any of the following: (a) Any man-made change to improved or unimproved lands, including but not limited to buildings or other structures, mining, dredging, filling, grading, paving, excavation or drilling operations; (b) Any construction, reconstruction, or expansion of a building, structure, or use; (c) Any change in the use of a building or structure; (d) Any change in the use of land that creates additional demand and need for capital facilities or services; (e) The property being developed and/or subdivided; or (f) The act, process or result of developing.

Development Agreement: A contract or agreement between an Applicant or owner and the Council pursuant to the provisions in this Ordinance.

Development Permit: Any written authorization from a Land Use Authority that authorizes the commencement of a development activity.

Development Site: The total area and perimeters of a tract, lot, or parcel of land intended to be used for a development activity.

Disability: Means a physical or mental impairment that substantially limits one or more of a person's major life activities, including a person having a record of such an impairment or being regarded as having such an impairment. "Disability" does not include current illegal use of, or addiction to, any Federally controlled substance, as defined in Section 102 of the Controlled Substances Act, 21 U.S.C. 802.

Driveway: A private access, the use of which is limited to persons residing, employed, or otherwise using or visiting the parcel on which it is located.

Dwelling Unit: A building, or portion thereof, containing one (1) or more rooms and one (1) kitchen and including areas for living and sleeping, designed to be used for human occupancy, complying with all provisions of the Building Codes, Subdivision Ordinance, and Zoning Ordinance, as adopted and as applicable.

The definition of a dwelling unit shall include:

- a. **Dwelling Unit, Manufactured.** A transportable factory built housing unit (dwelling unit) constructed on or after June 15, 1976, according to the Federal Home Construction and Safety Standards Act of 1974 (HUD Code), in one or more sections, which, in the traveling mode, is eight (8) feet or more in width or forty (40) feet or more in length, or when erected on site, is four hundred (400) or more square feet, and which is built on a permanent chassis and is designed to be used as a dwelling unit with, or without a permanent foundation, when connected to the required utilities, and includes the plumbing, heating, air-conditioning, and electrical systems.

To meet the requirements of this Ordinance and State laws, when erected on the site the home must be at least 24 feet in width at the narrowest dimension, have exterior and roofing materials acceptable to the International Building Code, as adopted by Gunnison City, have a minimum roof pitch of 2:12, and be located on a permanent foundation, in accordance with plans providing for vertical loads, uplift, and lateral forces and frost protection in compliance with the International Building Code. All appendages, including carports, garages, storage buildings, additions, or alterations must be built in compliance with the International Building Code. The manufactured dwelling must be connected to the required utilities, including plumbing, heating, air-conditioning, and electrical systems. All manufactured dwelling units constructed on or after June 15, 1976, shall be identifiable by the manufacturer’s data plate bearing the date the unit was manufactured and a HUD label attached to the exterior of the home certifying the home was manufactured to HUD standards. A Manufactured dwelling Unit shall be identified as real property on the property assessment rolls of Sanpete County.

b. Dwelling Unit, Mobile Home. A transportable factory built housing unit (dwelling unit), constructed prior to June 15, 1976, not in accordance with the Federal Home Construction and Safety Standards Act of 1974 (HUD Code).

Easement: A portion of a lot or parcel reserved for present or future use by a person or agency other than the legal fee owner(s) of the property. The easement may be for use under, on, or above the lot or parcel.

Elderly Person: Means a person who is sixty (60) years old or older, who desires or needs to live with other elderly persons in a group setting, but who is capable of living independently.

Engaging in Business: Includes, but is not limited to, the sale of real or personal property at retail or wholesale, the bartering or trading of property or services, the manufacturing of goods or property, and the rendering of personal services for others for a consideration by persons engaged in any profession, trade, craft, business, occupation or other calling, except the rendering of personal services by an employee to his employer under any contract of personal employment.

EPA: The U.S. Environmental Protection Agency.

Escrow: A deposit of cash or approved alternate in lieu of cash held to ensure a performance or a maintenance guarantee.

Excavation: The removal of boulders, gravel, rocks, earth, or similar naturally occurring deposits from its natural position.

External Illumination: Lighting which illuminates a building or structure from a remote position, or from outside of the building or structure.

Family: A person living alone, or any of the following groups living together as a single nonprofit housekeeping unit and sharing common living, sleeping, cooking and eating facilities: (a) Any number of people who are related by blood, marriage, adoption, or court sanctioned guardianship together with any incidental domestic or support staff who may or may not reside on the premises; or (b) four [4] unrelated people; or (c) two unrelated people and any children related to either of them. “Family” does not include any group of individuals whose association is temporary or seasonal in nature or who are in a group living arrangement because of criminal offenses.

Fence: A tangible barrier or obstruction of any material, with the purpose or intent, or having the effect, of preventing passage or view across the fence line. "Fence" includes hedges and walls.

Fence, Open: A fence which permits vision through more than fifty percent (50%) of each square foot more than eight (8) inches above the natural or finished grade.

Fence, Sight Obscuring: A fence which permits less than fifty percent (50%) vision through any part of the fence at a more than eight (8) inches above the natural or finished grade.

Fill: Materials used to raise the natural grade, or the depth or the volume of material. The reference for a fill shall be measured from natural to finished grade.

Final Action: The final vote or decision on Land Use Application.

Fire Authority: The Gunnison City Fire Department.

Fiscal Impact Analysis: An analysis that describes the current or anticipated effect upon the public costs and revenues imposed by a development activity.

Flood or Flooding: A general and temporary condition of partial or complete inundation of normally dry land areas from:

- 1) The overflow of inland or tidal waters; and/or
- 2) The unusual and rapid accumulation or runoff of surface waters from any source.

Flood Insurance Rate Map (FIRM): The official map of the City on which the Federal Emergency Management Agency has delineated areas of special flood hazard designated as Zone A.

Flood Plain, 100 Year: A designated area where a peak flow magnitude has about a 1 percent chance of being equaled, or exceeded in any year. The area within a flood plain is based on statistical analysis of stream flow records available for the watershed and analysis of rainfall and runoff characteristics in the general region of

the watershed. The flood would have an average frequency of occurrence of about once in 100 years.

Floor Area: The sum of the gross horizontal area of the several floors of a building and its accessory buildings on the same lot, excluding cellar and basement floor areas not devoted to residential use, but including the area of roofed terraces. All dimensions shall be measured from the exterior faces of the exterior walls.

Floor Area, Livable (Net Floor Area): The sum of the footage contained within all buildings or structures on a site measured from the inside wall surfaces including basements but excluding, garages, porches, utility rooms, stairways, storage rooms, and unroofed balconies and patios.

Floor Area, Total (Gross Floor Area): The sum of the footage contained within all buildings or structures on a site measured from the outside wall surfaces and including basements, garages, porches, utility rooms, stairways, recreation rooms and storage rooms, but excluding unroofed balconies and patios.

Floor Area Ratio: The total floor area of a building divided by the area of the lot on which it is located.

Frontage: All the property fronting on a street measured along the street line.

Garage: An accessory building, or a portion of the primary building, used for the storage of motor vehicles.

Garage, Private: An enclosed space or accessory building for the storage of one (1) or more motor vehicles; provided that no business, occupation, or service is conducted for profit therein, nor space therein for more than one car is leased to a nonresident of the premises.

Garage, Public: A building or portion thereof, other than a private garage, designed or used for servicing, repairing, equipping, hiring, selling or storing motor driven vehicles.

General Plan: As defined by the Act.

Grade: The average level of the finished surface or the ground adjacent to the exterior walls of those buildings more than five feet (5') from a street line. For buildings closer than five feet (5') to a street line, the grade is the sidewalk elevation at the center of the building. If there is more than one street, an average sidewalk elevation is to be used. If there is no sidewalk, the city engineer may establish the grade.

Grading: An excavation, cut or fill, or the act of excavating, either cutting or filling.

Grade, Finished: The finished elevation of the surface of the land after the completion of any development activity or other man-made disturbance, or grading.

Grade, Natural: The elevation of the surface of the land prior to any development activity or any other man-made disturbance, or grading.

Gross Acreage: The total area of a lot or parcel of land, including all rights of ways and easements.

Groundwater: Any water that may be drawn from the ground.

Guarantee: Any form of security including cash or an escrow agreement in an amount and form satisfactory to the City.

Hard-Surfaced: Covered with concrete, brick, asphalt, or other impervious surface.

Hazardous Waste: A material as defined by the United States Environmental Protection Agency.

Health Department: The Sanpete County Health Department.

Home Occupation: A commercial or other non-residential use conducted within a dwelling unit that is incidental and secondary to the use of the dwelling unit for residential purposes.

Illegal Building/Illegal Structure: A building or structure, or portion thereof, established without securing the necessary approvals, permits, or licenses, as required by this Ordinance or Building Code, or their prior enactments.

Illegal Lot: A lot created for a development activity that has not received the necessary approvals, permits, or licenses, as required by this Ordinance, the Gunnison City Subdivision Ordinance, or their prior enactments.

Illegal Use: A use established without securing the necessary approvals, permits, or licenses, as required by this Ordinance, or prior enactments.

Impact Analysis: A determination of the potential effect(s), including but not limited to environmental, fiscal, social, matters, etc., upon the City.

Impervious Material or Surface: Material that is impenetrable by water.

Improvements: Curbs, gutters, sidewalks, utilities, grading, paving, landscaping, water and sewer systems, drainage systems, fences, fire hydrants, street lights, public facilities, amenities and other such requirements of this Ordinance.

Incombustible Material: Any material that will not ignite at or below a temperature of one thousand two hundred degrees Fahrenheit (1,200°F) during an exposure of five (5) minutes, and will not continue to burn or glow at that temperature. Tests shall be made as specified in the building code.

Intensity: The degree of a quantitative or qualitative measurement associated with a use of land or building.

Land Use: The manner in which land is occupied or used.

Land Use Application: As defined by the Act, but including an application required by this Ordinance or the Gunnison City Subdivision Ordinance.

Land Use Authority: As defined by the Act, but including a person, board, commission, agency, or other body designated by this Ordinance to act upon a Land Use Application.

Land Use Hearing Officer (LUHO): The Land Use Hearing Officer of Gunnison City, Utah.

Land Use Ordinance: As defined by the Act, but including a planning, zoning, development, or subdivision ordinance of Gunnison City, but does not include the General Plan.

Land Use Permit: As defined by the Act, but including any written authorization from a Land Use Authority that authorizes the commencement of a development activity.

Landscaping: Materials and treatments that include naturally growing elements such as grass, trees, shrubs, and flowers. Landscaping may also include the use of rocks, fountains, benches, and contouring of the earth.

Legal Building/Legal Structure: A building or structure, or portion thereof, complying with the requirements of this Ordinance and Building Code, as adopted or prior enactments.

Legal Lot/Legal Lot of Record. Any land parcel that existed, as recorded in the Office of the Sanpete County Recorder, with a separate property identification number as provided by the County Recorder and County Assessor, prior to the date of the enactment of the first Gunnison City Subdivision Ordinance, and all land parcels that were legally created for the purposes of development pursuant to the subdivision requirements of Gunnison City and the laws of the State of Utah after the date of the enactment of the first Gunnison City Subdivision Ordinance.

Legal Nonconforming Building/Structure: A building or structure, or portion thereof, lawfully existing at the time of this Ordinance, or prior enactments, which does not now conform to the regulations of the Zoning District in which it is located.

Legal Nonconforming Lot: A lot, lawfully existing at the time of this Ordinance, or prior enactments, whose width, area, or other dimension do not conform to the regulations of the Zoning District in which it is located.

Legal Nonconforming Use: A use, lawfully existing at the time of this Ordinance, or prior enactments, such use being maintained continuously, and which does not now comply with the use regulations of the Zoning District in which it is located.

Legal Use: A use complying with the requirements of this Ordinance.

Legislative Body: Means the Gunnison City Council.

Licensed Premises: Any room, house, building, structure, or place occupied by any person licensed to sell alcoholic beverages on such premises under this chapter.

Licensee: Includes the person, firm, corporation, or association to whom the license is issued, and also means and includes the licensee's manager, agents, servants and employees, and all other persons acting for him.

Light Source: A single artificial point source of luminescence that emits a measurable radiant energy in or near the visible spectrum.

Liquor: As defined by the Utah Alcoholic Beverage Control Act, as amended.

Lot: A parcel of land occupied or to be occupied by a building or group of buildings, together with such yards, open spaces, lot width and lot area as are required by this title and having frontage upon a street.

Lot Area: The total land area of a lot or parcel.

Lot Coverage: The total horizontal area of a lot or parcel covered by any impervious surface, including buildings, structures, parking, driveways, etc.

Lot Depth: The mean horizontal distance from a front lot line to a rear lot line.

Lot, Interior: A lot other than a corner lot.

Lot, Irregular: A lot whose rear property line is not generally parallel to the front property line such as a pie-shaped lot on a cul-de-sac, or where the side property lines are not parallel to each other.

Lot Line: A line that divides one (1) lot or parcel from another, or from a street.

Lot Line Adjustment: Means the relocation of a lot line between two (2) adjoining lots with the consent of the owners and complying with all requirements of the Act.

Lot Line, Front: A lot or parcel line separating a lot or parcel from an existing street right-of-way or, where a new street is proposed, the proposed street right-of-way line. For an interior lot or parcel, the lot line adjoining the street; for a corner lot, the lot or parcel lines adjoining both streets; for a double frontage lot, a lot, or parcel line adjoining one (1) of the streets as elected by the City.

Lot Line, Rear: The lot line generally opposite and most distant from the front lot line.

Lot Line, Side: Any lot or parcel line that is not a front lot line or rear lot line. A side lot line separating one (1) lot or parcel from another is an interior side lot line.

Lot Width: For an interior lot or parcel, the shorter of horizontal distance between side lot lines, measured at the required front yard setback line or rear setback line. For a corner lot, the distance between one (1) of the front lot lines and the opposite side yard line at the required setback line.

Lot, Corner: A lot abutting on two (2) intersecting streets where the interior angle of intersection or interception does not exceed one hundred thirty five degrees (135°).

Lot, Double Frontage: A lot or parcel abutting two parallel or approximately parallel streets.

Lot, Illegal: A separately delineated piece of real property, created for the purposes of a development activity, and which has not received the necessary approvals, as required by the Gunnison City Subdivision Ordinance, and State laws, and their prior enactments.

Lot, Legal: A separately delineated piece of real property, created for the purposes of a development activity, which: (a) Is shown on a recorded final subdivision plat that has received the necessary approvals, as required by the Gunnison City Subdivision Ordinance, and State laws, and their prior enactments, or (b) Is defined by some other legal instrument and has a separate property identification number according to the records of the Sanpete County Recorder, and was legally created, as required by the Gunnison City Subdivision Ordinance, and State laws, and their prior enactments.

Lot, Nonconforming: A lot or parcel that: (a) Legally existed before its current zoning designation; and (b) Has been shown continuously on the records of the Sanpete County Recorder as an independent parcel since the time the zoning regulation governing the lot or parcel changed; and (c) Because of subsequent zoning changes does not conform with the lot size or other dimensional or property development standards applicable in the Zoning District in which the lot or parcel is located.

Lumen: A measurement of light output or the amount of light emitting from a luminaire.

Manufactured Home: A factory built structure which is constructed in compliance with the Federal manufactured housing construction and safety standards act of 1974, which became effective June 15, 1976; transportable in one or more sections; built on a permanent chassis; designed as a place for human habitation of not more than one family, with or without a permanent foundation, when connected to required utilities; and includes the plumbing, heating, air conditioning and electrical systems contained therein.

Map, Official: Any map adopted by the Council under the provisions of Utah Code Annotated, as amended.

Mixed Use: The location and arrangement of a combination of residential and nonresidential uses on the same lot or parcel or within the same building, and complying with the requirements of this Ordinance.

Mobile Home: A factory built, moveable living unit which does not meet the requirements of the Federal manufactured housing construction and safety standards act of 1974, which became effective on June 15, 1976; transportable in one or more sections; eight feet (8') or more in body width and thirty two feet (32') or more in body length; built on a permanent chassis with wheels; designed as a place for human habitation of not more than one family, with or without a permanent foundation, when connected to required utilities; and includes the plumbing, heating, air conditioning and electrical systems contained therein.

Moderate Income Housing: As defined by the Act.

Moderate Income Housing Plan: A written document conforming to the requirements of the Act.

Modular Home: A factory built structure which is constructed in compliance with the city's or State's adopted building codes; transportable in one or more sections; built on permanent chassis; designed as a place for human habitation when placed upon a permanent foundation and connected to all utilities; and includes the plumbing, heating, air conditioning and electrical systems contained therein. A modular home meeting the requirements of chapter 9 of this title shall be classified as a dwelling.

Monument: A permanent survey marker established by the Sanpete County Surveyor and/or a survey marker set in accordance with the City Engineer's specifications and referenced to Sanpete County survey monuments.

Motor Home: A self-propelled vehicular unit, other than a mobile home primarily designed as a temporary dwelling for travel, recreational and vacation use, which is either self-propelled or is mounted on or pulled by another vehicle, including, but not limited to, a travel trailer, a camping trailer, a truck camper, a motor home, a fifth wheel trailer and a van.

Natural Features: Non man-made land characteristics, including slopes, wetlands, streams, intermittent drainage channels, and native stands of shrubs or trees.

Natural State: Land that has not been subjected to grading, removal of vegetation or any development activity.

Natural Vegetation: Vegetation existing on a lot or parcel prior to any grading, development activity or plantings.

Natural Waterways: Those areas, varying in width, along streams, creeks, gully, springs or gashes which are natural drainage channels as determined by the community and economic development director and in which areas no buildings shall be constructed.

Nominal Fee: Means a fee that reasonably reimburses the City only for time spent and expenses incurred in: (a) verifying that building plans are identical plans; and (b) reviewing and approving those minor aspects of identical plans that differ from the previously reviewed and approved building plans.

Noncomplying Structure: As defined by the Act but includes a structure that: (a) legally existed before its current land use designation; and (b) because of one or more subsequent land use ordinance changes, does not conform to the setback, height restrictions, or other regulations, excluding those regulations, which govern the use of land.

Nonconforming Use: As defined by the Act but includes the use of land that: (a) legally existed before its current land use designation; (b) has been maintained continuously since the time the land use ordinance governing the land changed; and (c) because of one or more subsequent land use ordinance changes, does not conform to the regulations that now govern the use of the land.

