

Title 8

Health and Safety

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Title 8

Health and Safety

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Chapter 8.04 - Garbage Collection and Disposal

Rescinded by Ordinance 2010-9, 4/13/10. Replaced by Chapter 8.05.

Chapter 8.05 - Garbage & Recycling Collection and Disposal

8.05.010 Definitions. For purpose of this chapter, the words and phrases set out in this section shall have the following meanings:

A. "Garbage and Refuse" as used in this chapter means and includes, but is not limited to: all animal and vegetable waste resulting from handling, preparing, cooking or consumption of food; provided, however, that it shall not include waste from slaughterhouses; paper, plastic, cardboard, cans, glass, crockery, rags and similar materials, grass, weeds, leaves, flowers and shrub clippings small enough to be contained within a plastic bag; garden vegetables and fruits, and ash residue of materials burned in stoves, fireplaces and furnaces.

B. "Recyclable" as used in this chapter means waste material that may be collected, separated, cleansed, treated or reconstituted and returned to the economic stream in the form of raw materials or products, and which is approved for collection as a recyclable as outlined in this Chapter.

C. "Market waste" as used in this chapter means condemned, decayed or unsound vegetables, meat, fish and fruit, and waste and offal from markets, stores and factories. (Ord. 2010-9, 4/13/2010)

8.05.020 Collection Compliance for Garbage and Refuse. All persons, firms or corporations having accumulation of garbage, refuse, recyclables and similar wastes are charged with the obligation of placing the same in proper containers and placing the same in proper locations for collection as is provided in this chapter and as may be determined by the city council; provided, however, that commercial or industrial establishments shall make suitable arrangements to have their accumulated garbage, refuse and similar wastes removed, at the owners expense, at such intervals as shall be determined by the city council but at least once a week. In the event this is not done, the city may, at its discretion arrange for the removal of any accumulated garbage, refuse or similar wastes from the premises, and may charge the costs of such removal to the owner or occupant of the premises on which such accumulation is permitted, such charge to be a debt due to the city. The city may proceed to collect the same by legal action in any court of competent jurisdiction if the same is not promptly paid on demand and/or have the water service disconnected. Commercial and industrial establishments are not eligible to participate in the city's mandatory residential recycling program, but they may arrange to have their recyclables removed at the owners expense. (Ord. 2010-9, 4/13/2010)

8.05.030 Collection Fee-Assessment. The city council shall provide by resolution the charges for the collection and disposal of garbage, refuse, recyclables and similar waste. The city council finds that the collection of garbage in an orderly and systematic manner benefits all residents of the city by reducing disease and other health hazards are reduced. Therefore, each occupied dwelling unit or customer in the city shall pay the charges assessed by the city. (Ord. 2010-9, 4/13/2010)

8.05.040 Collection Fee-Waiver. The city council may waive the requirement of paying the garbage and refuse collection fee when other acceptable collection services are performed by the individual, group of individuals, or agency. Such a waiver shall be granted by the city council only after receiving a written request and upon the affirmative vote of a majority of the city council at a duly convened council meeting. A waiver of the city's mandatory residential recycling program will not be granted. (Ord. 2010-9, 4/13/2010)

8.05.050 Collection Fee-Court Action.

A. The city's culinary water collection system, sanitary system, storm sewer system, and solid waste collection system are interrelated services that are, and of right ought to be, part of a unified city plan to provide for the health, safety and welfare of the city and its residents in an environmentally responsible manner.

B. The city shall mail a written statement to each user of the garbage and recycling services once each month or such other regular intervals as the city council shall direct. The statement shall separately specify the amount of the bill and the place of payment and date due.

C. If any person fails to pay the garbage, recycling and/or any combination of city utility charges by the 10th of the month following the date due, a penalty will be charged on the unpaid balance. If the balance remains unpaid for 30 days of the date due, under the direction of the utility superintendent the customer may be given notice in writing of intent to discontinue the water service to the customer unless the customer pays the bill in full ten days from the date of notice. The customer will be charged a fee for the notice given of the intent to discontinue the water service as set by resolution of the governing body. If there is no water service for the property, the garbage and/or recycling fee shall be deemed a civil debt owed to the city by the person or entity paying for city utility services provided to the property and the cans will be picked-up.

D. If the water service is thereafter discontinued for failure to make payment, then before the water service to the premises shall again be provided, all delinquent charges must have been paid to the city or arrangements made for their payment in a manner satisfactory to the city. In the event water is turned off for nonpayment of charges, then before the water service to the premises shall again be provided, the customer shall pay, in addition to all delinquent water charges, such extra charge for turning the water on as established by resolution of the governing body. (Ord. 2010-16, 6/8/10; prior code: Ord. 2010-9, 4/13/2010)

8.05.060 Garbage, Refuse and Recycling Containers. This section shall apply only to collections made by the city or a private contractor working for the city. All garbage and refuse collection service and all recycling collection service shall be by means of an automated system using containers provided. No garbage, refuse, or recyclables will be collected unless deposited in the approved container.

A. Garbage and Refuse Containers.

1. The city will deliver a container for garbage and refuse collection. The cost of the (black) container itself, as opposed to the service cost, will be set by resolution of the city council.

- a. Customers who desire to obtain additional containers shall file with the utility department a written application and agreement which shall be in substantially the form shown as appendix 1 of Title 8. The containers must be paid for a minimum time of (6) six months. The cost of additional containers will be set by resolution of the city council.
 2. The customer to whom such containers are assigned shall be liable for the cost of replacing any damaged, missing or stolen garbage and refuse container. The cost of the replacement containers will be set by resolution of the city council. The city shall repair and replace, from time to time, the wheels, axles and lids when damaged or worn due to normal use.
- B. Recycling Containers.
1. The contracted hauler working for the city will furnish a container for recyclables. The (blue) containers are the property of the contracted hauler. Customers must order recycling containers through the utility department.
 - a. Customers who desire to obtain additional containers shall file with the utility department a written application and agreement which shall be in substantially the form shown as appendix 2 of Title 8.
 2. Customers who desire to withdraw their participation in the mandatory residential recycling program may do so by filing with the utility department a written application and agreement which shall be in substantially the form shown as appendix 3 of Title 8 requesting that the recycling container be removed from the property and agreeing to pay the ongoing recycling collection service fee. (Ord. 2010-9, 4/13/2010)

8.05.070 Collection-Placement of Containers.

- A. It shall be the responsibility of the customer to place all material for collection within the containers provided. All materials to be collected shall be placed inside the container in such a manner that the attached lid closes completely. No cans, boxes, barrels or bundled waste other than that contained in the containers shall be collected or placed on the street. Containers must be placed at the curb or edge of street with handles towards the property, away from the street. If the container is reversed, the lid will not open properly for the truck to empty the container. On dead-end streets, all containers must be placed on one side of the street. Containers must be a minimum of 6 feet from other containers and from vehicles. Containers must also be a minimum of 5 feet from other obstructions such as trees, light poles, fences, mailboxes, etc. All grass must be bagged so that it does not stick to the inner walls of the container. No material prohibited under sections 8.04.080 and 8.04.090 of this chapter shall be placed in a container. Containers must be placed curbside in the location and position designated no later than 5:00 a.m. on the day of collection. The operators may refuse to collect any container which violates the standards of this chapter.
- B. All empty containers must be removed from the street as soon as practicable after being emptied, and in every case must be removed from the street on the day they are emptied.
- C. It is unlawful for any person, firm or corporation to place or deposit in or on any of the public streets, alleys or parks in the city any garbage, refuse or similar wastes,

except on regular garbage collection days, and except in containers as herein set forth. (Ord. 2010-9, 4/13/2010)

8.05.080 Collection-Prohibited Substances. The following materials shall not be set out or placed in any container for collection by city crews or contractors working for the city:

A. Highly inflammable or explosive materials, such as motor oil, containerized or not, gasoline, kerosene, diesel, or solvents, or paint, except that a paint can lid is removed and the paint has been allowed to harden in the can prior to placement in the container.

B. Construction debris, including remodeling debris, dirt, sod, rocks, or concrete, hazardous or radioactive waste material.

C. Chemicals, gardening chemicals, insecticides and pesticides, powder or liquid poisons, acids, or petroleum products.

D. Hot ashes, cinders, clinkers or stove ashes which could ignite other refuse.

E. Bulky items, such as Christmas trees, large vehicle parts, tires, appliances or furniture.

F. Miscellaneous items, such as batteries, septic tank or holding tank wastes, or dead animals. (Ord. 2010-9, 4/13/2010)

8.05.090 Collection-Recyclable Substances. Appendix 4 of Title 8 is a listing of (1) recyclable materials that can be placed in the recycling container and (2) non-recyclable materials. The utility director may change the listing in the appendix subject to the recyclability of materials. (Ord. 2010-9, 4/13/2010)

8.05.100 Collector-License Required. It is unlawful for any person, firm or corporation to engage in the business of collection, hauling or disposal of garbage, refuse, swill, rubbish or similar wastes within the corporate limits of the city without first having obtained a license to do so. (Ord. 2010-9, 4/13/2010)

8.05.110 Collector-Transportation and Disposal Restrictions. It is unlawful for any person hauling garbage, refuse, rubbish, swill, manure or matter of any kind to permit or allow any such matter to fall upon and remain in any street, alley or park within the corporate limits of the city, or to deposit any such matter at any place except a dumping ground as authorized by Weber County or the city, with the exception that the customer will be responsible for garbage, refuse, or recyclables that fall upon any street from improperly filled containers. (Ord. 2010-9, 4/13/2010)

8.05.130 Collector-Contract with City. The city council may contract with any person, firm or corporation for the hauling and disposal of garbage, refuse, recyclables and similar wastes. (Ord. 2010-9, 4/13/2010)

8.05.140 Unsanitary Substances-Accumulation Prohibited. It is unlawful for any person, firm or corporation to permit garbage, refuse or similar wastes to accumulate or remain on or about the premises under the control of such person for such period of time as to become a "nuisance" or "public nuisance" as defined in Chapters 8.12 and 8.14 of this code. (Ord. 2010-9, 4/13/2010)

8.05.150 Private Garbage Dump-Prohibited. It is unlawful for any person, firm or corporation to create, establish or maintain within the corporate limits of the city a private, common or public dump or dump grounds, or to permit any property within the corporate limits to be used for any purpose herein prohibited; provided, however, that nothing herein shall be construed to limit the power of the owner of real property within the corporate limits of the city to dispose of his garbage on his own property; provided, that the aforesaid disposal shall not be deemed deleterious to human health or safety in the opinion of the city health officer, nor in violation of any provision of Chapters 8.12 and 8.14. (Ord. 2010-9, 4/13/2010)

8.05.160 Prohibited Disposal

A. Disposal on Public Streets Unlawful. It is unlawful for any person to place, leave or deposit any garbage, refuse, recyclables, market waste, dead animals, waste matter, debris or junk or other offensive material upon any public street, highway, roadway or lane to include parking spaces within the city.

