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BUILDING OFFICIAL/BUILDING INSPECTOR

§ 150.001 BUILDING OFFICIAL.

There is hereby created the position of Building Official, who shall also be known as the “Town Building Inspector.”
(Prior Code, § 9-511)

§ 150.002 STOP ORDER.

The Building Inspector shall have the power to order all work stopped on construction, alteration or repairs of buildings in this town when such work is being done in violation of any provisions of any ordinance relating thereto, or in violation of the subdivision or zoning ordinance. Work shall not be resumed after the issuance of such order, except on the written permission of the Inspector, provided that if the stop order is an oral one, it shall be followed by a written stop order within one hour. Such written stop order may be served by any peace officer or authorized person.
(Prior Code, § 9-512)

§ 150.003 ENTRY POWERS.

The Building Inspector shall have the power to enter into any building or the premises where the work of altering, repairing or constructing any building or structure is going on, for the purpose of making inspections at any reasonable hour, pursuant to any of the provisions of this chapter, §§ 35.01 through 35.06, and §§ 92.020 et seq.
(Prior Code, § 9-513)

§ 150.004 ADDITIONAL DUTIES OF BUILDING INSPECTOR.

The Building Official (Inspector) shall, in addition to all other duties imposed on him or her by this town:

(A) Enforce the provisions of the Uniform Building Code;

(B) Inspect all buildings, structures, ditches, signs, fences and objects to determine their safety and effect on the persons who are within this town;

(C) Until such time as a Plumbing Inspector is appointed or designated, the Building Inspector shall be responsible for enforcing §§ 150.060 through 150.076;

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(D) Review all building permit applications for new construction or substantial improvements to determine whether proposed building sites will be reasonably safe from flooding. If a proposed building site is in a location that has a flood hazard, any proposed new construction or substantial improvement (including prefabricated and mobile homes) must:

(1) Be designed (or modified) and anchored to prevent flotation, collapse or lateral movement of the structure;

(2) Use construction materials and utility equipment that are resistant to flood damage; and

(3) Use construction methods and practices that will minimize flood damage.

(E) Review subdivision proposals and other proposed new developments to assure that:

(1) All such proposals are consistent with the need to minimize flood damage;

(2) All public utilities and facilities such as sewer, gas, electrical and water systems are located, elevated and constructed to minimize or eliminate flood damage; and

(3) Adequate drainage is provided so as to reduce exposure to flood hazards.

(F) Require new or replacement water supply systems and/or sanitary sewage systems to be designed to minimize or eliminate infiltration of flood waters into the systems and discharges from the systems into flood waters, and require on-site waste disposal systems to be located so as to avoid impairment of them or contamination from them during flooding; and

(G) Require installation of new fire hydrants at the cost of the building applicant as necessary to provide adequate fire protection to any newly proposed construction or substantial addition over 50% square footage of the structure space of a currently existing building, at a location as required by the Fire Department; provided further that every hydrant shall be installed within 500 feet along the road of any newly constructed or remodeled primary structure as set forth in this chapter.

(Prior Code, § 9-514) (Ord. 20-2, passed 12-9-2020)

BUILDING PROVISIONS

§ 150.015 PERMIT REQUIRED; EXCEPTIONS.

(A) It shall be a Class C misdemeanor for any homeowner and a Class B misdemeanor for any person who receives payment or anything of value to construct or alter any building or structure, except a fence, without first securing the permit required by this chapter.

(B) This section shall not apply where the retail cost of the materials used in the construction or alteration is less than \$150, except that it shall apply in the cases where the construction or alteration results in an enlarged structure or affects the walls of the building or structure.

(Prior Code, § 9-521) Penalty, see § 10.99

§ 150.016 APPLICATION FOR PERMIT.

A building permit shall be secured from the Clerk on written application accompanied by plans and specifications in duplicate which must state the specific nature of the construction or alterations to be made. The plan must be verified by the person who will perform or be in charge of the construction or alteration.

(Prior Code, § 9-522)

§ 150.017 APPROVAL OF PLAN.

The application and plans shall be forwarded from the Clerk to the Building Inspector, who shall review the plan to determine whether the proposed construction or alteration conforms to the building codes and ordinances of this town. The Building Inspector shall return the plans to the Clerk within ten days with the statement “approved” if the plans do conform or “disapproved” if the plans do not conform. If the plans are disapproved, the reasons therefor shall be annexed to the plans. On receipt of an approved plan, the Clerk shall issue a permit to the applicant together with one set of the approved plan. One set of the plans shall be retained by the Building Inspector. The Building Inspector may revoke at any time a permit which has been issued for a building constructed or being constructed or which would be or result, if constructed, in a violation of any ordinance of this town.

(Prior Code, § 9-523)

§ 150.018 VARIATIONS OF PLAN PROHIBITED.

No material variation from the approved plan shall be allowed unless such variations shall first have been approved in writing by the Building Inspector.

(Prior Code, § 9-524)

§ 150.019 FEE SCHEDULE.

The Clerk shall collect a fee for the application of a permit in the amount as may be set forth from time to time.

(Prior Code, § 9-525)

BUILDING CODE

§ 150.030 ADOPTION OF BUILDING CODE.

The Uniform Building Code, as adopted by the state pursuant to UCA § 58-57-4, published by the International Conference of Building Officials and printed as a code in book form, one copy of which has previously been filed with the Clerk for use and examination by the public, hereby is approved and

adopted as the building code of this town.
(Prior Code, § 9-531)

§ 150.031 ESTABLISHMENT OF FIRE DISTRICTS OR ZONES.

The areas as may be determined and described separately from time to time are hereby established as fire districts or zones.
(Prior Code, § 9-533)

§ 150.032 FIRE HYDRANTS.

Any new structure, or any new addition over 50% square footage of the structure space of a currently existing building (based on square feet), based upon a building's foundation footprint, shall require the installation of a fire hydrant if one is not within 500 feet along the road of the proposed or modified structure. Building square footage shall be based on habitable or usable space of the structure according to the foundation footprint. Notwithstanding the forgoing, new structures shall not include noncombustible construction materials such as a cement or steel materials. Exact locations of fire hydrants shall be determined by the Fire Department. Fire hydrants shall be installed at the cost of the applicant and shall comply with all pipe dimensions with a minimum six-inch fire hydrant size or as otherwise required under the Building Code adopted by the town.
(Ord. 20-2, passed 12-9-2020)

ELECTRICAL CODE**§ 150.045 ELECTRICAL CODE.**

The National Electrical Code, as adopted by the state pursuant to UCA § 58-56-4, one copy of the which has been previously filed with the Clerk for use and examination by the public, hereby is approved and adopted as the Electrical Code of this town.
(Prior Code, § 9-540)

§ 150.046 ELECTRICAL INSPECTION.

The Building Inspector shall perform all functions of electrical inspection and shall, among other things, inspect and supervise and construction, installation and repairs of all electric light and power wiring, fixtures, appliances or apparatus installed within the limits of this town and shall require compliance with the provision of the electrical code. The Building Official shall require the correction of such defects as he or she deems actually dangerous to life or property. Those same enforcement standards established in the Uniform Building Code shall be followed by the Building Inspector for all electrical work.
(Prior Code, § 9-541)

§ 150.047 PERMITS AND INSPECTIONS.

No alterations or additions shall be made in existing wiring, nor shall any wirings or any apparatus which generates, transmits, transforms or utilizes any electricity be installed without first obtaining a permit therefor except minor repair work such as repairing flush and snap switches, replacing fuses, changing lamp sockets and receptacles, taping bare joints and repairing drop cords. Applications for such permit describing such work shall be made in writing and shall conform as far as practicable to the requirement set forth in § 150.016. This section shall not apply to installations in power houses and substations belonging to electric light companies. No permit shall be issued to any applicant for a permit during the time that he or she shall fail to correct any defective electrical installation after he or she has been duly notified to correct such defective work by the Building Inspector.

(Prior Code, § 9-542)

§ 150.048 PERMIT FEE.

The electrical permit fees applicable in this town for use under UCA Title 15A, International Residential Code and 2017 National Electric Code of the State Construction Act shall be the amount as may be set forth from time to time.

(Prior Code, § 9-543)

§ 150.049 ELECTRICAL DISTURBANCES.

(A) Electrical installations for signs, equipment or other facility create electrical disturbances that cause interference with normal radio or television reception beyond the immediate vicinity of such electrical installations are hereby declared to be a nuisance. The owners or operators thereof shall so install and maintain such installations as to avoid or eliminate such interference, using all known means and devices for such purpose, such as proper grounding, connections, condensers, resistors and live chokes.

(B) The Building Official shall withhold or withdraw approval of any electrical installation causing the above disturbance, and is hereby authorized to take all steps necessary for the abatement of such conditions.

(Prior Code, § 9-544)

PLUMBING CODE

§ 150.060 PLUMBING CODE ADOPTED.

The Uniform Plumbing Code, as adopted by the state pursuant to UCA § 58-56-4, one copy of which has been filed for use and examination by the public in the office of the Clerk, hereby is approved and adopted as the Plumbing Code of this town, except as otherwise altered or modified by the ordinances of this town.

(Prior Code, § 9-561)

§ 150.061 APPLICATION AND SCOPE.

The provisions of this subchapter shall apply to, but not be limited to, all new construction, relocated buildings and to any installation, alteration, repair or reconstruction of a plumbing system within this town except as otherwise provided in this subchapter.

(Prior Code, § 9-562)

§ 150.062 PLUMBING INSPECTOR; DUTIES.

(A) There is hereby created the position of Plumbing Inspector.

(B) The Plumbing Inspector shall issue permits to properly licensed, bonded and registered persons. Licensing should be for work to be done within the scope of this subchapter. The Plumbing Inspector:

(1) Shall order changes in workmanship and/or materials essential to enforce compliance with all provisions of the Plumbing Code;

(2) Shall investigate any construction or work regulated by this subchapter and issue such notices and orders as are necessary to prevent or correct dangerous or unsanitary conditions; and

(3) May recommend the revocation of any license to the State Department of Business Regulation for cause, and report to the Department of Regulation all violations of this subchapter by journeymen, apprentices or contractors.

(Prior Code, § 9-563)

§ 150.063 ALLOWANCE FOR EXCEPTION TO SUBCHAPTER.

(A) Where structural conditions impose extreme difficulty in fully complying with the plumbing regulations of this subchapter, any aggrieved party may apply in writing to the Plumbing Inspector for special permission to deviate from the regulations.

(B) If, in the judgment of the Plumbing Inspector, such deviation is reasonable and does not create an unsanitary or unsafe condition, he or she shall recommend to the governing body that the request for deviation be approved or disapproved, or that approval is subject to such conditions as the governing body may require.

(C) The governing body, on review, may approve or disapprove the application or vary the condition on which approval is granted.

(Prior Code, § 9-564)

§ 150.064 RIGHT OF ENTRY GRANTED.

The Plumbing Inspector shall have the right of entry within reasonable hours to any building or premises for the purpose of inspection or to investigate any work or conditions governed by this subchapter.

(Prior Code, § 9-565)

§ 150.065 POWER TO CONDEMN GRANTED.

(A) The Plumbing Inspector is hereby empowered to condemn and order repaired, removed, replaced or changed any plumbing found in any unsanitary condition or not in accordance with this subchapter.

(B) Failure to comply with the order within a reasonable time is an infraction.