Official Map: As defined by the Act but means a map drawn by Gunnison City and recorded in a County recorder's office that: (a) shows actual and proposed rights-of-way, centerline alignments, and setbacks for highways and other transportation facilities; (b) provides a basis for restricting development in designated rights-of-way or between designated setbacks to allow the government authorities time to purchase or otherwise reserve the land; and (c) has been adopted as an element of the General Plan.

Official Street Map: The map adopted by the Council, which shows the location and alignment of existing and future streets within the City.

Official Zoning Map: The map adopted by the Council showing the geographic location of Zoning Districts.

Off-Street: Entirely outside of any City right-of-way, street, access easement, or any private access drives.

Open Space: Land areas that are not occupied by buildings, structures, parking areas, streets, or roads. Open space may be devoted to landscaping, preservation of natural features, and recreational areas and facilities.

Operate or Cause to be Operated: To cause to function or to put or keep in a State of doing business.

Owner: Any person who alone, jointly or severally with others has legal or equitable title to any property.

Parcel: A contiguous quantity of land, in the possession of, or owned by, or recorded as the property of the same owner.

Park: A playground or other area or open space providing opportunities for active or passive recreational or leisure activities.

Park Strip: The area located between a street right-of-way line and the edge of asphalt or curb, but not including driveways, sidewalks, or trails.

Parking Area: An enclosed or unenclosed area, other than a street, and used or designed for parking of vehicles.

Parking Lot: An open area, other than a street, used for parking of more than four (4) automobiles and available for public use, whether free, for compensation, or as an accommodation for clients or customers.

Parking Space: Space within a building, lot, or parking lot for parking or storage of one automobile.

Pasture: An area confined by wire, wood or other fence material and used for the confinement of domestic livestock for which the primary source of food is obtained from grasses or herbage growing on the area.

Person: Means an individual, corporation, partnership, organization, association, trust, governmental agency, or any other legal entity.

Pervious Material or Surface: Material that is penetrable by water.

Place of Business: Each separate location maintained or operated by the licensee, whether or not under the same name, within the city from which business is engaged.

Plan for Moderate Income Housing Means a written document adopted by the Gunnison City Council that includes: (a) an estimate of the existing supply of moderate income housing located within the city; (b) an estimate of the need for moderate income housing in the city for the next five years as revised biennially; (c) a survey of total residential land use; (d) an evaluation of how existing land uses and zones affect opportunities for moderate income housing; and (e) a description of the city's program to encourage an adequate supply of moderate income housing.

Planning Commission (“Commission”): The Planning Commission of Gunnison City, Utah.

Plat: Means a map or other graphical representation of lands being laid out and prepared in accordance with Section 10-9a-603, Section 17-23-17, or Section 57-8-13, U.C.A.

Police Department: The Gunnison City Police Department.

Primary Building: The principal building located on a lot or parcel designed or used to accommodate the primary use to which the premises are devoted.

Primary Use: The principal purpose for which a lot, parcel, or building is designed, arranged or intended, or for which it is occupied or maintained as allowed by the provisions of this Ordinance.

Private Drive: Non-dedicated thoroughfare or road used exclusively for private access to and from private land and/or developments.

Property: Any lot, parcel, or tract of land, including improvements thereon, in the possession of or owned by, or recorded as the real property of, the same person or persons.

Property Line: The boundary line of a lot or parcel.

Public: That which is under the ownership or control of the United States Government, Utah State, or any subdivision thereof, Sanpete County, or the City (or any departments or agencies thereof).

Public Hearing: Means a hearing at which member so the public are provided a reasonable opportunity to comment on the subject of the hearing.

Public Improvement: Any street dedications, installations of curb, gutter, sidewalk, road base and asphalt, water, sewer, and storm drainage facilities, or other utility or service required to provide services to a lot, parcel, building, or structure.

Public Meeting: Means a meeting that is required to be open to the public under Title 52, Chapter 4, Open and Public Meetings.

Quasi-Public Use: A use operated by a private nonprofit educational, religious, recreational, charitable, or philanthropic institution, serving the public.

Reasonable Accommodation: A change in a rule, policy, practice, or service necessary to afford a person equal opportunity to use and enjoy a dwelling. As used in this definition “Reasonable” means a requested accommodation will not undermine the legitimate purposes of existing zoning regulations notwithstanding the benefit that the accommodation would provide to a person with a disability, “Necessary” means the Applicant must show that, but for the accommodation, one or more persons with a disability likely will be denied an equal opportunity to enjoy housing of their choice, “Equal Opportunity” means achieving equal results as between a person with a disability and a non-disabled person.

Record of Survey Map: Means a map of a survey of land prepared in accordance with Section 17-23-17, U.C.A.

Recreational and Manufactured Home Standard: A standard adopted by the American National Standards Institute or the National Fire Protection Association for recreational vehicles, and for mobile homes manufactured prior to June 15, 1976. For manufactured homes built after June 16, 1976, "standard" means the standard adopted pursuant to the national manufactured housing construction and safety standards act of 1974 and as amended from time to time.

Recreational Vehicle: A vehicular unit primarily designed as a temporary dwelling for travel, recreational and vacation use, which is either self propelled or is mounted on or pulled by another vehicle, including but not limited to a travel trailer, a camping trailer, a truck camper, a motor home, a fifth-wheel trailer and a van.

Residence: A dwelling unit or other place where an individual or family is actually living at a given point in time and not a place of temporary sojourn or transient visit.

Residential Activity: Any building, structure, or portion thereof that is designed for or used for residential purposes and any activity involving the use of occupancy of a lot for residential purposes.

Residential Facility for Elderly Persons: Means a single-family or multiple-family dwelling unit that meets the requirements of the Act, but does not include a health care facility as defined by Section 26-21-2, U.C.A.

Residential Facility for Persons with a Disability: Means a residence: (a) in which more than one person with a disability resides; and (b) (i) is licensed or certified by the Department of Human Services under Title 62A, Chapter 2, Licensure of Programs and Facilities; or (ii) is licensed or certified by the Department of Health under Title 26, Chapter 21, Health Care Facility Licensing and Inspection Act.

Right-of-Way: Any dedicated area provided for conveying vehicle and pedestrian traffic, and other public use.

Sanitary Sewer Authority: Means the department, agency, or public entity with responsibility to review and approve the feasibility of sanitary sewer services or onsite wastewater systems.

Setback or Required Yard Area: The shortest distance on a lot or parcel between a building line and a property or designated right-of-way line excluding uncovered patios, decks and balconies not greater than two (2) feet in height from grade, and not less than 4 feet from the rear property line and 8 feet from the side property line, and chimney and roof overhangs protruding no greater than two (2) feet into the setback area.

Sexually Oriented Business: An adult arcade, adult bookstore, adult novelty store, adult video store, adult cabaret, adult motel, or adult entertainment outcall service in the form of seminude dancing or exhibition, adult motion picture theater, adult theater, seminude model studio, or sexual encounter establishment.

Sexually Oriented Entertainment Activity: The sale, rental, or exhibition for any form of consideration, of books, films, videocassettes, magazines, periodicals, or live performances that are characterized by an emphasis on the exposure or display of specific sexual activity.

Sign: A presentation or representation of words, letters, figures, designs, picture or colors, publicly displayed so as to give notice relative to a person, a business, an article or merchandise, a service, an assemblage, a solicitation, or a request for aid; also the structure or framework or a natural object on which any sign is erected or is intended to be erected or exhibited or which is being used or is intended to be used for sign purposes.

Sign, Awning: A sign attached flat against the surface of an awning.

Sign, Canopy: A sign attached to, or included in the constructed of a canopy, which may be located over a fuel island or drive through.

Sign, Free-Standing Monument: A sign attached to the ground or a foundation with no pole(s) brace(s), or other visible means of support other the attachment or foundation to the ground.

Sign, Free Standing Pylon: A sign attached to the ground or a foundation with a pole, or poles, or other visible means of support.

Sign, Limited: A sign associated with an established use and intended to be displayed for a maximum period of ninety (90) calendar days, such sign being removed after the expiration of Ninety (90) calendar days.

Sign, Wall: A sign displayed against the wall of a building, where the exposed face of the sign is parallel to the wall and extends not more than twelve (12) inches horizontally from the face of the wall.

Site Plan: A schematic, scaled drawing of a lot or parcel which indicates, as may be required by this Ordinance, the placement and location of buildings, setbacks, yards, property lines, adjacent parcels, utilities, topography, waterways, irrigation, drainage, landscaping, parking areas, driveways, trash containers, streets, sidewalks, curbs, gutters, signs, lighting, fences and other features of existing or proposed construction or land use.

Slope: The level of inclination of land from the horizontal plane determined by dividing the horizontal run or distance, of the land into the vertical rise, or distance, of the same land and converting the resulting figure in a percentage value.

Special District: Means an entity established under the authority of Title 17A, Special Districts, and any other governmental or quasi-governmental entity that is not a County, municipality, school district, or unit of the State.

Specified Public Utility: Means an electrical corporation, gas corporation, or telephone corporation, as those terms are defined in Section 54-2-1, U.C.A.

Start of Construction: The issuance date of a building permit if construction, repair, reconstruction, placement, or other improvement begins within one hundred eighty (180) days of the permit date. “Begins” means either the first excavation on the site or the placement of permanent construction of a structure on a site, such as the pouring of a slab or footings, the installation of piles, the construction of columns, or any work beyond the stage of excavation.

Story: The space within a building, other than a cellar, included between the surface of any floor and the surface of the ceiling next above.

Street: Means a public right-of-way, including a highway, avenue, boulevard, parkway, road, lane, walk, alley, viaduct, subway, tunnel, bridge, public easement, or other way.

Structural Alterations: Any change in supporting members of a building, such as bearing walls, columns, beams, or girders.

Structure: Anything constructed or erected, the use of which requires location on the ground, or attachment to something having location on the ground.

Subdivision: Means any land that is divided, resubdivided or proposed to be divided into two or more lots, parcels, sites, units, plots, or other division of land for the purpose, whether immediate or future, for offer, sale, lease, or development either on the installment plan or upon any and all other plans, terms, and conditions. "Subdivision" includes: (i) the division or development of land whether by deed, metes and bounds description, devise and testacy, map, plat, or other recorded instrument; and (ii) except as provided in Subsection (34)(c), divisions of land for residential and nonresidential uses, including land used or to be used for commercial, agricultural, and industrial purposes. "Subdivision" does not include: (i) a bona fide division or partition of agricultural land for the purpose of joining one of the resulting separate parcels to a contiguous parcel of unsubdivided agricultural land, if neither the resulting combined parcel nor the parcel remaining from the division or partition violates an applicable land use ordinance; (ii) a recorded agreement between owners of adjoining unsubdivided properties adjusting their mutual boundary if: (A) no new lot is created; and (B) the adjustment does not violate applicable land use ordinances; or (iii) a recorded document, executed by the owner of record: (A) revising the legal description of more than one contiguous unsubdivided parcel of property into one legal description encompassing all such parcels of property; or (B) joining a subdivided parcel of property to another parcel of property that has not been subdivided, if the joinder does not violate applicable land use ordinances. (d) The joining of a subdivided parcel of property to another parcel of property that has not been subdivided does not constitute a "subdivision" under this Subsection (34) as to the unsubdivided parcel of property or subject the unsubdivided parcel to the municipality's subdivision ordinance.

Subdivision (Major): Means a subdivision that is not a Subdivision (Minor).

Subdivision (Minor); Means a subdivision, as defined herein, and limited further as follows;

- 1) The land proposed to be divided;
 - a) Is not traversed by the mapped lines of a proposed road or street as shown by the General Plan.
 - b) Does not require the dedication of any land for a road or street or for any other public purposes.
 - c) Has been approved by the culinary water authority and the sanitary sewer authority.
 - d) Is located in a zoned area.
 - e) Conforms to all applicable land use ordinances; and
 - f) Contains no more than four (4) lots, including any lot containing any remnant of the subject property.

Subject Property: Means any land, lot, parcel, or tract that is the subject of, and is identified in any Land Use Application.

Substantial Action: Action taken in good faith to diligently pursue any matter necessary to obtain approval of an application filed pursuant to the provisions of this Ordinance or to exercise development rights authorized pursuant to such an approval.

Substantial Improvement: Any repair, reconstruction or improvement of a structure, the cost of which equals or exceeds fifty percent (50%) of the market value of the structure:

- 1) Before the improvement or repair is started; or
- 2) If the structure has been damaged and is being restored, before the damage occurred. For the purpose of this definition, "substantial improvement" is considered to occur when the first alteration of any wall, ceiling, floor, or other structural part of the building commences, whether or not that alteration affects the external dimensions of the structure.
- 3) The term does not, however, include either:
 - a) Any project for improvement of a structure to comply with existing State or Local health, sanitary or safety code specifications which are solely necessary to assure safe living conditions; or
 - b) Any alteration of a structure listed on the national register of historic places or a State inventory of historic places.

Swimming Pool: Any artificial or semi-artificial container, whether indoors and whether above or below the surface of the ground, or both, used or intended to be used to contain a body of water for swimming by any person or persons, together with all permanent structures, equipment, appliances and other facilities used or intended for use in and about the operation, maintenance and use of such pool.

Temporary Use: A use allowed for a limited time with the intent to discontinue the use upon expiration of the period.

Travel Trailer: A vehicular, portable unit, mounted on wheels, not requiring special highway movement permits when drawn by a motorized vehicle:

- 1) Designed as a temporary dwelling for travel, recreational and vacation use; and
- 2) When factory equipped for the road, having a body width of not more than eight (8) feet and a body length of not more than forty (40) feet.

U.C.A. Means the Utah Code Annotated, as amended.

Unincorporated: Means the area outside of the incorporated area of the City.

Use: The specific purpose for which land or a building is designed, arranged, intended, or for which it is or may be occupied or maintained.

Use Variance. A modification to the Allowed Uses that allows a landowner to use a parcel or lot that is not permitted by this Ordinance.

USGS: The United States Geological Survey

Utilities: Include, but are not limited to, natural gas, electric power, cable television, telephone, telecommunication services, storm system, sewer system, irrigation facilities, culinary water, street lights and other services deemed to be of a public-utility nature by the City.

Utility Easement: The area designated for access to construct or maintain utilities on a lot or parcel.

Variance: A modification granted by the LUHO to a zoning requirement for height, bulk, area, width, setback, or other numerical or quantitative requirement for a building or structure or other site improvements, with a finding of hardship, as set forth in this Ordinance.

Vehicle: A properly licensed automobile, truck, trailer, boat or other device in which a person or thing is or can be transported from one (1) place to another.

Vested Right (or Vested): A right to develop property in a particular manner which cannot be abolished, modified or restricted by a Land Use Ordinance or regulations subsequently enacted.

Violated or Violating: There exists reasonable cause to believe that any ordinance, code, statute, or law has been or is being violated and is not limited to pleas of guilty or convictions for violating said ordinances, codes, statutes, or laws.

Wireless Telecommunication Facility: An unmanned structure consisting of antennas, antenna support structures, or other equipment used to provide personal wireless services as set forth in Section 704 of the Telecommunications Act of 1996, as amended.

Yard: An open space on a lot, other than a court, unoccupied and unobstructed from the ground upward by buildings, except as otherwise provided herein.

Yard, Front: An open space on the same lot with a building between the front line of the building (exclusive of steps) and the front lot line and extending across the full width of the lot. The "depth" of the front yard is the minimum distance between the front lot line and the front line of the building.

Yard, Rear: An open, unoccupied space on the same lot as a building, between the rear line of the building (exclusive of steps) and the rear lot line and extending the full

width of the lot; except, on corner lots, the rear yard shall not include the side yard bordering the street.

Yard, Side: An open, unoccupied space on the same lot as a building, between the rear line of the building (exclusive of steps) and the front line of the building (exclusive of steps) and extending from the side line of the building (exclusive of steps) to the side lot line; except, on corner lots, the side yard bordering the street shall extend to the rear from the front line of the building (exclusive of steps) to the rear lot line, the same distance as is required for side yard setbacks on corner lots in each zone.

Zoning Administrator: The person appointed by the Council to carry out the administrative responsibilities of this Ordinance.

Zoning District: An area of the incorporated territory of the City which has been given a designation which regulates the construction, reconstruction, alteration, repair or use of buildings or structures, or the use of land as set forth in this Ordinance.

Zoning Map: Means a map, adopted as part of this Ordinance that depicts land use zones, overlays, or districts.

Zoning Ordinance: The zoning ordinance of Gunnison City, Utah, as set forth in this Ordinance, a Land Use Ordinance, as defined by the Act, and as amended from time to time.

**PART II
GUNNISON CITY
SUBDIVISION ORDINANCE**

A LAND USE ORDINANCE OF GUNNISON CITY

**ADOPTED BY THE GUNNISON CITY COUNCIL
NOVEMBER 17, 2010
ORDINANCE 2010 – 3**

Prepared for Gunnison City by:

PLANNING AND DEVELOPMENT SERVICES, LLC
Salt Lake City, Utah
801-277-4435

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CHAPTER 1 GENERAL PROVISIONS

Section 101—Short Title:

This Ordinance shall be known and may be cited as the Gunnison City Subdivision Ordinance and may be identified within this document and other documents as “the Ordinance,” “this Ordinance,” “Subdivision Ordinance,” or “Land Use Ordinance.” This Ordinance shall be identified as part, or a component of, the Gunnison City Land Use Ordinances, as defined by Title 10 Chapter 9a Utah Code Annotated, 1953, as amended (hereinafter the “Act”).

Section 102—Purposes:

The Ordinance is established to promote the purposes of the Act and to provide for the orderly division of lands and to secure the provision and long-term maintenance of necessary infrastructure and services in an efficient and economical manner for existing and future City residents.

Section 103—Enactment, Applicability and Conflict:

- 1) The City Council of Gunnison City, Utah (hereinafter “Council”) adopts this Ordinance pursuant the Act and all other authorities and provisions of Utah and Federal statutory laws, and common law, as applicable. This Ordinance constitutes a part of Gunnison City’s Land Use Ordinances, as authorized and identified by the Act.
- 2) This Ordinance shall take effect on January 1, 2011 following its adoption by the Council.
- 3) Upon its effective date, this Ordinance shall repeal Chapters 10-6, 10-7, and 10-8 of the Gunnison City Development Code, existing on the effective date of this Ordinance and shall govern and apply to the division of all lands located within the municipal boundaries of Gunnison City, Utah.
- 4) This Ordinance shall not nullify any laws, ordinances, or requirements that are more restrictive, but shall prevail notwithstanding such laws, ordinances, or requirements that are less restrictive.
- 5) The provisions of this Ordinance shall be construed to carry out the purposes of this Ordinance and the purposes of the State of Utah enabling laws, including the Act, and to avoid conflict with the laws of the United States of America, the State of Utah, or any other limitations imposed by law. If any chapter, section, subsection, provision, sentence or clause of this Ordinance is declared unconstitutional by a court of competent jurisdiction, such determination shall not impair the validity of the remainder of this Ordinance, which shall remain in effect.

- 6) Applications accepted by the City as complete for any Land Use Application (hereinafter “Application”) required by this Ordinance shall be processed, reviewed and approved or denied, subject to the provisions of this Ordinance and all other Ordinances and Resolutions of the City, as applicable and in effect at the time the application is determined to be “complete,” by the City Recorder, as required by this Ordinance and Resolutions, as applicable.
- 7) The provisions of this Ordinance shall apply to all lands located within the municipal boundaries of Gunnison City, unless exempted by the provisions of this Ordinance, or other lawful exemption.
- 8) The provisions of this Ordinance shall be held to be the minimum requirements necessary to protect the health, safety, and welfare of the citizens of Gunnison City, and achieve the purposes of this Ordinance.

Section 104—Omissions not a Waiver:

An omission to specify or enumerate in this Ordinance those provisions of general law applicable to all Utah municipalities shall not be construed to be a waiver of any such laws.

Section 105—Subdivision Defined:

For the purposes of this Ordinance, and the Act, a subdivision shall be, and shall mean;

Any land that is divided, resubdivided or proposed to be divided into two (2) or more lots, parcels, sites, units, plots, or other division of land for the purpose, whether immediate or future, for offer, sale, lease, or development either on the installment plan or upon any and all other plans, terms, and conditions.

"Subdivision" includes:

- 1) The division or development of land whether by deed, metes and bounds description, devise and testacy, map, plat, or other recorded instrument; and
- 2) All divisions of land for residential and nonresidential uses, including land used or to be used for commercial, agricultural, and industrial purposes; except as provided in the Act, and Section 107 herein.

Section 106—Final Plat Required Before Lots May be Sold:

As provided and authorized by the Act, a Final Subdivision Plat shall be approved, as required herein, complying with all requirements of this Ordinance, and the Act, before such Final Subdivision Plat may be filed or recorded in the Office of the Sanpete County Recorder, and any lots or parcels sold.

Section 107—Subdivision Not to Include:

As provided by the Act and for the purposes of this Ordinance “Subdivision” does not include:

- 1) A bona fide division or partition of agricultural land for the purpose of joining one of the resulting separate parcels to a contiguous parcel of unsubdivided agricultural land, if neither the resulting combined parcel nor the parcel remaining from the division or partition violates an applicable Land Use Ordinance.
- 2) A recorded agreement between owners of adjoining unsubdivided properties adjusting their mutual boundary if:
 - a) No new lot is created; and
 - b) The adjustment does not violate applicable Land Use Ordinances; or
 - c) A recorded document, executed by the owner of record:
 - i) Revising the legal description of more than one (1) contiguous unsubdivided parcel of property into one legal description encompassing all such parcels of property; or
 - ii) Joining a subdivided parcel of property to another parcel of property that has not been subdivided, if the joiner does not violate applicable Land Use Ordinances.
- 3) A recorded agreement between owners of adjoining subdivided properties adjusting their mutual boundary if:
 - a) No new dwelling lot or housing unit will result from the adjustment; and
 - b) The adjustment will not violate any applicable Land Use Ordinance.
- 4) The joining of a subdivided parcel of property to another parcel of property that has not been subdivided does not constitute a “subdivision” as to the unsubdivided parcel of property or subject the unsubdivided parcel to this Ordinance.

Section 108—Provision of Administrative Guidelines, Standards, and Other Materials – Compliance Required:

The Council may provide administrative guidelines, standards, forms, or other documents to assist the City Staff, City residents, and Applicant in providing and processing applications and interpreting and administering the City’s Land Use Ordinances, including this Ordinance.

When provided by the Council the Land Use Applications required by this Ordinance shall be reviewed and approved or denied by the Land Authority, as applicable, and in

compliance with all requirements and standards of this Ordinance and all guidelines, standards, forms, or other documents, as applicable.

Section 109—Fees and Charges:

The Council, by Resolution, may establish all necessary fees and charges payable for any Applications required by this Ordinance including application processing, application reviews, inspections, and any additional services provided by the City or required of this Ordinance. Such fees and charges may be amended from time to time, as considered necessary, by Council.

Section 110—Approvals and Permits to Comply with this Ordinance:

- 1) From the effective date of this Ordinance, no approval or permit, shall be provided or issued by the City unless such approval or permit complies with the requirements and provisions of this Ordinance. Any approval or permit issued in conflict with the provisions and requirements of this Ordinance shall be void.
- 2) The City may enforce this Ordinance by withholding building permits.
- 3) The City shall not approve and issue a building permit unless the plans for the proposed erection, construction, reconstruction, alteration, or use fully conform to all adopted Land Use Ordinances of the City, including this Ordinance, and the Gunnison City Zoning Ordinance (hereinafter “Zoning Ordinance”).

Section 111—Prohibited Acts:

- 1) An owner of any land located in a subdivision who transfers or sells any land in that subdivision before a Final Subdivision Plat of the subdivision has been approved and recorded in the Office of the Sanpete County Recorder, as required and provided by this Ordinance, and the Act, is guilty of a violation of this Ordinance, and the Act, for each lot or parcel transferred or sold.
- 2) The description by metes and bounds in an instrument of transfer or other documents used in the process of selling or transferring lots does not exempt the transaction from being a violation of this Ordinance, and the Act, or from the penalties or remedies provided by this Ordinance, or the Act.
- 3) Notwithstanding the provisions of this Section, the recording of an instrument of transfer or other document used in the process of selling or transferring real property that violates this Ordinance, and the Act:
 - a) Does not affect the validity of the instrument or other document; and
 - b) Does not affect whether the property that is the subject of the instrument or other document complies with the City’s Land Use Ordinances, including this

Ordinance, and the City’s other Land Use Ordinances, including the Zoning Ordinance.

Section 112—Subdivision Lots:

The layout and design of all proposed subdivision lots shall meet and comply with the minimum requirements of the Zoning District in which the subdivision is located, and as follows;

- 1) Lots Must Abut on a Public Street. Each lot in a subdivision shall abut on a street dedicated to the City by the subdivision plat or an existing public street, either dedicated or which has become public by right of use, and is more than fifty feet wide. Interior lots having frontage on two streets are prohibited except in instances where topographic conditions make such design desirable.
- 2) Remnant Property. Any property remnants remaining after subdividing a larger tract must be included in the subdivision lots shall and no parcels shall remain as an unusable parcel or less than the minimum lot size required by the Zoning District in which the subdivision is located.
- 3) Multiple Ownership. Where the land covered by a subdivision includes two or more parcels in separate ownership and the lot arrangement is such that a property ownership line divides one or more lots, the land in each lot so divided shall be transferred by deed to single ownership before approval of the final plat and the subdivision shall be considered as a joint project and the final plat shall be signed by all property owners.

Section 113—Restrictions for Solar and other Energy Devices:

The Gunnison City Planning Commission (hereinafter “Commission”) may refuse to recommend, and the Council may refuse to approve a Preliminary Subdivision Application, Preliminary Subdivision Plat, Final Subdivision Application, Final Subdivision Plat, or the dedication of any street or other ground, if deed restrictions, covenants, or similar binding agreements running with the land for the lots or parcels prohibit or have the effect of prohibiting reasonably sited and designed solar collectors, clotheslines, or other energy devices based on renewable resources from being installed on buildings erected on the lots or parcels.

Section 114—Enforcement:

- 1) The City may take all actions, allowed under the law, to insure compliance and enforcement of this Ordinance. Failure of the City to enforce any provision or seek remedies to any violation of this Ordinance shall not legalize any such violation.

- 2) The City, or any adversely affected owner of real estate within the City, in which violations of this Ordinance are occurring, or are about to occur may, in addition to other remedies provided by law, institute:
 - a) Injunctions, Mandamus, Abatement, or any other appropriate actions; or
 - b) Proceedings to prevent, enjoin, abate, or remove the unlawful building, use, or act.
- 3) As provided by the Act, the City need only establish a violation of this Ordinance to obtain the injunction.
- 4) The City may bring an action against a property owner to require that the property conform and comply with the provisions of this Ordinance, or the Act.
- 5) An action brought by the City against a property owner, and authorized by this Section, and/or the Act, may include an injunction, abatement, merger of title, or any other appropriate action or proceeding to prevent, enjoin, or abate the violation of this Ordinance.
- 6) See also Section 110.

Section 115—Penalties:

- 1) A violation of any provision of this Ordinance is punishable as a Class C misdemeanor upon conviction either:
 - a) As a Class C misdemeanor; or
 - b) By imposing an appropriate civil penalty adopted under the authority of the Act.

Section 116—When an Applicant is Entitled to Approval of an Application – Exceptions – City may not Impose Requirements that are Unexpressed – City Required to Comply with the Requirements of this Ordinance:

An Applicant is entitled to the approval of an Application, required by this Ordinance, if such Application conforms to the requirements of this Ordinance, the City’s other Land Use Ordinances, Official Maps, and Administrative Manual, as may be applicable, and in effect at the time the Application is determined to be complete and all fees have been paid, unless:

- 1) The Land Use Authority, on the record, finds that a compelling, countervailing public interest would be jeopardized by approving the application; or
- 2) In the manner provided by the Zoning Ordinance and the Act, and before the Application is submitted, the City has formally initiated proceedings to amend its

Land Use Ordinances, including this Ordinance, in a manner that would prohibit approval of the Application as submitted.

- 3) The City shall process an Application required by this Ordinance without regard to proceedings initiated to amend the City’s Land Use Ordinances if:
 - a) One hundred and eighty (180) calendar days have passed since the proceedings were initiated; and
 - b) The proceedings have not resulted in an enactment that prohibits approval of the Application, as submitted.
- 4) If the Final Subdivision Plat, as required herein, conforms fully to the requirements of this Ordinance, and the City’s other Land Use Ordinances, and Administrative Manual, and has been approved by the Culinary Water Authority and the Sanitary Sewer Authority, as identified herein, the Final Subdivision Plat shall be approved.
- 5) The City shall not impose on an Applicant, or any holder of any approval required by this Ordinance, any requirement that is not expressed:
 - a) In the approval required by this Ordinance, or in documents on which such approval is based; or
 - b) In this Ordinance, or in the City’s other Land Use Ordinances.
- 6) The City shall not withhold the issuance of a Certificate of Occupancy because of an Applicant’s failure to comply with a requirement that is not expressed:
 - a) In the Building Permit, or in documents on which the Building Permit is based; or
 - b) In this Ordinance, or the City’s other Land Use Ordinances, including the Building Code, as adopted.
- 7) The City shall be bound by the terms and standards of this Ordinance, and the City’s other Land Use Ordinances, and Administrative Manual, as applicable, and shall comply with all mandatory requirements and provisions, including the Act.
- 8) The City shall process and render a decision on each Application required by this Ordinance with reasonable diligence.

Section 117—City Imposed Requirements and Exactions on Application Approval:

The City shall not impose any requirement(s) or exaction(s) on any Application approval required by this Ordinance unless:

- 1) An essential link exists between a legitimate governmental interest and each requirement or exaction; and
- 2) Each requirement or exaction is roughly proportionate, both in nature and in extent, to the impact of the proposed subdivision.

Section 118—Acquiring Property:

- 3) The City may acquire property through purchase, gift, voluntary dedication, or eminent domain.
- 4) A Land Use Authority may require the public dedication and improvement of a road, street, or other infrastructure or facility if the road, street, or other infrastructure or facility is found necessary by the City because of a proposed use, activity, or development.

Section 119—Appeals:

Any person, including the Applicant for any approval or permit required by this Ordinance and any board or officer of the City, adversely affected by a decision of a Land Use Authority administering or interpreting this Ordinance may appeal that decision to the Appeal Authority, as identified by Chapter 13 of the Zoning Ordinance.

CHAPTER 2

LAND USE APPLICATIONS—DECISION MAKING STANDARDS

Section 201—Various Applications Provided:

- 3) This Ordinance provides for a number of Land Use Applications including, but not limited to Land Use Ordinance Amendment Application, Concept Subdivision Application, Preliminary Subdivision Application, Final Subdivision Application and Appeal Application.
- 4) The Land Use Applications required by this Ordinance shall be reviewed and approved or denied by the Land Use Authority, as applicable, and in compliance with all requirements and standards of this Ordinance and the Administrative Manual, as applicable.

Section 202—Decision Making Standards:

The decision-making standards set forth in this Chapter are provided, based on the distinction between legislative and administrative proceedings. Legislative proceedings establish public law and policy that is applicable generally, while administrative proceedings apply public law and policy to factually distinct, individual circumstances.

5) Legislative Proceedings.

The Council is hereby identified as the only Land Use Authority authorized to render a decision on any application determined to be a legislative matter and subject to a legislative proceeding. The following applications and actions, under this Ordinance, are declared to be legislative matters and subject to legislative proceedings:

- a) Land Use Ordinance adoption.
- b) Land Use Ordinance Amendment Application.
- c) Official Map adoption.
- d) Official Map Amendment Application.
- e) Temporary Land Use Regulations.

6) Legislative Proceedings - Decision Standards.

A decision regarding a legislative matter shall be based on the "reasonably debatable" standard, as identified by Section 302, Zoning Ordinance.

7) Administrative Proceedings.

The following types of applications are hereby declared to be administrative matters and subject to administrative proceedings:

- a) Concept Subdivision Application.

- b) Preliminary Subdivision Application.
- c) Final Subdivision Application.
- d) Determination of Application Completeness.
- e) All other applications for any necessary approval or permit required by the provisions of this Ordinance, and not identified to be a legislative matter.

8) Administrative Proceedings - Decision Standards.

All decisions regarding an administrative matter shall be based on the "substantial evidence" standard, as identified by Section 302, Zoning Ordinance.

CHAPTER 3
LAND USE APPLICATIONS – PROCEDURES

Section 301—Purpose:

Land Use Applications, and their accompanying procedures, are formulated to achieve the purposes of this Ordinance. The City may provide a Land Use Ordinances Administrative Manual (hereinafter “Administrative Manual”) identifying the administrative requirements to be followed by the Land Use Authorities and Appeal Authorities for the processing and review of all Land Use Applications, and other administrative matters required for the compliance with the provisions of the City’s Land Use Ordinances, including this Ordinance.

Section 302—Application Forms:

The Council may provide application forms and may identify submittal requirements and processing procedures for the acceptance and filing of all Land Use Applications and Building Permit Applications. Such requirements and procedures may be contained in the Administrative Manual.

Section 303—Land Use Application Procedures:

The steps in the review and consideration of the various Land Use Applications authorized by this Ordinance may be provided with the applicable application form. Such Applications may be contained in the Administrative Manual.

Section 304—Determination of Completeness of Land Use Applications:

All Land Use Applications required by this Ordinance shall be determined to be complete, by the City Recorder, as required by the Administrative Manual and prior to consideration by a Land Use Authority.

Section 305—Scope of Land Use Application Approvals:

- 4) The rights conferred by a Land Use Application approval by the Land Use Authority shall be limited to those rights granted in the applicable provisions of this Ordinance and subject to any requirements or conditions.
- 5) A Land Use Application approval shall be considered void and invalid one hundred and eighty (180) calendar days after approval by the Land Use Authority, unless the Applicant has proceeded with reasonable diligence to submit the necessary subsequent application or recorded the approved Final Subdivision Plat in the Office of the Sanpete County Recorder, as provided herein.

Section 306—Land Use Permits Required to comply with Land Use Authority Decision:

The approval of a Land Use Application shall comply with all requirements, conditions, terms and standards of approval.

Section 307—Vesting of Subdivision Rights:

On the date of a determination of a complete application by the City Recorder, an Application for any Land Use Application approval or permit, as may be required by this Ordinance, shall vest pursuant to the terms of this Ordinance in effect, unless such vesting is affected by a pending amendment to this Ordinance, or a temporary zoning regulation.

Section 308—Procedural Irregularities:

Any irregularities to the procedures set forth by this Ordinance and/or the Administrative Manual shall be considered as required by Section 410, Zoning Ordinance.

CHAPTER 4
APPLICATIONS TO AMEND THE GUNNISON CITY LAND USE
ORDINANCES

Section 401—Purpose:

This Chapter and the Administrative Manual provides the standards and procedures for the review of Applications to amend the City’s Land Use Ordinances, including Applications to amend this Ordinance.

Section 402—Council the Land Use Authority for Land Use Ordinance Amendment Applications:

The Council is authorized as the Land Use Authority responsible to review and approve, approve with revisions, or deny all Land Use Ordinance Amendment Applications.

Section 403—Procedures and Review Standards for Land Use Ordinance Amendment Applications:

- 1) The procedures for the review of a Land Use Ordinance Amendment Application, including any amendment to this Ordinance, are identified by Chapter 10, Administrative Manual.

- 2) In considering a Land Use Ordinance Amendment Application, including any amendment to this Ordinance, the Commission in formulating a recommendation and the Council in deciding a Land Use Ordinance Amendment Application shall consider the standards identified by Section 603, Zoning Ordinance.

Section 404—Findings Required for Approval of a Land Use Ordinance Amendment Application:

The Commission in making a recommendation, and the Council in deciding a Land Use Ordinance Amendment Application, shall find that all the procedural requirements and review standards of Section 403 have been met.

Section 405—Effect of Approval of a Land Use Ordinance Amendment Application:

The approval of a Land Use Ordinance Amendment Application shall not authorize the division of land. After the Council has approved a Land Use Ordinance Amendment Application, including this Ordinance, by Ordinance, no division of land shall occur until the required Land Use Application approvals or permits have been issued by a Land Use Authority, as applicable, consistent with the requirements of the City’s Land Use Ordinances, including this Ordinance, and other Ordinances, as amended and as applicable.

Section 406—Appeals:

Any person aggrieved by a decision of the Council for any Land Use Ordinance Amendment Application may appeal the decision to the Appeal Authority as identified by Chapter 13, Zoning Ordinance.

Section 407—Temporary Land Use Regulations:

The effect of a Temporary Land Use Regulations shall be as identified by Section 608, Zoning Ordinance.

**CHAPTER 5
CONCEPT SUBDIVISION APPLICATIONS**

Section 501—Purpose:

This Chapter and the Administrative Manual identifies and provides the standards and procedures for the review of all Concept Subdivision Applications and required to determine compliance with this Ordinance.

Section 502—Concept Subdivision Application Required:

A property owner proposing to subdivide any lands located within the boundaries of the City shall present a Concept Subdivision Application to the City Recorder for the scheduling of a Concept Subdivision Application discussion with the Commission and the Zoning Administrator. The purpose of the Concept Subdivision Application discussion is to create an opportunity for the Applicant to gain an understanding of the City’s subdivision requirements and to obtain Ordinance and Application processing and review information.

Section 503—Zoning Administrator and Commission the Land Use Authorities for Concept Subdivision Applications:

The Zoning Administrator and the Gunnison City Planning Commission (hereinafter “Commission”) are authorized as the Land Use Authorities responsible to review all Concept Subdivision Applications.

Section 504— Review Procedures for Concept Subdivision Applications:

The procedures for the review of a Concept Subdivision Application are identified by Chapter 6 and the Concept Subdivision Application materials, as contained in Chapter 15, Administrative Manual.

Section 505—Concept Subdivision Applications – Not an Application for any Subdivision Approval:

A Concept Subdivision Application does not constitute a Land Use Application for any subdivision approval and is in no way binding on the City or the Applicant(s). Any discussion before the Zoning Administrator and Commission meeting, when the Concept Subdivision Application is discussed, shall not be considered by the Applicant as any indication of approval or disapproval, either actual or implied of any subsequent Land Use Application required by this Ordinance.

Section 506—Possible Actions following a Concept Subdivision Application Meeting:

Following the Concept Subdivision Application discussion with the Zoning Administrator and Commission, a Preliminary Subdivision Application may be filed by the Applicant with the City Recorder.

CHAPTER 6

PRELIMINARY SUBDIVISION APPLICATIONS (MAJOR)

Section 601—Purpose:

This Chapter and the Administrative Manual identifies and provides the standards and procedures for the review of all Preliminary Subdivision Applications (Major) and required to determine compliance with this Ordinance.

Section 602—Council the Land Use Authority for Preliminary Subdivision Applications (Major):

The Council, following the receipt of a Commission recommendation, is authorized as the Land Use Authority responsible to approve, approve with revisions and conditions, or deny all Preliminary Subdivision Applications (Major).

Section 603—Procedures and Review Standards for Preliminary Subdivision Applications (Major):

- 1) The procedures for the review of a Preliminary Subdivision Application (Major) are identified by Chapter 7, Administrative Manual, and the Preliminary Subdivision Application (Major) materials, as contained in Chapter 15, Administrative Manual.
- 2) In considering a Preliminary Subdivision Application (Major) the Commission in formulating a recommendation, and the Council in deciding a Preliminary Subdivision Application (Major), shall review the Application and shall determine:
 - a) The proposed subdivision complies with all requirements of this Ordinance and the Zoning District in which the subject property is located.
 - b) The proposed subdivision complies with all requirements of the City’s other Land Use Ordinances, and all applicable Federal, State, or Local requirements and regulations.
 - c) The proposed subdivision complies with all requirements as required for the written approval of the feasibility of the proposed culinary water system and culinary water sources, as provided by the Culinary Water Authority.
 - d) The proposed subdivision complies with all requirements as required for the written approval of the feasibility of the proposed sanitary sewer system, as provided by the Sanitary Sewer Authority.
 - e) The proposed subdivision has received a written recommendation of fire protection, suppression, and fire access facilities, as provided by the City Fire Chief.

- f) The proposed subdivision complies with all requirements as required by any Official Maps, as adopted.
- g) Necessary infrastructure, services and amenities are available, or will be provided, to the subject property sufficient to meet the needs of the proposed subdivision.
- h) The proposed subdivision complies with all applicable dedication requirements of the City and provides the necessary infrastructure, services and amenities as required.

Section 604—Commission Recommendation – Reasonable Requirements Authorized:

- 1) The Commission may recommend approval of the Preliminary Subdivision Application (Major), as presented, recommend approval of the Preliminary Subdivision Application (Major) with revisions and requirements, or recommend denial of the Preliminary Subdivision Application (Major), with findings of compliance or non-compliance with this Ordinance, the City’s other Land Use Ordinances and all other requirements, as applicable.
- 2) The Commission may recommend onsite and offsite improvements, facilities, services, and amenities, provided one hundred percent (100%) by the Applicant(s) for Preliminary Subdivision Application (Major) approval, such improvements, facilities, services, and amenities being determined to be consistent with the requirements of Section 116 herein, including, but not limited to:
 - a) Road and street improvements, including layout, design, grading and surfacing.
 - b) Flood control facilities.
 - c) Culinary Water facilities.
 - d) Secondary and Irrigation Water facilities.
 - e) Sanitary Sewer facilities.
 - f) Storm Drainage facilities.
 - g) Erosion Control facilities.
 - h) Traffic Circulation and Access Management facilities.
 - i) Lot, Parcel, and/or Site drainage.
 - j) Park and open space areas and facilities.
 - k) Public features and recreational amenities.
 - l) Fire protection and suppression facilities, including fire hydrants, fire access, and water storage facilities.
 - m) Electrical power and telecommunications facilities.
 - n) Fencing and buffering treatments.
 - o) Street lighting facilities.
 - p) Streetscape enhancements, including street trees and park strip improvements.
 - q) Measures designed to protect the natural features of the site, including, but not limited to, wetlands, drainage ways, ground water protection, and slopes.

- r) Such other measures, improvements, facilities, amenities and services determined reasonable and necessary to allow the proposed subdivision in compliance with the requirements of this Ordinance, all other Land Use Ordinances, and all Federal, State, or Local regulations, as applicable.
- 3) The Commission in making a recommendation shall find that the procedural requirements and review standards of Section 603 have been met.

Section 605—Council Approval – Reasonable Requirements Authorized:

- 1) Following the consideration of the Preliminary Subdivision Application (Major), the recommendation of the Commission, and all information and materials presented, the Council acting as the Land Use Authority, may approve the Preliminary Subdivision Application (Major), as presented, approve the Preliminary Subdivision Application (Major) with requirements, or deny the Preliminary Subdivision Application (Major) with findings of compliance or non-compliance with this Ordinance and other Land Use Ordinances and requirements, as applicable.
- 2) The Council may require onsite and offsite improvements, facilities, services, and amenities, provided one hundred percent (100%) by the Applicant(s) for Preliminary Subdivision Application (Major) approval, such improvements, facilities, services, and amenities being determined consistent with the requirements of Section 116 herein, including but not limited to:
 - a) Road and street improvements, including layout, design, grading and surfacing.
 - b) Flood control facilities.
 - c) Culinary Water facilities.
 - d) Secondary and Irrigation Water facilities.
 - e) Sanitary Sewer facilities.
 - f) Storm Drainage facilities.
 - g) Erosion Control facilities.
 - h) Traffic Circulation and Access Management facilities.
 - i) Lot, Parcel, and/or Site drainage.
 - j) Park and open space areas and facilities.
 - k) Public features and recreational amenities.
 - l) Fire protection and suppression facilities, including fire hydrants, fire access, and water storage facilities.
 - m) Electrical power and telecommunications facilities.
 - n) Fencing and buffering treatments.
 - o) Street lighting facilities.
 - p) Streetscape enhancements, including street trees and park strip improvements.
 - q) Measures designed to protect the natural features of the site, including, but not limited to, wetlands, drainage ways, ground water protection, and slopes.
 - r) Such other measures, improvements, facilities, amenities and services determined reasonable and necessary to allow the proposed subdivision in

compliance with the requirements of this Ordinance, all other Land Use Ordinances, and all Federal, State, or Local regulations, as applicable.

- 3) The Council in deciding a Preliminary Subdivision Application (Major) shall find that the procedural requirements and review standards of Section 603 have been met.

Section 606—Restrictions for Solar and other Energy Devices:

The Commission may refuse to recommend, and the Council may refuse to approve a Preliminary Subdivision Application (Major), or the dedication of any street or other ground, if deed restrictions, covenants, or similar binding agreements have the effect of prohibiting reasonably sited and designed solar collectors, clotheslines, or other energy devices based on renewable resources from being installed on buildings erected on lots or parcels covered by the Preliminary Subdivision Application (Major).

Section 607—Effect of Council Preliminary Subdivision Approval and Effective Period:

The approval of a Preliminary Subdivision Application (Major), with or without requirements, by the Council shall not constitute a final approval of the proposed subdivision. A Preliminary Subdivision Application (Major) approval shall not authorize the division or development of the subject property, but allows the Applicant(s) to proceed with the preparation and submission of the Final Subdivision Application (Major) for the subject property.

As provided by the Act, the continuing validity of a Preliminary Subdivision Application (Major) approval is conditioned upon the Applicant(s) proceeding after approval to implement the approval with reasonable diligence. For the purposes of this Ordinance and this Section, the approval of a Preliminary Subdivision Application (Major) shall be effective for a period of one hundred eighty (180) calendar days from the date of approval by the Council at the end of which time the Applicant(s) shall have submitted a Final Subdivision Application to the City Recorder. If a Final Subdivision Application is not received by the City Recorder within one hundred eighty (180) calendar days of approval, the Preliminary Subdivision Application (Major) approval shall be rendered void and invalid.

Section 608—Site Preparation Work Prohibited:

No excavation, and no grading or regrading, shall take place on any of the subject property, and no building permits shall be issued by the City, until a Final Subdivision Application has been approved and the Final Subdivision Plat has been recorded in the Office of the Sanpete County Recorder.

**Section 609—Appeal of Preliminary Subdivision Application (Major)
Decisions:**

Any person(s) aggrieved by a decision of the Council for a Preliminary Subdivision Application (Major) may appeal the Council decision to District Court, as provided by Chapter 13, Zoning Ordinance.

CHAPTER 7

PRELIMINARY SUBDIVISION APPLICATIONS (MINOR)

Section 701—Purpose:

This Chapter and the Administrative Manual identifies and provides the standards and procedures for the review of all Preliminary Subdivision Applications (Minor) and required to determine compliance with this Ordinance.

Section 702—Commission the Land Use Authority for Preliminary Subdivision Applications (Minor):

The Commission is authorized as the Land Use Authority responsible to approve, approve with revisions and conditions, or deny all Preliminary Subdivision Applications (Minor).

Section 703—Procedures and Review Standards for Preliminary Subdivision Applications (Minor):

- 1) The procedures for the review of a Preliminary Subdivision Application (Minor) are identified by Chapter 7, Administrative Manual, and Preliminary Subdivision Application (Minor) materials, as contained in Chapter 15, Administrative Manual.
- 2) In considering a Preliminary Subdivision Application (Minor) the Commission shall review the Application and shall determine that the proposed subdivision:
 - a) The proposed subdivision;
 - i) Is not traversed by the mapped lines of a proposed road or street as shown by the City’s general plan.
 - ii) Does not require the dedication of any land for a road or street or for any other public purposes.
 - iii) Has been approved by the culinary water authority and the sanitary sewer authority.
 - iv) Is located in a zoned area.
 - v) Conforms to all applicable land use ordinances; and
 - vi) Contains no more than four (4) lots, including any lot containing any remnant of the subject property.

- b) The proposed subdivision has received a written recommendation of fire protection, suppression, and fire access facilities, as provided by the City Fire Chief.
- c) The proposed subdivision complies with all applicable Federal, State, or Local requirements and regulations.
- d) The proposed subdivision complies with all requirements as required by any Official Maps, as adopted.
- e) Necessary infrastructure, services and amenities are available, or will be provided, to the subject property sufficient to meet the needs of the proposed subdivision.

**Section 704—Commission Approval – Reasonable Requirements
Authorized:**

- 1) The Commission may approve the Preliminary Subdivision Application (Minor), as presented, approve the Preliminary Subdivision Application (Minor) with revisions and requirements, or deny the Preliminary Subdivision Application (Minor), with findings of compliance or non-compliance with this Ordinance, the City’s other Land Use Ordinances and all other requirements, as applicable.
- 2) The Commission may require onsite and offsite improvements, facilities, services, and amenities, provided one hundred percent (100%) by the Applicant(s) for Preliminary Subdivision Application (Minor) approval, such improvements, facilities, services, and amenities being determined to be consistent with the requirements of Section 115 herein, including, but not limited to:
 - a) Road and street improvements, including layout, design, grading and surfacing.
 - b) Flood control facilities.
 - c) Culinary Water facilities.
 - d) Secondary and Irrigation Water facilities.
 - e) Sanitary Sewer facilities.
 - f) Storm Drainage facilities.
 - g) Erosion Control facilities.
 - h) Traffic Circulation and Access Management facilities.
 - i) Lot, Parcel, and/or Site drainage.
 - j) Park and open space areas and facilities.
 - k) Public features and recreational amenities.
 - l) Fire protection and suppression facilities, including fire hydrants, fire access, and water storage facilities.
 - m) Electrical power and telecommunications facilities.
 - n) Fencing and buffering treatments.
 - o) Street lighting facilities.
 - p) Streetscape enhancements, including street trees and park strip improvements.

- q) Measures designed to protect the natural features of the site, including, but not limited to, wetlands, drainage ways, ground water protection, and slopes.
 - r) Such other measures, improvements, facilities, amenities and services determined reasonable and necessary to allow the proposed subdivision in compliance with the requirements of this Ordinance, all other Land Use Ordinances, and all Federal, State, or Local regulations, as applicable.
- 3) The Commission in deciding a Preliminary Subdivision Application (Minor) shall find that the procedural requirements and review standards of Section 703 have been met.

Section 705—Restrictions for Solar and other Energy Devices:

The Commission may refuse to approve a Preliminary Subdivision Application (Minor) if deed restrictions, covenants, or similar binding agreements have the effect of prohibiting reasonably sited and designed solar collectors, clotheslines, or other energy devices based on renewable resources from being installed on buildings erected on lots or parcels covered by the Preliminary Subdivision Application (Minor).

Section 706—Effect of Commission Preliminary Subdivision Approval and Effective Period:

The approval of a Preliminary Subdivision Application (Minor) with or without requirements, by the Commission shall not constitute a final approval of the proposed subdivision. A Preliminary Subdivision Application (Minor) approval shall not authorize the division or development of the subject property, but allows the Applicant(s) to proceed with the preparation and submission of the Final Subdivision Application (Minor) for the subject property.

As provided by the Act, the continuing validity of an approval of a Preliminary Subdivision Application (Minor) is conditioned upon the Applicant(s) proceeding after approval to implement the approval with reasonable diligence. For the purposes of this Ordinance and this Section, the approval of a Preliminary Subdivision Application (Minor) shall be effective for a period of one hundred eighty (180) calendar days from the date of approval by the Commission at the end of which time the Applicant(s) shall have submitted a Final Subdivision Application (Minor) to the City Recorder. If a Final Subdivision Application (Minor) is not received by the City Recorder within one hundred eighty (180) calendar days of approval, the Preliminary Subdivision Application (Minor) approval shall be rendered void and invalid.

Section 707—Site Preparation Work Prohibited:

No excavation, and no grading or regrading, shall take place on the subject property, and no building permits shall be issued by the City, until a Final Subdivision Application (Minor) has been approved and the Final Subdivision Plat has been recorded in the Office of the Sanpete County Recorder.

**Section 708—Appeal of Preliminary Subdivision Application (Minor)
Decisions:**

Any person(s) aggrieved by a decision of the Commission for a Preliminary Subdivision Application (Minor) may appeal decision to the Council, as provided by Chapter 13, Zoning Ordinance.

CHAPTER 8
FINAL SUBDIVISION APPLICATIONS

Section 801—Purpose:

This Chapter and the Administrative Manual identifies and provides the standards and procedures for the review of all Final Subdivision Applications and required to determine compliance with this Ordinance.

Section 802—Council and Commission the Land Use Authorities for Final Subdivision Applications:

- 1) The Council is authorized as the Land Use Authority responsible to approve, approve with revisions and conditions, or deny all Final Subdivision Applications (Major).
- 2) The Commission is authorized as the Land Use Authority responsible to approve, approve with revisions and conditions, or deny all Final Subdivision Applications (Minor).

Section 803—Procedures and Review Standards for Final Subdivision Applications:

- 1) The procedures for the review of a Final Subdivision Application (Major) are identified by Chapter 8, Administrative Manual, and the Final Subdivision Application (Major) materials, as contained in Chapter 15, Administrative Manual.
- 2) The procedures for the review of a Final Subdivision Application (Minor) are identified by Chapter 8, Administrative Manual, and the Final Subdivision Application (Minor) materials, as contained in Chapter 15, Administrative Manual.
- 3) In considering a Final Subdivision Application the Council or Commission, as applicable, in deciding a Final Subdivision Application shall review the Application and shall determine:
 - a) The proposed subdivision complies with all requirements, if any, of the Council or Commission, as applicable, and as required for Preliminary Subdivision Application approval, as authorized by Section 603 or Section 703, as applicable.
 - b) The proposed subdivision complies with all requirements of this Ordinance and the Zoning District in which the subject property is located.
 - c) The proposed subdivision complies with all requirements of the City’s other Land Use Ordinances, and all applicable Federal, State, or Local requirements and regulations.

- d) The proposed subdivision complies with all requirements as required for the written approval of the feasibility of the proposed culinary water system and culinary water sources, as provided by the Culinary Water Authority.
- e) The proposed subdivision complies with all requirements as required for the written approval of the feasibility of the proposed sanitary sewer system, as provided by the Sanitary Sewer Authority.
- f) The proposed subdivision has received a written recommendation of fire protection, suppression, and fire access facilities, as provided by the City Fire Chief.
- g) The proposed subdivision complies with all requirements as required by any Official Maps, as applicable.
- h) Necessary infrastructure, services and amenities are available, or will be provided, to the subject property sufficient to meet the needs of the proposed subdivision.
- i) The proposed subdivision complies with all applicable dedication requirements of the City for Final Subdivision Applications (Major) only and provides the necessary infrastructure, services and amenities as required.

Section 804—Recordation of Final Subdivision Plat and associated Subdivision Documents.

- 1) After a Final Subdivision Application has been approved by the Council or Commission, as applicable, with or without requirements, and signed by all City Officers and service providers, as required, and including any necessary acknowledgments required for the conveyances of real property to a public agency, including the City, or private entity, the Final Subdivision Plat shall be presented to the City Recorder, for presentation by the City Recorder, or designee, to the Office of the Sanpete County Recorder for recordation.
- 2) After the Final Subdivision Plat has been recorded, the Applicant(s) may apply for permits required for the construction and installation of subdivision improvements and building permits consistent with the approved and recorded Final Subdivision Plat and the City requirements for such permits.
- 3) The Applicant is required to pay all fees, including copies, for the recording of all Final Subdivision documents and the Final Subdivision Plat.

Section 805—Dedication of Streets and other Public Places:

- 1) When the Applicant is proposing, or is required, to provide dedications for any public or quasi-public infrastructure, utilities, or improvements, as applicable, the owner or operator of the infrastructure, utilities, improvements, and underground and utility facilities shall approve:
 - a) The boundary, course, dimensions, and intended use of the right-of-way and easement grants of record.
 - b) The location of existing underground and utility facilities; and
 - c) Any conditions or restrictions governing the location of the facilities within the right-of-way, and easement grants of records, and utility facilities within the subdivision. Such approval shall be provided in writing by the owner or operator of the infrastructure, utilities, improvements, and underground and utility facilities, as applicable. When land within the subdivision is to be purchased by a public or quasi-public agency, a letter of intention to purchase shall be provided.
- 2) Subdivision Plats, when made, acknowledged, and recorded according to the procedures specified by this Ordinance, operate as a dedication of all streets and other public places, and vest the fee of those parcels of land with the City for the public for the uses named or intended in those plats.
- 3) The dedication established by this section does not impose liability upon the City for streets and other public places that are dedicated in this manner but are unimproved.

Section 806—Effect of Approval, with or without requirements, of Final Subdivision Application Approval and Effective Period:

- 1) As provided by the Act, the continuing validity of a Final Subdivision Application (Major), or Final Subdivision Application (Minor), approval is conditioned upon the Applicant proceeding after approval to implement the approval with reasonable diligence. For the purposes of this Section the approval of a Final Subdivision Application (Major) or (Minor) shall be effective for a period of one hundred eighty (180) calendar days from the date of approval, at the end of which time the Applicant shall have presented the Final Plat for recording to the City Recorder, as required by Section 804. If the Final Subdivision Plat is not presented for recording by the City Recorder within one hundred eighty (180) calendar days, the Final Subdivision Application (Major) or (Minor) shall be rendered void, and the Applicant shall be required to submit a new Preliminary Subdivision Application (Major) or (Minor), subject to the requirements of this Ordinance and other Land Use Ordinances and requirements in effect at the time the Application is filed.
- 2) After the Final Plat has been recorded, the Applicant(s) may apply for permits required for the construction and installation of subdivision improvements and

building permits consistent with the approved and recorded Final Plat and the City requirements for such permits.

Section 807—Site Preparation Work Prohibited:

No excavation, grading or re-grading shall take place on the Subject Property, and no building permits shall be issued by the City, until the Final Subdivision Plat has been approved and the Final Plat has been recorded in the Office of the Sanpete County Recorder, as provided herein.

Section 808—Appeal of Final Subdivision Application Decisions:

- 1) Any person(s) aggrieved by a decision of the Council concerning a Final Subdivision Application (Major) may appeal the decision to District Court, as provided by Chapter 13, Zoning Ordinance.

- 2) Any person(s) aggrieved by a decision of the Commission concerning a Final Subdivision Application (Minor) may appeal the decision to the Council, as provided by Chapter 13, Zoning Ordinance.

**CHAPTER 9
DIVISION OF LARGE LOTS**

Section 901—Purpose:

This Chapter is provided to establish requirements for the division of large lots, legally existing on the Effective Date of this Ordinance into a maximum of two (2) lots.

Section 902—Definition – Large Lot:

For the purposes of this Ordinance, a large lot is defined as; “A lot or parcel, legally exiting on the Effective Date of this Ordinance and at least 1.8 times wider and 1.8 times larger than the minimums required by the Zoning District in which the lot is located.

Section—Maximum of Two (2) Lots:

A large lot, as defined by Section 902 may be divided into a maximum of two (2) separate lots provided:

- 1) That all access and minimum setback requirements can be met for the Zoning District, without the need for any variance approvals.
- 2) The division will comply with all requirements of the City’s Land Use Ordinances, including this Ordinance, as applicable.
- 3) All required improvements are either existing, will be provided, or properly bonded for their provision.
- 4) The large lot division will not create a detriment, or nuisance, to any surrounding properties.
- 5) The proposed subdivision complies with all requirements of the City’s Land Use Ordinances, including this Ordinance, as applicable.

**CHAPTER 10
NOTICE REQUIREMENTS**

Section 1001—Purpose:

As required and provided by the Act, the City is required to provide notice of all public hearings and public meetings for adoption or modification of this Ordinance and when an Application required by this Ordinance is considered by the Commission or Council.

Section 1002—Notice of Public Hearings and Public Meetings required by this Ordinance:

The notice requirements of the City for public hearings and public meetings required by this Ordinance, and including required Applicant notice, and notice challenge shall be as required by Chapter 12, Zoning Ordinance.

**CHAPTER 11
BUILDING PERMITS**

Section 1101—Building Permit Issuance:

The City’s Building Official shall not issue any building permit(s) for a proposed building or structure on a lot or parcel located within the boundaries of the City unless;

- 1) The lot is within a subdivision and the lot was legally created pursuant to this Ordinance, or prior enactment(s).
- 2) The lot is a legal lot of record, such lot being created and recorded in the Office of the Sanpete County Recorder prior to January 1, 1980.

Section 1102—Building Permit Application:

All proposed buildings, structures, facilities and uses located within the boundaries of the City and requiring the approval and issuance of a building permit, as required by the building codes, as adopted, shall present a building permit application for review by the City’s Building Official.

Section 1103—Certificate of Occupancy Required:

- 1) Unless exempt by the Building Code(s), as adopted, no building or structure shall be occupied, or used, until a Certificate of Occupancy has been issued by the City’s Building Official.
- 2) It is unlawful to occupy or use a building or structure until a Certificate of Occupancy has been issued for such building or structure.
- 3) Failure to obtain a Certificate of Occupancy shall be a violation of this Ordinance, and the Building Code(s), as adopted.
- 4) The occupancy or use of any building, structure for which a Certificate of Occupancy has not been issued is declared to be a public nuisance and may be cited and abated as such.

**CHAPTER 12
AMENDING OR VACATING A FINAL PLAT**

Section 1201—Amendment to Recorded Plats:

The Council may, with or without a petition, consider and resolve any proposed vacation, alteration, or amendment of a recorded subdivision plat, any portion of a recorded subdivision plat or any road or lot, contained in a recorded subdivision plat by following and complying with all the requirements for vacating or changing a subdivision plat, as identified by the Act.

Section 1202—Vacating or Altering a Street or Alley:

The Council may vacate or alter a street or alley by following and complying with all the requirements for vacating or altering a street or alley, as identified by the Act.

Section 1203—Appeal of Subdivision Plat Amendment Decisions:

Any person(s) aggrieved by a decision of the Council concerning a vacation or amendment of a recorded Final Subdivision Plat, or any portion of a recorded Final Subdivision Plat, or the decision of the Council concerning the vacation or alteration of a street or alley may appeal the decision to District Court, as provided by Chapter 13, Zoning Ordinance.

**CHAPTER 13
SUBDIVISION IMPROVEMENTS**

Section 1301—Required Improvements and Guarantees:

- 1) The owner of any land to be part of a subdivision shall install all required improvements and guarantee the installation of such improvements, as required by the Land Use Authority, as provided by this Chapter and the Gunnison City Construction and Design Standards and as inspected and approved by the City.
- 2) For the purposes of this Ordinance and this Chapter, the requirements of Section 1630—Adequate Public Facilities Requirements, Section 1631—Culinary Water, Sanitary Sewer, and Fire Protection Requirements, Section 1632—Required Roads, Streets, Curb, Gutter, Sidewalks, Fire Protection, Trails, and other Improvements, and Section 1633—Guarantee of Installation of Improvements, Zoning Ordinance shall apply.

Section 1302—Street and Road Design Standards and Requirements:

The layout and design of all proposed subdivisions and the content of all plats, engineering plans, documentation, and other required submissions shall be in accordance with the standards of this Chapter and the City’s Construction and Design Standards.

- 1) Streets and Roads – General Criteria. All subdivisions, and all subdivision documents and materials, shall be consistent with the Gunnison City Street Plan as adopted, as follows:
 - a) Collector Streets. Where the area of a proposed subdivision includes any Collector streets, as shown on the Street Plan, the subdivision plan shall provide and incorporate such streets in the location shown and the approval of the subdivision’s final plat shall include the dedication of the right-of-way and its improvement in accordance with the City’s Construction and Design Standards, as applicable.
 - b) Minor Streets. Where the area of a proposed subdivision includes any Minor streets, as shown on the Street Plan, the subdivision plan shall provide and incorporate such streets in the location shown and the subdivision’s final plat shall include the dedication of the right-of-way and its improvement in accordance with the applicable City’s Construction and Design Standards, as applicable.
 - c) No subdivision plan which proposes the deletion or realignment of any street shown on the Street Plan shall receive approval unless and until the Street Plan is amended, as required by state law.

- 2) Relationship to Adjacent Streets. All streets included in a subdivision shall properly align and be compatible with all joining and adjacent streets.

- 3) Access to Adjacent Properties. In order to facilitate the development of an adequate and convenient circulation system within the City and to provide access for the logical development of adjacent vacant properties, the City may, as a condition of approval, require the subdivision plan to include one or more temporary dead end street (stub streets) which extend to the boundary of the subdivision. All such stub streets shall be fully developed to the boundary of the subdivision. Any plan for the subsequent development of the adjacent property shall provide for the continuation of any such stub street

- 4) Streets and Roads – Right-of-Way Width. The minimum width of Right-of-way for streets shown on the Street Plan shall conform to the width as designated on the plan. The minimum right-of-way width for streets not shown on the plan shall be as follows:
 - a) Collector Streets – Sixty (60) feet.

 - b) Minor Streets – Fifty (50) feet.

- 5) Street and Roads – Pavement Width and other Requirements. All streets within and adjacent to a subdivision shall be hard surfaced. The width of the hard surfacing and the location and type of other required street improvements and designs shall be in accordance with the design and construction standards of the City’s Construction and Design Standards, as applicable.

- 6) Dedication Required – All streets, roads and vehicular travel ways shall be dedicated to the City for use by the public and shall be improved in accordance with the City’s Construction and Design Standards, except that the Land Use Authority may accept the dedication of partial width street provided:
 - a) That said street is located at the boundary of the subdivision.

 - b) That the width proposed for dedication shall be sufficient to accommodate the minimum travel way and all utility systems as set forth in City standards.

 - c) That there are not existing conditions which would prevent the subsequent development of the remaining portion of the street.

 - d) That construction of a partial width street at the proposed location will not create an unsafe or hazardous condition.

Section 1303—Culinary Water, Sanitary Sewer and Secondary Water Standards and Requirements:

The layout and design of all proposed subdivisions and the content of all plats, engineering plans, documentation, and other required submissions shall be in accordance with the standards of this Chapter and the City’s Construction and Design Standards.

- 1) Each lot within the subdivision shall be served by the City's culinary water system through lines providing flow for both culinary and fire purposes.
- 2) Each lot within the subdivision shall be served by the City's sanitary sewer collection system, except that the City may authorize the development of a subdivision project utilizing septic tanks or other individual disposal facilities where it is determined that connection of the subdivision project to the sewer system is not reasonably feasible.
- 3) Each lot within the subdivision shall be served by the City’s pressurized irrigation system.

Section 1304—Subdivision Improvements and Requirements:

- 1) Required Improvements. All required subdivision improvements shall be provided for all areas shown on the final plat and at all off-site locations designated at the time of final plat approval. The required improvements shall meet the requirements of the City’s Construction and Design Standards.
- 2) Improvements to be Provided in a Timely Manner. All required improvements shall be installed by the subdivider within one (1) year from the date of final approval; provided however, that upon a showing of good and sufficient cause, the City Council may approve a longer period of time for completing construction of part or all of the uncompleted improvements.
- 3) Improvement Guarantee. A performance guarantee securing the installation of all required subdivision improvements shall be provided as required by the City’s Construction and Design Standards.

**CHAPTER 14
DEFINITIONS**

Section 1401—Purpose and Conflicts:

- 1) This Chapter provides definitions of general terms used throughout this Ordinance for which a definition is considered necessary. Definitions shall be as provided by Appendix C, Zoning Ordinance.
- 2) For the convenience of users of this Ordinance, certain terms may be illustrated. If a conflict arises between an illustration and a definition, the definition shall apply.

**PART III
GUNNISON CITY**

**LAND USE ORDINANCE
ADMINISTRATIVE MANUAL**

**APPROVED BY THE GUNNISON CITY COUNCIL
NOVEMBER 17, 2010
RESOLUTION 2010 – 3**

Prepared for Gunnison City by:

PLANNING AND DEVELOPMENT SERVICES, LLC
Salt Lake City, Utah
801-277-4435

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CHAPTER 1
TITLE, PURPOSE, AND EFFECTIVE DATE

Section 101—Short Title:

This document shall be known and may be referred to as the Gunnison City Land Use Ordinances Administrative Manual. The Gunnison City Land Use Ordinances Administrative Manual may, in subsequent chapters and sections, and in other documents be referred to as “the Administrative Manual,” “Administrative Manual,” “the Manual,” “this Manual,” or “Manual.”

Section 102—Authority:

- 1) The City Council of Gunnison City, Utah (hereinafter “Council) adopts this Manual by Resolution. This Manual may be subsequently amended and revised by the Council by Resolution from time to time, as determined necessary by the Council.
- 2) As provided for by Section 105, Gunnison City Zoning Ordinance, the Council may provide administrative guidelines, standards, reference materials, applications, forms, or other documents to assist the City Staff, City residents, and Applicants in providing and processing applications and interpreting and administering the City’s Land Use Ordinances. This Manual provides the administrative guidelines, standards, reference materials, applications, forms, or other documents, contemplated by Section 105 and is provided under such authority.
- 3) The Land Use Applications required by the City’s Land Use Ordinances shall be reviewed and approved or denied by the Land Authority, as applicable, and in compliance with all requirements and standards of the City’s Land Use Ordinances and this Manual.

Section 103—Purpose:

- 1) This Manual is provided to provide guidance to the Land Use Authorities, City Staff, Applicants, and others in the administration and decision making required by the Land Use Ordinances (“Ordinances”) of Gunnison City (the “City”).
- 2) This Manual provides information and guidance related to Land Applications and Land Use Permits. This Manual establishes and provides the procedures necessary for the processing of all Land Use Applications.
- 3) This Manual is intended to be a “User’s Guide” to the City’s Land Use Ordinances but is not intended as a replacement for any of the requirements provided by the City’s Land Use Ordinances. A digital version of this Administrative Manual, along with additional information on city policies, processes, contact information, and frequently asked questions may be available online at the City’s webpage at <http://www.gunnisoncity.org/>

Section 105—Conflict:

Nothing in this Administrative Manual shall nullify any laws or Ordinances of the City, including the City's Land Use Ordinances.

Section 106—Effective Date:

This Administrative Manual shall take effect on January 1, 2011 following its adoption by Resolution of the Council.

CHAPTER 2
LAND USE APPLICATIONS AND PROCEDURES

Section 201—Applicability:

A Land Use Application or a Building Permit Application shall be required for all uses, the expansion of all uses, and the construction or modifications for any building or structure proposed or existing, and located within the municipal boundaries of Gunnison City (“City”), unless exempt, as provided by the City’s Land Use Ordinances or the Building Codes, as adopted. All Land Use Applications and Building Permit Applications shall be presented to the City on the applicable application form(s), available from the City Recorder.

Section 202—Application Forms and Procedures:

The Council may provide Application Forms and may identify submittal requirements and procedures for the acceptance and filing of all Land Use Applications and Building Permit Applications. Submittal requirements and processing procedures for Land Use Applications and Building Permit Applications may be provided in the Chapters and Sections of this Administrative Manual.

Section 203—Land Use Application Procedures:

The steps in the processing, review and consideration of the various Land Use Applications may be provided by the City with the applicable Application Form.

Section 204—Land Use Permit Required:

No use, activity, or construction shall be established or commenced without the necessary approvals, permits, and licenses being issued in accordance with the provisions of the City’s Land Use Ordinances and Building Codes, as applicable.

Section 205—Land Use Application Initiation:

A Land Use Application for a required approval, permit, or license shall be initiated by submitting the appropriate Application(s) to the City Recorder.

Section 206—Determination of Application Completeness:

- 1) All Land Use Applications shall be determined to be complete when the Land Use Application is provided in a form that complies with the requirements of this Administrative Manual, and all fees have been paid, as determined by the City Recorder.

- 2) After the receipt of a Land Use Application, the City Recorder shall determine if the Land Use Application is complete, as identified by Figure 1-1. If the City Recorder determines that the application is incomplete, the City Recorder shall notify the

applicant in writing, identifying the deficiencies of the application, and advising the applicant that no action will be taken by the Land Use Authority, as applicable, until the deficiencies have been corrected. A determination of an incomplete Land Use Application shall prohibit the Land Use Authority from considering any material, items or other information related to the Application.

- 3) If the Applicant fails to correct the identified Land Use Application deficiencies within thirty (30) calendar days from the date of notification by the City Recorder, the Application shall be deemed withdrawn and the Land Use Application shall be returned to the Applicant.

Section 207—Withdrawal of Application:

An Applicant may withdraw a Land Use Application at any time prior to a decision on the Application. Application fees shall not be refundable if prior to withdrawal:

- 1) A review of the Land Use Application has commenced; or
- 2) Notice of a public hearing or public meeting to consider the Land Use Application has been mailed, posted, or published.

Section 208—Amendment to Approved Land Use Applications and Permits:

All proposed amendments to an approved Land Use Application and the associated Land Use Permit shall be reviewed by the Land Use Authority, as applicable, in accordance with the procedures established for the approval of the original Land Use Application.

Section 209—Reapplication Following Denial:

If a Land Use Application is denied for failure to meet the requirements of a Land Use Ordinance, a Land Use Application for all or a part of the same property shall not be considered for a period of at least one (1) year from the date of denial by the Land Use Authority, as applicable, unless the subsequent Land Use Application is for an approval, permit, or license that is substantially different from the previously denied Application, the prior denial was based upon a mistake of fact, or by motion duly passed by the Land Use Authority to act immediately and identifying a valid public purpose to do so.

Section 210—Inspections:

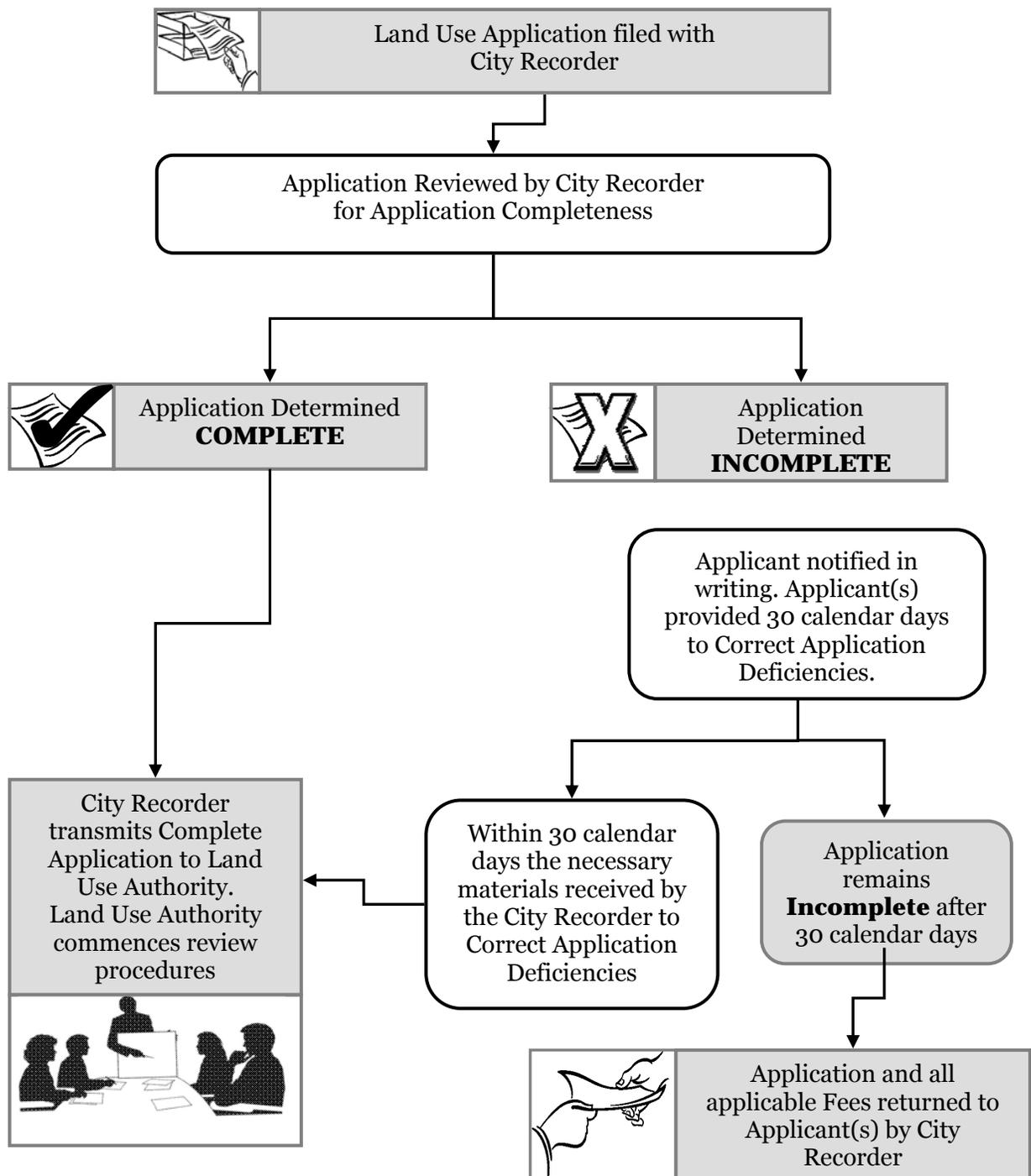
In order to review information relevant to a Land Use Application, the Land Use Authority members, the City Staff, or other City Official(s) may, upon the permission of the owner, enter upon private lands and/or premises and make an inspection thereof.

Section 211—Fees for Processing Land Use Applications:

- 1) The Council may establish, by Resolution, a fee schedule for the processing and review of all Land Use Applications to recover the actual or anticipated costs of review and processing of the application.
- 2) The fee schedule may be amended from time to time by Resolution of the Council. Land Use Application fees shall not be required for Land Use Applications initiated by a Land Use Authority.
- 3) The Applicant(s) for a Land Use Application approval, permit, or license, required by the City’s Land Use Ordinances, shall pay all costs that may be incurred by the City for the provision of services necessary to process, review and consider the Land Use Application. These services may include, but are not limited to engineering, land use planning, transportation engineering, economic analysis, geotechnical, and hydrological services.
- 4) The Council may provide that the Application Fee be comprised of several component fees for each Land Use Application.

FIGURE 1-1

Procedures for Determination of Land Use Application Completeness



CHAPTER 3 MATTERS OF INTERPRETATION

Section 301—Interpretation:

In interpreting and applying the provisions of the City's Land Use Ordinances, the standards and requirements contained herein are declared to be the minimum standards and requirements for the purposes set forth by the City's Land Use Ordinances and the State of Utah Municipal Land Use, Development, and Management Act, as provided at §10-9a *et seq.* Utah Code Annotated, 1953, as amended (U.C.A.) (hereinafter "the Act"). All interpretations required by the City's Land Use Ordinances shall be:

- 1) Construed in favor of the City.
- 2) Deemed to neither limit nor repeal any powers granted by the Act or any other State or Federal statutes.
- 3) Applied as follows, except where the context clearly requires otherwise:
 - a) The words "shall" or "must" are mandatory.
 - b) The words "should" and "may" are permissive.
 - c) Words used or defined in one tense or form shall include other tenses or derivative forms.
 - d) Words used in the singular shall include the plural.
 - e) Words used in the plural shall include the singular.
 - f) Words referencing a gender shall be applied to the other gender and shall be considered gender neutral.
 - g) In the event of a conflict between the text of any Ordinance and any maps, illustrations, captions, figures, or other material, the text of the Ordinance shall apply.
 - h) The word "includes" shall not limit a term to the specified examples, but is intended to provide guidance and to be illustrative only.
 - i) The word "and" indicates that all connected items, conditions, provisions, or events shall apply.
 - j) The word "or" indicates that one (1) or more of the connected items, conditions, provisions, or events shall apply.

- k) The words “either or” indicates that the connected terms, conditions, provisions, or events shall apply singly but not in combination.

Section 302—Computation of Time:

All times, as identified by the City’s Land Use Ordinances, shall be computed using calendar days, unless expressly identified as business days, and except that if the last day is a Saturday, Sunday, or legal holiday observed by the City, that day shall be excluded and time computed to the next regular business day following the Saturday, Sunday or legal holiday observed by the City. The time within which an act is to be done shall be computed by excluding the first day and including the last day.

Section 303—Fractional Numbers:

In determining compliance with the numerical requirements of the City’s Land Use Ordinances any computation or measurement resulting in a fractional number, except density calculations shall be rounded to the nearest whole number. Density calculations shall be rounded down to the nearest whole number.

Section 304—Administrative Interpretations:

To promote efficiencies in the administration and implementation of the City’s Land Use Ordinances, and where ambiguity, conflicting provisions or confusion may exist in any provision or requirement, this Section is provided to authorize the Zoning Administrator to make interpretations of the City’s Land Use Ordinances, on an as required basis, and as guided by this Section.

Section 305—Application Initiation:

- 1) All requests for an Administrative Interpretation shall be made on the Administrative Interpretation Application.
- 2) A property owner(s), as identified on the assessment rolls of Sanpete County, may submit an Administrative Interpretation Application. An agent of the property owner(s) may submit an Administrative Interpretation Application, provided such application is accompanied by a property owner(s) affidavit of authorization, identifying the agent as being duly authorized to represent the owner(s) in all matters related to the Administrative Interpretation Application. All persons with a fee interest in the subject property shall be required to join in and sign the Administrative Interpretation Application.
- 3) The Council, Planning Commission (hereinafter, “Commission”), or other City Staff may submit an Administrative Interpretation Application.

Section 306—Review Procedures for Administrative Interpretation Applications:

The procedures for the review of an Administrative Interpretation Application are identified by Figure 2-1, herein.

Section 307—Minimum Requirements and Standards for Administrative Interpretation Applications:

The Zoning Administrator shall apply the following standards in making any administrative interpretation:

- 1) The administrative interpretation shall not have the effect of adding or removing any Land Use Ordinance provision.
- 2) An administrative interpretation shall be consistent with the purposes of the Land Use Ordinance, as applicable, and any previously rendered administrative interpretation(s), based on similar facts.
- 3) An administrative interpretation concerning a use interpretation shall not have the effect to allow any use that is not identified as a Permitted Use (P-1 or P-2) or Conditional Use (C) in the Zoning District, as applicable.
- 4) No administrative interpretation shall permit the establishment of any use that is a Prohibited Use.

Section 308—Minimum Requirements and Standards for Determination of Zoning District Boundaries:

In the event of the need to identify the location of a Zoning District boundary, or resolve any dispute concerning a Zoning District boundary. The Zoning Administrator shall apply the following standards in making any Zoning District boundary determination:

- 1) The policies and development standards pertaining to such Zoning District(s).
- 2) In areas divided into lots, a Zoning District boundary shall follow the boundary of a lot, unless clearly intended to divide a lot for reasons of topography, landform, or other physical or man-made constraints.
- 3) In areas not subdivided into lots, wherever a Zoning District is indicated as a strip adjacent to and paralleling a right-of-way, the depth of such strip shall be in accordance with dimensions measured at right angles from the center line of the right-of-way, and the length of frontage shall be in accordance with dimensions measured from section, quarter section, or division lines, or center lines of rights-of-way, unless otherwise indicated.

- 4) Where a Zoning District boundary follows a creek, stream, water course, drainage channel, flood way, or other natural or man-made feature such boundary shall be deemed to be the center line of such creek, stream, water course, drainage channel, flood way, or other natural or man-made feature.
- 5) Where a Zoning District boundary follows the right-of-way of any road, street, trail, or other public or private right-of-way or easement such boundary shall be deemed to be the center line of such road, street, trail, or other public or private right-of-way or easement, unless clearly intended to do otherwise for reasons of topography, landform, or other natural or man-made feature.

Section 309—Effect of Approval and Appeals:

- 1) An administrative interpretation shall apply only to the property for which an interpretation is given. An interpretation finding a use to be a Permitted Use or Conditional Use shall not authorize the establishment of such use but may authorize the filing of the Land Use Applications necessary for any approvals, permits or licenses as may be required by the City’s Land Use Ordinances.
- 2) Any person adversely affected by an administrative interpretation rendered by the Zoning Administrator may appeal the decision to the City’s Land Use Hearing Officer (“LUHO”), as provided by the Zoning Ordinance.

**CHAPTER 4
PERMITTED USE APPLICATIONS**

Section 401—Purpose:

This Chapter identifies and provides the procedures for the review of all Permitted Use Applications and required to determine compliance with the City’s Land Use Ordinances.

Section 402—Application Initiation:

- 1) All requests for a Permitted P-1 Use Application approval shall be made by filing a Permitted P-1 Use Application.
- 2) All requests for a Permitted P-1 Sign Application approval shall be made by filing a Permitted P-1 Sign Application.
- 3) All requests for a Permitted P-2 Use Application approval shall be made by filing a Permitted P-2 Use Application.
- 4) All requests for a Permitted P-2 Sign Application approval shall be made by filing a Permitted P-2 Sign Application.
- 5) A property owner(s), as identified on the assessment rolls of Sanpete County, may submit a Permitted P-1 Use, Permitted P-1 Sign, Permitted P-2 Use, or Permitted P-2 Sign Application. An agent of the property owner(s) may submit a Permitted P-1 Use, Permitted P-1 Sign, Permitted P-2 Use, or Permitted P-2 Sign Application, provided such application is accompanied by a property owner(s) affidavit of authorization, identifying the agent as being duly authorized to represent the owner(s) in all matters related to the Permitted Use Application or Permitted Sign Application. All persons with a fee interest in the subject property shall be required to join in and sign the Permitted Use Application or Permitted Sign Application.

Section 403—Review Procedures for Permitted Use Applications:

- 1) The procedures for the review of a Permitted P-1 Use Application by the Zoning Administrator are identified by Figure 2-2, Chapter 15, herein.
- 2) The procedures for the review of a Permitted P-1 Sign Application by the Zoning Administrator are identified by Figure 2-3, Chapter 15, herein.
- 3) The procedures for the review of a Permitted P-2 Use Application by the Commission are identified by Figure 2-4, Chapter 15, herein.
- 4) The procedures for the review of a Permitted P-2 Sign Application by the Commission are identified by Figure 2-5, Chapter 15, herein.

Section 404—Minimum Requirements and Findings and Standards for Approval of Permitted P-1 Use and P-2 Use Applications and Permitted P-1 and P-2 Sign Applications:

The Zoning Administrator for Permitted P-1 Use Applications, including Permitted P-1 Sign Applications, and the Commission for Permitted P-2 Use Applications, including Permitted P-2 Sign Applications, shall comply with the requirements of Section 703, Section 704, and Section 705, Zoning Ordinance.

Section 405—Decision for a Permitted Use Application, Effect of Approval and Appeals:

See Section 705, 706 and 707, Zoning Ordinance.

Section 406—Permitted Use Approval Amendment:

See Section 208, herein.

Section 407—Permitted Use Application Expiration:

A Permitted Use Application or Permitted Sign Application approval shall expire and shall be invalid if a building, activity, construction, or occupancy, as authorized by the approval, is not commenced or established within one hundred eighty (180) calendar days from the date of approval. If work has not commenced, or a use established within one hundred eighty (180) calendar days from the date of Permitted Use Application or Permitted Sign Application approval, the approval shall be void and a new Permitted Use Application or Permitted Sign Application shall be required.

CHAPTER 5 CONDITIONAL USE APPLICATIONS

Section 501—Purpose:

This Chapter identifies and provides the procedures for the review of all Conditional Use Applications and required to determine compliance with the City's Land Use Ordinances.

Section 502—Application Initiation:

- 1) All requests for a Conditional Use Application approval shall be made by filing a Conditional Use Application.
- 2) All requests for a Conditional Sign Application approval shall be made by filing a Conditional Sign Application.
- 3) A property owner(s), as identified on the assessment rolls of Sanpete County, may submit a Conditional Use Application or Conditional Sign Application. An agent of the property owner(s) may submit a Conditional Use Application or Conditional Sign Application, provided such application is accompanied by a property owner(s) affidavit of authorization, identifying the agent as being duly authorized to represent the owner(s) in all matters related to the Conditional Use Application or Conditional Sign Application. All persons with a fee interest in the subject property shall be required to join in and sign the Conditional Use Application or Conditional Sign Application.

Section 503—Review Procedures for Conditional Use Applications:

- 1) The procedures for the review of a Conditional Use Application by the Council are identified by Figure 2-6, Chapter 15, herein.
- 2) The procedures for the review of a Conditional Sign Application by the Council are identified by Figure 2-7, Chapter 15, herein.

Section 504—Minimum Requirements and Findings and Standards for Approval of Conditional Use Applications and Conditional Use Sign Applications:

The Council shall comply with the requirements of Section 803, Section 804, and Section 805, Zoning Ordinance.

Section 505—Decision for a Conditional Use Application, Effect of Approval and Appeals:

See Sections 806, 807, and 808, Zoning Ordinance.

Section 506—Conditional Use Application Amendment:

See Section 208, herein.

Section 510—Conditional Use Application Expiration:

A Conditional Use Application or Conditional Sign Application approval shall expire and shall be invalid if a building, activity, construction, or occupancy, as authorized by the approval, is not commenced or established within one hundred eighty (180) calendar days from the date of approval. If work has not commenced, or a use established within one hundred (180) calendar days from date of Conditional Use Application or Conditional Sign Application approval, the approval shall be void and a new Conditional Use Application or Conditional Sign Application shall be required.

CHAPTER 6
CONCEPT SUBDIVISION APPLICATIONS

Section 601—Purpose:

This Chapter identifies and provides the procedures for the review of all Concept Subdivision Applications, and required to determine compliance with the City’s Land Use Ordinances, including the Subdivision Ordinance.

Section 602—Application Initiation:

- 1) All requests to establish a subdivision shall first be made by filing a Concept Subdivision Application.
- 2) A property owner(s), as identified on the assessment rolls of Sanpete County, may submit a Concept Subdivision Application. An agent of the property owner(s) may submit a Concept Subdivision Application, provided such application is accompanied by a property owner(s) affidavit of authorization, identifying the agent as being duly authorized to represent the owner(s) in all matters related to the Concept Subdivision Application. All persons with a fee interest in the subject property shall be required to join in and sign the Concept Subdivision Application.

Section 603—Review Procedures for Concept Use Applications:

- 1) The procedures for the review of a Concept Subdivision Application by the Commission are identified by Figure 2-11, Chapter 15, herein.

Section 604—Effect of Concept Subdivision Meeting:

- 1) As provided by Section 505, Subdivision Ordinance, a Concept Subdivision Application does not constitute a Land Use Application for any subdivision approval and is in no way binding on the City or the Applicant(s). Any discussion before the Zoning Administrator and Planning Commission (“Commission”), meeting when the Concept Subdivision Application is discussed, shall not be considered by the Applicant as any indication of approval or disapproval, either actual or implied of any subsequent Land Use Application.
- 2) Following a Concept Subdivision Meeting with the Zoning Administrator and Commission, a property owner, or agent of the property owner, may submit a Preliminary Subdivision Application to the City Recorder for processing and review by the City, as provided by Chapter 7, herein. (See also Section 506, Subdivision Ordinance).

Section 605—Concept Subdivision Application and Meeting Expiration:

If a Preliminary Subdivision Application is not filed with the City Recorder within one hundred eighty (180) calendar days from the date of the Concept Subdivision Meeting with the Commission, the Concept Subdivision Application and the Concept Subdivision Meeting discussion shall be deemed to have expired and a new Concept Subdivision Application and Concept Subdivision Meeting shall be required.

CHAPTER 7

PRELIMINARY SUBDIVISION APPLICATIONS (MINOR OR MAJOR)

Section 701—Purpose:

This Chapter identifies and provides the procedures for the review of all Preliminary Subdivision Applications and required to determine compliance with the City’s Land Use Ordinances.

Section 702—Application Initiation:

- 1) As a condition precedent to the filing of a Preliminary Subdivision Application with the City Recorder, a Concept Subdivision Application for the Subject Property shall have been provided to the City Recorder and a Concept Subdivision Meeting held with the Zoning Administrator and Commission.
- 2) A property owner(s), as identified on the assessment rolls of Sanpete County, may submit a Preliminary Subdivision Application. An agent of the property owner(s) may submit a Preliminary Subdivision Application, provided such application is accompanied by a property owner(s) affidavit of authorization, identifying the agent as being duly authorized to represent the owner(s) in all matters related to the Preliminary Subdivision Application. All persons with a fee interest in the subject property shall be required to join in and sign the Preliminary Subdivision Application.

Section 703—Review Procedures for Preliminary Subdivision Applications:

- 1) The procedures for the review of a Preliminary Subdivision Application (Minor) by the Commission are identified by Figure 2-12, Chapter 15, herein.
- 2) The procedures for the review of a Preliminary Subdivision Application (Major) by the Council are identified by Figure 2-13, Chapter 15, herein.

Section 704—Minimum Requirements and Findings and Standards for Approval of Preliminary Subdivision Applications:

- 1) The Commission shall comply with the requirements of Sections 703 and 704, Subdivision Ordinance for Preliminary Subdivision Applications (Minor).
- 2) The Commission and Council shall comply with the requirements of Sections 603, 604, and 605, Subdivision Ordinance for Preliminary Subdivision Applications (Major).

Section 705—Decision for a Preliminary Subdivision Application, Effect of Approval and Appeals:

See Sections 605, 607, 609, Subdivision Ordinance, for Preliminary Subdivision Applications (Major) and Sections 704, 706, and 708, Subdivision Ordinance, for Preliminary Subdivision Applications (Minor).

Section 706—Preliminary Subdivision Application Amendment:

See Section 208, herein.

Section 708—Preliminary Subdivision Application Expiration:

A Preliminary Subdivision Application approval shall expire and shall be invalid if a Final Subdivision Application is not filed with the City Recorder within one hundred eighty (180) calendar days from the date of Preliminary Subdivision Application approval by the Council (See Sections 607 and 706, Subdivision Ordinance).

CHAPTER 8

FINAL SUBDIVISION APPLICATIONS (MINOR OR MAJOR)

Section 801—Purpose:

This Chapter identifies and provides the procedures for the review of all Final Subdivision Applications and required to determine compliance with the City’s Land Use Ordinances.

Section 802—Application Initiation:

- 1) As a condition precedent to the filing of a Final Subdivision Application with the City Recorder, a Preliminary Subdivision Application for the subject property, with or without requirements, shall have been approved by the Commission or Council, as applicable.
- 2) A property owner(s), as identified on the assessment rolls of Sanpete County, may submit a Final Subdivision Application. An agent of the property owner(s) may submit a Final Subdivision Application, provided such application is accompanied by a property owner(s) affidavit of authorization, identifying the agent as being duly authorized to represent the owner(s) in all matters related to the Final Subdivision Application. All persons with a fee interest in the subject property shall be required to join in and sign the Final Subdivision Application.

Section 803—Review Procedures for Final Subdivision Applications:

- 1) The procedures for the review of a Final Subdivision Application (Minor) by the Commission is identified by Figure 2-14, Chapter 15, herein.
- 2) The procedures for the review of a Final Subdivision Application (Major) by the Council is identified by Figure 2-15, Chapter 15, herein.

Section 804—Dedication of Streets and other Public Places:

- 1) Final Subdivision Plats, when made, acknowledged, and recorded in the Office of the Sanpete County Recorder, according to the procedures and requirements of the City’s Land Use Ordinances, operate as a dedication of all roads, streets and other public places, and vest the fee of those parcels of land with the City for the use of the public for the uses named or intended by the Final Subdivision Plat.
- 2) The dedication established by this Section does not impose liability upon the City for roads, streets and other public places that are dedicated in this manner but are unimproved.

Section 805—Common Area Parcels on a Final Subdivision Plat – No Separate Ownership – Ownership Interest Equally Divided among other Parcels on the Final Subdivision Plat and included in Description of other Parcels.

- 1) A parcel designated as common area on a Final Subdivision Plat and recorded in the Office of the Sanpete County Recorder shall not be separately owned or conveyed independent of the other parcels created by the Final Subdivision Plat.
- 2) The ownership interest in a common area parcel described in Subsection (1) herein shall:
 - a) For purposes of assessment, be divided equally among all parcels created by the Final Subdivision Plat, unless a different division of interest for assessment purposes is indicated on the Final Subdivision Plat or an accompanying recorded document; and
 - b) Be considered to be included in the description of each instrument describing a parcel on the Final Subdivision Plat by its identifying plat number, even if the common area interest is not explicitly stated in the instrument.

Section 806—Minimum Requirements and Findings and Standards for Approval of Final Subdivision Applications:

The Council shall comply with the requirements of Section 803, Subdivision Ordinance.

Section 807—Decision for a Final Subdivision Application, Effect of Approval and Appeals:

See Section 803 and 808, Subdivision Ordinance.

Section 808—Site Preparation Work Prohibited:

See Section 807, Subdivision Ordinance.

Section 809—Final Subdivision Application Amendment:

The Council may vacate or amend a recorded Final Subdivision Plat, or any portion of a recorded Final Subdivision Plat, by following and complying with all requirements for vacating or changing a Subdivision Plat, as identified by Sections 10-9a-608 and 10-9a-609, Utah Code Annotated, 1953, as amended.

Section 810—Final Subdivision Application Expiration:

After the Final Subdivision Plat has been recorded in the Office of the Sanpete County Recorder a Final Subdivision Plat shall not expire and shall be valid unless vacated or amended, as provided by the laws of the State of Utah (See Section 809 herein).

CHAPTER 9
GENERAL PLAN AMENDMENT APPLICATIONS

Section 901—Purpose:

This Chapter identifies and provides the procedures for the review of all General Plan Amendment Applications and required to determine compliance with the City’s Land Use Ordinances.

Section 902—Application Initiation:

- 1) All requests for a General Plan Amendment shall be made on a General Plan Amendment Application (See Section 904).
- 2) A property owner(s), as identified on the assessment rolls of Sanpete County, may submit a General Plan Amendment Application.
- 3) An agent of the property owner(s) may submit a General Plan Amendment Application, provided such application is accompanied by a property owner(s) affidavit of authorization, identifying the agent as being duly authorized to represent the owner(s) in all matters related to the General Plan Amendment Application. All persons with a fee interest in the subject property shall be required to join in and sign the General Plan Amendment Application.
- 4) The Council, Commission, LUHO, Zoning Administrator, or other City Staff may submit a General Plan Amendment Application.

Section 903—Review Procedures for General Plan Amendment Applications:

The procedures for the review of a General Plan Amendment Application are identified by Figure 2-9, Chapter 15, herein.

Section 904—Minimum Requirements and Findings and Standards for Approval of General Plan Amendment Applications:

The Commission and Council shall comply with the requirements of Section 504, Zoning Ordinance

Section 905—Decision for a General Plan Amendment Application, Effect of Approval and Appeals:

See Sections 505 and 506, Zoning Ordinance.

Section 906—General Plan Amendment Application Approval:

See Section 208, herein.

Section 907—General Plan Amendment Application Expiration:

A General Plan Amendment Application approval shall not expire and shall be valid unless amended or modified by a subsequent General Plan Amendment Application approval.

CHAPTER 10

LAND USE ORDINANCE AMENDMENT APPLICATIONS

Section 1001—Purpose:

This Chapter identifies and provides the procedures for the review of all Land Use Ordinance Amendment Applications, including Applications to amend the Zoning Districts Map or Official Maps, and required to determine compliance with the City's Land Use Ordinances.

Section 1002—Application Initiation:

- 1) All requests for a Land Use Ordinance Amendment shall be made on a Land Use Ordinance Amendment Application (See Section 1004).
- 2) A property owner(s), as identified on the assessment rolls of Sanpete County, may submit a Land Use Ordinance Amendment Application.
- 3) An agent of the property owner(s) may submit a Land Use Ordinance Amendment Application, provided such application is accompanied by a property owner(s) affidavit of authorization, identifying the agent as being duly authorized to represent the owner(s) in all matters related to the Land Use Ordinance Amendment Application. All persons with a fee interest in the subject property shall be required to join in and sign the Land Use Ordinance Amendment Application.
- 4) The Council, Commission, LUHO, Zoning Administrator, or other City Staff may submit a Land Use Ordinance General Plan Amendment Application.

Section 1003—Review Procedures for Land Use Ordinance Amendment Applications:

The procedures for the review of a Land Use Ordinance Amendment Application are identified by Figure 2-10, Chapter 15, herein.

Section 1004—Minimum Requirements and Findings and Standards for Land Use Ordinance Amendment Applications:

The Commission and Council shall comply with the requirements of Section 604, Zoning Ordinance.

Section 1005— Decision for a Land Use Ordinance Amendment Application, Effect of Approval and Appeals:

See Section 605 and 606, Zoning Ordinance.

Section 1006—Land Use Ordinance Approval Amendment:

See Section 208, herein.

Section 1007—Expiration:

A Land Use Ordinance Amendment Application approval shall not expire and shall be valid unless amended or modified by a subsequent Land Use Ordinance Amendment Application approval.

Section 1008—Zoning Administrator May Provide Notice of Pending Land Use Ordinance or Official Map Amendments to Applicants:

The Zoning Administrator may provide applicants affected by a pending Land Use Ordinance Amendment Application or Temporary Zoning Ordinance notice that:

- 1) Identifies that a Land Use Ordinance Amendment is pending with the Commission and/or Council or a Temporary Zoning Ordinance is in effect.
- 2) The Land Use Application approval, permit, or license may be affected by the pending Land Use Ordinance Amendment, or Temporary Zoning Ordinance, which may require revisions and changes to the application upon adoption of the pending Land Use Ordinance Amendment.
- 3) A copy of the pending Land Use Ordinance or Temporary Zoning Ordinance is available for inspection in the Office of the City Recorder.

CHAPTER 11 VARIANCE APPLICATIONS

Section 1101—Purpose:

This Chapter identifies and provides the procedures for the review of all Variance Applications and required to determine compliance with the City's Land Use Ordinances.

Section 1102—Application Initiation:

- 1) All requests for a Variance shall be made on a Variance Application (See Section 1104).
- 2) A property owner(s), as identified on the assessment rolls of Sanpete County, may submit a Variance Application.
- 3) An agent of the property owner(s) may submit a Variance Application, provided such application is accompanied by a property owner(s) affidavit of authorization, identifying the agent as being duly authorized to represent the owner(s) in all matters related to the Variance Application. All persons with a fee interest in the subject property shall be required to join in and sign the Variance Application.
- 4) The Council, Commission, Zoning Administrator, or other City Staff may submit a Variance Application.

Section 1103—Review Procedures for Variance Applications:

The procedures for the review of a Variance Application are identified by Figure 2-16, Chapter 15, herein.

Section 1104—Minimum Standards and Findings for Approval of a Variance Application:

The LUHO shall comply with the requirements of Sections 1004, Zoning Ordinance.

Section 1105—Decision for a Variance Application, Effect of Approval and Appeals:

See Sections 1004, 1005, 1006, 1007, and 1008, Zoning Ordinance.

Section 1106—Variance Approval Amendment:

The procedure for amending an approved Variance Application shall be the same procedure required to approve the Application in the first instance (See Section 208, herein).

Section 1107—Variance Application Expiration:

A Variance Application approval shall expire and shall be invalid unless a subsequent Land Use Application approval is granted by a Land Use Authority, as applicable, within one hundred eighty (180) calendar days from the date of Variance Application approval by the LUHO.

CHAPTER 12

**NONCONFORMING USES, NONCOMPLYING STRUCTURES, AND OTHER
NONCONFORMITIES**

Section 1201 – Purpose:

This Chapter identifies and provides the procedures for determining the existence, expansion, or modification of a legal nonconforming use, a legal noncomplying structure, or other legal nonconformity, including noncomplying lots and signs, (“Determination of Legal Nonconforming Use or Legal Noncomplying Structure”) and required to determine compliance with the City’s Land Use Ordinances.

Section 1202—Application Initiation:

- 1) All requests for a Determination of Legal Nonconforming Use or Legal Noncomplying Structure shall be made on the Determination of Legal Nonconforming Use or Legal Noncomplying Structure Application (See Section 1204).
- 2) A property owner(s), as identified on the assessment rolls of Sanpete County, may submit a Determination of Legal Nonconforming Use or Legal Noncomplying Structure Application.
- 3) An agent of the property owner(s) may submit a Determination of Legal Nonconforming Use or Legal Noncomplying Structure Application, provided such application is accompanied by a property owner(s) affidavit of authorization, identifying the agent as being duly authorized to represent the owner(s) in all matters related to the Determination of Legal Nonconforming Use or Legal Noncomplying Structure Application. All persons with a fee interest in the subject property shall be required to join in and sign the Determination of Legal Nonconforming Use or Legal Noncomplying Structure Application.
- 4) The Council, Commission, LUHO, Zoning Administrator, or other City Staff may submit a Determination of Legal Nonconforming Use or Legal Noncomplying Structure Application.

Section 1203—Review Procedures for Determination of Legal Nonconforming Use or Legal Noncomplying Structure Applications:

The procedures for the review of a Determination of Legal Nonconforming Use or Legal Noncomplying Structure Application are identified by Figure 2-17, Chapter 15, herein.

Section 1204—Minimum Requirements and Findings and Standards for Approval of Determination of Legal Nonconforming Use or Legal Noncomplying Structure Applications:

The LUHO shall comply with the requirements of Sections 1104, 1105, 1106, and 1112, Zoning Ordinance.

Section 1205—Determination of Legal Nonconforming Use, Noncomplying Structure, or Other Nonconformity Application Expiration:

A Determination of a Legal Nonconforming Use, Noncomplying Structure, or Other Nonconformity Application approval shall not expire and shall be valid until the Legal Nonconforming Use, Noncomplying Structure, or other Nonconformity fails to comply with all requirements of the City's Land Use Ordinances or the Act.

CHAPTER 13 CONSTITUTIONAL TAKINGS

Section 1301—Purpose:

The policies of the City, favor the careful consideration of matters involving constitutional taking claims, in fairness to the owner of private property bringing the claim, and in view of the uncertainty and expense involved in defending such issues. At the same time, the legitimate role of the City in lawfully regulating real property must be preserved and the public's right to require the dedication or exaction of property, consistent with the Constitution. Consistent with these policies, this Chapter establishes a procedure for the review of actions that may involve the issue of constitutional takings, as well as providing guidelines for such considerations. This chapter is further intended and shall be construed to objectively and fairly review claims that a specific government action should require payment of just compensation, while preserving the ability of the City to lawfully regulate real property and fulfill its obligations, duties and functions.

Section 1302—Guidelines Advisory:

The guidelines provided and decisions rendered pursuant to the provisions of this Chapter are advisory only, and shall not be construed to expand or limit the scope of the City's liability for a constitutional taking.

Section 1303—Application Initiation:

- 1) All requests for a takings review shall be made on a Takings Review Application (See Section 1305).
- 2) A property owner(s), as identified on the assessment rolls of Sanpete County, may submit a Takings Review Application.
- 3) An agent of the property owner(s) may submit a Takings Review Application, provided such application is accompanied by a property owner(s) affidavit of authorization, identifying the agent as being duly authorized to represent the owner(s) in all matters related to the Takings Review Application. All persons with a fee interest in the subject property shall be required to join in and sign the Takings Review Application.

Section 1304—Review Procedures for Takings Review Applications:

- 1) The procedures for the review of a Takings Review Application are identified by Figure 2-18, Chapter 15, herein.
- 2) The Council, or designee of the Council, shall immediately set a time to review the decision that gave rise to the Takings Claim.

- 3) A decision on a review of a Takings Claim shall be rendered within fourteen (14) days from the date the complete Takings Review Application has been received by the City Recorder. The decision of the Council, or designee, regarding the results of the review shall be given in writing to the applicant and the Land Use Authority that rendered the decision that gave rise to the Takings Claim.
- 4) If the Council, or designee, fails to hear and decide the review within fourteen (14) calendar days, the decision appealed from shall be presumed to have been determined to be valid and the Takings Claim denied by the Council, or designee.

Section 1305—Reviewing Guidelines:

The Council, or the Council’s authorized designee, shall review the facts and information presented by the applicant to determine whether or not the decision by the City’s Land Use Authority constitutes a constitutional taking as defined by the Act. In doing so, they shall consider;

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

Section 1306—Results of Review:

After completing the review, the Council, or designee, shall make a determination regarding the above issues and where determined to be necessary and appropriate, shall make a recommendation to the Land Use Authority that made the decision that gave rise to the constitutional takings claim. The Council, or designee, shall provide, in writing, the results of the takings review to the Applicant within ten (10) calendar days of the conclusion of the takings review by the Council, or designee.

**CHAPTER 14
FEE SCHEDULES**

This Chapter provides the required Land Use Application fees and other administrative fees as determined by the Council necessary to review a Land Use Application by the appropriate Land Use Authority.

**PART IV
GUNNISON CITY**

CONSTRUCTION AND DESIGN SPECIFICATIONS

**APPROVED BY THE GUNNISON CITY COUNCIL
NOVEMBER 17, 2010
RESOLUTION 2010 – 2**

Prepared for Gunnison City by:

PLANNING AND DEVELOPMENT SERVICES, LLC

Salt Lake City, Utah

801-277-4435

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**CHAPTER 1
GENERAL ROVISIONS**

Section 101—Short Title:

This Resolution shall be known and may be cited as the Gunnison City Construction and Design Standards and may be identified within this document and other documents as “Construction and Design Standards.”

Section 102—Purposes:

The Resolution is established to promote the purposes of the Act and to provide standards associated with and required by the Land Use Ordinances of Gunnison City and for the construction and design of various public services and facilities in the City.

Section 103—Conflict:

Nothing herein shall nullify any laws or Ordinances of the City, including the City’s Land Use Ordinances.

Section 104—Effective Date:

This Ordinance shall take effect on January 1, 2011 following its passage by the Council.

Section 104—Compliance Required:

The layout and design of all subdivisions and the content of all plats, engineering plans, documentation, and other required submissions shall comply and be in accordance with all City Land Use Ordinances and these standards.

Section 105—All Drawings to be Done by Licensed Engineer or Surveyor:

All engineering work must be done by, or under direction of, a professional engineer registered in the State of Utah. All land survey work must be done by, or under the direction of, a land surveyor registered in t he State of Utah .

**CHAPTER 2
STREETS AND ROADS**

Section 201—General Requirements:

- 1) Subdivision Plans to be Consistent With Street Plan. All subdivision plans shall be consistent with the Master Street Plan as adopted by the City, as follows:
 - a) Collector Streets (Feeder). Where the area of a proposed subdivision includes any Collector class streets, as shown on the Major Street Plan, the subdivision plan shall incorporate such streets in the location shown on the Street Plan and the approval of the Final Plat shall include the dedication of the right-of-way and its improvement in accordance with the applicable City standards.
 - b) Minor Streets (Local Service). Where the area of a proposed subdivision includes any Minor class streets, as shown on the Major Street Plan, the subdivision plan shall provide for such street in the approximate location shown on the Street Plan and the approval of the Final Plat shall include the dedication of the right-of-way and its improvement in accordance with the applicable City standards.
 - c) No subdivision plan which proposes the deletion or significant realignment of any street shown on the Major Street Plan shall be given preliminary approval unless and until the major Street Plan shall have been amended in accordance with State Law.
- 2) Relationship to Adjacent Streets. The proposed street system shall properly align and be compatible with adjacent streets.

Section 202—Access to Adjacent Properties:

In order to facilitate the development of an adequate and convenient circulation system within the City and to provide access for the logical development of adjacent vacant properties, the City may, as a condition of approval, require the subdivision plan to include one or more temporary dead end street (stub streets) which extend to the boundary of the subdivision. All such stub streets shall be fully developed to the boundary of the subdivision. Any plan for the subsequent development of the adjacent property shall provide for the continuation of any such stub street

Section 203—All Lots Must Abut on Public Street:

Each lot in a subdivision shall abut on a street dedicated to the City by the subdivision plat or an existing public street, either dedicated or which has become public by right of use, and is more than fifty feet wide. Interior lots having frontage on two streets are prohibited except in instances where topographic conditions make such design desirable.

Section 204—Required Right-of-Way Width:

The minimum width of Right-of-way for streets shown on the Major Street Plan shall conform to the width as designated on the Plan. The minimum right-of-way width for streets not shown on the plan shall be as follows:

CLASS OF STREET	RIGHT-OF-WAY
Collector	Sixty (60) Feet
Minor	Fifty (50) Feet

Section 205—Required Pavement Width and other Requirements:

All streets within and adjacent to the subdivision shall be hard surfaced. The width of the hard surfacing and the location and type of other required street improvements shall be in accordance with the applicable street cross-section standard adopted by the City Council.

Section 206—Design Standards:

- 1) Reverse Curves. Reverse curves shall have a tangent of at least one hundred (100) feet, unless in the opinion of the Land Use Authority such is not necessary.
- 2) Street intersection. Streets shall intersect each other as nearly as possible at right angles. Minor streets shall approach the major or collector streets at an angle of not less than eighty (80) degrees. Offsets in street alignment of more than fifteen (15) feet or less than one hundred twenty (120) feet shall be prohibited.
- 3) Street Grades. The maximum grade of any street in the subdivision shall be eight percent (8%). Where the observance of this standard is not feasible, the City Council, subject to the prior recommendation of the Planning Commission, shall have the power to grant an exception when special pavement surfaces and adequate leveling areas are installed and in the opinion of the City the best subdivision of the land is thereby secured.
- 4) Street Curves. Where the street lines within a block deflect from each other at any one point more than ten (10) degrees, there should be a connecting curve. The radius of the curve for the inner street line should be not less than 350 feet for Collector class streets, 250 feet for an important Minor class street, and 100 feet for Minor streets.
- 5) Curbs. Where curbs are required said curbs at intersections shall be rounded with curves having a minimum radius of 15 feet for minor streets, and 25 feet for collector streets. Property lines at street intersections should be rounded with a curve where necessary to fit the curb radius.
- 6) Street Names. New street names should not duplicate those already existing names. A street obviously a continuation of another already in existence should bear the

same name. Before the street is named, the proposed name must be submitted to and approved by the City.

- 7) Cul-de-sacs. Cul-de-sacs (dead end streets) shall be used only where unusual conditions exist which make other designs undesirable. Each cul-de-sac shall have a minimum right-of-way width of fifty (50) feet and must be terminated by a turn-around of not less than one hundred (100) feet in diameter. The maximum length of a cul-de-sac street shall be 400 feet. Surface water must drain away from the turnaround, except that where surface water cannot be drained away from the turnaround along the street, due to grade, necessary catch basins and drainage easements shall be provided.
- 8) Easements. Easements of not less than eight (8) feet on each side of rear lot lines and side lines will be required where necessary for poles, wire, conduits, sewers, gas and water mains, and other public utilities. Easements of greater width may be required along property lines where necessary for surface overflow or for the extension of main sewers or similar utilities.

Section 207—Streets to be Dedicated:

All streets shall be dedicated for public use and shall conform to the minimum standards for width and improvement, except that the City Council may accept the dedication of partial width street provided:

- 1) That said street is located at the border of the subdivision.
- 2) That the width proposed for dedication shall be sufficient to accommodate the minimum travel way and all utility systems as set forth in City standards.
- 3) That there are not existing conditions which would prevent the subsequent development of the remaining portion of the street.
- 4) That construction of a partial width street at the proposed location will not create an unsafe or hazardous condition.

**CHAPTER 3
LOT STANDARDS**

Section 301—Design Standards:

The lot arrangement, design, and shape shall be such that lots will provide satisfactory and desirable sites for buildings, be properly related to topography and conform to requirements of the City’s Land Use Ordinances. Lots shall not contain peculiarly shaped elongations solely to provide necessary square footage which would be unusable for normal purposes.

Section 302—Design Standards:

Double frontage lots shall be prohibited.

Section 303—All lots to Conform to Land Use Ordinances:

All lots shown on the subdivision plat shall conform to the all requirements of the City’s Land Use Ordinances, as applicable.

Section 304—Corner Lots:

All corner lots shall provide a minimum of ten (10) ten feet extra lot width than interior lots to accommodate additional setback requirements applicable to corner lots.

Section 305—Angle of Lot Lines:

Side lot lines shall be approximately at right angles, or radial to the street line, except where topographic conditions make it advisable to have side lot lines deflect at sharper angles.

Section 306—Parts of Lots – Protection Strips:

All remnants of lots below minimum size left over after subdividing of a larger tract must be attached to adjacent lots rather than allowed to remain as unusable parcels. Protection strips shall not be permitted.

Section 307—Multiple Ownership of Lots:

Where the land covered by a subdivision includes two (2) or more parcels in separate ownership and the lot arrangement is such that a property ownership line divides one or more lots, the land in each lot so divided shall be transferred by deed to single ownership before approval of the final plat or the subdivision shall be considered as a joint project and the final plat shall be signed by all affected property owners.

Section 308—Culinary Water, Sanitary Sewer and Pressurized Irrigation:

Each lot within a subdivision, or separate and individual lots shall be served by the City's culinary water system through lines providing flow for both culinary and fire purposes. Each lot within the subdivision, or City, shall be served by the City's sanitary sewer collection system, except that the City may authorize the development of a subdivision project utilizing septic tanks or other individual disposal facilities where it is determined that connection of the subdivision project to the sewer system is not reasonably feasible.

Each lot in the subdivision, or separate and individual lots, shall be served by the pressurized irrigation system as follows;

Where the proposed subdivision or lot lies within the boundaries of the "City SID Area," but has been exempted from payment of SID assessments, or lies outside of the City SID Area and is not to be served by a pipeline company (farmers) system, the City may authorize the connection of lot(s) to the City system subject to:

- 1) A determination by the City Council that there is adequate capacity in the lines serving the proposed development project or individual user to accommodate the anticipated users and that the additional demand will not be detrimental to the proper functioning of the system.
- 2) The installation by the Applicant of any required extensions to the main line, when applicable, the installation of individual riser, where required.
- 3) Conveyance to the City at no cost of one (1) share of Gunnison Irrigation Company stock for the proposed user or lot in the project or for each one-half (1/2) acre of area proposed to be served, whichever is greater. Also, the applicant shall provide satisfactory evidence that all assessments against the stock with regard to pressurized irrigation system (payment of the costs of holding pond and transmission line and any other joint improvements) have been satisfied.
- 4) Payment of the applicable irrigation system connection fee, and pressurized system impact fee, if applicable.

The size, location, and placement of any system line extensions and risers and other details concerning the design and construction of culinary water, sanitary sewer or pressurized irrigation system shall conform to City standards, as provided by the City.

**CHAPTER 4
SUBDIVISION IMPROVEMENTS**

Section 401—Required Improvements to meet City Specifications – To be Shown on Preliminary Plats:

The improvements required by the City’s Land Use Ordinances, and this Resolution shall be required to be installed for all areas shown on the final plat and at all off-site locations designated at the time of final plat approval. The required improvements shall meet minimum City standards for design and quality of materials and shall be installed in accordance with minimum City standards and specifications. The placement and design of required improvements shall be shown on the preliminary plan.

Section 402—Required Improvements to be Installed in a Timely Manner – Performance Guarantees Required:

- 1) All required improvements shall be installed within one (1) year from the date of final approval; provided however, that upon a showing of good and sufficient cause, the Land Use Authority, as applicable, may approve a longer period of time for completing construction of part or all of the uncompleted improvements.
- 2) A performance guarantee securing the installation of all required improvements shall be required as a condition of final plat approval.

Section 403—Required Improvements:

The minimum improvements required for subdivisions within the City shall be as follows:

- 1) Streets and Roads. All streets, roads and vehicular travel ways shall be dedicated to the City for use by the public and shall be improved in accordance with the City standards, except that curb, gutter and sidewalk improvements will not be required for subdivisions or portions thereof adjacent to streets which are owned by the City and/or have been designated as proposed streets on the Street Plan. The only improvement necessary on this street is a twenty-four-foot (24') hard surface travel way.
 - a) Cul-de-sacs are excluded from this Section and must meet all of the requirements of the subdivision requirements, including curb, gutter and sidewalk.
- 2) Culinary Water. Culinary water service shall be provided to the subdivision and each lot therein, as follows:
 - a) Where the subdivision is not adjacent to an existing City water main which is adequate to supply the development, the subdivider shall install one (1) or more lines connecting the subdivision with the closest adequate City line. Said off-site line(s) shall be considered as part of the required subdivision improvements.

- b) Both off-site and on-site water mains and appurtenant valves and facilities shall be adequate to meet both culinary and fire flow requirements. In no case shall the water mains be less than six (6) inches in diameter.
 - c) To the maximum extent possible water mains shall be located in the right-of-way lines of public streets in the locations specified by the City. Said mains shall be extended to the boundary of the territory shown in the final plat, including any stub streets required to provide for future access to adjacent property.
 - d) Water service laterals shall be installed to each lot within the subdivision. The lateral shall extend from the main line to the outer edge of the right-of-way and shall include the installation of a meter box and meter setter.
- 3) Fire Hydrants. All subdivisions shall have fire hydrants installed in such a manner that no dwelling unit on a lot will be more than five hundred (500) feet distance from the closest hydrant, measured along the street.
- 4) Sanitary Sewers - Each lot within the subdivision shall be served by the City's sewage collection system, as follows:
- a) Where the subdivision is not adjacent to an existing City sewer main which is adequate to serve the development, the subdivider shall install one (1) or more mains connecting the subdivision with the closest adequate main. Any required off-site mains shall be considered as part of the required subdivision improvements.
 - b) Both off-site and on-site sewer mains and appurtenant manholes and facilities shall be adequate to meet both existing and future needs for the area. In no case shall the sewer main be less than eight (8) inches in diameter.
 - c) To the maximum extent possible sewer mains shall be located in the right-of-way lines of public streets in the locations specified by City standards. Said mains shall be extended to the boundary of the territory shown in the final plat, including any stub streets required to provide for future access to adjacent property.
 - d) Sewer service laterals shall be installed to each lot within the subdivision. The lateral shall extend from its connection to the sewer main to the outer edge of the right-of-way.
- 5) Irrigation Water System. Each lot within the subdivision shall be served either by the City's pressurized irrigation system or by other pressurized irrigation system, acceptable to the City.

- 6) Power and Telephone. Electric power and telephone lines shall be provided to each lot. All lines and appurtenant facilities shall be located underground, except when the subdivider can show that the placement underground is not practically feasible.
- 7) Street Signs. Street signs shall be installed at all locations indicated on the preliminary plan. The location and design of said signs shall conform to minimum City standards.
- 8) Storm Drains and Facilities. To the maximum extent possible surface water produced from the subdivision development shall be properly disposed of within the boundaries of the subdivision through the use of sumps or other on site techniques. All sumps, culverts, drains and other facilities for the collection and disposal of surface water shall be installed as directed by the by the City Engineer.
- 9) Environmental Hazards. Adverse environmental conditions must be eliminated or accommodated as follows:
 - a) Soils:
 - i) The placement of streets, buildings and the designation of building sites on areas of unstable soil shall be prohibited.
 - ii) Soils with a significant erosion hazard shall be protected. Revegetation or other erosion control measures may be imposed as a condition of subdivision approval.
 - b) Flooding;
 - i) All subdivision proposals shall be consistent with the need to minimize flood damage and in accordance with the City's flood hazard mitigation ordinance.
 - ii) The subdivision layout shall make adequate provision for natural drainage channels and floodways.
 - iii) All water, sewer and other utility systems and facilities located in designated flood areas shall be designed and constructed to minimize flood damage including the infiltration of flood water into the system, or discharge of the system into the flood waters.
 - c) Other. Where applicable, other adverse environmental conditions must also be eliminated or adequately accommodated. The additional conditions shall include, but not be limited to seismic, land slide, and ground water.
- 10) Street Lights. Within subdivisions the responsibility for providing street lights lies with the developer of the subdivision, not the City. If a subdivision plan does not provide for street lights, it shall be so written on the plat for that subdivision. If street lights are desired by the future property owners, the cost of installing these

improvements will be the responsibility of the property owners themselves and not the City.

- 11) Permanent Survey Monuments. No less than two permanent survey monuments shall be installed in each subdivision. The location of the monuments shall be shown on the final plat. Also, all corners on the subdivision and all lot corners in the subdivision shall be marked.

Section 404—Drawings of Record Required:

Necessary “As-Built” improvement plans for all required subdivision or site plan improvements shall be required prior to the release of performance guarantees.

CHAPTER 5
SUBDIVISION PLAT AMENDMENTS AND VACATIONS

Section 501—Compliance with State Laws Required:

No change shall be made in a Final Plat that has been recorded, including any proposed vacation, alteration, or amendment plat unless and until approval for such change has complied with all requirements for a plat amendment or plat vacation, as required by the laws of the State of Utah, as provided at §10-9a *et. seq.* Utah Code Annotated.

CHAPTER 6

SUBDIVISION IMPROVEMENT GUARANTEES REQUIRED

Section 601—Guarantees Required for Subdivision Improvements:

All subdivision improvements required by the City’s Land Use Ordinances, this Resolution, and any Land Use Application approval shall be guaranteed by the establishment of a Performance Guaranteed as required by this Chapter.

Section 602—Type and Amount of Guarantee:

The required subdivision improvements performance guarantee shall be one of the following:

- 1) A deposit of cash in a separate escrow account in an amount not less than 125 percent of the estimated cost of performing the work for which the guarantee is required. Said account shall be made with a financial institution acceptable to the City and shall be established in such a manner that any release there from shall require the advance written consent of the City. Any interest derived from the account shall inure to the benefit of the developer.
- 2) A performance bond in an amount not less than one-hundred twenty-five percent (125%) of the estimated cost of performing the work for which the guarantee is required, as established by the City.
- 3) An irrevocable letter of credit from a financial institution acceptable to the City, in an amount not less than one-hundred twenty-five percent (125%) of the estimated cost of performing the work. The letter of credit shall be established in such a manner that any release of funds to the developer shall require the advance written consent of the City.

Section 603—Duration of Guarantee:

The duration of the performance guarantee shall be for the period of time specified for each particular type of development or activity. (See Section 10-7-6.2) and any extensions to such period as may have been approved by the City Council. The date of beginning for the performance period shall be the date of final approval by the City.

Section 604—Partial Release Permitted:

Where a guarantee is posted for the purpose of insuring the timely installation of required improvements in a subdivision, site plan, or similar project, the City may authorize a release of a portion of the guarantee in an amount commensurate with the proportion of improvements completed.

Section 605—Final Release:

- 1) At the completion of the work, or not less than ten (10) days prior to the release date of the bond or other assurance, the developer shall submit to the City one copy of a Certificate of Completion. Following receipt of the certificate, the City Engineer shall make a preliminary inspection and shall submit a report to the City Council setting forth the conditions of such facilities. If the condition of said improvements or activities for which the guarantee is required are found to be satisfactory, and all liens are paid, the Council shall authorize release of the remainder of the guarantee except for that portion to be held as a durability retainer.
- 2) If the condition of material or workmanship shows unusual depreciation or does not comply with the acceptable standards of durability or if any outstanding liens are not paid, or the terms of the guarantee have not been satisfied, the matter shall be referred to the City Council and, in accordance with the provisions of 10-8-6, the Council may declare the developer in default.

Section 606—Durability Retainage:

- 1) A retainage of not less than twenty-five percent (25%) of the total amount of the guarantee shall be retained by the City for a period of not less than one (1) year following the date of final acceptance of the improvements by the City. Such retainage shall be a guarantee of the durability of said improvements. If during the one (1) year period, the durability of said improvements are found to be satisfactory, said retainage may be released by the City Council. If however, during said period, the condition or material or workmanship of the improvement or improvements fails or shows unusual depreciation, or it becomes evident that certain work was not completed, or that said improvements do not otherwise comply with accepted standards of durability, said condition shall be corrected by the person giving the performance guarantee. If the corrections are not made within a reasonable time, the City Council, may declare such person in default and use the retainage to defray the cost of any required work. At the conclusion of the durability guarantee period, any retainage remaining may be released by the City Council.

Section 607—Default:

Where, in the opinion of the City Council, a developer fails or neglects to satisfactorily install the required improvements or make required corrections, or to pay all liens in connection with said improvements, or otherwise fails in carrying out the activity for which the performance guarantee was required, the City Council may, after a public hearing with due notice on the matter, declare the performance guarantee forfeited and thereafter may install or cause the required improvement to be installed using the proceeds from the guarantee to defray the costs. Provided that the City shall not be responsible for work beyond the limits of the bond amount. Any funds remaining after completion of the required improvements will be returned to the developer.

**CHAPTER 7
CONSTRUCTION SPECIFICATIONS**

Section 701—Compliance Required:

- 1) Construction standards, including drawings, tables, charts, references and other regulations may be adopted by the City Council by resolution, and may be amended from time to time, as determined necessary.
- 2) If adopted, such construction standards shall be followed and complied with by all subdivision and site plan approvals.

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