B. Disposal in Watercourses Unlawful. It is unlawful for any person to place, drop or deposit, or cause to be placed, dropped or deposited, any garbage, refuse, recyclables, market waste, dead animals, waste matter, debris or junk or other offensive matter in any surface ditch, canal or other waterway which runs, courses in, into or through the city. (Ord. 2010-9, 4/13/2010)

8.05.170 Violation. Any person, firm or corporation violating any of the provisions of this chapter shall be guilty of a misdemeanor. (Ord. 2010-9, 4/13/2010)

Appendix 1 (see section 8.05.060)

ADDITIONAL GARBAGE & REFUSE CONTAINER
FOR RESIDENTIAL USE

Customer's Name: _____

Home & Delivery Address: _____

Phone Number: _____

Pleasant View City will furnish a container for garbage and refuse collection (*black containers*) to customers who desire to obtain additional containers. The cost of the containers will be set by resolution of the City Council. The current cost is \$_____ per month. The additional containers must be kept for a minimum time of (6) six months or pay for the full six months if the customer desires or is unable for any reason to keep the container for the full six months.

I hereby agree with the terms of this agreement.

Dated this _____ day of _____, 20_____.

Customer's signature

Appendix 2 (see section 8.05.060)

ADDITIONAL RECYCLING CONTAINER
FOR RESIDENTIAL USE

Customer's Name: _____

Home & Delivery Address: _____

Phone Number: _____

Pleasant View City will notify the contracted hauler to furnish a container for recycling collection (*blue containers*) to customers who desire to obtain additional containers. The cost of the containers will be set by resolution of the City Council. The current cost is \$_____ per month.

I hereby agree with the terms of this agreement.

Dated this _____ day of _____, 20____.

Customer's signature

Appendix 3 (see section 8.05.060)

WITHDRAWAL OF PARTICIPATION
IN THE MANDATORY RECYCLING PROGRAM

Customer's Name: _____

Home & Delivery Address: _____

Phone Number: _____

Pleasant View City will notify the contracted hauler to remove from the customer's property the recycling container and the customer agrees to pay the ongoing recycling collection service fee even though they do not maintain the recycling services because of their desire to withdraw their participation in the mandatory recycling program.

I hereby agree with the terms of this agreement.

Dated this _____ day of _____, 20____.

Customer's signature

Appendix 4 (see section 8.05.090)
RECYCLING

RECYCLABLE

PLASTICS (flattens and rinsed-out):
 Plastics marked w/recycling symbols "1" or "2"
 Soda & Water Bottles, Plastic Milk Cartons
 Laundry Detergent, Bleach Containers
 Plastic Cups & Plates (clean)
 Plastic 5-Gallon Buckets & Ice Cream Buckets
 Syrup Bottles, Grocery Bags
 Most Plastic Cleaning Fluid Containers

CARDBOARD/PASTEBOARD/FIBER (Must be cut in 2' x 2' pieces or smaller. All wax paper or foil liners must be removed.)

12 Pack Drink Boxes
 Egg Cartons (not Styrofoam)
 Cereal Boxes, etc.
 Corrugated Cardboard Boxes
 Kleenex & Macaroni Boxes, etc.
 Toilet Paper & Paper Towel Rolls
 Frozen Juice Containers (remove metal rings)

PAPER

All Paper (not contaminated with food, greasy stains, wax, or foil)
 Junk Mail, Post Cards, Envelops (plastic windows okay)
 Catalogues, Magazines, Telephone Books
 Dog Food Bags (remove wax/foil liners)
 Flour & Sugar Bags, etc.
 Newspapers
 Shredded Paper (placed in a paper/plastic grocery bag)

ALUMINUM & STEEL (household items only)

Pop Cans, Coffee Cans, All Beverage Cans
 Food, Soup, Veggie, Fruit Cans (can labels okay)
 Steel Nuts & Bolts (no larger items, pipes, etc.)
 Tin Foil (clean)/Metal Clothes Hangers

NON-RECYCLABLE
 (Don't put in Blue Container)

NON-RECYCLABLE PLASTICS:

Plastic that has #3 and above Recycling Symbol
 Bubble Wrap, Cellophane, or Garbage Bags
 Chunks of Plastic
 Yogurt Containers
 Motor Oil Containers of any Kind
 Plastic Cups from Gas Stations or Quick Stops
 Wading Pools or Other Bulk Plastics
 Veggie/Fruit Bags from Stores
 Styrofoam Pellets, Coolers, Egg Boxes, etc.

NON-RECYCLABLE

CARDBOARD/PASTEBOARD/FIBER

Cardboard Milk, Juice Cartons
 Hot Coca Containers, etc. with wax or foil lining
 To-Go Boxes, Drink Cups from Gas Stations or Fast-Food Restaurants

NON-RECYCLABLE PAPER

Contaminated paper, Paper Plates, Cups, with food or greasy stains, wax, or foil)
 Wet or Used Paper Towels, Napkins, Kleenexes

NON-RECYCLABLE ALUMINUM & STEEL

Aerosol, Pressurized Cans
 Large Items (such as pipe, chunks of steel, car/engine parts, bike parts, swing sets, metal bars, etc.)
 Metal Buckets (5-gallon cans, paint cans or lids, etc.)
 Outdoor Furniture or Kids Toys

NON-RECYCLABLE MISCELLANIOUS ITEMS

Glass of any Kind
 Carpet, Carpet Pad
 Demolition Material-(boards, roofing, concrete, fabric)
 Material, Clothing, Shoes, etc.
 Rubber Materials, Tires, Wheels
 Yard Debris (branches, bushes, grass, sod, dirt, gravel, etc.)

Chapter 8.08 - Noise

8.08.010 Excessive Noise Prohibited. It is unlawful for any person to make, continue, or cause to be made or continued any excessive, unnecessary or unusual loud noise which either annoys, disturbs, injures or endangers the comfort, repose, health, peace or safety of others within the limits of the city. (Ord. 87-2 (CC §8.29), 1987)

8.08.020 Noise Limits-Motor Vehicles.

A. The following acts are declared to be loud, disturbing or unnecessary noises in violation of this chapter, but the following enumeration shall not be deemed to be exclusive, namely:

1. The sounding of any horn or signaling device of warning; the creation by means of any unreasonably loud or harsh sound; the sounding of any such device for an unnecessary or unreasonable period of time; the use of any horn, whistle or other device operated by engine exhaust;
2. The discharge into the open air of the exhaust of any steam engine, stationary internal combustion engine, motor boat, or motor vehicle except through a muffler or other device which will effectively prevent loud or explosive noises therefrom;
3. The use of any automobile, motorcycle or other vehicle which due to lack of repair or improper loading creates loud and unnecessary grating, grinding, rattling or other noise;
4. The creation of a loud and excessive noise in connection with loading or unloading any vehicle or the opening and destruction of bales, boxes, crates and containers;
5. The operation between the hours of nine p.m. and seven a.m. of any pile driver, steam shovel, pneumatic hammer, derrick, steam or electric hoist or other appliance, the use of which is usually attended by loud unusual noise;
6. The operation of any garbage pickup, in any area zoned residential on at least one side of the street by the city zoning ordinance, between the hours of seven p.m. and five a.m.;
7. The operation of any power mower, cultivator or like or related device (except snowblowers) in an area zoned residential between the hours of nine p.m. and six a.m.

B. This section shall apply to the total noise from a vehicle or combination of vehicles and shall not be construed as limiting or precluding the enforcement of any other provision of this code relating to motor vehicle mufflers. (Ord. 2010-9, 4/13/2010, Ord. 87-2 (CC §8.30), 1987)

8.08.030 Noise Limits-Generally. The following shall be deemed unlawful:

A. The using, operating, or permitting to be played, used or operated in residential areas of any television, radio receiving set, musical instrument, phonograph, or other machine or device for the producing or reproducing of sound in such manner as to disturb the peace, quiet and comfort of neighboring inhabitants or at anytime with louder volume than is necessary for convenient hearing for the person or persons who are in

the room, vehicle or chamber in which such machine or device is operated and who are voluntary listeners thereto. The operation of any such set, instrument, phonograph, machine or device between the hours of eleven p.m. and seven a.m. in such a manner as to be plainly audible at a distance of thirty feet from the building, structure and vehicle in which it is located shall be prima facie evidence of a violation of this subsection;

B The using, operating or permitting to be played, used or operated of any radio receiving set, musical instrument, phonograph, loudspeaker, sound amplifier or other machine or device for the producing or reproducing of sound upon the public streets for the purpose of commercial advertising or attracting the attention of the public or any building or structure without or in violation of a permit issued pursuant to Section 8.08.050;

C. Yelling, shouting, hooting, whistling or singing on the public streets, particularly between the hours of eleven p.m. and seven a.m. or at any time or place so as to annoy or disturb the quiet, comfort or repose of persons in any office, or in any dwelling, hotel or other type of residence, or of any persons in the vicinity;

D. The keeping of any dog which by causing frequent or long continued noise disturbs the comfort or repose of any persons, in the vicinity;

E. The erection (including excavation), demolition, alteration or repair of any building other than between the hours of six a.m. and ten p.m., local prevailing time, on weekdays, except in the case of urgent necessity in the interest of public health and safety, and then only with a permit from the city administrator as authorized under Section 8.08.050;

F. The creation of any excessive noise adjacent to any school, institution of learning, church or court while the same is in use; or adjacent to any hospital, which unreasonably interferes with the working of such institution, or which disturbs or unduly annoys patients in the hospital; or in any park, which unreasonably disturbs the users thereof. (Ord. 87-2 (CC §8.31), 1987)

8.08.040 Noise Limits-Exceptions. The following uses and activities shall be exempt from noise level regulations:

A. Noises of safety signals, warning devices and emergency pressure relief valves;

B. Noises resulting from any authorized emergency vehicle, when responding to any emergency;

C. Noises resulting from emergency work;

D. Any other noise resulting from the activities of a temporary duration permitted by law and for which a license or permit therefor has been granted by the city in accordance with Section 8.08.050;

E. Any aircraft or railroad equipment operated in conformity with, or pursuant to state statute, federal law of federal regulations, and traffic control instruction used pursuant to and within the duly adopted state and federal regulations. Any aircraft operating under technical difficulties, in any kind of distress, under emergency orders of air traffic control or being operated pursuant to and subsequent to the declaration of an emergency under federal air regulations shall also be exempt. (Ord. 87-2 (CC §8.32), 1987)

8.08.050 Noise Limits-Special Permit.

A. Noise applications for a permit for relief from the noise level designated in this chapter on the basis of undue hardship may be made to the city administrator or his duly authorized representative. Any permit granted by the administrator under this section shall contain all conditions upon which the permit shall be effective. The city administrator or his duly authorized representative may grant the relief as applied for if he/she finds:

1. The additional time is necessary for the applicant to alter or modify his activity or operation to comply with this chapter; or
2. The activity, operation or noise source will be of temporary duration, and cannot be done in a manner that would comply with this chapter; and
3. That no other reasonable alternative is available to the applicant.