(Prior Code, § 9-566) Penalty, see § 10.99

§ 150.066 INTEREST IN SALE OR INSTALLATION OR EQUIPMENT PROHIBITED.

The Plumbing Inspector and his or her assistants shall not in any way engage in the sale or installation of plumbing equipment upon which they are required to make inspection hereunder.

(Prior Code, § 9-567)

§ 150.067 PERMITS REQUIRED.

(A) No plumbing shall be installed, nor additions or alterations made in existing plumbing, except as provided in § 150.071 without first obtaining a permit.

(B) Application for such permits shall be in writing to the Clerk and shall describe the nature of the work to be done and affirm that the plumbing will conform to the Plumbing Code.

(C) No permit shall be issued to any applicant during the time he or she shall fail to correct any defective plumbing installed by him or her after he or she has been notified in writing by the Plumbing Inspector of defective work.

(Prior Code, § 9-568) Penalty, see § 10.99

§ 150.068 REVOCATION OF PERMIT.

The Plumbing Inspector may revoke any permit when the person to whom the permit is issued fails, neglects or refuses to do the work thereunder in conformance with this subchapter, or when the permit is issued in error.

(Prior Code, § 9-569)

§ 150.069 EXPIRATION OF PERMIT.

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Every permit issued by the Plumbing Inspector shall expire and become null and void if work authorized by such permit is not commenced within 60 days from the date such permit is issued, or if the work authorized by such permit is suspended or abandoned at any time after the work is commenced for a period of 120 days or more.

(Prior Code, § 9-570)

§ 150.070 DENIAL OF PERMIT.

The Plumbing Inspector may refuse to issue permits for any plumbing work to any person who has had a permit revoked in accordance with this subchapter during such time as such person fails to perform plumbing work in conformance with this subchapter.

(Prior Code, § 9-571)

§ 150.071 PERMITS NOT REQUIRED.

(A) Repairs which involve only the working parts of a faucet or valve, the clearance of stoppages, the repairing of leaks or the replacement of defective faucets or valves may be made without a permit provided that the permits shall be procured to replace fixtures, traps, soil, waste and vent pipes unless waived by the Plumbing Inspector.

(B) Any person regularly employed by an owner or lessee of property, or his or her agents, for the sole purpose of operating and maintaining such property and to make minor repairs thereof, and any owner or lessee of property shall be exempt from the provisions of this subchapter when doing work for which permits are not required.

(Prior Code, § 9-572)

§ 150.072 HOME OWNER PERMIT.

Any permit required by this subchapter may be issued to any person to do any plumbing or drainage work regulated by this subchapter in a single-family dwelling used exclusively for living purposes, including the usual accessory buildings and quarters in connection with such buildings in the event that any such person is a bona fide owner of any such dwelling and accessory buildings and quarters and that the same are occupied by or designed to be occupied by the owner, and further provided that the owner shall furnish the Plumbing Inspector with a complete layout drawing of the proposed work, satisfies the Plumbing Inspector that he or she has working knowledge of the requirements contained in this subchapter, pays the necessary fees, and calls for all inspections required by this subchapter.

(Prior Code, § 9-573)

§ 150.073 PERMIT FEES.

Before a permit shall be issued, permit fees in the amount as may be set forth from time to time shall be paid to the Treasurer.

(Prior Code, § 9-574)

§ 150.074 REINSPECTION CHARGE.

After notice that any plumbing work is ready for inspection, if the Plumbing Inspector calls at the place designated to make such inspection and finds the work not ready for inspection, he or she shall charge an additional fee in accordance with the fee schedule adopted by the Town Council and maintained by the Town Clerk for each additional inspection required.

(Prior Code, § 9-575)

§ 150.075 REFUSAL TO COMPLY WITH ORDER OF INSPECTOR.

It shall be unlawful for any owner, agent or occupant of any building or premises to fail, neglect or refuse to repair, remove, replace or change within ten days after written notice to do so from the Plumbing Inspector, any plumbing condemned by such Inspector, provided that this section shall not apply to any occupant not responsible for the installation or repair of the condemned plumbing.

(Prior Code, § 9-576) Penalty, see § 10.99

§ 150.076 VIOLATION.

(A) The violation of any provision of this subchapter by any homeowner, building owner or manager of any building, apartment, hotel, motel or other structure shall be an infraction.

(B) The violation of any provision of this subchapter by any person who receives payment or anything of value for performing such work shall be a Class B misdemeanor.

(Prior Code, § 9-577) Penalty, see § 10.99

OTHER BUILDING OR CONSTRUCTION CODES

§ 150.090 INDIVIDUAL WASTEWATER (SEWAGE) DISPOSAL CODE ADOPTED.

The State Water Quality Act, being UCA Title 19, Chapter 5, one copy of which has been filed with the Clerk for use and examination by the public, hereby is adopted.

(Prior Code, § 9-610)

§ 150.091 SMALL UNDERGROUND WASTEWATER DISPOSAL SYSTEM CODE ADOPTED.

The State Water Quality Act, being UCA Title 19, Chapter 5, one copy of which has been filed for use and examination by the public in the office of the Clerk, is hereby adopted by the town as the small underground wastewater disposal systems code within the municipality, except as it may be altered or modified by the provision of this or the preceding chapter. Occupancies in existing building may be

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continued as provided in § 104(g) of the Uniform Building Code, except as to those structures which are found to be substandard as defined in the Housing Code.
(Prior Code, § 9-620)

§ 150.092 GAS CODE; CODE FOR INSTALLING GAS PIPING AND APPLIANCES ADOPTED.

(A) *Code adopted.* UCS Title 15A, International Residential Code and 2017 National Electric Code, one copy of which has been filed for use and examination by the public in the office of the Clerk, is hereby adopted by this town.
(Prior Code, § 9-631)

(B) *Section of code not adopted.* Section I of the Gas Code is not adopted.
(Prior Code, § 9-632)

(C) *Construction of Gas Code.* The practices recommended, suggested or described by the word “should” are hereby made mandatory unless the Building Inspector or the gas company determine that it is in the best interests of and safe for the gas user and this town to vary the requirements of the gas code, provided that such variation shall be in accordance with generally accepted gas use standards.
(Prior Code, § 9-633)

(D) *Violations declared a nuisance.* Violation of this subchapter is hereby made a nuisance and shall be abated in the manner provided in §§ 92.080 through 92.087; provided, that conditions which present an immediate danger to life may be abated by causing the gas to be immediately turned off.
(Prior Code, § 9-634)

ESTABLISHMENT OF IMPACT FEES; TO BE PAID WHEN BUILDING PERMIT IS ISSUED**§ 150.105 IMPACT FEE; PARKS/RECREATION.**

(A) An impact fee for parks/recreation will be charged per development unit on all new development.

(B) The Town Council is authorized to set the amount of this fee by resolution, in accordance with the written analysis set forth and required by UCA § 11-36-201(5)(a).

(C) The Town Council is authorized to adjust the impact fee at the time the fee is charges, to respond to unusual circumstances in specific cases to ensure that the impact fee is applied fairly.

(D) The Town Council is authorized to adjust the amount of the impact fee when studies and/or data reflect the need for such adjustment, and such adjustment is to be made by resolution of the Town Council.

(E) The Town Council is authorized to impose an impact fee for parks/recreation costs that

previously have been incurred by the town to the extent that new growth and development will be served by the previously constructed improvement.

(F) All impact fees shall be collected before a building permit will be issued.

(G) This section shall in no way be construed to limit the discretion of Town Council to set the amount, due date or time of payment of fees herein, but no prepayment of impact fees shall be accepted.

(Prior Code, § 9-641) (Ord. 07-6, passed 7-27-2007)

§ 150.106 IMPACT FEES; DRAINAGE.

(A) An impact fee for drainage will be charged per development unit on all new development.

(B) The Town Council is authorized to set the amount of this fee by resolution, in accordance with the written analysis set forth and required by UCA § 11-36-201(5)(a).

(C) The Town Council is authorized to adjust the impact fee at the time the fee is charged, to respond to unusual circumstances in specific cases to ensure that the impact fee is applied fairly.

(D) The Town Council is authorized to adjust the amount of the impact fee when studies and/or data reflect the need for such adjustment, and such adjustment is to be made by resolution of the Town Council.

(E) The Town Council is authorized to impose an impact fee for drainage costs that previously have been incurred by the town to the extent that new growth and development will be served by the previously constructed improvement.

(F) All impact fees shall be collected before a building permit will be issued.

(G) This section shall in no way be construed to limit the discretion of Town Council to set the amount, due date or time of payment of fees herein, but no prepayment of impact fees shall be accepted.

(Prior Code, § 9-642) (Ord. 07-5, passed 7-27-2007)

§ 150.107 IMPACT FEES; STREETS.

(A) An impact fee for streets will be charged per development unit on all new development.

(B) The Town Council is authorized to set the amount of this fee by resolution, in accordance with the written analysis set forth and required by UCA § 11-36-201(5)(a).

(C) The Town Council is authorized to adjust the impact fee at the time the fee is charges, to respond to unusual circumstances in specific cases to ensure that the impact fee is applied fairly.

(D) The Town Council is authorized to adjust the amount of the impact fee when studies and/or

data reflect the need for such adjustment, and such adjustment is to be made by resolution of the Town Council.

(E) The Town Council is authorized to impose an impact fee for street costs that previously have been incurred by the town to the extent that new growth and development will be served by the previously constructed improvement.

(F) All impact fees shall be collected before a building permit will be issued.

(G) This section shall in no way be construed to limit the discretion of the Town Council to set the amount, due date or time of payment of fees herein, but no prepayment of impact fees shall be accepted.

(Prior Code, § 9-643) (Ord. 07-4, passed 7-27-2007)

§ 150.108 IMPACT FEES; POWER.

(A) An impact fee for will be charged on all new power connections.

(B) The Town Council is authorized to set the amount of this fee by resolution, in accordance with the written analysis set forth and required by UCA § 11-36-201(5)(a).

(C) The Town Council is authorized to adjust the impact fee at the time the fee is charges, to respond to unusual circumstances in specific cases to ensure that the impact fee is applied fairly.

(D) The Town Council is authorized to adjust the amount of the impact fee when studies and/or data reflect the need for such adjustment, and such adjustment is to be made by resolution of the Town Council.

(E) The Town Council is authorized to impose an impact fee for power utility costs that previously have been incurred by the town to the extent that new growth and development will be served by the previously constructed improvement.

(F) All impact fees shall be collected before a building permit will be issued.

(G) This chapter shall in no way be construed to limit the discretion of Town Council to set the amount, due date or time of payment of fees herein, but no prepayment of impact fees shall be accepted.

(Prior Code, § 9-644) (Ord. 07-3, passed 7-27-2007)

§ 150.109 IMPACT FEES; WATER.

(A) An impact fee will be charged on all new water connections.

(B) The Town Council is authorized to set the amount of this fee by resolution, in accordance with the written analysis set forth and required by UCA § 11-36-201(5)(a).

(C) The Town Council is authorized to adjust the impact fee at the time the fee is charges, to respond to unusual circumstances in specific cases to ensure that the impact fee is applied fairly.

(E) The Town Council is authorized to adjust the amount of the impact fee when studies and/or data reflect the need for such adjustment, and such adjustment is to be made by resolution of the Town Council.

(E) The Town Council is authorized to impose an impact fee for water utility costs that previously have been incurred by the town to the extent that new growth and development will be served by the previously constructed improvement.

(F) All impact fees shall be collected before a building permit will be issued.

(G) This section shall in no way be construed to limit the discretion of Town Council to set the amount, due date or time of payment of fees herein, but no prepayment of impact fees shall be accepted.

(Prior Code, § 9-645) (Ord. 07-2, passed 7-27-2007)

UNIFORM HOUSING CODE

§ 150.120 ADOPTION OF A HOUSING CODE.

UCA Title 15A, International Residential Code and 2017 National Electric Code (providing minimum requirements for the protection of life, limb, health, safety and welfare of the general public and the owners and occupants of residential buildings), one copy of which has been filed for use and examination by the public in the office of the Clerk of this municipality, is hereby approved and adopted as the Housing Code of this town.

(Prior Code, § 9-651)

§ 150.121 APPLICATION.

The provisions of the Housing Code shall apply to all buildings or portions thereof used, designed for use or intended to be used for human habitation. Occupancies in existing building may be continued as provided in § 104(g) of the Uniform Building Code, except for such structures as are found to be substandard as defined in the Housing Code.

(Prior Code, § 9-652)

§ 150.122 ALTERATION.

Existing buildings which are altered or enlarged shall be made to conform to the housing code insofar as the new work is concerned, in accordance with § 104(a), (b), (c), (d), (e) and (f) of the Uniform Building Code.

(Prior Code, § 9-653)

§ 150.123 RELOCATION.

Existing buildings which are moved or relocated shall be considered as new buildings and shall comply with all requirements of the Housing Code.
(Prior Code, § 9-654)

§ 150.124 ESTABLISHMENT OF A HOUSING ADVISORY AND APPEALS BOARD.

In order to interpret the provisions of the Housing Code and to hear appeals provided for hereunder, there is hereby established the Housing Advisory and Appeals Board, consisting of five members who shall not be employees of this town. The Building Official shall be an ex officio member of and shall act as Secretary to the Board. The Housing Advisory and Appeals Board may adopt reasonable rules and regulations for conducting its business. Its decisions and findings shall be in writing, copies of which shall go to the appellant and to the Building Official. Appeals to the Board shall be processed in accordance with the provisions contained in § 1201 of the Housing Code. Copies of all rules or regulations adopted by the Board shall be delivered to the Building Official who shall make them available to the public without cost.
(Prior Code, § 9-655)

§ 150.125 VIOLATIONS.

It shall be unlawful for any person, firm or corporation, whether as owner, lessee, sub-lessee or occupant, to erect, construct, enlarge, alter, repair, move, improve, remove, demolish, equip, use, occupy or maintain any building or premises, or cause or permit the same to be done, contrary to or in violation of any of the provisions of the Housing Code or any order issued by the Building Official pursuant thereto.
(Prior Code, § 9-656) Penalty, see § 10.99

§ 150.126 PERMITS AND INSPECTIONS.

It shall be unlawful for any person, firm or corporation to erect, construct, enlarge, alter, repair, move, improve, remove, convert or demolish any building or structure, cause or allow the same to be done, without first obtaining a separate building permit for each such building or structure from the Building Official in the manner and according to the applicable conditions prescribed in the Housing Code.
(Prior Code, § 9-657) Penalty, see § 10.99

FALLOUT SHELTERS**§ 150.140 EXEMPTION FROM BUILDING CODE REQUIREMENTS.**

Due to the specialized purpose or emergency nature for which family fallout shelters are designed, any such shelter which complies with the provisions of this chapter is hereby exempt from the provisions of the Building Code, except as otherwise provided herein.
(Prior Code, § 9-661)

§ 150.141 DEFINITION.

For the purpose of this subchapter, a *FAMILY FALLOUT SHELTER* is a structure designed and constructed for emergency use only, to afford minimum protection from nuclear radiation, commonly known as fallout, resulting from a nuclear incident which recently has been or is likely to be of catastrophic proportions.
(Prior Code, § 9-662)

§ 150.142 DESIGN.

A family fallout shelter shall be of a design conforming to that recommended or accepted by the Federal Department of Defense, Office of Civil Defense.
(Prior Code, § 9-663)

§ 150.143 CONSTRUCTION.

A family fallout shelter shall, in all matters relating to construction and structural stability, comply with not less than the equivalent of the provisions relating to design loads and general building requirements specified in the Uniform Building Code.
(Prior Code, § 9-664) Penalty, see § 10.99

§ 150.144 ADMINISTRATIVE APPLICATION OF BUILDING CODE.

Notwithstanding the foregoing, the provisions contained in the Building Code relating to administration, permits and inspections shall be applicable to family fallout shelters.
(Prior Code, § 9-665)

BUILDING PERMITS

§ 150.155 ISSUANCE.

(A) The Building Inspector shall not issue any building permit for any building, construction or repair of any building, unless such fully conforms to all zoning regulations or ordinances of this town in effect at the time of application.

(B) No permit shall be issued for any building or structure or part thereof on any land located between the mapped lines of any street as shown on any official street map adopted by the Town

Council.

(1) However, the Board of Adjustment shall have the power, upon an appeal filed with it by the owner of any such land, to authorize the grant of a permit for a building or structure or any part thereof within any mapped street located in any case in which the Board of Adjustment upon the evidence finds that:

(a) The property of the appellant of which such mapped street location forms a part will not yield a reasonable return to the owner unless such permit is granted; or

(b) Balancing the interest of the town in preserving the integrity of the official map and the interest of the owner in the use and benefits of the property, the grant of such permit is required by consideration of justice and equity.

(2) Before taking any such action, the Board of Adjustment shall hold a public hearing thereon. In the event that the Board of Adjustment decides to authorize a building permit, it shall have the power to specify the exact location, ground area, height and other details and conditions of extent and character and also the duration of the building, structure or part thereof to be permitted.
(Prior Code, § 12-130)

§ 150.156 NOTIFICATION OF COUNCIL.

Before any application for a variance or building permit shall be issued, the Board of Adjustment shall give the Town Council at least 15 days' notice of the application. The Town Council shall have opportunity to respond and comment on the application within the 15 days.
(Prior Code, § 12-132)

PLANNING

§ 150.170 CHANGES IN ZONING.

(A) *Powers of the Town Council to change zones.* It shall be lawful for the Town Council from time to time as necessity may arise to change or modify any regulation or restrictions with respect to zoning or building or uses of land.

(B) *Petition for change.* In each instance where any person shall desire to have such change made, petition shall be made to the Town Council definitely setting out such request and particularizing the change desired.

(C) *Filing fee and publication charge.* At the time the petition is filed requesting change with respect to zoning or building or uses of land as contemplated by this section, there shall be paid to the Treasurer a filing fee of \$5. Should a public hearing be required by law or otherwise upon the change so petitioned for, the party petitioning shall pay to the treasurer the sum of \$20 for the purpose of defraying the cost of advertising such public hearing. The Recorder shall notify such petitioner of such

charge for advertising and shall not proceed with the advertising until such charge has been paid.

(D) *Referral of petition to Planning Commission.* Such petition, together with any protests thereto, shall be referred to the Planning Commission for consideration and recommendation. The Planning Commission shall return such petition together with its recommendation to the Town Council not later than 30 days after referral to it.

(Prior Code, § 12-140)

CHAPTER 151: FLOOD DAMAGE PREVENTION

Section

- 151.01 Authorization, findings, purpose and methods of reducing flood losses
- 151.02 Definitions
- 151.03 General provisions
- 151.04 Administration
- 151.05 Provisions for flood hazard reduction
- 151.06 Standards for subdivision proposals
- 151.07 Standards for areas of shallow flooding (AO/AH zones)
- 151.08 Compliance

- 151.99 Penalty

§ 151.01 AUTHORIZATION, FINDINGS, PURPOSE AND METHODS OF REDUCING FLOOD LOSSES.

(A) *Statutory authorization.* The legislature of the state has in UCA Title 10, Chapters 3, 7 and 8, as amended, delegated the responsibility of local government units to adopt regulations designed to minimize flood losses.

(B) *Findings and fact.*

(1) The flood hazard areas of the town are subject to periodic inundation which results in loss of life and property, health and safety hazards, disruption of commerce and governmental services, and extraordinary public expenditures for flood protection and relief, all of which adversely affect the public health, safety and general welfare.

(2) These flood losses are created by the cumulative effect of obstructions in floodplains which cause an increase in flood heights and velocities, and by the occupancy of flood hazard areas by uses vulnerable to floods and hazardous to other lands because they are inadequately elevated, floodproofed or otherwise protected from flood damage.

(C) *Statement of purpose.* It is the purpose of this chapter to promote the public health, safety and general welfare and to minimize public and private losses due to flood conditions in specific area by provisions designed to:

- (1) Protect human life and health;

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- (2) Minimize expenditure of public money for costly flood control projects;
- (3) Minimize the need for rescue and relief efforts associated with flooding and generally undertaken at the expense of the general public;
- (4) Minimize prolonged business interruptions;
- (5) Minimize damage to public facilities and utilities such as water and gas mains, electric, telephone and sewer lines, streets and bridges locate in floodplains;
- (6) Help maintain a stable tax base by providing for the sound use and development of flood-prone areas in such a manner as to minimize future flood blight areas; and
- (7) Ensure that potential buyers are notified that property is in a flood area.

(D) *Methods of reducing flooding losses.* In order to accomplish its purposes, this chapter uses the following methods:

- (1) Restrict or prohibit uses that are dangerous to health, safety or property in times of flood, or cause excessive increases in flood heights or velocities;
 - (2) Require that uses vulnerable to floods, including facilities which serve such uses, be protected against flood damage at the time of initial construction;
 - (3) Control the alteration of natural floodplains, stream channels and natural protective barriers, which are involved in the accommodation of flood waters;
 - (4) Control filling, grading, dredging and other development which may increase flood damage; and
 - (5) Prevent or regulate the construction of flood barriers which will unnaturally divert flood waters or which may increase flood hazards to other lands.
- (Prior Code, § 15-000) (Ord. 05-4, passed 5-11-2005)

§ 151.02 DEFINITIONS.

For the purpose of this chapter, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

ALLUVIAL FAN FLOODING. Flooding occurring on the surface of an alluvial fan or similar landform which originates at the apex and is characterized by high-velocity flows; active processes of erosion, sediment transport and deposition; and unpredictable flow paths.

APEX. A point on an alluvial fan or similar landform below which the flow path of the major stream that formed the fan becomes unpredictable and alluvial fan flooding can occur.

AREA OF SHALLOW FLOODING. A designated AO, AH or VO Zone on a community's

flood insurance rate map (FIRM) with a 1% chance or greater annual chance of flooding to an average depth of one to three feet where a clearly defined channel does not exist, where the path of flooding is unpredictable and where velocity flow may be evident. Such flooding is characterized by ponding or sheet flow.

AREA OF SPECIAL FLOOD HAZARD. The land in the floodplain within a community subject to a 1% or greater chance of flooding in any given year. The area may be designated as **ZONE A** on the flood hazard boundary map (FHBM). After detailed ratemaking has been completed in preparation for publication of the FIRM, **ZONE A** usually is refined into Zones A, AE, AH, AO, A199, VO, VI-30, VE or V.

BASE FLOOD. The flood having a 1% chance of being equaled or exceeded in any given year.

BASEMENT. Any area of the building having its floor sub-grade (below ground level) on all sides.

CRITICAL FEATURE. An integral and readily identifiable part of a flood protection system, without which the flood protection provided by the entire system would be compromised.

DEVELOPMENT. Any human-made change in improved and unimproved real estate, including but not limited to buildings or other structures, mining, dredging, filling, grading, paving, excavation or drilling operations or storage of equipment or materials.

ELEVATED BUILDING.

(1) A non-basement building:

(a) Built, in the case of a building in Zones A1-30, AE, A, A99, AO, AH, B, C, X and D, to have the top of the elevated floor, or in the case of a building in Zones V1-30, VE or V, to have the bottom of the lowest horizontal structure member of the elevated floor elevated above the ground level by means of pilings, columns (posts and piers), or shear walls parallel to the floor of the water; and

(b) Adequately anchored so as not to impair the structural integrity of the building during a flood of up to the magnitude of the base flood.

(2) In the case of Zones A1-30, AE, A, A99, AO, AH, B, C, X and D, **ELEVATED BUILDING** also includes a building elevated by means of fill or solid foundation perimeter walls with openings sufficient to facilitate the unimpeded movement of flood waters.

(3) In the case of Zones V1-30, VE or V, **ELEVATED BUILDING** also includes a building otherwise meeting the definition of **ELEVATED BUILDING**, even though the lower area is enclosed by means of breakaway walls if the breakaway walls met the standards of § 60.3(e)(5) of the National Flood Insurance Program regulations.

EXISTING CONSTRUCTION. For the purposes of determining rates, structures for which the “start of construction” commenced before the effective date of the FIRM or before January 1, 1975, for FIRMs effective before the date. **EXISTING CONSTRUCTION** may also be referred to as **EXISTING STRUCTURES**.

EXISTING MANUFACTURED HOME PARK OR SUBDIVISION. A manufactured home park or subdivision for which the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including, at a minimum, the installation of utilities, the construction of streets and either final site grading or the pouring of concrete pads) is completed before the effective date of the floodplain management regulations adopted by a community.

EXPANSION TO AN EXISTING MANUFACTURED HOME PARK OR SUBDIVISION. The preparation of additional sites by the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including the installation of utilities, the construction of streets and either final site grading or the pouring of concrete pads).

FLOOD or FLOODING. A general and temporary condition of partial or complete inundation of normally dry land areas from:

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

FLOOD INSURANCE RATE MAP (FIRM). An official map of a community, on which the Federal Emergency Management Agency has delineated both the areas of special flood hazards and the risk premium zones applicable to the community.

FLOOD INSURANCE STUDY. The official report provided by the Federal Emergency Management Agency. The report contains flood profiles, water surface elevation of the base flood, as well as the flood boundary-floodway map.

FLOODPLAIN or FLOOD-PRONE AREA. Any land area susceptible to being inundated by water from any source. See definition of **FLOODING**.

FLOODPLAIN MANAGEMENT. The operation of an overall program of corrective and preventative measures for reducing flood damage, including, but not limited to, emergency preparedness plans, flood control works and floodplain management regulations.

FLOODPLAIN MANAGEMENT REGULATIONS. Zoning ordinances, subdivision regulations, building codes, health regulations, special purpose ordinances (such as floodplain ordinance, grading ordinance and erosion control ordinance) and other applications of police power. The term describes such state or local regulations, in any combination thereof, which provide standards for the purpose of flood damage prevention and reduction.

FLOOD PROTECTION SYSTEM. Those physical structural works for which funds have been authorized, appropriated and expended and which have been constructed specifically to modify flooding in order to reduce the extent of the areas within a community subject to a "special flood hazard" and the extent of the depths of associated flooding. Such a system typically includes hurricane tidal barriers, dams, reservoirs, levees or dikes. These specialized flood modifying works are those constructed in conformance with sound engineering standards.

FLOODPROOFING. Any combination of structural and non-structural additions, changes or adjustments to structures which reduce or eliminate flood damage to real estate or improved real

property, water and sanitary facilities, structures and their contents.

FLOODWAY (REGULATORY FLOODWAY). The channel of a river or other watercourse and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than a designated height.

FUNCTIONALLY DEPENDENT USE. A use which cannot perform its intended purpose unless it is located or carried out in close proximity to water. The term includes only docking facilities, port facilities that are necessary for the loading and unloading of cargo or passengers, and ship building and ship repair facilities, but does not include long-term storage or related manufacturing facilities.

HIGHEST ADJACENT GRADE. The highest natural elevation of the ground surface prior to construction next to the proposed walls of a structure.

HISTORIC STRUCTURE. Any structure that is:

(1) Listed individually in the National Register of Historic Places (a list maintained by the Department of Interior) or preliminarily determined by the Secretary of the Interior as meeting the requirements for individual listing on the National Register;

(2) Certified or preliminarily determined by the Secretary of the Interior as contributing to the historical significance of a registered historic district or a district preliminarily determined by the Secretary to qualify as a registered historic district;

(3) Individually listed on a state inventory of historic places in states with historic preservation programs which have been approved by the Secretary of Interior; or

(4) Individually listed on a local inventory or historic places in communities with historic preservation programs that have been certified either:

(a) By an approved state program as determined by the Secretary of the Interior; or

(b) Directly by the Secretary of the Interior in states without approved programs.

LEVEE. A human-made structure, usually an earthen embankment, designed and constructed in accordance with sound engineering practices to contain, control or divert the flow of water so as to provide protection from temporary flooding.

LEVEE SYSTEM. A flood protection system which consists of a levee, or levees, and associated structures, such as closure and drainage devices, which are constructed and operated in accordance with sound engineering practices.

LOWEST FLOOR. The lowest floor of the lowest enclosed area (including basement). An unfinished or flood resistant enclosure, usable solely for parking of vehicles, building access or storage in an area other than a basement area is not considered a building's **LOWEST FLOOR**; provided, that such enclosure is not built so as to render the structure in violation of the applicable non-elevation design requirement of § 60.3 of the National Flood insurance Program regulations.

MANUFACTURED HOME. A structure transportable in one or more sections, which is built on a permanent chassis and is designed for use with or without a permanent foundation when connected to the required utilities. The term **MANUFACTURED HOME** does not include a **RECREATIONAL VEHICLE**.

MANUFACTURED HOME PARK OR SUBDIVISION. A parcel (or contiguous parcels) of land divided into two or more manufactured home lots for rent or sale.

MEAN SEA LEVEL. For purposes of the National Flood Insurance Program, the National Geodetic Vertical Datum (NGVD) of 1929 or other datum, to which base flood elevations shown on a community's flood insurance rate map are referenced.

NEW CONSTRUCTION. For the purpose of determining insurance rates, structures for which the "start of construction" commenced on or after the effective date of an initial FIRM or after December 31, 1974, whichever is later, and includes any subsequent improvements to such structures. For floodplain management purposes, **NEW CONSTRUCTION** means structures for which the "start of construction" commenced on or after the effective date of a floodplain management regulation adopted by a community and includes any subsequent improvements to such structures.

NEW MANUFACTURED HOME PARK OR SUBDIVISION. A manufactured home park or subdivision for which the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including at a minimum, the installation of utilities, the construction of streets and either final site grading or the pouring of concrete pads) is completed on or after the effective date of floodplain management regulations adopted by a community.

RECREATIONAL VEHICLE. A vehicle which is:

- (1) Built on a single chassis;
- (2) Four hundred square feet or less when measured at the largest horizontal projections;
- (3) Designed to be self-propelled or permanently towable by a light duty truck; and
- (4) Designed primarily not for use as a permanent dwelling but as a temporary living quarters for recreational, camping, travel or seasonal use.

START OF CONSTRUCTION. For other than new construction or substantial improvements under the Coastal Barrier Resources Act (Pub. Law No. 97-348), includes substantial improvement and means the date the building permit was issued, provided the actual start of construction, repair, reconstruction, rehabilitation, addition, placement or other improvement was within 180 days of the permit date. The actual **START** means either the first placement of permanent construction of a structure on site, such as the pouring of slab or footings, the installation of piles, the construction of columns or any work beyond the stage of excavation; or the placement of a manufactured home on a foundation. Permanent construction does not include land preparation, such as a clearing, grading and filling; nor does it include the installation of streets and/or walkways; nor does it include the installation on the property of accessory buildings, such as garages or sheds not occupied as dwelling units or not part of the main structure. For a substantial improvement, the actual **START OF CONSTRUCTION** means the first alteration of any wall, ceiling, floor or other structural part of a building, whether or not that alteration affects the external dimensions of the building.

STRUCTURE. A walled and roofed building, including a gas or liquid storage tank that is principally above ground, as well as a manufactured home.

SUBSTANTIAL DAMAGE. Damage of any origin sustained by a structure whereby the cost of restoring the structure to its before damaged condition would equal or exceed 50% of the market value of the structure before the damage occurred.

SUBSTANTIAL IMPROVEMENT. Any reconstruction, rehabilitation, addition or other improvement of a structure, the cost of which equals or exceeds 50% of the market value of the structure before “start of construction” of the improvement. This includes structures which have incurred “substantial damage,” regardless of the actual repair work performed. The term does not, however, include either:

- (1) Any project for improvement of a structure to correct existing violations of state or local health, sanitary or safety code specifications which have been identified by the local code enforcement official and which are the minimum necessary conditions; or
- (2) Any alteration of a “historic structure;” provided, that the alteration will not preclude the structure’s continued designation as a “historic structure.”

VARIANCE. A grant of relief to a person from the requirement of this chapter when specific enforcement would result in unnecessary hardship. A **VARIANCE**, therefore, permits construction or development in a manner otherwise prohibited by this chapter. (For full requirements, see § 60.6 of the National Flood Insurance Program regulations.)

VIOLATION. The failure of a structure or other development to be fully compliant with the community’s floodplain management regulations. A structure or other development without the elevation certificate, other certifications or other evidence of compliance required in § 60.3(b)(5), (c)(4), (c)(10), (d)(3), (e)(2), (e)(4) or (e)(5) is presumed to be in **VIOLATION** until such time as that documentation is provided.

WATER SURFACE ELEVATION. The height, in relation to the National Geodetic Vertical Datum (NGVD) of 1929 (or other datum, where specified), of floods of various magnitudes and frequencies in the floodplains of coastal or riverine areas.
(Prior Code, § 15-100) (Ord. 05-4, passed 5-11-2005)

§ 151.03 GENERAL PROVISIONS.

(A) *Lands to which this chapter applies.* This chapter shall apply to all areas of special flood hazard within the jurisdiction of the town.

(B) *Basis for establishing the areas of special flood hazard.* The areas of special flood hazard identified by the Federal Emergency Management Agency in a scientific and engineering report entitled “The Flood Insurance Study for Town of Paragonah” date June 2, 2005, with accompanying flood insurance rate maps and flood boundary-floodway maps (FIRM and FBFM) and any revisions thereto are hereby adopted by reference and declared to be part of this chapter.

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(C) *Establishment of development permit.* A development permit shall be required to ensure conformance with the provisions of this chapter.

(D) *Compliance.* No structure or land shall hereafter be located, altered or have its use changed without full compliance with the terms of this chapter and other applicable regulations.

(E) *Abrogation and greater restrictions.* This chapter is not intended to repeal, abrogate or impair any existing easement, covenants or deed restrictions. However, where this chapter and another ordinance, easement covenant or deed restriction conflict or overlap, whichever imposes the more stringent restrictions shall prevail.

(F) *Interpretation.* In the interpretation and application of this chapter, all provisions shall be:

- (1) Considered as minimum requirements;
- (2) Liberally construed in favor of the governing body; and
- (3) Deemed neither to limit nor repeal any other powers granted under state statutes.

(G) *Warning and disclaimer of liability.* The degree of flood protection required by this chapter is considered reasonable for regulatory purposes and is based on scientific and engineering considerations. On rare occasions, greater floods can and will occur and flood heights may be increased by human-made or natural causes. This chapter does not imply that land outside the areas of special flood hazards or uses permitted within such area will be free from flooding or flood damages. This chapter shall not create liability on the part of the community or any official or employee thereof for any flood damages that result from reliance on this chapter or any administrative decision lawfully made thereunder.

(Prior Code, § 15-200) (Ord. 05-4, passed 5-11-2005)

§ 151.04 ADMINISTRATION.

(A) *Designation of the Floodplain Administrator.* The Mayor is hereby appointed the Floodplain Administrator to administer and implement the provisions of this chapter and other appropriate sections of 44 C.F.R. (National Flood Insurance Program Regulations) pertaining to floodplain management.

(B) *Duties and responsibilities of the Floodplain Administrator.* Duties and responsibilities of the Floodplain Administrator shall include, but not limited to, the following:

(1) Maintain and hold open for public inspection all records pertaining to the provisions of this chapter;

(2) Review permit application to determine whether proposed building site, including the placement of manufactured homes, will be reasonably safe from flooding;

(3) Review, approve or deny all applications for development permits required by adoption of this chapter;

(4) Review permits for proposed development to assure that all necessary permits have been obtained from those federal, state or local governmental agencies (including § 404 of the Federal Water Pollution Control Act Amendments of 1972, 33 U.S.C. 1334) from which prior approval is required;

(5) Where interpretation is needed as to the exact location of the boundaries of the areas of special flood hazards (for example, where there appears to be a conflict between mapped boundary and actual field conditions) the Floodplain Administrator shall make the necessary interpretation;

(6) Notify, in riverine situations, adjacent communities and the State Coordinating Agency, which is State Division of Water Rights, prior to any alteration or relocation of a watercourse, and submit evidence of such notification to the Federal Emergency Management Agency;

(7) Assure that the flood-carrying capacity within the altered or relocated portion of any watercourse is maintained;

(8) When base flood elevation data has not been provided in accordance with § 151.03(B), the Floodplain Administrator shall obtain, review and reasonably utilize any base flood elevation data and floodway data available from a federal, state or other source, in order to administer the provisions of § 151.05;

(9) When a regulatory floodway has not been designated, the Floodplain Administrator must require that no new construction, substantial improvements or other development (including fill) shall be permitted within Zones A1-30 and AE on the community's FIRM unless it is demonstrated that the cumulative effect of the proposed development, when combined with all other existing and anticipated development, will not increase the water surface elevation of the base flood more than one foot at any point within the community; and

(10) Under the provisions of 44 C.F.R. Chapter 1, § 65.12, of the National Flood Insurance Program regulations, a community may approve certain development in Zones A1-30, AE, AH, on the community's FIRM which increases the water surface elevation of the base flood by more than one foot, provided that the community first applies for a conditional FIRM revision through FEMA (conditional letter of map revision).

(C) *Permit procedures.* Application for a development permit shall be presented to the Floodplain Administrator on forms furnished by him or her and may include, but not be limited to, plans in duplicate drawn to scale showing the location, dimensions and elevation of proposed landscape alterations, existing and proposed structures, including the placement of manufactured homes, and the location of the foregoing in relation to areas of special flood hazard.

(1) Additionally, the following information is required:

(a) Elevation (in relation to mean sea level), of the lowest floor (including basement) of all new and substantially improved structures;

(b) Elevation in relation to mean sea level to which any nonresidential structure shall be floodproofed;

(c) A certificate from a registered professional engineer or architect that the

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nonresidential floodproofed structure shall meet the floodproofing criteria of § 151.05(B)(2);

(d) Description of the extent to which any watercourse or natural drainage will be altered or relocated as a result of proposed development; and

(e) Maintain a record of all such information in accordance with division (B)(1) above.

(2) Approval or denial of a development permit by the Floodplain Administrator shall be based on all of the provisions of this chapter and the following relevant factors:

(a) The danger to life and property due to flooding or erosion damage;

(b) The susceptibility of the proposed facility and its contents to flood damage and the effect of such damage on the individual owner;

(c) The danger that materials may be swept onto other lands to the injury of others;

(d) The compatibility of the proposed use with existing and anticipated development;

(e) The safety of access to the property in times of flood for ordinary and emergency vehicles;

(f) The costs of providing governmental services during and after flood conditions including maintenance and repair of streets and bridges, and public utilities and facilities such as sewer, gas, electrical and water systems;

(g) The expected heights, velocity, duration, rate of rise and sediment transport of the flood waters and the effects of wave action, if applicable, expected at the site;

(h) The necessity to the facility of a waterfront location, where applicable;

(i) The availability of alternative locations, not subject to flooding or erosion damage, for the proposed use; and

(j) The relationship of the proposed use to the comprehensive plan for that area.

(D) *Variance procedures.*

(1) The Appeal Board as established by the community shall hear and render judgment on requests for variances from the requirements of this chapter.

(2) The Appeal Board shall hear and render judgment on an appeal only when it is alleged there is an error in any requirement, decision or determination made by the Floodplain Administrator in the enforcement or administration of this chapter.

(3) Any person or persons aggrieved by the decision of the Appeal Board may appeal such decision in the courts of competent jurisdiction.

(4) The Floodplain Administrator shall maintain a record of all actions involving an appeal and shall report variances to the Federal Emergency Management Agency upon request.

(5) Variances may be issued for the reconstruction, rehabilitation or restoration of structures listed on the National Register of Historic Places or the State Inventory of Historic Places, without regard to the procedures set forth in the remainder of this chapter.

(6) Variances may be issued for new construction and substantial improvements to be erected on a lot of one-half acre or less in size contiguous to and surrounded by lots with existing structures constructed below the base flood level, providing the relevant factors in division (C)(2) above have been fully considered. As the lot size increases beyond the one-half acre, the technical justification required for issuing the variance increases.

(7) Upon consideration of the factors noted above and the intent of this chapter, the Appeal Board may attach such conditions to the granting of variances as it deems necessary to further the purpose and objectives of this chapter (§ 151.01(C)).

(8) Variances shall not be issued within any designated floodway if any increase in flood levels during the base flood discharge would result.

(9) Variances may be issued for the repair or rehabilitation of historic structures upon a determination that the proposed repair or rehabilitation will not preclude the structure's continued designation as a historic structure and the variance is the minimum necessary to preserve the historic character and design of the structure.

(10) Prerequisites for granting variances:

(a) Variances shall only be issued upon a determination that the variance is the minimum necessary, considering the flood hazard, to afford relief;

(b) Variances shall only be issued upon:

1. Showing a good and sufficient cause;

2. A determination that failure to grant the variance would result in exceptional hardship to the applicant; and

3. A determination that the granting of a variance will not result in increased flood heights, additional threats to public safety, extraordinary public expense, create nuisances, cause fraud on or victimization of the public, or conflict with existing local laws or ordinances.

(c) Any application to whom a variance is granted shall be given written notice that the structure will be permitted to be built with the lowest floor elevation below the base flood elevation, and that the cost of flood insurance will be commensurate with the increased risk resulting from the reduced lowest floor elevation.

(11) Variances may be issued by a community for new construction and substantial improvements and for other development necessary for the conduct of a functionally dependent use,

provided that:

(a) The criteria outlined in division (D)(1) through (D)(9) are met; and

(b) The structure or other development is protected by methods that minimize flood damages during the base flood and create no additional threats to public safety.
(Prior Code, § 15-300) (Ord. 05-4, passed 5-11-2005)

§ 151.05 PROVISIONS FOR FLOOD HAZARD REDUCTION.

(A) *General standards.* In all areas of special flood hazards, the following provisions are required for all new construction and substantial improvements:

(1) All new construction or substantial improvements shall be designed (or modified) and adequately anchored to prevent flotation, collapse or lateral movement of the structure resulting from hydrodynamic and hydrostatic loads, including the effects of buoyancy;

(2) All new construction or substantial improvements shall be constructed by methods and practices that minimize flood damage;

(3) All new construction or substantial improvements shall be constructed with materials resistant to flood damage;

(4) All new construction or substantial improvements shall be constructed with electrical, heating, ventilation, plumbing and air conditioning equipment and other service facilities that are designed and/or located so as to prevent water from entering or accumulating within the components during conditions of flooding.

(5) All new and replacement water supply systems shall be designed to minimize or eliminate infiltration of flood waters into the system;

(6) New replacement sanitary sewage systems shall be designed to minimize or eliminate infiltration of flood waters into the system and discharge from the systems into flood water; and

(7) On-site waste disposal systems shall be located to avoid impairment to them or contamination from them during flooding.

(B) *Specific standards.* In all areas of special flood hazards where base flood elevation data has been provided as set forth in § 151.03(B) and § 151.04(B)(8), the following provisions are required.

(1) *Residential construction.* New construction and substantial improvement of any residential structure shall have the lowest floor (including basement), elevated to or above the base flood elevation. A registered professional engineer, architect or land surveyor shall submit a certification to the Floodplain Administrator that the standard of this division (B) as proposed in § 151.04(C)(1)(a) is satisfied.

(2) *Nonresidential construction.* New construction and substantial improvements of any commercial, industrial or other nonresidential structure shall either have the lowest floor (including basement) elevated to or above the base flood level the structure is water-tight with walls substantially permeable to the passage of water and with structural components having the capability of resisting hydrostatic and hydrodynamic loads and effects of buoyancy. A registered professional engineer or architect shall develop and/or review structural design, specifications and plans for the construction, and shall certify that the design and methods of construction are in accordance with accepted standards of practice as outlined in this division (B). A record of such certification which includes the specific elevation (in relation to mean sea level) to which such structures are floodproofed shall be maintained by the Floodplain Administrator.

(3) *Enclosures.* New construction and substantial improvements, with fully enclosed areas below the lowest floor that are usable solely for parking of vehicles, building access or storage in an area other than a basement and which are subject to flooding shall be designed to automatically equalize hydrostatic flood forces on exterior walls by allowing for the entry and exit of flood waters. Designs for meeting this requirement must either be certified by a registered professional engineer or architect or meet or exceed the following minimum criteria:

(a) A minimum of two openings having a total net area of not less than one square inch for every foot of enclosed area subject to flooding shall be provided;

(b) The bottom of all openings shall be higher than one foot above grade; and

(c) Openings may be equipped with screens, louvers, valves or other coverings or devices provided that they permit the automatic entry and exit of flood waters.

(4) *Manufactured homes.*

(a) Require that all manufactured homes to be placed within Zone A on a community's FHBM or FIRM shall be installed using methods and practices which minimize flood damage. For the purposes of this requirement, manufactured homes must be elevated and anchored to resist flotation, collapse or lateral movement. Methods of anchoring may include, but are not limited to, use of over-the-top or frame ties to ground anchors. This requirement is in addition to applicable state and local anchoring requirements for resisting wind forces.

(b) Require that manufactured homes that are placed or substantially improved within Zones A1-30, AH and AE on the community's FIRM on sites:

1. Outside of a manufactured home park or subdivision;
2. In a new manufactured home park or subdivision;
3. In an expansion to an existing manufactured home park or subdivision; or

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4. In an existing manufactured home park or subdivision on which a manufactured home has incurred “substantial damage” as a result of a flood, be elevated on a permanent foundation such that the lowest floor of the manufactured home is elevated to or above the base flood elevation and be securely anchored to an adequately anchored foundation system to resist flotation, collapse and lateral movement.

(c) Require that manufactured homes be placed or substantially improved on sites in an existing manufactured home park or subdivision with Zones A1-30, AH and AE on the community’s FIRM that are not subject to the provisions of division (B)(4) above be elevated so that either:

1. The lowest floor of the manufactured home is at or above the base flood elevation, or

2. The manufactured home chassis is supported by reinforced piers or other foundation elements of a least equivalent strength that are no less than 36 inches in height above grade and be securely anchored to an adequately anchored foundation system to resist flotation, collapse and lateral movement.

(5) *Recreational vehicles*. Require that recreational vehicles placed on sites within Zones A1-30, AH and AE on the community’s FIRM either:

(a) Be on the site for fewer than 180 consecutive days;

(b) Be fully licensed and ready for highway use; or

(c) Meet the permit requirements of § 151.04(C)(1), and the elevation and anchoring requirements for “manufactured homes” in division (B)(4) above. A recreational vehicle is ready for highway use if it is on its wheels or jacking system, is attached to the site only by quick disconnect type utilities and security devices, and has no permanently attached additions.

(Prior Code, § 15-400) (Ord. 05-4, passed 5-11-2005)

§ 151.06 STANDARDS FOR SUBDIVISION PROPOSALS.

(A) All subdivision proposals, including the placement of manufactured home parks and subdivisions, shall be consistent with § 151.01.

(B) All proposals for the development of subdivisions including the placement of manufactured home parks and subdivisions shall meet development permit requirements of §§ 151.03(C) and 151.04(C) and the provisions of § 151.06.

(C) Base flood elevation data shall be generated for subdivision proposals and other proposed development including the placement of manufactured home parks and subdivisions which is greater than 50 lots or five acres, whichever is lesser, if not otherwise provided pursuant to §§ 151.03(B) or 151.04(B)(8).

(D) All subdivision proposals including the placement of manufactured home parks and subdivisions shall have adequate drainage provided to reduce exposure to flood hazards.

(E) All subdivision proposals including the placement of manufactured home parks and subdivisions shall have public utilities and facilities such as sewer, gas, electrical and water systems located and constructed to minimize or eliminate flood damage.

(Prior Code, § 15-500) (Ord. 05-4, passed 5-11-2005)

§ 151.07 STANDARDS FOR AREAS OF SHALLOW FLOODING (AO/AH ZONES).

(A) Located within the areas of special flood hazard established in § 151.03(B) are areas designated as shallow flooding. These areas have special flood hazards associated with base flood depths of one to three feet where a clearly defined channel does not exist and where the path of flooding is unpredictable and where velocity flow may be evident.

(B) Such flooding is characterized by ponding or sheet flow; therefore, the following provisions apply:

(1) All new construction and substantial improvements of residential structures have the lowest floor (including basement) elevated above the highest adjacent grade at least as high as the depth number specified in feet on the community's FIRM (at least two feet if no depth number is specified);

(2) All new construction and substantial improvements of nonresidential structures:

(a) Have the lowest floor (including basement) elevated above the highest adjacent grade at least as high as the depth number specified in feet on the community's FIRM (at least two feet if not depth number is specified); or

(b) Together with attendant utility and sanitary facilities be designed so that below the base flood level the structure is water-tight with walls substantially impermeable to the passage of water and with structural components having the capability of resisting hydrostatic and hydrodynamic loads of effects of buoyancy.

(3) A registered professional engineer or architect shall submit a certification to the Floodplain Administrator that the standards of this section, as proposed in § 151.04(C)(1)(a), are satisfied; and

(4) Require within Zones AH or AO adequate drainage paths around structures on slopes, to guide flood waters around and away from proposed structures.

(Prior Code, § 15-600) (Ord. 05-4, passed 5-11-2005)

§ 151.08 COMPLIANCE.

No structure or land shall hereafter be constructed, located, extended, converted or altered without full compliance with the terms of this chapter and other applicable regulations.

(Prior Code, § 15-700) (Ord. 05-4, passed 5-11-2005)

§ 151.99 PENALTY.

Violation of the provisions of this chapter by failure to comply with any of its requirements (including violations of conditions and safeguards established in connection with conditions) shall constitute a misdemeanor. Any person who violates this chapter or fails to comply with any of its requirements shall, upon conviction thereof, be fined not more than \$1,000, or imprisoned, or both, for each violation and, in addition, shall pay all costs and expenses involved in the case. Nothing herein contained shall prevent the town from taking such other lawful action as is necessary to prevent or remedy any violation.

(Prior Code, § 15-700) (Ord. 05-4, passed 5-11-2005)

CHAPTER 152: SUBDIVISIONS

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Appendix A: Application and Agreement Forms

GENERAL PROVISIONS

§ 152.001 PURPOSE, SCOPE OF CHAPTER, EXCEPTIONS TO CHAPTER.

(A) *Purpose.* The purpose of this chapter is:

(1) To promote the health, safety and general welfare of the residents of the town;

(2) To promote the efficient and orderly growth of the town; and

(3) To provide policies, procedures, requirements and standards for the physical development of subdivisions of land, construction of buildings and improvements within the town, including, but not limited to, the construction and installation of roads, streets, curbs, gutters drainage systems, water and sewer systems, design standards for public facilities and utilities, accesses to public rights-of-way, dedication of land and streets, granting easements or rights-of-way and to establish fees and other charges for the authorizing of subdivision.

(B) *Scope of chapter.*

(1) No person shall subdivide any parcel of land which is located wholly or in part in the town, except in compliance with this chapter. No person shall sell or exchange or offer to sell or exchange any parcel of land which is any part of a subdivision of a tract of land, not offer for recording in the office of the County Recorder any deed conveying such parcel of land, or any interest therein, unless such subdivision has been created pursuant to and in accordance with the provisions of this chapter. This chapter shall not apply to any lot or lots forming a part of a subdivision created and recorded prior to the effective date of this chapter except as provided in division (B)(2) below.

(2) No lot within a subdivision created and recorded prior to the effective date of this chapter or approved by the Planning Commission and Town Council and recorded in the County Recorder’s office under the provisions of this chapter shall be further divided, rearranged or reduced in area; provided however that the boundaries of any lot shall not be altered in any manner so as to create more lots than initially recorded, or any nonconforming lot, without first obtaining the approval of the Planning Commission and the Town Council as provided in this chapter.

(3) Unless waived by the Planning Commission and the Town Council, it shall be unlawful for any person to receive a building permit on the lot until road base, water main and electrical power is installed in the subdivision in which the building is to be constructed. There shall be no occupancy of any building until the improvements have been accepted by the town and the building and lot fully comply with the subdivision and zoning ordinances of the town. It shall be unlawful for any subdivider to sell any portion of an approved subdivision until the prospective buyer or builder has been advised that occupancy permits will not be issued until the improvements are completed.

(C) *Exceptions to the chapter.* Where unusual topographic or other exceptional conditions exist, the Town Council may change the requirements of this chapter after receiving the recommendation of the Planning Commission, provided that such changes will not substantially impair the intent of this chapter.

(Ord. passed 12-14-1985) Penalty, see § 152.999

§ 152.002 EXEMPTIONS.

The following shall be exemptions to this chapter:

(A) Land divided into parts, the smallest of which is 160 acres in area, or larger; and

(B) Land divisions which are bona fide divisions, as determined by the Planning Commission, or partitions of agricultural land for agricultural purposes. Commercial and industrial divisions shall be as defined in the zoning districts of the town zoning ordinance.

(Ord. passed 12-14-1985)

§ 152.003 DEFINITIONS.

For the purpose of this chapter, the following definitions shall apply unless the context clearly indicates or requires a different meaning. Words used in present tense include the future; singular

number shall include the plural, and the plural the singular, the word “building” shall include the word “structure;” the words “used” or “occupied” shall include arranged, designed, constructed, altered, converted, rented, leased or intended to be used or occupied; the word “shall” is mandatory and not directory, and the word “may” is permissive; the word “person” includes a firm, association, organization, partnership, trust, company or corporation, as well as an individual; the word “lot” includes words plot, or parcel. Words used in this chapter but not defined herein shall have the meaning as defined in the town zoning ordinance adopted by the Town Council.

AGRICULTURE. The tilling of the soil, the raising of crops, horticulture gardening; breeding, grazing and keeping or raising of domestic animals and fowl, except household pets and not including any agricultural industry or business, such as fruit packing plants, for farms, animal hospitals or similar uses. With regard to this chapter, parcels of land for **AGRICULTURAL** use are defined as ten acres or more.

BEGINNING OF CONSTRUCTION. Grading or removal of any vegetation or earth from a site for construction of access routes or preparation for excavation of building pads or footings.

BODY AND FENDER SHOP. Facility for major vehicle repairs to body, frame or fenders and including rebuilding.

CAMPGROUND. A parcel designated and approved by the town for occupancy by tents, trailers, motor homes or campers on a temporary basis.

CONTIGUOUS. A parcel of land or phase of a subdivision that joins another parcel of land or phase of a subdivision. **CONTIGUOUS** is not defined to mean joining at a point.

FINAL MAP. Final map prepared in accordance with the provisions of this chapter which map is designed to be placed on record in the office of the County Recorder.

FRONTAGE, BLOCK. All property fronting on one side of the street between intersecting or intercepting streets or between a street and right-of-way, waterway, end of dead-end street or political subdivision boundaries, measured along the street line. An intercepting street shall determine only the boundary of the **FRONTAGE** on the side of the street which it intersects.

FRONTAGE, LOT. The lineal measurement of the front lot line.

GARAGE, REPAIR. A building or portion thereof, other than a private garage used for servicing, repairing, equipping, hiring, selling or storing motor driven vehicles.

GRADE.

(1) For buildings facing one street only, the sidewalk at the center of the wall adjoining the street.

(2) For buildings facing more than one street, the average of the elevations of the sidewalk at the centers of all walls adjoining the streets.

IRRIGATED LAND. Parcels that have surface or underground water diverted continuously or intermittently upon them for the production of crops or pasture, through the utilization of human-made

improvements.

MASTER PLAN. A long range policy plan prepared and adopted by the Town Council to guide town growth.

MOBILE HOME SUBDIVISION. A subdivision designed and intended for residential use where lots are individually owned or leased, and occupied by mobile homes exclusively.

OFF-SITE FACILITIES. Improvements not on individual lots, but generally within the boundaries of the subdivision which they serve.

OFFICIAL MAP. The official map or maps adopted by the town pursuant to the town zoning and planing enabling legislation.

ON-SITE FACILITIES. Construction of placement of the dwelling and its appurtenant improvements on a lot.

PARCEL OF LAND. Contiguous land owned by and recorded as the property of a person. Land in one ownership but physically divided by a public highway, road or street is considered “contiguous” under this definition.

PERSON. A firm, association, organization, partnership, company or corporation or any legal entity entitled to own property as well as an individual.

PLANNING COMMISSION. Unless otherwise stated, shall mean the Planning Commission for the town.

PLOT PLAN. Plat of a lot, drawn to scale showing such information as may be required by the Planning Commission.

PRELIMINARY MAP. A map made for the purpose of showing the design of a proposed subdivision and the existing conditions in and around it. The **PRELIMINARY MAP** will serve as a basis for the preparation of the final map.

PROTECTION STRIP. A strip of land between the boundary of a subdivision and street within the subdivision, for the purpose of controlling the access to the street by property owners abutting the subdivision.

STREET. A thoroughfare which has been dedicated and accepted by the town, which the town has acquired by prescriptive right or which the county owns, or offered for dedication on an approved final plat, or a thoroughfare of at least 50 feet in width which has been abandoned or made public by right of use land and which affords access to abutting property, including highways, roads, lanes, avenues and boulevards. If sidewalks exist at adjoining property, sidewalks matching existing property will be required.

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(1) ***STREET, ARTERIAL.*** A street, existing or proposed, which serves or is intended to serve as a major traffic way and is designated on the master street plan as a controlled-access highway, major street, parkway or other equivalent term to identify those streets comprising the basic structure of the street plan.

(2) ***STREET, COLLECTOR.*** A street, existing or proposed street which is the main means of access to the major street system.

(3) ***STREET, LOCAL.*** A street, existing or proposed, which is supplementary to collector street and of limited continuity which serves or is intended to serve the local needs of a neighborhood.

(4) ***STREET, PRIVATE.*** A thoroughfare within a subdivision which has been reserved by dedication unto the subdivider or lot owners to be used as private access to serve the lots platted within the subdivision and complying with the adopted street cross section standards fo the town and maintained by the subdivider or other private agency.

SUBDIVIDER. Any person, developer, firm, corporation, partnership or association who causes land to be divided into a subdivision for himself or herself or others.

SUBDIVISION. The division of any tract, lot or parcel of land into three or more lots, plots, sites or other divisions of land for the purpose, whether immediate or future of sale, lease or of building development, provided that the term ***SUBDIVISION*** shall not apply to those divisions excepted or exempted in this chapter. The word ***SUBDIVIDE*** and any other derivative thereof shall have reference to the word ***SUBDIVISION*** as herein defined.

TOWN. The Town of Paragonah.

TOWN ATTORNEY. The Attorney for the Town of Paragonah.

TOWN BUILDING INSPECTOR. The Building Inspector for the Town of Paragonah.

TOWN COUNCIL. The Town Council of the Town of Paragonah.

TOWN ENGINEER. The Engineer for the Town of Paragonah or his or her authorized representative.

VICINITY MAP. A map or drawing to scale showing the physical relationship of the proposed development to existing or proposed streets, buildings and utilities; other relevant information such as special terrain or surface drainage; and existing zoning classification of all land within 200 feet to the property proposed for development.

ZONE CLEARANCE. Assurance in writing by the Building Inspector that a proposed activity is in compliance with existing zoning regulations.

(Ord. passed 12-14-1985)

§ 152.004 ENFORCEMENT AND PERMITS.

(A) *Building Inspector to enforce.* The Building Inspector is hereby authorized as the officer charged with the enforcement of this chapter. The Building Inspector shall enforce all the provisions of this chapter.

(B) *Permits.*

(1) The Building Inspector shall not grant a permit nor shall any officer grant any license or permit for the use of any land or the construction or alteration of any building or structure on a lot which would be in violation of any state law or rule or regulation of the state or ordinance of the town until a subdivision plat has been approved pursuant to this chapter.

(2) Any license or permit issued in conflict with such provisions shall be null and void.

(C) *Inspections.*

(1) The Building Inspector shall inspect or cause to be inspected all buildings, fire hydrants and water supply, and sewage disposal systems in the course of construction, installation or repair.

(2) Excavations for fire hydrants and water and sewer mains and laterals shall have been approved by an engineer designated by the town. If any such installation is covered before being inspected and approved, it shall be uncovered after notice to uncover has been issued to the responsible person by the Building Inspector.

(D) *Form of agreement.*

(1) Prior to any final approval of a subdivision, the subdivider shall enter into an agreement with the town, which shall be in substantially the following form:

AGREEMENT

This Agreement is made by and between _____, (hereafter "Subdivider") and Paragonah Town.

Subdivider hereby acknowledges receipt of copy of the Paragonah Town Subdivision Ordinance. Subdivider hereby acknowledges that he or she has read the Subdivision Ordinance (or that an agent of the Subdivider has), and that he or she understands the provisions of the Subdivision Ordinance and that he or she will fully and completely comply with the provisions and requirements therein contained.

Dated this _____ day of _____, 20____.

Subdivider

(2) The form of a corporate or partnership signature shall include a provision for a notary in which the subdivider represents that the person signing for the corporation has the authority to execute the agreement for the corporation or partnership.

(3) Complete application and agreement forms are contained as Appendix A of this chapter. (Ord. passed 12-14-1985)

§ 152.005 PROCEDURES FOR PRE-APPLICATION.

(A) *Pre-application process.*

(1) Subdividers shall submit a sketch plan to the Planning Commission as part of the pre-application process prior to the submission of a preliminary plat. The sketch plan is intended to enable the subdivider and the Planning Commission to have an informal preliminary site plan for general scope and conditions which might affect the plan. For large areas where development is anticipated over an extended period of years, the sketch plan shall show the area for which preliminary plan approval will be requested for the first phase of development and also show a concept sketch map of the entire property and its environs. The concept sketch map will have no official standing or approval. It shall be amended or modified from time to time by the subdivider as deemed appropriate. This sketch plan as well as other submittals shall be received by the Planning Commission or an authorized representative.

(2) This sketch plan shall include the following:

(a) The general location of the subdivision and the property boundaries of the proposed subdivision area, date, outlined in red, true north and designated public access. It should show significant natural and human-made features on the site and within one-half mile of any portion;

(b) Topographic contours from available data, e.g., USGS maps;

(c) Town Council approval for the type of water system proposed; also, documentation of water source, water rights and of historic water use;

(d) Type of sewer or sanitary waste system proposed, as approved by the State Health Department;

(e) Acreage of the entire tract as well as the number of lots and the average size of the lots; and

(f) Brief written statement or oral presentation in sufficient detail that the intent of the subdivider is clear to those who review the proposals.

(B) *Feasibility of water and sewer systems.*

(1) At the time of pre-application the subdivider will be required to show the feasibility of the proposed water and sewage systems necessary to meet the requirements of this chapter, the local health officer and the State Division of Environmental Health, as indicated by letters of feasibility from such health officers. Subdividers shall submit required preliminary plat materials and supporting documents of a proposed subdivision to the Planning Commission offices for approval prior to the submission of the final plat. Submission requirements and time required for review and notification are indicated in this chapter. Prior to sketch plan approval, the Planning Commission or a representative shall have made an on-site visitation to the proposed subdivision.

(2) The Planning Commission shall advise the subdivider of possible problems with the proposed subdivision within 30 days after it receives the sketch plan. Approval of the sketch plan shall not constitute approval of the preliminary plat. The sketch plan shall be good for one year. Thereafter, approval of the sketch plan will have expired unless a preliminary plat has been submitted to the Planning Commission.

(Ord. passed 12-14-1985)

§ 152.006 CONSTRUCTION STANDARDS.

Construction standards and building codes adopted by the town shall be followed by the subdivider, developer and contractor.

(Ord. passed 12-14-1985)

§ 152.007 CONDOMINIUM AND PLANNED UNIT DEVELOPMENT.

(A) Requirements for all condominium and planned development subdivisions.

(1) In addition to all other requirements relating to new subdivision and all of the requirements relating to planned developments, the requirements of this chapter shall apply to each condominium or planned development subdivision.

(2) No condominium or planned development subdivision shall be approved, recorded or developed in any way without compliance with the terms of this chapter.

(3) This chapter will apply to any subdivision or part of a subdivision intended to be developed by the construction of multiple-family buildings or a multiple-family building, and the sale of the building by selling individual condominium units or planned development lots rather than by selling the building to a person, firm, corporation or association which will act as landlord and rent the dwelling units to individual tenants.

(B) Information required with application. Each application for approval of a condominium or planned development subdivision shall contain, in addition to the information required by the town ordinances relating to planned developments and new subdivisions, the following additional information:

(1) Plans and specifications or blueprints indicating where each condominium unit of planned development lot is to be and indicating what public areas are to be owned by the association or owners or in common by the owners;

(2) A copy of all proposed covenants, master deeds or declarations relating to the real estate;

(3) Proposed articles of incorporation and by-laws for the association of owners;

(4) A detailed description of proposed financing to be available to purchasers of the units or lots;

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(5) Information indicating financial responsibility and financial ability of the builders or developers to complete the project as proposed;

(6) An agreement by the builder or developer specifying the improvements to be completed by the builder or developer, including recreational facilities, bicycle trails and other common areas;

(7) If the construction is to be financed in whole or in part by escrow funds put up by purchasers, or if escrow funds of any kind are required from purchasers, then the following information will be provided:

(a) A description of the escrow arrangements;

(b) A copy of all escrow documents;

(c) Provisions for the return of funds to purchasers if the matter is not completed by the date specified; and

(d) The name and address of the institution to hold the escrow.

(8) Title information showing all liens, easements and interests of record, including all ownership concerning the real estate. All mortgages and mechanics liens and other financial liens of any kind shall be listed;

(9) In connection with the common areas and recreational areas, a proposed management agreement and proposed rules will be furnished;

(10) The forms to be used for agreements, promissory notes, deeds and other documents of title and documents related to the sale of condominium units will be furnished;

(11) The applicant will furnish a bond with a corporate surety licensed to do business in this state, guaranteeing that all common areas and facilities and all common recreational facilities will be completed; and

(12) An opinion of counsel certifying compliance with all provisions of state and local law, and, in the case of a planned development, U.S. Department of Housing and Urban Development, Federal Housing Administrator and Veterans Administration FHA Form 1400, VA Form 26-8200.

(C) *Association.* There shall be provision for an association of the owners. The subdivider or builder of each subdivision shall provide the services, bond and other matters required to be furnished to the association.

(Ord. passed 12-14-1985)

§ 152.008 FINANCIAL RESPONSIBILITY.

(A) *Guarantee.* In lieu of actual installation of the improvements required by this chapter, and before final plat approval by the Town Council, the subdivider must guarantee the installation thereof

by one or a combination of one or more of the methods specified in divisions (B), (C), (D) or (E) below in an amount equal to the cost of the improvements as estimated, plus require a percentage to cover unexpected costs and inflation. The guarantee employed shall be approved as to method and form by the Town Council and the Town Attorney. The Town Council is authorized to prescribe by administrative rule, or regulation, forms and procedures to ensure the orderly, regular and efficient processing of applications for the approval of a proposed subdivision and the strict compliance with the requirements of this chapter.

(B) *Performance bonds.* The subdivider shall furnish and file with the Town Clerk a corporate surety bond in an amount equal to the cost of the required improvement as estimated and require a percentage to cover costs of inflation, to assure the actual construction of such improvements within a period of two years immediately following the approval of the final plat and subdivision by the Town Council, which bond shall be approved by the Town Council and the Town Attorney.

(C) *Escrow deposit.* The subdivider shall deposit in escrow with an escrow holder approved by the Town Council an amount of money equal to at least 125% of cost of improvements required as estimated and require a percentage to cover the cost of inflation, under an interest bearing escrow agreement conditioned for the installation of said improvements within two years from the approval of the final plat and subdivision. The escrow agreement aforesaid shall be approved by the Town Council and the Town Attorney and shall be filed with the County Recorder.

(D) *Trust deeds.*

(1) The subdivider shall provide the town with trust deeds to lots within the subdivision estimated by the engineer to have an encumbered fair market value at least equal to 125% of the estimated costs of the improvements required by this chapter. The trust deeds shall be in favor of the town and shall be in a form acceptable for filing in the office of the County Recorder.

(2) The town shall release all of the trust deeds held by it whenever it finds that the subdivider has installed and constructed the improvements required by this chapter and that the improvements have remained free from latent defects for one year after acceptance by the Town Council.

(3) In the event the subdivider fails to complete the required improvements within a period of two years after final acceptance, the town may cause the lots to which it holds trust deeds to be sold and to apply the proceeds to make the required improvements.

(4) In the event the required improvements fail to be maintained for one year after completion or are found to have latent defects, the town may cause the lots to which it holds trust deeds to be sold and to apply the proceeds to make the required improvements.

(5) The town shall pay to the subdivider any proceeds it receives from the sale of the lots which exceed the costs to the town of installing, constructing or repairing the required improvements and the cost for foreclosing the trust deeds.

(E) *Irrevocable letter of credit.* The subdivider shall file with the Town Council an irrevocable letter of credit from a duly chartered state or national bank or savings and loan institution which letter shall contain provisions substantially similar to that required in escrow agreement.

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(F) *Default.* In the event the subdivider defaults or fails or neglects to install satisfactorily the required improvements within two years from the date of approval of the final plat, the Town Council may declare the guarantee forfeited, and may install or cause the required improvements to be installed, using the proceeds from the collection of the bond to defray the expenses thereof.

(G) *Phased development.* Whenever the subdivider shall develop a subdivision in phases, such development shall be in orderly manner and in such way that the required improvements will be continuous and all said improvements will be made available for full, effective and practical use thereof lessee or grantee of any of the subdivided lands within the time hereinbefore specified.

(H) *Improvements guarantee.*

(1) The subdivider or contractor, upon submission of his or her plans, shall deposit with the Town Clerk a sum in the amount to cover inspection of the above improvements.

(2) All such improvements shall have been installed within a period of two years and shall be installed in a manner satisfactory to the Town Council.

(3) The subdivider shall warrant and guarantee that the improvements provided for herein and every part thereof, will remain in good condition for a period of one year after the date of conditional acceptance by the Town Council and agree to make all repairs to and maintain the improvements and every part thereof in good condition during that one-year period at no cost to the town. It is further agreed and understood that identifying necessity for repairs and maintenance of the work rests with the Town Building Inspector, whose decision upon the matter shall be final and binding upon the subdivider, and the guarantee hereby stipulated shall extend to and include, but shall not be limited to, the entire street, subgrade, base and surface and all pipes, joints, valves, backfill and compacting as well as the working surface, curbs, gutters, sidewalks and other accessories that are, or may be, affected by the construction operations. Whenever, in judgment of the Town Building Inspector, said work shall be in need of repairs, maintenance or rebuilding and upon the date of their service of such written notice, town shall have such repairs made, and the cost of such repairs shall be paid by the subdivider.

(I) *Covenant.*

(1) The subdivider shall execute and acknowledge in a form capable of recording in the office of the County Recorder, a written agreement with the Town Council, by which the subdivider covenants that he or she will not sell, lease or convey any of the subdivided property to anyone whomsoever unless he or she shall first, as a condition precedent thereto, satisfy at least one of the foregoing requirements of divisions (B), (C), (D) or (E) above.

(2) The agreement shall specifically provide that it shall be deemed to be a covenant running with the land to secure the installation of all the improvements required by this chapter together with a payment of all costs, including a reasonable attorney's fee, which the Town Council may incur in enforcing any of the terms and provisions of the agreement.

(3) The lien may be released by the town when the subdivider complies with the requirements set forth in at least one of the foregoing requirements of divisions (B), (C), (D) or (E) above.

(J) *Acceptance and release of surety.*

(1) Conditional acceptance of all the improvements shall be in writing from the Town Council after written approval has been received from the Town Building Inspector.

(2) Final inspection by the Town Building Inspector shall be made one year after all work has been complete and before release of the improvement bond, escrow deposit irrevocable letter of credit or trust deeds. All defects shall be corrected before acceptance by the Town Council.

(3) Final acceptance shall be in writing by the Town Council after written approval is received from the Town Building Inspector.

(K) *Orderly development required.* Whenever the subdivider shall develop a subdivision, such development shall be in an orderly manner and in such a way that the required improvements will be continuous and all of the improvements will be made available for the full, effective and practical use and enjoyment thereof by the purchaser, grantee, assignee, transferor or lessee of any of the lands subdivided within the time hereinbefore or in phases specified.

(Ord. passed 12-14-1985)

§ 152.009 FEES.

At the time of filing for any platting, zoning or subdivision action, a non-refundable fee must be submitted, payable to the town, in accordance with the currently adopted fee schedule as adopted by the Town Council.

(Ord. passed 12-14-1985)

PRELIMINARY PLAT

§ 152.020 SUBMISSION REQUIREMENTS.

Copies of all required materials for a preliminary plat shall be officially submitted to the Planning Commission by the subdivider or authorized representative at least eight days prior to the date of the Planning Commission meeting at which the preliminary subdivision plat is to be reviewed.

(Ord. passed 12-14-1985)

§ 152.021 PLAT REQUIREMENTS.

(A) One copy of an application for approval of a preliminary plat and all supporting documents;

(B) A minimum of five black on white or blue on white or brown on white prints of the preliminary plat:

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(1) One additional print is required when the property being subdivided abuts a state highway; and

(2) When a proposed subdivision lies wholly or partially in proximity to a municipality, an additional print shall be furnished for each such municipality.

(C) Three copies of the on-lot sewage disposal report, where applicable, shall be submitted; and

(D) A receipt shall be issued to the subdivider for the preliminary plat submission when it has been determined that the submission appears to include all the requirements set forth in these regulations. The dates of the Planning Commission meeting to review the plans shall be specified on the receipt.

(Ord. passed 12-14-1985)

§ 152.022 DESCRIPTION.

In a title block, located in the lower right-hand corner of the sheet shall appear the following:

(A) The proposed name of the subdivision;

(B) The location of the subdivision, including the address and the section, township and range;

(C) The names and addresses of the owner or subdivider, if other than the owner; and

(D) Scale.

(Ord. passed 12-14-1985)

§ 152.023 DRAWING REQUIREMENTS.

(A) The accuracy of location of alignments, boundaries and monuments shall be keyed to legal section survey monuments and certified by a registered land surveyor licensed to do such work in the state. A workmanlike execution of the plat shall be made in every detail. A poorly-drawn or illegible plat is sufficient cause for rejection.

(B) The following data shall be submitted as part of the preliminary plat submission:

(1) A vicinity sketch showing perimeter outline of the plan, accesses, abutting subdivision outlines and names, and any other relevant information within a one-half mile distance of the perimeter of the proposed plat;

(2) A traverse map of the perimeter of the proposed subdivision. The traverse shall be an error of closure of not greater than one part in 10,000. Surveys shall tie in to at least two legal section survey monuments;

(3) The existing contours at two-foot intervals for predominant ground slopes within the tract between level and 5% grade and five-foot contours for predominant ground slopes within the tract over

5% grade. Elevations shall be based on National Geologic Survey sea level data. In case of predominantly level topography throughout a subdivision, one-foot interval contours may be required;

- (4) Lot and street layout;
- (5) Dimensions of all lots to nearest foot (which may be scaled values);
- (6) Total acreage of entire proposed subdivision;
- (7) Lots and blocks numbered consecutively;
- (8) Locations and identification of all existing and proposed public and private easements;
- (9) Existing and proposed street names;
- (10) Street profiles to show proposed grades;

(11) The plat shall be drawn to a scale not less than one inch equals 100 feet, and shall indicate the basis of bearings, true north point, name of subdivision, name of county, township, range, section and quarter section, block and lot number of the property under consideration, keyed to legal section survey monuments. For special circumstances, the Planning Commission may adjust the map scale requirement;

(12) All fence lines in and adjacent to the proposed subdivision;

(13) An affidavit that the applicant is the owner or has designated legal authorization by the owner, in writing, to make application for the land proposed to be subdivided;

(14) Sites, if any, to be reserved or dedicated for parks, playgrounds, schools or other public uses;

(15) Sites, if any, for multi-family dwellings, shopping centers, community facilities, industry or other uses, exclusive of single-family dwellings; and

(16) Location, function, ownership and manner or maintenance of common open space not otherwise reserved or dedicated for public use.
(Ord. passed 12-14-1985)

§ 152.024 SUPPORTING DOCUMENTS REQUIRED.

The following shall accompany and be a part of the submission:

- (A) Agreement between the city and the subdivider (reference § 152.004(D));
- (B) Completed copy of the application for subdivision approval;
- (C) Location and vicinity map showing the following:

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- (1) Adjacent or adjoining spheres of influence (if applicable);
- (2) Related existing and planned streets and highway systems;
- (3) Subdivision boundary lines (shown in red);
- (4) Zoning districts and/or any existing special improvement districts (identified by type);
- (5) Three copies of the sewage disposal report where on-lot sewage treatment is proposed;
- (6) Water sources; and
- (7) Significant vegetative patterns.

(D) Map at a suitable scale showing the following:

- (1) Proposed future street layout in dashed line for any portion or parcel of the plan which is not being subdivided at the present time;
- (2) Watercourses and proposed storm water drainage systems including culverts, water areas, streams, areas subject to occasional flooding, marshy areas of swamps;
- (3) Approximate boundaries of areas subject to flooding or storm water overflows of an intensity estimated to occur with a return frequency of one every 100 years;
- (4) Existing buildings, other easements, fences, telephone lines, gas lines, power lines and other features located on the subdivision and within 200 feet of its boundaries;
- (5) A composite utilities easement plan showing location, size and proposed use of all easements. All utilities must be constructed within approved easements; and
- (6) The substance of all other covenants, grants of easements or restrictions to be imposed upon the use of the land, buildings or structures.

(E) Geologic maps and investigation reports regarding area suitability for the proposed development;

(F) A letter from each utility company involved, addressed to the Planning Commission, stating that they have reviewed the plan and are setting forth their comments concerning the extent of services and design of utility easements;

(G) A statement that all taxes or special assessments payable on all property within the limits of the subdivision are paid in full, or a letter stating that a satisfactory bond has been filed to secure such payment;

(H) An itemized estimate of the cost of all proposed or required improvements, including labor and material;

(I) One copy of the proposed deed restrictions in final form and signed by all of the owners of any interest in the subdivision who sign the final subdivision map. This copy shall be acknowledged by a notary public and shall be recorded in the office of the County Recorder along with the final plat; and

(J) One copy of a preliminary title report.
(Ord. passed 12-14-1985)

§ 152.025 SUMMARY STATEMENT OF PROPOSAL.

A summary statement to be submitted shall include:

(A) Total development area, and number of proposed dwelling units;

(B) Total number of square feet in nonresidential floor space;

(C) