

WEST BOUNTIFUL CITY

ORDINANCE #415-19

AN ORDINANCE MODIFYING WBMC TITLE 17 TO COMPLY WITH FEDERAL AND STATE LAW REQUIRING NECESSARY AND REASONABLE ACCOMMODATION FOR PERSONS WITH A DISABILITY

WHEREAS, the City recognizes, through its observation, study and experience, as the United States Supreme Court recognized in *Village of Belle Terre v. Boraas*, 416 U.S. 1, 9, 94 S.Ct. 1536, 1541, 39 L.Ed.2d 797 (1974), that groups of unrelated persons living together in a single dwelling (“Group Living Arrangements”), including “[t]he regimes of boarding houses, fraternity houses, and the like present urban problems.” Among other things, “[m]ore people occupy a given space; more cars rather continuously pass by; more cars are parked; noise travels with crowds.” *Id.*; and

WHEREAS, the U.S. Supreme Court, in an attempt to help clarify the appropriate role of local government with respect to community planning, noted:

The values it represents are spiritual as well as physical, aesthetic as well as monetary. It is within the power of the legislature to determine that the community should be beautiful as well as healthy, spacious as well as clean, well balanced as well as carefully patrolled.

Berman v. Parker, 348 U.S. 26, 33, 75 S. Ct. 98, 102-03, 99 L.Ed. 27 (1954).

The Supreme Court subsequently further commented in *Boraas* with respect to the right of a community in the preservation of residential areas:

A quiet place where yards are wide, people few, and motor vehicles restricted are legitimate guidelines in a land use project addressed to family needs. The police power is not confined to elimination of filth, stench, and unhealthy places. It is ample to lay out zones where family values, youth values, and the blessings of quiet seclusion and clean air make the area a sanctuary for people; and

WHEREAS, the United States Supreme Court and federal appellate courts continue to recognize that “[l]and use planning and the adoption of land use restrictions constitute some of the most important functions performed by local government.” *Bryant Woods Inn, Inc. v. Howard County*, 124 F.3d 597, 603 (4th Cir. 1997) (citing *FERC v. Mississippi*, 456 U.S. 742, 768 n. 30, 102 S.Ct. 2126, 2141 n. 30, 72 L.Ed.2d 532 (1982) (“regulation of land use is perhaps the quintessential state activity”)). These courts continue to recognize that local land use ordinances may legitimately be utilized “to preserve ‘the character of neighborhoods, securing “zones where family values, youth values, and the blessings of quiet seclusion and clean air make the area a sanctuary for people.””” *Id.* (quoting *City of Edmonds v. Oxford House, Inc.*, 514 U.S. 725, 732-33, 115 S.Ct. 1776, 1780, 131 L.Ed.2d 801 (1995) (quoting

Village of Belle Terre v. Boraas, 416 U.S. 1, 9, 94 S.Ct. 1536, 1541, 39 L.Ed.2d 797 (1974)); and

WHEREAS, according to the latest U.S. Census Bureau data for West Bountiful City, the average household size is 3.31 persons per household, 92.5% of housing is owner-occupied, and, for the years 2013-2017, 91.9% of individuals living in West Bountiful City lived in the same house for 1 year or more, representing a very low rate of resident transiency; and

WHEREAS, among, other things, Group Living Arrangements tend to introduce transiency, congestion, increased traffic, increased parking and other urban problems and challenges into communities; and

WHEREAS, regulation of Group Living Arrangements serves to preserve housing densities consistent with both reality (in terms of the average composition of single-family households in the City) and the goals and objectives of the General Plan. It also promotes permanence and stability in neighborhood composition, which promotes the general health and welfare of the City's residents; and

WHEREAS, regulating Group Living Arrangements is an essential aspect of fostering the goals of the General Plan and the City's zoning scheme, which seeks uncrowded, stable (non-transitory) single family neighborhoods. For example, the City's Community Vision Statement embodied in the General Plan states:

West Bountiful is primarily a residential community that is proud of its agricultural history and highly values its rural atmosphere.

....

The residents view the City as one where residents live together as a community and actively participate in the betterment of their neighborhoods. Residents insist on attractive and high-quality development, and clean, well-maintained neighborhoods and streets.

(General Plan, June 5, 2007, at p. 6, § 1.2 (Community Vision Statement, Land Use).)

Residents of West Bountiful City value the high quality of homes and residential lifestyle of their community. Residents also value the opportunity to remain in the City as lifetime residents.

(*Id.* at p. 7 (Housing).)

These values are stated throughout the General Plan, including Goal 3 of the Land Use Element, which includes the goal to “[p]rotect the quality of existing residential neighborhoods,” (*id.* at p. 22 (GOAL 3)), and “maintain existing neighborhood densities, while allowing for flexibility for various dwelling sizes in appropriate places.” (*Id.* (OBJECTIVE 2, POLICY 1)); and

WHEREAS, the City also recognizes the need, in certain demonstrable circumstances, for individuals with handicaps or disabilities to live in a Group Living Arrangements. The City has consulted experts in the field and recognizes the need to provide some type of

accommodation to them. However, there is tremendous variety in the type and nature of handicaps or disabilities that may need to be accommodated. There is also great variability in the scope and extent of required accommodations depending upon individual circumstances, the particular nature of the disability(ies) at issue, and other factors that are difficult to anticipate and predict through legislation. Additionally, the methods and means of treating or ameliorating those handicaps or disabilities is constantly changing and evolving. Therefore, the City has determined that the best method for accommodating individuals with handicaps or disabilities is to create a fair and reasonable process for making accommodations in those instances where an accommodation is demonstrably necessary and reasonable; and.

WHEREAS, In order to fulfill the purposes of the General Plan while accommodating the demonstrable needs of individuals with handicaps or disabilities to live in Group Living Arrangements, which are generally prohibited for individuals without disabilities or handicaps, the City desires to clarify its ordinances and define its practices and policies with regard to these issues.

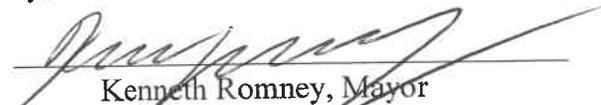
WHEREAS, the West Bountiful Planning Commission held a properly noticed public hearing on April 23, 2019 and has recommended adoption of proposed amendments.

NOW THEREFORE BE IT ORDAINED BY THE CITY COUNCIL OF WEST BOUNTIFUL THAT WBMC SECTIONS 17.04, 17.16, 17.20, 17.24, 17.26 AND 17.84, BE MODIFIED AS SHOWN IN ATTACHED EXHIBITS A, A-1, AND A-2.

This ordinance will become effective upon signing and posting.

Adopted this 7th day of May 2019.

By:



 Kenneth Romney, Mayor

Voting by the City Council:	<u>Aye</u>	<u>Nay</u>
Councilmember Ahlstrom	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Councilmember Bruhn	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Councilmember Enquist	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Councilmember Preece	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Councilmember Williams	<input checked="" type="checkbox"/>	<input type="checkbox"/>



Attest:



 Cathy Brightwell, City Recorder

17.04.030 Definitions

Unless the context requires otherwise, the following definitions shall be used in the interpretation and construction of this title. The words "used" and "occupied" shall include arranged, designed, constructed, altered, converted, rented, leased or intended to be used or occupied. Words used in this title but not defined herein shall have the meanings as defined in any other ordinances adopted by the city.

"Accessory use or building" means a use or building on the same lot with, and of a nature customarily incidental and subordinate to, the principal use or building.

"Advisory body" means a body of selected members that:

1. Provides advice and makes recommendations to another person or entity that makes policy for the benefit of the general public;
2. Is created by and whose duties are provided by statute or by executive order; and
3. Performs its duties only under the supervision of another person or entity as provided by statute.
(Definition derived from Utah Code Ann. § 68-3-12.)

"Agriculture" means the production of food through the tilling of the soil, the raising of crops, breeding and raising of domestic animals and fowl, except household pets, and not including any agricultural industry or business designed for the processing of raw food products by packaging, treating and/or intensive feeding.

"Alley" means a public access-way less than twenty-six (26) feet in width, which is designed to give secondary access to lots or abutting properties. An alley shall not be considered a street for the purpose of this code.

"Apiary" means a place where one or more colonies of bees are located.

"Appeal authority" means the person, board, commission, agency, or other body designated by ordinance to decide an appeal of a decision of a land use application or a variance.

"Average grade" means an expression of rise or fall in elevation along the land connecting the highest point of land to the lowest point of land within a lot or building area. A vertical rise of one hundred (100) feet between two points one hundred (100) feet apart measured on a horizontal plane is one hundred (100) percent grade.

"Average slope" means an expression of rise or fall in elevation along a line perpendicular to the contours of the land connecting the highest point of land to the lowest point of land within a lot or building area. A vertical rise of one hundred (100) feet between two points one hundred (100) feet apart measured on a horizontal plane is one hundred (100) percent slope.

"Basement" means a story whose floor is more than twelve (12) inches below the average level of the adjoining ground, but where no more than one-half of its floor-to-ceiling height is below the average contact level of the adjoining ground. A basement shall be counted as a story for purposes of height measurement, and as a half-story for the purposes of side-yard determination.

"Bee" means the common honey bee, *apis mellifera*, at any stage of development.

"Beginning of construction" means the excavation or recontouring of the site.

"Billboard" means a freestanding ground sign located on industrial, commercial, or residential property if the sign is 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.

"Block" means an area of land within a subdivision entirely bounded by streets (other than alleys), freeways, railroad rights-of-way, natural barriers, or the exterior boundaries of the subdivision, or designated as a block on any recorded subdivision plat.

"Buildable area" means the portion of a lot remaining after excluding wetlands, streams, drainage conveyance facilities, easements, setbacks, and required yards.

"Building" means any structure used or intended to be used for the shelter, recreation, landscape enhancement or enclosure of persons, animals or property; includes all "structures.

Building, Accessory, or Structure, Accessory. **"Accessory building"** or **"accessory structure"** means any building or structure on a lot that is other than or ancillary to the main building or structure.

Building, Main, or Structure, Main. **"Main building"** or **"main structure"** means the principal or primary building or structure on a lot for purposes of the lot's principal use."

Building, Height of. **"Height of building"** means the vertical distance from the average, finished grade surface at the foundation, to the highest point of the building roof or coping.

"Building official" means the person designated as the building official for the city by the city council.

"Cellar" means a room or rooms having more than fifty (50) percent of the floor to ceiling height under the average level of the adjoining ground.

"Charter school" includes:

1. An operating charter school;
2. A charter school applicant that has its application approved by a chartering entity in accordance with Utah Code Annotated, Title 53A, Chapter 1a, Part 5, The Utah Charter Schools Act; and
3. An entity who is working on behalf of a charter school or approved charter applicant to develop or construct a charter school building.

"Chief executive officer" means the:

1. Mayor in municipalities operating under all forms of municipal government except the council-manager form; or
2. City manager in municipalities operating under the council-manager form of municipal government.

"Church" means a building, together with its accessory buildings and uses, maintained and controlled by a duly recognized religious organization where persons regularly assemble for worship and religious instruction.

Clinic, dental or medical. **"Dental or medical clinic"** means a building in which a group of dentists, physicians and/or allied professionals in the healing arts are associated for the conduct of their professions. The clinic may include a dental and/or medical laboratory and an apothecary, but it shall not include in-patient care or operating rooms for major surgery.

"Colony" means an aggregation of bees in any type of hive that includes queens, workers, drones, or brood.

"Conditional use" means a land use that, because of its unique characteristics or potential impact on the municipality, surrounding neighbors, or adjacent land uses, may not be compatible in some areas or may be compatible only if certain conditions are required that mitigate or eliminate the detrimental impacts.

"Condominium" means the ownership of a single unit in a multi-unit project, together with an undivided interest in common in the common areas and facilities of the property as provided by state law. A condominium development is comparable to a subdivision in that each development is characterized by multiple individual ownerships in a single development; in a condominium development the multiple individual ownerships are in structures, whereas in subdivisions such ownerships are in land. For regulation purposes the development of a condominium project is treated by Utah State law and by this title as a subdivision, and condominium developments must comply with the subdivision regulations of this title.

"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:

1. Fifth or Fourteenth Amendment of the Constitution of the United States; or
2. Utah Constitution Article I, Section 22.

"Crosswalk" (also "walkway" or "pedestrian way") means a right-of-way designed for use by pedestrians and not intended for use by motor vehicles of any kind; a crosswalk or walkway or pedestrian-way may be located within or without a street right-of-way, at grade, or grade separated from vehicular traffic.

"Cul-de-sac" means a street which is designed to remain permanently closed at one end, with the closed end terminated by a vehicular turnaround. For purposes of this title, the length of a cul-de-sac shall be measured from the centerline of the intersecting street along the centerline of the cul-de-sac, to a point at the center of the cul-de-sac.

"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.

"Culinary water facilities" means water supply lines, pumps, springs, wells and/or any other physical facilities necessary to provide a supply of culinary water to a use in sufficient quantity and of approved quality to meet the standards of this title.

"Day care center" or **"child nursery"** means an establishment for the care and/or the instruction of five or more children, for compensation, other than for members of the family residing on the premises, but not including a public school.

"Density" is a measure of the number of lots per acre of area. It shall be expressed as lots per acre (lots/acre). The permitted density is calculated by dividing the total number of lots meeting the minimum requirements for the zone by the total area of land.

"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" includes a handicap or disability as defined by the federal Fair Housing Act, Title II of the Americans with Disabilities Act, the Rehabilitation Act, and the Utah Fair Housing Act. "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, as amended.

"District" (also **"zone"** or **"zoning district"**) means a portion of the territory of the city established as a zoning district by this title, within which certain uniform regulations and requirements or various combinations thereof apply.

"Driveway" means a private roadway, the use of which is limited to persons residing, employed, or otherwise using or visiting the parcel on which the roadway is located.

"Dwelling" means any building or portion thereof designed or used for residential purposes, but not including a hotel, motel, hospital, or nursing home.

“Dwelling unit” means one or more rooms within a dwelling, physically arranged with separate bathroom, cooking, and sleeping facilities used as an independent housekeeping unit.

“E-cigarette” means any device, other than a cigarette or cigar, intended to deliver vapor containing nicotine into a person’s respiratory system, including electronic cigarettes, personal vaporizers, and e-liquids.

“Easement” means that portion of a lot or lots reserved for present or future use by a person or agency other than the legal owner(s) of said property(ies). The easement may be for use on, under or above the lot or lots.

~~**“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.~~

“Exaction” means a condition, often in the form of impact fees, restrictive covenants or land dedication, imposed at the time of obtaining a building or other development permit used to aid the city in providing public services. Conditional requirements should comply with the standards established in Section 17.44.230 of this code.

“Family” means one or more persons related by blood, marriage, adoption or guardianship or a group of not more than four unrelated persons, living together as a single housekeeping unit.

“Farm Animal” means any domesticated animal typically found on a farm that is not a dog or cat, such as horses, cattle, pigs, goats, sheep, poultry and fowl. For purposes of this Section, honeybees kept to collect honey and beeswax, pollinate crops, or produce bees to other beekeepers are included in this category.

“Final plat” means a plat map prepared in accordance with the provisions of this title, which is designed to be placed on record in the office of the county recorder.

“Flag lot” means a lot with the buildable area at a distance from a public street, with access to that area provided by means of a narrow corridor or extension which connects the lot to a public street.

“Flood hazard” means a hazard to land or improvements due to inundation or overflow water having sufficient velocity to transport or deposit debris, scour the surface soil, dislodge or damage buildings, or erode the banks of water courses.

“Flood plains” means areas adjoining any streams, ponds or lakes which are subject to one hundred (100) year-recurrence-interval floods on maps prepared by the Federal Emergency Management Agency (FEMA), or a study conducted by anyone else expert and experienced in the preparation of hydrological studies and the determination of flood lines.

“Floodplain soils” means areas subject to periodic flooding and listed in the soil survey prepared by the Federal Emergency Management Agency (FEMA) which encompasses the city as being on the floodplain or subject to flooding.

“Floor area” means the sum of the areas of the several floors of the building or structure, including areas used for human occupancy or required for the conduct of the business or use, and basements, attics and penthouses, as measured from the exterior faces of the walls. It does not include cellars, unenclosed porches, attics not used for human occupancy, nor any floor space in an accessory building or in the main building intended or designed for the parking of motor vehicles in order to meet the parking requirements of this title, or any such floor space intended and designed for accessory heating and ventilating equipment.

“Floor area ratio” means the ratio of the floor area to the lot area, as determined by dividing the floor area by the lot area.

"Frontage" means all property fronting on one side of the street between intersecting or intercepting streets, or between a street and a right-of-way, waterway, end of dead-end street, or political subdivision boundary, measured along the street line. An intercepting street shall determine only the boundary of the frontage on the side of the street which it intercepts, or that common line between a lot and a public street. Street lines across which access is denied or cannot be had because of topography or for other reasons shall not constitute frontage for purposes of this title.

Frontage, Lot. **"Lot frontage"** means the lineal measurement of the front lot line.

"General Plan" means a document that a municipality adopts that sets forth general guidelines for proposed future development of the land within the municipality.

"Geologic hazard" means a hazard inherent in the crust of the earth, or artificially created, which is dangerous or potentially dangerous to life, property or improvements, due to the movement, failure or shifting of the earth. Geologic hazards include but are not limited to, rockfills, slide areas, floodplains, fault lines, high water tables, and groundwater problems, such as liquefaction, etc.

"Grade" (also "lot grade" or "finished grade") means:

1. For buildings adjoining one street only, the elevation of the sidewalk at the center of the wall adjoining the street;
2. For buildings adjoining more than one street, the average of the elevations of the sidewalk at the centers of all walls adjoining the streets;
3. For buildings having no wall adjoining the street, the average level of the finished surface of the ground adjacent to the centers of all exterior walls of the building;
4. Any wall parallel or nearly parallel to and not more than five feet from a street line is to be considered as adjoining the street.

"Home occupation" means an occupation of a person which is carried on by that person and/or others within the same family entirely within the dwelling unit in which the person or persons reside and which occupation is clearly incidental and secondary to the use of the dwelling for dwelling purposes and does not change the character of the dwelling or of the neighborhood. The home occupation shall not involve the use of any accessory building, either attached or detached, or yard space or activity outside the main building or use of more floor area than the equivalent of fifteen (15) percent of the main floor area of the dwelling unit, nor shall it involve the installation in the dwelling of special equipment and/or fixtures, and plumbing or electrical wiring or such special fixtures or equipment which are not ordinarily or customarily used in a dwelling; provided, however, that outside private swimming pools may be used for swimming instruction if the instruction is given only by members of the family related by blood, marriage or adoption who are residing within the dwelling. Neither shall a home occupation involve the use of any part of a dwelling for which, by reason of any state, federal or local law or ordinance, special or extra entrances or exits, or special rooms are required as a prerequisite condition to the operation of such use or for which such laws or ordinance require a license or permit. The planning commission may impose additional conditions pursuant to a conditional use permit.

"Hospital" means an institution ~~providing health services, primarily for in-patients, and medical or surgical care of the sick or injured, including as an integral part of the institution such related facilities as laboratories, outpatient departments, training facilities, central service facilities, and staff offices-~~licensed by the State of Utah which provides diagnostic, therapeutic, and rehabilitative services to individuals on both an inpatient and outpatient basis by or under the supervision of one or more physicians. A medical clinic or professional office which offers any inpatient or overnight care or operates on a twenty-four (24) hour basis shall be considered to be a hospital. A hospital may include necessary support service facilities such as laboratories, outpatient units and training and central services, together with staff offices necessary to operate a hospital.

"Hotel" means a building designed for or occupied as the more or less temporary abiding place of sixteen (16) or more individuals who are lodged for compensation, with or without meals.

"Identical plans" means building plans submitted to a municipality that are substantially identical to building plans that were previously submitted to and reviewed and approved by the municipality and describe a building that is:

1. Located on land zoned the same as the land on which the building described in the previously approved plans is located; and
2. Subject to the same geological and meteorological conditions and the same law as the building described in the previously approved plans.

"Impervious surface" means surfaces that do not absorb rain including all buildings, parking areas, driveways, roads, sidewalks, and any areas in concrete and asphalt. Other areas determined by the local engineer to be impervious within the meaning of this definition will also be classed as impervious surfaces.

"Impervious surface ratio" means a measure of the intensity of land use determined by dividing the total area of all impervious surfaces within the site by the base site area.

"Improvement" means work, objects, devices, facilities or utilities required to be constructed or installed in a land development. Such improvements may include, but are not limited to, street construction to required standards, water facilities, sewer facilities, sidewalks, curbs and gutters, drainage facilities, street trees, street signs, street lights, traffic control or safety devices, fire hydrants, and such other facilities or construction required by this title, subdivision regulations, or by the planning commission and/or city council for the necessary proper development of the proposed land development.

"Improvements agreement" means an agreement between the city and a developer, wherein the developer agrees to install improvements required by this title, subdivision regulations, or by the planning commission and/or city council for the necessary proper development of the proposed land development.

"Junk" means old or scrap copper, brass, rope, rags, batteries, plastic, paper, trash, rubber, waste, junked, dismantled, or wrecked automobiles or their parts, and iron, steel and other old or scrap ferrous or nonferrous material.

"Junk dealer" means all persons, firms or corporations engaged in the business of purchasing or selling secondhand, or castoff material of any kind, such as old iron, copper, brass, lead, zinc, tin, steel, aluminum and other metals, metallic cables, wires, ropes, cordage, bottles, bagging, rags, rubber, paper and other like materials.

"Junkyard" means any place, establishment or business maintained, used or operated for storing, keeping, buying or selling junk, or for the maintenance or operation of an automobile graveyard.

"Junkyard" includes a salvage yard, war surplus yard, garbage dump, recycling facility, garbage processing facility and sanitary land fill.

"Kennel" means any premises where three or more dogs older than four months are kept, except that more than three of such dogs may be kept as accessory uses to a use allowed in the district.

Land, Agricultural. **"Agricultural land"** means land used or projected for agricultural use by the general plan or the zoning ordinance adopted by the city, but not including legally existing nonconforming uses located in areas so projected.

Land, Commercial. **"Commercial land"** means land used or projected for commercial use by the general plan or the zoning ordinance adopted by the city, except legally existing nonconforming uses in areas designated commercial in such ordinance.

Land, Industrial. "**Industrial land**" means land used or projected for industrial use by the general plan or the zoning ordinance adopted by the city, except legally existing non-conforming uses in areas designated industrial in such ordinance.

"**Land use intensity**" means the degree to which land is used by man ranging from no use to unremitting, continual and concentrated use of the land. Land use intensity is normally measured by:

1. Type of use, i.e., agricultural, residential, commercial or industrial;
2. Period of use in average hours per day;
3. Numbers of humans, associated animals, and machines which occupy the land during the average hours of use; and
4. The percent of the land covered by manmade structures.

"**Land use application**" means an application required by the city's land use ordinance.

"**Land use authority**" means a person, board, commission, agency, or other body designated by the city council to act upon a land use application.

"**Land use ordinance**" means a planning, zoning, development, or subdivision ordinance of the city, but does not include the general plan.

"**Land use permit**" means a permit issued by a land use authority.

"**Legislative body**" means the city council.

"**Lot**" means a parcel or portion of land, established for purposes of sale, lease, finance, division of interest or separate use, or separated from other lands by description on a subdivision map and/or parcel map, and having frontage upon a street.

"**Lot area**" means the area contained within the property lines of the individual parcels of land as shown on a subdivision plat or required by this title, excluding any area within an existing street right-of-way, or any area required as open space under this title, and including the area of any easements.

Lot Area per Dwelling Unit, Average. "**Average lot area per dwelling unit**" means the average lot area for all dwelling units of a single type. Individual lots may be smaller or larger than the average, provided that the average size is maintained and that all other standards of this title are met.

Lot, Corner. "**Corner lot**" means a lot abutting upon two or more streets at their intersection or upon two parts of the same street, such streets or parts of the same street forming an interior angle of less than one hundred thirty-five (135) degrees.

"**Lot depth**" means the horizontal distance between the front and the rear lot lines measured in the main direction of the side lot lines.

"**Lot frontage**" means the length, in feet, of the front lot line which is co-terminus with the front street line.

Lot, Interior. "**Interior lot**" means a lot other than a corner lot.

"**Lot line**" means a property boundary line, whether straight or otherwise, on a lot.

"**Lot line adjustment**" means the relocation of the property boundary line in a subdivision between two adjoining lots with the consent of the owners of record.

Lot Line, Front. "**Front lot line**" means for an interior lot, the lot line adjoining the street; for a corner lot or through lot, the front lot line is the lot line adjoining a street that most nearly faces the front of the main

building on the lot. In cases where this designation is ambiguous, the zoning administrator shall designate the front lot line.

Lot Line, Rear. "**Rear lot line**" means, ordinarily, that line of a lot which is opposite and most distant from the front line of the lot. In the case of a triangular or gore-shaped lot, a line ten (10) feet in length within the parcel parallel to and at a maximum distance from the front lot line. In cases where this definition is ambiguous, the zoning administrator shall designate the rear lot line.

Lot Line, Side. "**Side lot line**" means any lot boundary line not a front or rear lot line. However, this does not apply to any yard fronting on a street, which is by definition a front yard line.

Lot line, Street Side. "**Street Side lot line**" means the lot line adjoining a street that is not designated as the front or rear lot line.

Lot, Restricted. "**Restricted lot**" means a lot having an average slope of twenty-five (25) percent or more; a lot which does not contain at least seventy-five (75) feet by one hundred (100) feet, with an average slope of less than fifteen (15) percent; and/or a lot which has vehicular ingress to the main building or structure which, upon completion of construction on the site, has a slope of fifteen (15) percent or greater; or a lot subject to geologic hazards.

Lot, Unrestricted. "**Unrestricted lot**" means a lot having an average slope of less than twenty-five (25) percent and containing a buildable area of at least seventy-five (75) feet by one hundred (100) feet, with an average slope of less than fifteen (15) percent, which buildable area is designated as such on the subdivision plat in which the lot is located, if the average slope of the lot is greater than fifteen (15) percent.

"**Lot width**" means the horizontal distance between the side lot lines, measured at the required front yard setback line or rear yard setback line, whichever is shorter.

"**Merchandise**" means any tangible personal property displayed, held or offered for sale by a merchant in the city.

"**Mobile home**" means a detached single-family dwelling of not less than thirty (30) feet in length, designed for long-term occupancy, and to be transported on its own wheels or on flatbed or other trailers or detachable wheels; and which has not been demonstrated to conform to the building code for other residences adopted by the city. In determining if such a dwelling is designed for long-term occupancy, the following criteria shall be used: Such a dwelling contains a flush toilet, sleeping accommodations, a tub or shower bath, kitchen facilities, and plumbing and electrical connections provided for attachment to appropriate external systems, which is ready for occupancy except for connections to utilities and other minor work.

"**Mobile home lot**" means a space designed and approved by the city for occupancy by mobile homes, and meeting all requirements of this title.

"**Mobile home park**" means a parcel of land that has been planned and improved for the placement of mobile homes for non-transient use and consisting of two or more mobile home spaces, when the entire project is to be under single ownership or management and meets all of the requirements of this title for mobile home parks.

"**Mobile home space**" means a space within a mobile home park designed and to be used for the accommodation of one mobile home.

"**Mobile home subdivision**" means a subdivision designed and intended for residential use where the lots are to be individually owned or leased, and occupied by mobile homes.

“Moderate income housing” means housing occupied or reserved for occupancy by households with a gross household income equal to or less than 80% of the median gross income for households of the same size in Davis County.

"Modular home" means a permanent dwelling structure built in prefabricated units which are assembled and erected on the site or at another location and brought as a unit to the site. Such a home is classed as a mobile home until it is placed on a permanent foundation.

“Nominal fee” means a fee that reasonably reimburses the city only for time spent and expenses incurred in:

1. Verifying that building plans are identical plans; and
2. Reviewing and approving those minor aspects of identical plans that differ from the previously reviewed and approved building plans.

“Non-complying structure” means a structure that:

1. Legally existed before its current land use designation; and
2. Because of one or more subsequent land use ordinance changes, does not conform to the setback, height restrictions, or other regulations, excluding those regulations, which govern the use of land.

"Nonconforming use" means a use of land that:

1. Legally existed before its current land use designation;
2. Has been maintained continuously since the time the land use ordinance governing the land changed; and
3. Because of one or more subsequent land use ordinance changes, does not conform to the regulations that now govern the use of the land.

~~**"Nursing home"** (also **"rest home"** or **"convalescent home"**) means a home for the aged, chronically ill, or incurable persons in which three or more persons not of the immediate family are received, kept or provided with food and shelter or care for compensation, but not including hospitals, clinics or similar institutions devoted primarily to the diagnosis and treatment of the sick or injured.~~

“Official map” means a map drawn by municipal authorities and recorded in a county recorder’s office that:

1. Shows actual and proposed rights-of-way, centerline alignments, and setbacks for highways and other transportation facilities;
2. 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
3. Has been adopted as an element of the municipality’s general plan.

"Open space" means land used for recreation, agriculture, resource protection, amenity or buffers which is freely accessible to all residents of the development, except in the case of agricultural lands where access may be restricted. Open space does not include land occupied by non-recreational buildings, roads, or road rights-of-way; nor does it include the yards or lots of single or multiple-family dwelling units or parking areas as required by the provisions of this title. Open space should be left in a natural state, except in the case of recreation uses which may contain impervious surfaces. Such impervious surfaces shall be included in the calculation of the impervious surface ratio.

"Open space ratio" means a measure of the intensity of land use. It is arrived at by dividing total amount of open space within the site by the base site area.

"Outdoor merchandising" means displaying, holding or offering any tangible personal property for sale by a merchant in the open areas of the lot.

"Outdoor storage" means the use of open areas of the lot for storage of items used for non-retail or industrial uses and the storage of bulk materials such as sand, gravel and other building materials.

"Outdoor storage" also includes contractor's yards and salvage or recycling areas. "Outdoor storage" does not mean tangible personal property displayed, held or offered for sale by a merchant in the open areas of the lot.

"Parking facility" (also **"parking lots"** or **"parking structures"**) means a building or open area, other than a street, used for the parking of more than four automobiles and available for public use, whether free, for compensation, or accommodation for clients or customers.

"Permanent monument" means any structure of concrete, masonry and/or metal permanently placed on or in the ground, including those expressly placed for surveying reference, which meets the requirements of the city for permanent monuments.

"Permitted use" means a use of land which is allowed within a particular district without the necessity of obtaining a conditional use permit.

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

"Planned unit development (PUD)" means an integrated design for development of residential, commercial or industrial uses, or limited combinations of such uses, in which the density and location regulations of the district in which the development is situated may be varied or waived to allow flexibility and initiative in site and building design and location, in accordance with an approved plan and imposed requirements. Planned unit development regulations may govern the subdivision of land if it is proposed by the development to sell individual lots in the planned unit development. Thus planned unit development regulations can be subdivision regulations which may be chosen by the developer as an alternative to specifically designated subdivision regulations of this title, to become effective only through the planned unit development approval process.

"Plan for moderate income housing" means a written document adopted by the city council that includes:

1. An estimate of the existing supply of moderate income housing located within the city;
2. An estimate of the need for moderate income housing in the city for the next five years as revised biennially;
3. A survey of total residential land use;
4. An evaluation of how existing land uses and zones affect opportunities for moderate income housing; and
5. A description of the city's program to encourage an adequate supply of moderate income housing.

"Principal use" means any use which is named and listed in the use regulation provisions of this title, except those uses specifically designated as accessory uses; any use which is or may be conducted on a lot independently; any use on the lot not incidental or accessory to any other use on the lot; any use which establishes the primary activity on a lot.

“Public hearing” means a hearing at which members of the public are provided a reasonable opportunity to comment on the subject of the hearing.

“Public meeting” means a meeting that is required to be open to the public under Utah Code Annotated, Title 52, Chapter 4, Public and Open Meetings Act.

~~“Residential facility for disabled family member” means a separate dwelling unit within a single-family dwelling that provides independent living arrangements for a person with a disability who is related by blood, marriage, adoption or guardianship to the family occupying the single-family dwelling. A dwelling housing a residential facility for disabled family member must appear from its exterior to be a single-family dwelling, and its interior must provide for access between the separate dwelling units. One more than two separate residential facilities for disabled family member shall, in addition to the primary single-family dwelling unit, shall be allowed in any single-family dwelling. A conditional use permit for a residential facility for disabled family member may be issued for a period of two years. The permit may be renewed for successive two-year periods upon submission to the city of a report identifying the facility’s occupants, and certifying the disability of one or more of the occupants as well as compliance with the zoning ordinance.~~

~~“Residential facility for elderly persons” means a single-family or multiple-family dwelling unit that meets the requirements of Utah Code Ann. § 10-9a-516, but does not include a health care facility as defined by Utah Code Ann. § 26-21-2.~~

~~“Residential facility for persons with a disability” means a residence:~~

- ~~1. In which more than one person with a disability resides; and~~
- ~~2. Is licensed or certified by the Department of Human Services under Utah Code Annotated, Title 62A, Chapter 2, Licensure of Programs and Facilities or is licensed or certified by the Department of Health under Utah Code Annotated, Title 26, Chapter 21, Health Care Facility Licensing and Inspection Act;~~
- ~~3. Which meets the requirements of Utah Code Ann. § 10-9-605, as amended.~~

~~“Residential health care facility” means a facility providing assistance with activities of daily living and social care of two or more residents who require protected living arrangements. Residents shall meet the following criteria before being admitted:~~

- ~~1. Be ambulatory or mobile and be capable of taking life-saving action in an emergency;~~
- ~~2. Have stable health and:
 - ~~1. require no assistance or only minimal assistance from facility staff in the activities of daily living;~~
 - ~~2. be capable of managing their own medication;~~
 - ~~3. be able to manage their personal hygiene;~~~~
- ~~3. A physician shall provide a written statement that the resident is capable of functioning in a residential care facility with minimal assistance.~~

“Retail e-cigarette specialty business” means a commercial establishment in which (i) the sale of e-cigarettes and accessories accounts for more than 35% of the total annual gross receipts for the establishment; (ii) the sale of food and beverage products accounts for less than 45% of the total annual gross receipts for the establishment; (iii) the establishment is licensed by the City as a retail tobacco specialty business under *Utah Code Ann.* § 10-8-41.6, as amended; and (iv) the establishment is not licensed as a pharmacy under Title 58, Chapter 17b, Pharmacy Practice Act.

“Retail tobacco specialty business” means a retail tobacco specialty business as defined in *Utah Code Ann.* § 10-8-41.6, as amended, except for a retail e-cigarette specialty business.

"Right-of-way" means that portion of land dedicated to public use for street and/or utility purposes or maintained in private use for similar purposes.

"Roadway width" means the street measurement taken from curb to curb; in instances where there is battered or roll curb, this measurement is taken to the back of curbs.

“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.

"Scrap metal processor" means any person who, from a fixed location, utilizes machinery and equipment for processing and manufacturing iron, steel or nonferrous scrap into prepared grades, and whose principal product is scrap iron, scrap steel, or nonferrous metallic scrap, not including precious metals, for sale for re-melting purposes.

"Setback" means the distance between a lot line and a structure on the lot. Setbacks are measured from the lot line to the nearest foundation or column. For a main structure in any residential district, a maximum two-foot cantilever that does not extend to the ground, such as a bay window or chimney, is allowed in the setback area.

"Sign" means a presentation or representation of words, letters, figures, designs, pictures 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, any lighting systems, attachments, ornaments or other features used to draw the attention of observers.

"Sign area" means the entire background area of a sign upon which copy could be placed. In computing area of a sign background, only the face or faces which can be seen from one direction at one time shall be counted. The supporting incidental structure of the sign shall not be used in computing sign area.

Sign, Height of. **"Height of sign"** means the vertical distance measured from the nearest finished grade to the top of the sign, excluding any superficial trim. In the case of a roof sign, the maximum height shall be measured from the roof line or the parapet level, if applicable, at the location of such sign.

Sign, Off-Premise. **"Off-premise sign"** means a sign which advertises a product or service not available on the premises where the sign is located.

"Site" means a parcel or parcels of land intended to have one or more buildings or intended to be subdivided into one or more lots.

"Site area" means all land area within the site as defined in the deed. Area shall be from an actual survey rather than from a deed description.

"Site plan" means a scaled drawing of and information pertaining to a proposed development site.

"Storage" means keeping or retaining tangible personal property in the city for any purpose including the storage of tangible personal property used for non-retail or industrial trade. "Storage" does not include keeping or retaining tangible personal property held for sale in the regular course of business.

"Streets" 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. Streets may be public or private. Public streets are those streets which have been dedicated or abandoned to the public and then accepted by proper public authority. All other streets are private streets. Streets may also be classified as to ability to channel traffic. A minor (or local) street is thus a street, existing or proposed, which serves or is intended to serve the local needs of a neighborhood and is of limited continuity. A collector street is a

street, existing or proposed, which is a primary means of access to major streets. A major street, on the other hand, is a street, existing or proposed which serves or is intended to serve as a primary traffic artery. Streets are generally identified as to their traffic-carrying role by so designating each street on the master street plan of the city.

Street, Frontage. "Frontage Street" means a minor street which is parallel to and adjacent to a limited access major street and which provides access to abutting properties and protection from through traffic.

"Structure" means anything constructed, the use of which requires fixed location on the ground, or attachment to something having a fixed location upon the ground, including "buildings."

"Subdivider" means any person, firm, corporation, partnership or association who causes land to be divided into a subdivision.

"Subdivision" means any land that is divided, re-subdivided 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, of offer, sale, lease or development either on an installment plan or upon any and all other plans, terms and conditions; see section 16.04.020 for more information regarding "subdivisions".

"Tangible personal property" means:

1. All goods, wares, merchandise, produce and commodities;
2. All tangible or corporeal things and substances which are dealt in or capable of being possessed or exchanged;
3. Water in bottles, tanks or other containers;
4. All other physically existing articles or things, including property severed from real estate.

"Unincorporated" means the area outside of the incorporated area of a city or town.

"Wetlands" means areas known as marshes, swamps or wetlands, including areas where standing water is retained for a portion of the year and unique vegetation has adapted to the area, or those areas specifically so designed by the Army Corps of Engineers.

"Yard" means a required open space on a lot, other than a court, unoccupied and unobstructed from the ground upward, except as permitted elsewhere in this title.

Yard, Front. **"Front yard"** means a space on the same lot with a building, between the front line of the building 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. **"Rear yard"** means a space on the same lot with a building, between the rear line of the building and the rear lot line, and extending the full width of the lot; provided that in a corner lot, the rear yard extends only from the side lot line to the street side yard.. The "depth" of the rear yard is the minimum distance between the rear lot line and the rear line of the building.

Yard, Side. **"Side yard"** means a space on the same lot with a building, between the side line of the building and the side lot line and extending from the front yard to the rear yard. The "width" of the side yard shall be the minimum distance between the side lot line and the side line of the building.

Yard, Street Side. **"Street side yard"** means the space on the same lot with a building, between the side line of the building and the street side lot line and extending from the front yard to the rear lot line. The "width" of the street side yard is the minimum distance between the street side lot line and the side line of the building.

"**Zoning administrator**" means the building inspector or other person designated by the city council to enforce the regulations of this title.

"**Zoning map**" means a map, adopted as part of a land use ordinance, which depicts land use zones, overlays, or districts.

HISTORY

Adopted by Ord. 374-15 on 11/18/2015

Amended by Ord. 389-17 on 3/1/2017

**CERTIFICATE OF PASSAGE
AND POSTING ORDINANCE**

*I, the duly appointed and acting recorder for the City of West Bountiful,
do hereby certify that the foregoing Ordinance No. 415-19
was duly passed and published, or posted at three public places within the
municipality on May 9, 2019, which public places are:*

- 1) West Bountiful City Hall,*
- 2) West Bountiful City Park Bowery, and*
- 3) Lakeside Golf Course.*

Cathy Brightwell
Cathy Brightwell, City Recorder

DATE: *5/9/19*