B. The administrator, in granting such a special permit, may prescribe any conditions or requirements he/she deems necessary to minimize adverse effects upon the community or the surrounding neighborhood. (Ord. 87-2 (CC §8.33), 1987)

8.08.060 Noise-Abatement. As an additional remedy, the operation or maintenance of any device, instrument, vehicle or machinery in violation of any provisions of this chapter, or which causes discomfort or annoyance to reasonable persons of normal sensitiveness or which endangers the comfort, repose, health or peace of residents in the area shall be deemed and is declared to be, a public nuisance and may be subject to abatement as prescribed by law. (Ord. 87-2 (CC §8.35), 1987)

8.08.070 Violation. Any person violating any of the provisions of Sections 8.08.010 through 8.08.060 shall be deemed guilty of a misdemeanor. Each day such violation is committed or permitted to continue shall constitute a separate offense and shall be punishable as a separate offense. (Amended during 1988 codification; Ord. 87-2 (CC §8.34), 1987)

Chapter 8.12 - Nuisances Generally

8.12.010 Nuisance Defined-Violation-Classification of Offense.

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

B. Any person, whether as owner, agent or occupant who creates, aids in creating, or contributes to a nuisance, or who supports, continues or retains a nuisance, is guilty of a class B misdemeanor. (Ord. 87-2 (CC §9.26), 1987)

8.12.020 Public Nuisance-Defined.

A. A public nuisance is a crime against the order and economy of the city and consists in unlawfully doing any act or omitting to perform any duty, which act or omission either:

1. Annoys, injures or endangers, the comfort, repose, health or safety of three or more persons; or
2. Unlawfully interferes with, obstructs, or tends to obstruct or renders dangerous for passage, any lake, stream, canal, or basin, or any public park, square, street or highway; or
3. In anyway renders three or more persons insecure in life or the use of property.

B. An act which affects three or more persons in any of the ways specified in this section is still a nuisance regardless if the extent of annoyance or damage inflicted on individuals is unequal. (Ord. 87-2 (CC §9.27), 1987)

8.12.030 Public Nuisance-Maintenance. Every person who maintains or commits any public nuisance, the punishment for which is not otherwise prescribed, or who wilfully omits to perform any legal duty relating to the removal of a public nuisance, is guilty of class B misdemeanor. (Ord. 87-2 (CC §9.28), 1987)

8.12.040 Public Nuisance-Abatement. The city attorney is empowered to institute an action in the name of the city, to abate a public nuisance. The action shall be brought in the justice's court and shall be in the form prescribed by the Rules of Civil Procedure of the State of Utah for injunctions, but the city attorney shall not be required to execute a bond with respect to the action. (Ord. 87-2 (CC §9.30), 1987)

8.12.050 Public Nuisance-Relief. If the existence of a public nuisance as defined by Section 8.12.020 is admitted or established, either in a civil or criminal proceeding, a judgement shall be entered which shall permanently enjoin each defendant and any other person from further maintaining the nuisance at the place complained of and each defendant from maintaining such nuisance elsewhere. (Ord. 87-2 (CC §9.31), 1987)

8.12.060 Nuisance Performance-Designated. The showing of any motion picture or the performance of a theatrical in a manner such that the picture or performance can be seen or viewed from a place outside the theater premises, or viewing area associated therewith, whether or not the premises or viewing area is enclosed by fence or wall, is

deemed a public nuisance if the motion picture or theatrical portrays conduct described in Section 76-10-1201(6) or (7), UCA, 1953 as amended. (Ord. 87-2 (CC §9.41), 1987; Ord. 83-2, 1983)

Chapter 8.14 - NUISANCES

8.14.1 PURPOSE. The purpose of these regulations is to provide for the cleaning of real property; the securing, maintenance or removal of deleterious structures; the control of weeds; the maintenance of landscaping; and the prevention of the inappropriate storage of vehicles and materials in the City. It is intended that the requirements will:

A. Prevent or lessen:

1. Fire hazards;
2. Insect, rodent and other vermin harborage;
3. The induction of hazardous pollens into the air;
4. Further spreading of vegetation that threatens the public health, safety

or welfare.

B. Provide for the abatement of objects, structures or materials that threaten the public health, safety, or welfare or that create a public nuisance.

C. Protect property values and improve the health, safety and appearance of the City by preventing or abating conditions on real property or structures thereon which create or maintain nuisances.

These regulations are not intended to apply to regular farming practices and existing agriculture lands relating to weeds and grasses (other than declared noxious weeds), operable machinery, fence and ditch lines. They are intended to apply, as to safety items, to all areas of the city. (Ord. 2009-17, dated 10/27/09)

8.14.2 DEFINITIONS. As used in this chapter, the following words and terms shall have the meanings ascribed to them in this section:

ABATE: To put an end to any condition which is considered a violation of this chapter.

ACCUMULATIONS OF MANURE, DROPPINGS OR OTHER WASTE: Manure, droppings or other waste or debris, or offensive material resulting from animal keeping which has not been removed or cared for in such a manner as to avoid becoming offensive or annoying to other persons or becoming a health hazard.

ACCUMULATIONS OF SNOW ON SIDEWALKS: All accumulations of snow, sleet, hail or other precipitation impairing safe access and use of sidewalks abutting on any public right of way of the city which has not been removed within twelve (12) hours from the termination of the depositing storm. The responsible party shall be any person owning, occupying, having control or charge or being an agent over any building, property, lot or partial lot of land abutting said sidewalks.

APPROVED PARKING SURFACES OR LOCATIONS: Approved parking for motor vehicles, boats, recreational vehicles, ATV's or trailers shall include the following (for purposes of this requirement corner lots shall have two front yards adjacent to the streets where located):

- A. For residential properties, such surfaces and locations shall be:
 1. On the hard surface (concrete or asphalt) driveways; or
 2. Within a garage or carport; or
 3. On side or rear yard hard surfaces (concrete or asphalt); or
 4. On side or rear yard weed free gravel surfaces; or
 5. In side or rear yards enclosed with solid, view restricting fences at least six feet in height.
- B. For commercial or industrial properties as allowed by the approved site plan and/or as found in city ordinances.

CONSTRUCTION SITE CONTROL:

- A. The general contractor, including owner-builder, of every subdivision, residential or commercial building construction site, shall:
 1. Maintain on the premises of each building lot or construction site, and not on a street, sidewalk or other public property right of way, from the first day through the last day of construction:
 - a. A portable toilet facility meeting the health requirements of the law;
 - b. A commercial trash bin or trash containment bin, which shall be used for refuse on the site and which shall be emptied as often as necessary to comply with the intent of this requirement and whenever full;
 - c. Exceptions to the requirements of a portable toilet facility and/or a commercial trash bin may be granted in writing by the building inspector upon a showing that such facilities are otherwise reasonably accessible and that the building construction site is free of nuisance conditions otherwise.
 2. Maintain the premises in such a manner that mice, rats, rodents or other animals do not inhabit the premises;
 3. Prevent garbage, refuse, dirt, rocks or building materials from encroaching onto sidewalks, streets, or any other public or private property.
 4. Prevent the blowing of construction debris, paper or other items onto neighboring properties.

DELETERIOUS: Anything injurious to the health, safety or welfare of any persons.

DELETERIOUS OBJECTS OR STRUCTURES: Burned machinery; buildings and equipment which are obsolete or in disuse; parts of vehicles; unsecured vacant structures; inoperable vehicles or equipment; buildings in a state of general disrepair; objects with sharp, protruding edges; any structure which has become a fire hazard due to the accumulation of combustible materials; objects supported in such a manner as to be easily dislodged from the support; fences in a state of disrepair.

DELETERIOUS OR NOXIOUS WEEDS: Vegetation that has become a fire hazard as defined in the International Fire Code or as has been determined by the North View Fire Department; weeds or grasses that are not maintained at less than six inches (6") in height; plants specifically listed as noxious weeds by the state of Utah or by Weber County, or as may be from time to time hereafter amended (see list on file in the city office); vegetation that endangers the public health and safety by creating a fire hazard

or insect, rodent or other vermin harborage.

DEPOSITING OF SNOW OR OTHER MATERIALS IN THE STREET: Any snow or other material from a business or residential property which is deposited in a street maintained and plowed for purposes of snow removal by the city or other public agency.

The responsible party shall be any person owning, occupying, having control or charge or being an agent over any building, property, lot or partial lot of land abutting said street.

OBSTRUCTIONS TO VISION OR TRAVEL: Trees or shrubs which intrude into the sidewalk space or are not trimmed to a minimum clearance of seven feet (7') over sidewalks or thirteen and one-half feet (13¹/₂') over roadways; any object which would prohibit the full use of sidewalk space by any person; any object placed in such a location as to unreasonably or dangerously restrict the clear view of roadways by persons using or entering the roadway. The responsible party shall be any person owning, occupying, having control or charge or being an agent over any building, property, lot or partial lot of land abutting said street or sidewalk.

OWNER: Any person, who alone or with others:

A. Has legal title to any premises or dwelling, with or without accomplishing actual possession thereof; or

B. Has charge, care or control of any premises or dwelling, as legal or equitable owner, lessee, or is an agent of the owner or the estate of the owner in any manner.

PREMISES IDENTIFICATION: Numbers or addresses placed on all new and existing buildings in such a position as to be plainly visible and legible from the street or road fronting the property. Said numbers shall contrast with their background.

REFUSE, DEBRIS, GARBAGE, JUNK: Spent, useless, worthless or discarded materials; used tires; parts of vehicles; old and unused machinery and appliances or parts thereof; trash; rubbish; waste plant materials; trimmings; litter; scrap building materials; waste food products; dead animals.

SIGHT TRIANGLE AREA: The following methods shall be used to determine the sight triangle area of a particular lot or property (see diagram on file in the city office):

A. Where curbs are installed; that portion of a corner lot lying within a triangular area formed by measuring back along each of the curb lines to a point forty feet (40') from the intersection of said curb lines, and then connecting the two (2) points with a third line.

B. Where no curbs are installed; that portion of a corner lot lying within a triangular area formed by measuring back from the property lines adjacent to the intersecting streets to a point on each property line thirty feet (30') back from the intersection of said property lines and then connecting the two (2) points with a third line.

WRECKED, INOPERABLE, OR ABANDONED VEHICLES OR EQUIPMENT:

A. These items shall include motor vehicles, boats, recreational vehicles, ATV's, trailers or equipment. These shall not include operable farm machinery (tractors, mowers, bailers, rakes, etc.).

B. Any vehicles or equipment with parts taken from them; vehicles designed to be used in demolition driving contests or similar events; vehicles or equipment without proper and current registration and license plates which are more than three (3) months past the valid licensing period; vehicles made inoperable due to a collision or other event.

C. A vehicle or item of machinery shall be deemed inoperable if it is not currently licensed, as required by state code, and/or not operable for the use for which it was intended. The same shall be deemed abandoned if it has been left unattended for a period of three (3) days or more upon any public property or 10 days or more on private property not owned or leased by the vehicle or equipment owner.

D. Exception: This section shall not apply to vehicles or equipment located on private property in such a manner as to not be visible from the public right of way (street or sidewalk). This would include being within a building or a solid, view restricting fence or wall at least six feet in height, or behind buildings not bordering on lands used for housing or commercial purposes. Such vehicles or equipment must be located and stored in such a way that weeds are controlled, they do not become a harbinger of rodents or insects, and are not in an unsafe condition. (Ord. 2009-17, dated 10/27/09)

8.14.3 NUISANCES PROHIBITED.

A. It is unlawful for the owner or occupant of property in the city to maintain or allow on said property any condition which constitutes a declared nuisance.

B. It is hereby declared that knowledge by a property owner and/or occupant of the existence of nuisance conditions shall be presumed since it is hereby declared that the owner and/or occupant has an obligation to know the condition of his property and whether or not it is in compliance with this chapter. (Ord. 2009-17, dated 10/27/09)

8.14.4 DECLARED NUISANCES. Any or all of the following conditions shall constitute a declared nuisance:

- A. Deleterious or noxious weeds.
- B. Wrecked, inoperable or abandoned vehicles equipment.
- C. Refuse, debris, garbage or junk.
- D. Deleterious objects or structures.
- E. Any source of contamination or pollution of water, air or property as determined by the county health or state environmental departments.
- F. Any condition which constitutes a fire hazard, a danger to health, or is a breeding place or habitation for insects or rodents or other forms of life deleterious to human or animal health or habitations.
- G. Accumulations of snow on sidewalks.
- H. Depositing of snow or other materials on city streets.
- I. Anything which unreasonably or unlawfully interferes with, obstructs or tends to obstruct, or renders dangerous for passage, any public or private street, highway, sidewalk, stream, ditch or drainage way.
- J. Any obstruction in the sight triangle area on corner lots except as allowed in

the zoning ordinances.

K. Any tree or shrub which overhangs or projects into any street, sidewalk, park strip or other city property and appears to be dead or liable to fall into any such city property, or which constitutes an obstruction to vision or travel on any city sidewalk, property or street.

L. Any building or structure set up, erected, constructed, altered, enlarged, converted, moved or maintained contrary to the building codes or zoning ordinances of the city, or any use of land, buildings or premises in violation of city ordinances. Any building or structure which are abandoned, partially destroyed, or left in an unreasonable state of partial construction for a period of six (6) months or longer. An unreasonable state of partial construction is defined as any unfinished building or structure that causes visual blight, is offensive to the senses, creates a harborage for rodents or pests, or detrimentally affects property in the surrounding neighborhood or community.

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

N. Noxious or unreasonable odors, fumes, gas, smoke, soot or cinders, as determined by the state environmental department.

O. Any excessive accumulation of manure, droppings or other waste in any stable, stall, corral, yard or place in which any animal shall be kept.

P. Having or permitting on any premises any fly or mosquito producing condition.

Q. Failing to maintain proper premises identification.

R. Parking on unapproved surfaces or locations.

S. Failure to landscape front yards within twelve (12) months of occupancy or completion of a new residence.

T. Non-compliance with construction site control requirements.

U. Any violation of SWPP (Storm Water Pollution Prevention) requirements.

V. Any condition declared a nuisance under the authority of any other portion of the ordinances of the city or the laws of the state. (Ord. 2009-17, dated 10/27/09)

8.14.5 JURISDICTION; POWERS AND DUTIES; SCOPE.

A. Enforcement Department: The Community Development Department, herein referred to as the "department", shall have the primary responsibility for carrying out the provisions of this chapter and all city ordinances dealing with nuisances, business regulation, zoning, signs, trees and other land use issues as may from time to time be added by the city administrator.

1. The department shall establish procedures, criteria and standards for inspections and enforcement.

2. The department shall review all complaints or requests for action not clearly falling within the jurisdiction of a particular city department and all those dealing with the ordinances over which it has jurisdiction.

3. The department shall keep all records of complaints and requests for

action referred to it and shall maintain all records of violations determined by it.

4. The department may request action by any city department on complaints, violations or abatement activities.

B. Inspections: The department shall be responsible for inspecting and examining real property within the municipality for the purpose of determining the existence of violations of this chapter. The inspectors shall have the authority to enter those premises where they have a reasonable cause to believe a violation exists, at reasonable times, to inspect or to perform the duties imposed by the ordinances of the city; provided, that if the premises are occupied that credentials be presented to the occupant and entry requested. If entry is refused, the inspectors shall have recourse to the remedies provided by law to secure entry.

C. Notices of violation:

1. Upon a finding of violation by the inspector, the inspector shall serve notice, in writing, upon the owners and occupants of the premises, either personally or by mailing the notice, postage prepaid, addressed to the owners and/or occupants at their last known addresses, as disclosed by the records of the county assessor, or as otherwise ascertained.

2. The written notice shall require the owners and/or occupants to abate (eradicate, destroy and/or remove) the items that are found to be in violation of this chapter within such time as the code enforcement officer may designate, which shall not be less than ten (10) days from the date of service of such notice. If the service is mailed, then the service shall be deemed complete upon mailing.

3. Notices shall include the potential penalty and abatement options.

D. Enforcement Authority: The inspectors shall have the authority to apply the penalties, civil and criminal procedures, and abatement provisions of this chapter, and may call upon the assistance of the police department in discharging their duties. (Ord. 2009-17, dated 10/27/09)

8.14.6 ABATEMENT ALTERNATIVE. If any owner or occupant of property described in a properly given notice as per the requirements established under the authority of this chapter shall fail to abate any unlawful conditions in accordance with such notice, the inspector may, in addition to applying the penalties and additional remedies of this title:

A. Employment of Assistance: At the expense of the municipality, employ necessary assistance and cause such conditions to be brought into compliance with this title by doing any or all of the following:

1. Cutting, eradicating and removing of weeds;
2. Securing any vacant structure;
3. Maintaining or repairing deleterious objects or structures;
4. Removing any deleterious object or structure;
5. Removing snow from sidewalks or from those streets where deposited contrary to the provisions of this chapter.

B. Statement of Expenses to Owner: After completion of the work, the inspector shall prepare an itemized statement of all expenses incurred, including administrative costs, in the removal and destruction of the same, and shall mail a copy thereof to the owner demanding payment within twenty (20) days of the date of mailing. Said notice shall be deemed delivered when mailed by registered mail addressed to the property

owner's last known address.

C. Failure To Pay: In the event the owner fails to make payment of the amount set forth in said statement to the city treasurer within said twenty (20) days, the inspector shall refer the matter to the city attorney who may:

1. Cause suit to be brought in an appropriate court of law; or
2. Refer the matter to the county treasurer to be included in the taxes payable by the property owner, and may attach a lien on the property, as provided hereinafter.

D. Collection: In the event collection of costs is pursued through the courts, the city may sue for and receive judgment upon all said costs, together with reasonable attorney fees, interest and court costs.

E. Referral To County Treasurer: In the event the city attorney elects to refer the matter to the county treasurer for inclusion in the tax notice of the property owner, the city shall make an itemized statement of all expenses incurred, including all additional administrative expenses and all lien transaction expenses, and shall deliver three (3) copies of said statement to the county treasurer within ten (10) days of the failure to pay said costs. The city shall request in writing that the county treasurer take such action as provided by law, requesting that the amount payable to the city be included in the tax notices to the property owner and that upon collection of said money, it be paid by the county treasurer to the city. The city shall also cause the same to become a lien upon the lands involved by filing the appropriate papers with the county assessor. (Ord. 2009-17, dated 10/27/09)

8.12.7 EXCEPTIONS.

A. Weeds. Weeds on real property not in close proximity to buildings or not creating a fire hazard may be exempted by the inspector, upon advice and concurrence of the fire marshal, from the weed control requirements of this chapter. Such properties would include, but not be limited to, areas considered wetlands or in a pristine state and contributing to the habitat of non-injurious animals, pastures and fallow lands.

1. If the inspector determines that the large size of the property makes the cutting of all weeds impractical, the inspector may issue an order limiting the required cutting of weeds to a firebreak of not less than fifteen feet (15') in width around any structures and, where practical, around the complete perimeter of the property. In determining an exception, the inspector will consider the size of the property, the topography of the property, proximity to structures on other property, accessibility to the property by others, any conditions which could contribute to increased fire hazards, and the seriousness of the weed problem.

B. Vehicles. Wrecked or inoperable vehicles which are owned by the owner or occupant of the property on which they are located and which the owner desires to restore or repair in the immediate future may be exempted from the provisions of this chapter by obtaining a permit for each such vehicle for a period of one year. Six (6) month extensions may be obtained, provided the requirements as stated hereinafter are met. This section shall not apply to vehicles or equipment located on private property in such a manner as to not be visible from the public right of way (street or sidewalk). This would include being within a building or a solid, view restricting fence or wall at least six feet in height, or behind buildings not bordering on lands used for housing or

commercial purposes. Such vehicles or equipment must be located and stored in such a way that weeds are controlled, they do not become a harbinger of rodents or insects, and are not in an unsafe condition.

1. Each such permit or extension shall be obtained from the department after giving proof of ownership and filling out an application on a form to be provided which gives sufficient information to readily identify the vehicle and property in question and paying a fee as established by resolution.

2. Each such vehicle shall remain covered by a view obstructing tarp or similar cover at all times, except when actual restoration or repair work is in progress.

3. In the event any part of the vehicle is raised off the ground other than by wheels firmly attached to the vehicle, it shall be supported in such a manner as to assure it cannot be readily dislodged or fall from such support.

5. A copy of the permit shall be kept with the vehicle at all times and shall be shown to the inspector upon demand.

6. Each such vehicle shall be located on an approved parking surface and/or area only.

7. Failure to comply with the terms of this subsection shall void the permit and cause the vehicle to be declared a nuisance and subject to the penalty and abatement provisions of this chapter.

C. Approved parking. Residential property owners not in compliance with parking requirements and/or who are parking on unapproved surfaces or locations, may get a one-time only four (4) month time period within which to remedy the parking violation. Such time period may be granted by the Inspector at his discretion, based on the remedy proposed by the property owner, such as: 1) install a hard surface, 2) put in a gravel pad in an approved location, 3) move the vehicle to an enclosed area, or 4) sell or otherwise remove the vehicle. (Ord. 2009-17, dated 10/27/09)

8.14.8 EMERGENCY ABATEMENT.

A. Authority: Should the inspector determine that any conditions subject to the provisions of this chapter are of such a nature as to render life or property in immediate jeopardy, he may cause or order such condition to be immediately abated. No notification shall be necessary, but before any removal is done, diligent effort shall be made to contact the owner or occupant of the affected property and require that said conditions be abated within twenty four (24) hours. If contact is made and the condition is not abated within the twenty four (24) hour period, abatement alternatives may be immediately instituted.

B. Violations: Violations occurring under these circumstances are subject to any or all penalties and remedies as provided in this chapter. (Ord. 2009-17, dated 10/27/09)

8.14.9 ADDITIONAL REMEDIES. In addition to the penalties and abatement procedures outlined in this chapter, the inspector may initiate any or all of the following actions:

A. Injunctions;

B. Mandamus;

C. Proceedings to prevent, enjoin, abate or remove; or

D. Other such actions through the courts. (Ord. 2009-17, dated 10/27/09)

8.14.10 PENALTY.

A. Violations of this ordinance shall be punishable either:

1. As a class C misdemeanor; or

2. By imposing civil penalties as follows:

a. Any person who is found by the inspector to be in violation of any of the provisions of this chapter, either by failing to do those acts required herein or by doing a prohibited act, shall be liable to the city for the following civil penalties:

(1) First citation - \$100.00

(2) Second citation - \$200.00

(3) All subsequent citations - \$500.00

b. All citations shall be due and payable to the city treasurer within twenty (20) days of the date of issuance.

c. In the event any citation remains unpaid or not dismissed after twenty (20) days from the date of issuance, the inspector shall refer the matter to the city attorney for suit in an appropriate court of law. The violator shall be liable for reasonable attorney fees, any administrative expenses and court costs.

d. Persons issued citations shall have the option of abating the violation within fourteen (14) days of the date of issuance and having that citation dismissed by the department following procedures established under the authority of this chapter.

B. One Notification Sufficient For Season: Only one notification procedure (as established by the department) shall be necessary for continuing violations on the same premises within the same calendar year and shall be deemed sufficient on any lot or parcel of property for the entire season of weed growth during that year.

C. Each Day Separate Violation: Each day of violation shall constitute a separate violation. (Ord. 2009-17, dated 10/27/09)

Chapter 8.16 - Nuisances on Property

Rescinded 10/29/09 by Ordinance 2009-17 (prior ordinances: Ord 98-4, 3/24/98)

Chapter 8.20 - Campgrounds

8.20.010 License Required.

A. It is unlawful for any person to operate, maintain, or offer for public use within the limits of the city any automobile tourist park, campground, or other public place for camping, sleeping or lodging, whether in tents, automobiles, trailers, trailer houses, cabins, huts or other vehicles or structures or where motor homes, trailers or trailer houses may be parked or located or occupied as living quarters, without first making application to the city recorder and obtaining a license to do so.

B. Applicants for such license shall file application in writing with the city recorder with a fee as hereinafter provided, which application shall show the plan and location of applicant's proposed place of business, the number of rooms or spaces available to tenants or motor homes, or trailers or trailer houses, and state in detail the source of water supply and the kind and number of toilet, bath and shower facilities available for use by male and female guests respectively. The application will be referred to the county health officer, which health officer shall after such reference deliver the application to the city council together with a report of its findings and its recommendations as to the granting or denying of the license. In making the report, the health officer shall determine whether or not there exists on such premises adequate motor home, trailer or trailer house spaces for the number of such persons proposed to be accommodated in the application, adequate toilet, shower, bath, garbage, sewage facilities, a proper and clean supply of pure drinking water, and in this connection shall comply with state mobile home park sanitation regulations, recreational vehicle park sanitation regulations and with recreational camper sanitation regulations. These regulations will be available at the city office for purchase by applicants.

C. The license provided for in this chapter, together with a copy of the rules and regulations of the health office, shall be displayed by the licensee in a conspicuous place upon the licensed premises.

D. It is unlawful for any person to camp or place any trailer, trailer house or other vehicle while used for human habitation, which may be conveyed either on its own power or by an automobile from one place to another place, in the city, except within premises licensed as herein provided.

E. Adequate toilet facilities shall be defined as one water closet for each sex for every five rooms, motor home or trailer space or fractional part thereof in excess of five such rooms or spaces in the campground, which toilet facilities shall not be less than one hundred feet away from any room or motor home.

F. It shall be the duty of the health officer to investigate and determine the necessary facilities required in every premises where camping or lodging in auto tourist parks or campgrounds is permitted to the end that same may be kept in a sanitary condition and free from infectious or contagious diseases and comply with the terms of this chapter and the rules and regulations of the health officer.

G. It shall also be the duty of the building inspector to investigate periodically and examine all such premises to determine that licensees or keepers thereof have complied with the laws and ordinances of this city.

H. No such tent, automobile, trailer, motor home, cabin, hut or other vehicle or structure shall be parked or erected closer than ten feet from any other tent, automobile, trailer, motor home, cabin, hut or other vehicle or structure upon any such premises.

I. Every licensee of such premises shall keep a daily register of all guests or tenants of such premises, which register shall be available at all times and for one year thereafter, for inspection by the city recorder with a true copy to be forwarded upon request to the city recorder which contains the date and time of the arrival of the tenant, his name, residence, and the name, make and state registration license number of each vehicle, trailer or motor home.

J. The yearly license fee for such parks shall be established by resolution.

K. The city council may with a hearing, at its discretion, refuse to grant any license applied for, and may revoke any license at any time for cause. (Ord. 87-8.24 (part), 1987)

8.20.020 Violation. Any violation of this chapter shall be deemed a class C misdemeanor. (Ord. 87-8.24 (part), 1987)

Chapter 8.24 - Excavation

8.24.010 Purpose. It is the purpose and object of this ordinance to establish reasonable and uniform limitations, safeguards, and controls on excavation within the city. These provisions are deemed necessary in the public interest to affect practices which will provide protection of the tax base, provide for the economical use of vital materials necessary for our economy and give due consideration to the present and future use of land in the interest of promoting the public health, comfort, safety, community character and general welfare. It is the primary intent of this ordinance that excavated land be rehabilitated as soon as possible to prevent conditions detrimental to neighboring property and residents, and to provide for the subsequent beautification and beneficial use of the lands affected by excavation. (Ord.2005-16, dated 12/13/05, Ord. 98-9, dated 10/27/98: prior codes Ord. dated 1/9/75 (part) and § 19-1-1).

8.24.020 Definitions.

A. Excavation. For the purposes of this ordinance, excavation shall mean the removal of rock, sand, gravel, clay and any other soil by digging, leveling, scraping, blasting, screening, processing, and operating, maintaining and repairing equipment, marketing, advertising and selling aggregate products and services to the general public, or any other process, together with all other types of mining operations where material is removed from the earth. The recycling of concrete products may be allowed as a conditional use which must be approved by the City Council following the normal process as provided by City ordinance and based on the criteria for extended operations set forth in Section 8.24.110 of this ordinance. The provisions of this ordinance shall not apply to the removal of sod, provided such removal is no closer than ten feet to any property line or to a depth in excess of three inches, and will not adversely affect the drainage, stability, and/or vegetation of the area. This ordinance shall not apply to ditching and land leveling for agricultural or public recreational uses (parks), or for site preparations for building a structure. Site preparation and grading for other purposes which exceeds ten cubic yards per acre, or a proportionally equivalent amount for fractional acreage, shall be considered a conditional use which must be approved as a separate permit by the City Council following the normal process as provided by City ordinance.

B. Excavation Permit. For the purpose of this ordinance the acceptance of the excavation and rehabilitation plan by the City Council, together with such additional conditions or limitations as may be imposed, and evidenced by the properly endorsed and designated signature blocks, shall constitute the issuance of an excavation permit.

C. Land. Land means the surface and subsurface of an area within the incorporated areas of the city where excavation operations are being or will be conducted, including but not limited to: on-site private ways, roads, the excavation site itself, exploration sites, drill sites or working, parking, storage areas; areas in which structures, facilities, equipment, machines, tools, or other materials or property which result from, or are used in such operation, are situated.

D. Off-site. Off-site means the land areas that are outside or beyond the on-site land which is owned or controlled by the owner or operator.

E. On-site. On-site means the land within which mining operations are or will be conducted, which is bounded by continuous property lines dividing the surface or land ownership, control, or right that is invested in the operator. A series of related properties under the control of a single operator but separated by small parcels of land controlled by others will be considered a single site unless excepted by the City Council.

F. Operator. Operator means any person, firm, corporation, association, partnership, receiver, trustee, executor, administrator, guardian, fiduciary, agent, or other organization or representative of any kind either public or private, owning, controlling, or managing excavation operations or proposed excavation operations.

G. Owner. Owner means any person, corporation, association, partnership, or other legally deeded organization or representative of any kind, either public or private, owning, controlling or managing a mineral deposit or the lands employed in excavation operations.

H. Public Road. Public road means any road, street, alley, lane, court, place, viaduct, tunnel, culvert, or bridge laid out or erected as such by the public, or dedicated or abandoned to the public, or made such in an action for the partition of real property, and includes the entire areas within the right-of-way.

I. Rehabilitation. Rehabilitation means actions performed during and after excavation operations to shape, stabilize, re-vegetate, or otherwise treat the land affected in order to achieve a safe, stable, ecological condition. The excavated lands will be rehabilitated to a usable condition which is readily adaptable to alternate land uses and creates no danger to public safety. These rehabilitated or reclaimed land areas will be consistent with the city land use plan in the immediate areas. The rehabilitation process may extend to affected lands surrounding the excavated lands and may require backfilling, grading, re-soiling, re-vegetation, soil compaction, stabilization, and other measures. (Ord.2005-16, dated 12/13/05, Ord. 98-10, dated 11/10/98 and Ord. 98-9, dated 10/27/98; prior codes Ord. 95-14, 11/14/95, Ord. dated 1/9/75 (part) and ' 19-2-1))

8.24.030 Excavation Permit Required. No excavation shall be permitted on any land in the city unless authorized under an "excavation permit" issued to the owner and operator of the property in accordance with the application procedures provided by this chapter. (Ord.2005-16, dated 12/13/05, Ord 98-9, dated 10/27/98)

8.24.040 Application Contents and Review Procedures. In order to ensure that the area of the proposed excavation is reasonable for that purpose and to ensure rehabilitation of the land to a state that enables meaningful use and respects aesthetic values, the owner or operator shall, prior to the commencement of any phase of operation, submit to the city an excavation and rehabilitation plan which addresses the following:

A. General Information. The following shall be provided: the name of the property, property owner(s), lessee, operator(s), agent of process, location of property, and legal description.

B. Pre-excavation Site Inventory and Analysis. A pre-excavation inventory and analysis both off-site and on-site shall be performed by the applicant containing the following information:

1. A regional vicinity analysis describing other land uses surrounding the site, the possible impacts of the proposed excavation on surrounding land and the methods to be employed to mitigate any potentially negative effects; and
2. A description of the regional haulage routes to be employed on public and private roads.
3. A topographic map of the area (at a scale of one inch equals one hundred (100) feet) with a maximum contour interval of five feet, and extending at least 500 feet beyond the proposed excavation site;
4. A description of the visual characteristics, with particular concern given to the potential use of existing natural topography and vegetation, to shield site operations from nearby properties, roadways, and the general public;
5. A soils survey, to include a soils profile; and
6. An aerial photograph with contours of the proposed excavation site.

C. Excavation Operations Plan. The application shall provide an excavation operations plan which describes the following:

1. Proposed starting date and the anticipated period of operation;
2. Planned phases of excavation;
3. Anticipated amount of material to be removed at each phase;
4. Number, type and kinds of machinery and equipment to be used;
5. Operational processes, including crushing, stockpiling, milling, etc.;
6. The water to be used in operations, its source, control and disposal;
7. Electrical power requirements, source and control;
8. Accessory facilities, such as scales and buildings;
9. Sanitary facilities and disposal system;
10. Wind and air movement patterns with a description of techniques used to control dust and noise;
11. Transportation routes on and off site;
12. Run-off water control and detention;
13. Depiction of phases and location of all facilities, stockpiles, transportation routes, detention basin(s), and water and power sources on topographic map above or other suitable map;
14. Any economic or adverse effects on the surrounding area and steps taken to mitigate their impact, such as dust and vibration control and noise abatement; and;
15. Detailed analysis and description of noise levels (expressed in decibel) expected from proposed operations.
16. Cross sections showing existing surfaces and proposed future surfaces at 250 foot intervals across the site. Sections should be drawn parallel to slope. Final cut and fill slopes shall not exceed a steepness of 2.0 feet horizontal to 1.0 foot vertical drop from the top to the bottom of the pit.
17. To the extent not already shown, how the operations will comply with the operational requirements of 8.24.080.

D. Rehabilitation Plan. As part of the final application and approval of an excavation permit and before beginning any excavation activities or operations, the applicant shall provide a rehabilitation plan with the use of maps, imagery, and renderings (at a scale of one inch equals two hundred feet) extending five hundred feet beyond the legal description of the site area with a maximum contour interval of five feet which includes at least the following:

1. A grading plan designed by a licensed engineer, surveyor or landscape architect, indicating the areas to be excavated, existing and design contours, and proposed final grades and elevations. To help control storm water run-off and erosion, to increase potential for vegetation growth, to improve slope stability and lateral support due to potential seismic activity (recognizing that fault lines exist on or near the properties), and to generally improve safety for future residential structures above and at the base of excavations, finished slopes shall not exceed 2.0 feet horizontal to 1.0 foot vertical drop from top to bottom.

2. A description of the methods and plans to be employed for simultaneous rehabilitation of the site during and after the mining operations;

3. A description of the landscape plan to include the installation of top soil, planting schedule, specifications for plant applications, mulching, and type of irrigation to be used;

4. A description of the hydrologic environment of the rehabilitated site to include a map illustrating water drainage areas such as lakes, springs, ponds, streams, well, pipe lines, culverts, ditches, and canals;

5. A description of all permanent roads and other man-made structures which are to remain after rehabilitation;

6. Cross sections shall be taken in the excavation site in areas of greatest material displacement. The number of cross sections required shall be dependent on the size and topography of the excavation site;

7. Artist's rendition of the site as it is expected to appear after rehabilitation;

8. To the extent not already shown, compliance with 8.24.040; and

9. Evidence of surety.

E. Addendum. (To be completed prior to final issuance of the excavation permit.) Final conditions or limitations imposed by the City Council.

F. Authorization of Permit. All operation and rehabilitation maps, and plans shall include signature blocks for the owner, city engineer, and mayor. Upon obtaining signatures of the above individuals, an excavation permit shall be authorized. (Ord.2005-16, dated 12/13/05, Ord 98-10, dated 11/10/98 and Ord. 98-9, dated 10/27/98)

G. Pre-application Meeting. The owner or an authorized representative shall meet with a Development Review Committee (DRC) consisting of city staff, planning and engineering consultants and any other party designated by the mayor to review the proposed pre-application plans for the excavation site. The pre-application plans shall be submitted in five copies and will consist of the information requested in 8.24.040 and B above, plus the following:

1. A sketch of the existing site contours, drainage and unusual geologic conditions;
2. Anticipated amount of material to be removed;
3. Number, type and kinds of machinery and equipment to be employed;
4. Water to be used in the operation, source and disposal; and sketch of the site contours after excavation is complete to include location of natural drainage channels, vegetation and roadways.

H. Within 30 days of receipt, the DRC will make a determination if the pre-application is complete. If the DRC and owner reach an impasse over whether the application is complete, the application will be forwarded to the Planning Commission for consideration.

I. Review of Final Application.

1. If the pre-application is determined to be complete by the DRC, the operator or owner shall then provide a final application to the City, and include in the final application any additional information recommended by the DRC, along with maps, drawings, plans and other information required by 8.24.040 in five copies. Within fourteen days following receipt of the final application, the Planning Commission shall distribute copies of the final application and accompanying plans and statements to other interested county, city, and state agencies as determined by the Planning Commission and shall ask for comments and recommendations. Thereafter, the Planning Commission shall make a recommendation on the application to the City Council.

2. Within a period of not more than 30 days of receipt of a recommendation on the final application from the Planning Commission, the City Council shall call for a public hearing through proper notice as prescribed by law to consider said final application. Following the public hearing, the City Council shall consider the application and shall approve, approve with conditions, or deny the request for an excavation permit.

3. Any person adversely affected by any final decision made regarding the issuance of an excavation permit under the provisions of this ordinance may file a petition for review of the final decision with the state district court within thirty days after the final decision is rendered. (Ord.2005-16, dated 12/13/05, Ord.98-10, dated 11/10/98 and Ord.98-9, dated 10/27/98)

8.24.050 Revocation or Modification of an Excavation Permit. Any excavation permit issued shall be subject to revocation or modification by the City Council, for cause, and in the following manner:

A. Notice of Failure to Comply. A notice shall be served on the owner or the permittee by the city engineer or his representative specifying the failure to comply with the requirements set forth in the excavation permit, or any city ordinance, requiring the owner or operator to appear before the City Council at a designated date and hour to show cause why said permit should not be revoked or modified.

B. Hearing. Upon the date set for hearing, the City Council shall hear all charges and other testimony relating to the matter under consideration. The City Council shall then decide to either continue, revoke, modify, or refer to the city attorney for further action as described in 8.24.115.

C. Modification of the Excavation Permit Plans. Modification of the excavation permit plans may be initiated either by the Planning Commission or by the permittee where minor revisions are sought on the approved grading plan, schedule of proposed operation, or proposed rehabilitation plan. Consideration of such revisions need not require a public hearing provided that in the judgement of the Planning Commission the proposed revisions would not constitute significant changes, and provided also, that the permittee has not expressly requested that a public hearing be held. (Ord.2005-16, dated 12/13/05, Ord. 98-9, dated 10/27/98)

8.24.060 Transfer to Successor Operator. Whenever an operator succeeds to the interest of another operator by sale, assignment, lease or other means, the City Council may release the first operator from his responsibilities under his approved plans as described above, including surety, provided the successor assumes all of the responsibilities of the former operator to the satisfaction of the City Council under the approved operations and rehabilitation plans and the posting of surety. Upon satisfactory assumption of such responsibilities by the successor operator, under conditions approved by the City Council, the responsibility of the total excavation site shall be transferred to the successor operator. (Ord.2005-16, dated 12/13/05, Ord. 98-9, dated 10/27/98)

8.24.070 Filing of an Annual Progress Report. At the end of each calendar year, unless waived by the City Council for due cause, the City Engineer will make an onsite visit and review the excavation operation and will report his or her findings to the City Council. The report will summarize compliance with the excavation permit requirements and with the excavation ordinance. (Ord.2005-16, dated 12/13/05, Ord. 98-9, dated 10/27/98)

8.24.080 Operational Requirements. All excavation operations conducted or carried on are subject to the following limitations, restrictions, and controls:

A. Dust, Noise, Vibration, Smoke, Lights and Odor. All equipment and machinery operation on the site and in the transportation of products through the city shall be conducted in such a manner as to minimize the impact of dust, noise, vibration, smoke, welding lights and odor on the city. Soil berming, landscaping and other techniques should be used to accomplish the objective of reducing the impact of noise and vibration on adjacent property. All state and federal emission guidelines and regulations must be adhered to, including compliance with any permit issued by the State Division of Air Quality. Access and haulage roads shall be maintained in a dust-free condition by surfacing or other treatment as approved by the city engineer.

B. Operation Boundaries. To protect neighboring residents and properties from the potentially adverse effects of dust, noise, vibration, smoke, welding and other lights, odors, and soil erosion; and to provide for the future development of the property; extractive operations are prohibited within 30 feet of the outside boundary of the permitted property, except in the case where gravel excavation operations or extractive activities are

being conducted on the adjoining property and under those circumstances, by agreement of the adjoining property owners, extractive operations may be conducted up to the property line. Rock crushing operations shall not be conducted within 1,000 feet of the outside boundary of the permitted property, except such rock crushing operations may be conducted within 500 feet of the outside boundary of the permitted property if specifically approved as part of the excavation permit, with appropriate conditions consisting of a combination of buffering, berming, screening, landscaping, and other mechanisms to reduce or mitigate potential adverse impacts on neighboring land owners and the City.

C. Fencing and Barriers. Fencing or other suitable barriers shall be created and maintained on the excavation site or on portions of the site where such fencing is necessary because of dangerous conditions as determined by the city engineer. Fencing or barriers may also be required, at the option of the City Council, to provide screening from normal view and enhance general aesthetics of the area. Fencing, monuments or other means of identification shall be placed and maintained around the perimeter of the excavation site so as to enable reasonable identification of the property line separating the excavation property from adjoining land owners.

D. Landscaping. The planting of trees, shrubs, or other appropriate landscaping, or the placement of berms or structures shall be required where natural conditions make such feasible and practical in order to provide a dust or sound barrier, to screen excavation from normal view, to enhance the general appearance, and to minimize the damaging effect of such operations to the beauty and character of the surrounding area. A landscape plan, signed and stamped by a registered landscape architect must be submitted for review and approval. Vegetative material shall be planted together with necessary topsoil as per the schedule approved in the granting of the excavation permit and shall be maintained in a healthy, growing condition.

E. Washing Operations. The washing of sand and gravel shall be done so as to prevent the discharge of waste water onto any public or private roads or any private property without the written consent of the property owner.

F. Run-off Water Detention. The operator or owner shall, on determination by the city engineer, be required to construct run-off water detention facilities to prevent storm water pollution, damage to neighboring property and structures, and for protection of residents below the site. All Federal, State and Local regulations governing storm water control and pollution prevention shall be adhered to, including the provisions of a Phase II National Pollution Discharge Elimination System ("NPDES") Storm Water Management Plan.

G. Mitigating Impacts on Public Roads and Highways. In order to mitigate the impact of gravel operations and related activities on public roads and highways, the conditions of an excavation permit may include a requirement to asphalt access roads for a prescribed distance before entering a public road or highway. In addition, all access roads used for gravel operations and related activities shall be periodically swept and cleaned as determined necessary for safety purposes.

H. Load Limits. All trucks, equipment and machinery operating on public or city streets shall comply strictly with the city, county, and state road limitations, such as Chapter 10.08 setting forth allowable vehicle weight limits, and all vehicles must meet state safety requirements.

I. Hours and Days of Operation.

1. Aggregate Hauling. Transport of aggregate materials from the site shall be limited to the hours of 6:00 a.m. to 6:00 p.m. Monday through Friday and from 8:00 a.m. to 5:00 p.m. on Saturdays. No hauling shall be permitted on Sundays. No truck used in hauling operations will be allowed into the site before the specified time or permitted to leave the site loaded with material from the site after the specified time.

2. Use of Processing Equipment. Crushing, screening and other aggregate processing shall be limited to the hours of 6:00 a.m. to 7:00 p.m. Monday through Friday and 8:00 a.m. to 5:00 p.m. on Saturdays. No processing shall be permitted on Sundays.

3. Maintenance and Repair. Hours of operation for maintenance and repair of vehicles and equipment on site shall be limited to 6:00 a.m. to 10:00 p.m. Monday through Saturday, provided Noise Ordinance regulations are complied with.

4. No excavation operations, shall take place on Sunday or the following legal holidays: New Year's Day, Memorial Day, Independence Day, Pioneer Day, Labor Day, Thanksgiving Day, and Christmas.

J. Restricted Manufacturing Operations. The manufacture of concrete building or landscape products, the production or manufacture of lime products, the production of ready-mixed concrete, the production of asphalt and any similar production or manufacturing process which might be related to the excavation operation shall not be permitted.

K. Duration of Excavation Operation. The City recognizes that the life of an excavation operation may be extensive. The City further recognizes that there are impacts on adjoining property owners, the general public, public improvements such as roads, and other safety considerations. Inasmuch as it is the city's intent to permit excavation only as a means of contouring the land to make it more useful and valuable for future development, the owner or operator shall be allowed to extract material for a period of time determined practicable by the City Council, but not to exceed twenty years. A permit may be renewed by City Council following the initial term based upon compliance with the excavation ordinance. Conditions may be added to a subsequent permit to mitigate those impacts. Any renewal permit will not be longer than ten years.

L. Cessation of Operations. Within one year after the cessation of operations, all temporary structures (except fences), equipment, rock piles, rubble, or other debris shall be removed or back-filled into the excavation so as to leave the site in neat and orderly condition as determined by the city engineer and as provided below. This includes the rehabilitation of the last area to be excavated.

M. Blasting. Any blasting or related explosive detonation proposed to be conducted as part of excavation operations must be approved by the City Council as part of an excavation permit, and any such activities, if approved, shall be limited to the hours of 8:00 a.m. to 5:00 p.m. Monday through Friday. (Ord.2005-16, dated 12/13/05, Ord 99-21, dated 10/12/99 and Ord 98-10, dated 11/10/98 and Ord.98-9, dated 10/27/98: prior codes Ord. dated 1/9/75 (part) and § 19-4-1)

8.24.090 Rehabilitation Requirements. In order to ensure that the excavated area shall be rehabilitated to a condition of practical usefulness and reasonable physical attractiveness within a reasonable amount of time, to prevent environmental degradation to the ecological and hydrologic regimes caused by excavation, and to prevent present and future hazards to public safety and welfare, the owner or operator shall adhere to an approved rehabilitation plan as provided above and comply with the following:

A. Progressive Rehabilitation by Phase. The owner or operator shall submit a plan for progressive rehabilitation, meaning that rehabilitation will commence and be carried on during excavation operations. When an area is completed per the excavation plan, that area shall be rehabilitated. Rehabilitation shall proceed after completion of a phase, or site if there are no phases, as set forth in the approved excavation and rehabilitation plan.

B. Backfilling. Where backfilling is required, the excavated area shall be graded and backfilled with uncontaminated native materials or topsoil only. This backfill must be of such material as to support vegetation and grass growth. The graded or backfilled area shall not be contoured so that it will collect and permit stagnant water to remain thereon. Peaks and depressions in the excavation area shall be reduced to a surface which will result in level or gently sloping topography in substantial conformity to the land area immediately surrounding and which will minimize the possibility of erosion. Final backfill and cut slopes shall not be steeper than 2.0 feet horizontal to 1.0 foot vertical.

C. Grading, Stockpiling, Seeding, Phases, Etc. Excavations shall be planned so as to progressively develop the proposed final land forms by grading and by stockpiling overburdened materials in areas designated for future land forms or in excavations where the material will be spread over the excavation floor where no future excavation is anticipated. Such areas are to be seeded and planted immediately after grading is completed or within appropriate planting seasons, but in any case, the grading and planting shall be complete within one year. The rehabilitation plan shall contain a description of the phased rehabilitation process throughout the anticipated life of the excavation.

D. Final Rehabilitation of Entire Site. Final rehabilitation shall begin immediately for any site where operations authorized under an excavation permit have been completed. The final rehabilitation shall conform to the plan approved (including approved modifications) in the excavation permit. All rehabilitation plans shall conform at least to the below listed minimum standards and requirements listed elsewhere in this chapter; provided however, that the City Council may require more stringent standards where special hazards exist in order to protect the health, safety, or general welfare of the public, and to prevent injury to property or improvements:

1. Grading. Slopes, overburdened stockpiles, and abandoned soil piles shall be graded and smoothed so as to control erosion and prevent the creation of potentially dangerous areas in accordance with the direction of the city engineer.

2. Water-filled Areas. All excavations which create standing water or ponds shall be filled with native materials. This requirement shall not apply, however, to any water filled excavations scheduled to become an integral part of the final rehabilitation plan. The rehabilitation of these areas shall be done in such a manner that the groundwater is not polluted. Fill material shall be porous to allow for water dispersion unless otherwise specified in the rehabilitation plan.

3. Landscaping. Unless inconsistent with the final proposed use of the rehabilitated land, the excavated areas and all other disturbed areas shall be replanted and maintained with trees, shrubs, grasses, or other vegetative ground cover, preferably native to the area, in order to minimize erosion and to restore the land to a natural appearance, or to an appearance previously approved by the City Council.

4. Removal of Buildings and Equipment. As soon as excavation has been permanently terminated, all buildings and equipment (including electrical conduits) used in the administration of the operations, shall be removed unless deemed necessary to the approved final use of the rehabilitated site.

E. Rehabilitation Verification. After excavation operations have been completed and rehabilitation of the excavation site has been completed according to the approved rehabilitation plan, the city engineer shall present to the City Council a statement verifying that the permit area has been rehabilitated in compliance with the requirements of the excavation ordinance and excavation and rehabilitation plan previously submitted in compliance with this ordinance. (Ord.2005-16, dated 12/13/05, Ord 98-9, dated 10/27/98: prior codes Ord. dated 1/9/75 (part) and § 19-5-1)

8.24.100 Provision of Surety.

A. Provision of Surety before Operations Begin. After receiving notification that the application for an excavation permit has been approved, but prior to commencement of such operation, the operator shall provide surety to the city, in a form and amount to be fixed by the City Council as recommended by the city engineer sufficient to secure the performance of the rehabilitation agreement.

B. Amount of Surety. In determining the amount of surety to be provided, the city engineer shall consider factual information as to the magnitude, type and costs of approved rehabilitation activities planned for the land affected and the nature, extent and duration of operations under the excavation and rehabilitation plan. The city engineer shall determine the amount of the bond reasonably related thereto, to protect the city and ensure compliance with the requirements with the excavation permit; however, the amount of bond shall not exceed one hundred percent of the estimated cost of rehabilitating the excavation. The bond shall be periodically reviewed to ensure that the amount of the bond is capable of insuring adequate rehabilitation and shall be adjusted accordingly.

C. Form of Surety. In determining the form of surety to be provided, the City Council shall approve a method acceptable to the owner or operator that is consistent with the requirements of this ordinance, which may be one or a combination of corporate surety bond, land, cash, or other deposited securities.

D. Release of Surety. The liability under surety provisions shall continue until such time as released as to part, or in its entirety, by the City Council.

E. Forfeiture of Surety. If the operator fails to or refuses to carry out the necessary land rehabilitation as outlined in the approved excavation and rehabilitation plans, the city may, after notice and hearing, declare any surety filed for this purpose forfeited, or in case of a corporate bond file suit against the owner or operator and his bonding company. The city shall also have the right to file suit against the defaulting permittee for violations of this ordinance or any permit granted hereunder, or for costs of rehabilitation and reasonable attorney fees. (Ord.2005-16, dated 12/13/05, Ord. 98-9, dated 10/27/98: prior codes Ord. dated 1/9/75 (part) and § 19-5-2)

8.24.110 Emergencies, Short Term Contractual Obligations and Extended Operations.

The City may modify the provisions relative to the nature and scope of excavation activities, hours of operations and days of operations consistent with the intent of these regulations to address the following circumstances subject to review and approval based on the criteria set forth below.

A. Bona Fide Emergencies. The Operator of any excavation operations may obtain approval from the City Administrator or his designee for any temporary change to the conditions of an excavation permit relating to hours of operation, days of operation and hauling routes in order to respond to bona fide emergencies of emergent circumstances. Each such request shall be promptly reviewed and may be approved subject to the imposition of reasonable conditions to reduce or mitigate potential adverse impacts on neighboring landowners and the City such as dust control, noise reduction and traffic control requirements. Any emergency beyond 30 days must be reviewed by the City Council.

B. Short Term Contractual Obligations. The Operator of any excavation operations may obtain the approval of the City pursuant to a conditional use permit application following the normal process provided by City ordinance for any temporary change to the conditions of an excavation permit relating to hours of operation, days of operation and hauling routes for "Contractual Obligations", which are defined for these purposes as obligations arising under a contract where a governmental agency or bona fide third party contracting with a governmental entity or public agency requires, as a condition to entering into such a contract, that the Operator deliver or otherwise provide aggregate products (including hauling and processing) on days and hours of operation not normally otherwise allowed under the provisions of this ordinance.

C. Temporary and Permanent Extended Operations. The Operator of any excavation operations may obtain the approval of the City pursuant to a conditional use permit application following the normal process provided by City ordinance for occasional temporary extended operations or permanent extended operations relating to hours of

operation and days of operation subject to review and approval based on the following criteria and the imposition of reasonable conditions to reduce or mitigate the potential adverse impacts on neighboring landowners and the City.

1. Adequately addressing public safety concerns and other potential adverse impacts of any such proposed extended operations.

2. Adequately addressing public safety concerns specifically relating to the impact of heavy truck travel traveling to and from such excavation operations by various means including, but not limited to, demonstrating the availability of an alternative access that does not travel through existing residential neighborhoods or by providing an alternative access for such heavy truck travel in order to address significant public safety concerns arising out of the impact of such heavy truck travel on 500 West and other current or potential north/south streets in the City.

3. Providing amenities and/or unique public benefits to address and mitigate potential adverse impacts of any such proposed extended operations.

4. Assuring that any such proposed extended operations are a minimum of at least one-half (2) mile from existing residential development; or are part of a large scale, long-term mixed use project that demonstrates it can provide its own internal compatibility through a combination of buffering, berming, screening, landscaping and other mechanisms to reduce or mitigate adverse impacts on neighboring landowners and the City. (Ord.2005-16, dated 12/13/05)

8.24.120 Compliance by Existing Operations. Within ninety days after adoption of the Ordinance codified in this chapter, all existing excavation operations shall comply with the provisions set forth in the operational requirements of Section 8.24.030, and within one year after the adoptions of this ordinance existing excavation operations shall comply with all provisions set forth herein. (Ord.2005-16, dated 12/13/05, Ord. 98-10, dated 11/10/98 and Ord. 98-9, dated 10/27/98: prior codes Ord. dated 1/9/75 (part) and § 19-7-1)

8.24.130 City Engineer Enforcement. The city engineer, appointed by the City Council, is designated and authorized as the officer charged with the enforcement of this chapter. (Ord.2005-16, dated 12/13/05, Ord. 98-9, dated 10/27/98: prior codes Ord. dated 1/9/75 (part) and ' 19-3-1)

8.24.140 City Engineer Duties. It shall be the duty of the city engineer or his designee to inspect or cause to be inspected all excavations. Where it is determined by the city engineer that excavation is proceeding not in compliance with the provisions of this chapter, he shall enforce the provisions of this chapter, and in performance of his duty may enter actions in the courts where necessary, and his failure to do so shall not legalize any violation of such provision. (Ord.2005-16, dated 12/13/05, Ord. 98-9, dated 10/27/98: prior codes Ord. date 1/9/75 (part) and § 19-3-2)

8.24.150 Violation. Any person, owner or operator violating any provision or provisions of this chapter shall be deemed guilty of a class C misdemeanor and each such person,

owner or operator shall be deemed guilty of a separate offense for each and every day or portion thereof during which any violation of any of the provisions of this chapter is committed, continued, or permitted, and upon conviction of any such violation such person, owner, or operator shall be punishable to the fullest extent of the law. Further, the city may revoke the license of any person or corporation violating any of this chapter after a hearing upon due notice, which hearing shall be open to the public. (Ord.2005-16, dated 12/13/05, Ord. 98-9, dated 10/27/98: prior codes Ord. date 1/9/75 (part) and § 19-3-3)

8.24.160 Repealer. In the event any part of the ordinance is determined to be invalid or unconstitutional, the portion is deemed stricken from the ordinance, but the remaining provisions shall remain valid. (Ord.2005-16, dated 12/13/05, Ord. 98-9, dated 10/27/98: prior code Ord. 96-10 dated 5/28/96)

Chapter 8.32 - Cost Recovery for Public Safety Emergencies

8.32.010 Purpose. This chapter shall provide procedures for recovering costs incurred by the City, the Department and/or other Authorized Local Authorities for assistance rendered in responding to Hazardous Material Emergencies, Aggravated Fire Emergencies, and Aggravated Medical Emergencies. (Ord.2003-3, dated 3/11/03)

8.32.020 Definitions. As used in this Chapter, the following terms shall have the following meanings:

- A. "Aggravated Fire Emergency" means:
 - 1. A fire proximately caused by the owner or occupier of property or a structure, which presents a direct and immediate threat to public safety and requires immediate action to mitigate the threat, and the fire:
 - a. is caused or contributed by the failure to comply with an order from any State, County, City or local agency, department or official; or
 - b. occurs as a direct result of a deliberate act in violation of State law or the ordinances or regulations of the County, City or other local agency;
 - 2. A fire that constitutes arson or reckless burning as defined by the Utah Code; or
 - 3. An alarm that results in the City, the Department and/or another Authorized Local Authority being dispatched, and the person transmitting, or causing the transmission of the alarm knows at the time of the transmission that no fire or related emergency exists.
- B. "Aggravated Medical Emergency" means an alarm that results in a City, Department or other Authorized Local Authority dispatching an emergency medical unit, and the person transmitting or causing the transmission of the alarm knows at the time of the transmission that there are no reasonable grounds for believing that a medical emergency exists.
- C. "Authorized Local Authority" means the Department, any other fire department with which the City or the Department has a mutual aid agreement or any other local agency duly designated by appropriate City authority.
- D. "the City" means Pleasant View City.
- E. "the Cities" means Harrisville City, North Ogden City and Pleasant View City, acting together as the North View Fire Department.
- F. "the Department" means the North View Fire Department, a fire department jointly operated by the Cities.
- G. "Expenses" means the actual costs incurred by the City, the Department or an Authorized Local Authority in responding to an Aggravated Fire Emergency, Aggravated Medical Emergency, or Hazardous Materials Emergency, including, but not limited to: personnel costs, including workers' compensation benefits and fringe benefits; administrative overhead; costs of equipment; costs of equipment operation; costs of materials; costs of disposal; and the costs of any contract labor and/or materials.
- H. "Hazardous Material Emergency" means a sudden and unexpected release of any substance that, because of its quantity, concentration or physical chemical or infectious characteristics, presents a direct or immediate threat to public safety or the environment and requires immediate action to mitigate the threat.

- 8.32.030 Recovery Authorization and Procedure.** The City is hereby empowered to recover expenses incurred by virtue of the City's, the Department's or an Authorized Local Authority's response to a Hazardous Material Emergency, Aggravated Fire Emergency or Aggravated Medical Emergency occurring within the City. The recovery may be made from any person, corporation, partnership or other individual or entity which caused the emergency. The City shall proceed pursuant to the following procedure:
- A. The City shall determine the costs of responding to the emergency from the Department, the City's departments, the other Cities, and any Authorized Local Authorities which responded to the emergency.
 - B. The mayor or his designee shall determine responsibility for the emergency or response and notify the responsible party in person or by mail of the determination of responsibility and the expenses to be recovered.
 - C. The notice shall state:
 - 1. That the City has determined that the person is liable to pay the costs of the emergency;
 - 2. The total amount of the costs for which the person is liable;
 - 3. That the person may appeal the decision to the City Council and that the City Council may designate a hearing officer to consider the appeal;
 - 4. That the appeal must be filed, in writing, with the City Recorder not more than thirty (30) days from the date the person received the notice
 - 5. The name and address of the City Recorder; and
 - 6. That if the person does not file an appeal within the thirty (30) day period, the person shall be deemed to have accepted the determination of liability and the amount of the costs to be paid.
 - D. If the person determined to be responsible appeals the determination, the City Council may hear the appeal itself or it may appoint a hearing officer to consider the appeal.
 - E. The City Council or the hearing officer shall hold as many hearings as it determines are necessary to fully consider the issues raised by the appeal, but in all cases the City Council or hearing officer shall hold at least one hearing on the appeal. The City Council's or hearing officer's determination of the number of hearings necessary to determine the appeal shall be conclusive. At any hearing, the appealing party shall be entitled to:
 - 1. Be present;
 - 2. Be represented by counsel (although the City, the Department and/or any Authorized Local Authority shall have no obligation to provide counsel for the appealing party);
 - 3. Present evidence in support of his position; and
 - 4. Cross-examine any witnesses presented by the City, the Department or the Authorized Local Authority.
 - F. If the City Council has heard the matter itself, the City Council shall make a determination regarding the liability of the appealing party and the amount to be paid.
 - G. If the City Council has appointed a hearing officer, the hearing officer shall prepare a report and recommendation for the City Council. The City Council may adopt the report and recommendation, reject the report and recommendation, make modifications to the report and recommendation and may adopt or reject the modified report and recommendation.

- H. If the appealing party disagrees with the City Council's decision, he may appeal the matter to the Second District Court within thirty (30) days of receiving a copy of the City Council's final decision. (Ord.2003-3, dated 3/11/03)

8.32.040 No Admission of Liability. The payment of expenses determined owing under this Chapter does not constitute:

- A. An admission of liability or negligence in any legal action for damages; or
- B. A criminal fine. (Ord.2003-3, dated 3/11/03)

8.32.050 Action to Recover Expenses. If the party or parties determined to be responsible for the repayment of expenses incurred due to the City's, the Department's or an Authorized Local Authority's response to an Aggravated Fire Emergency, Aggravated Medical Emergency or Hazardous Materials Emergency fail to make payments to the City within thirty (30) days after a decision in any appeal under Section 8.32.030 or within thirty (30) days of the deadline for filing an appeal if no appeal is filed, the City may initiate legal action to recover from the responsible party the expenses determined to be owing. In any such action, the City shall be entitled to recover its reasonable attorney's fees and costs in bringing the action and/or collecting the amounts due. (Ord.2003-3, dated 3/11/03)

8.32.060 Payment of Recovered Funds. Any expenses which the City recovers under this Chapter shall be paid as follows:

- A. The City may retain the amount of expenses the City incurred in responding to the emergency and the costs of bringing any action, including attorney's fees awarded by a court.
- B. The City shall pay the amount of recovered expenses the Department incurred into the Department's general fund.
- C. The City shall pay the amount of recovered expenses incurred by the other Cities directly to the other Cities which incurred the expenses.
- D. The City shall pay the amount of recovered expenses incurred by another Authorized Local Authority directly to the Authorized Local Authority. (Ord.2003-3, dated 3/11/03)

Chapter 8.40 – Fireworks Restrictions and Open Fire Restrictions

8.40.010 Restrictions. There shall be no fireworks allowed within the City limits above the Ogden Brigham Canal, with the exception of the New Year's Holiday also known as the Chinese New Year. (Ord.2016-3, dated 7/12/16)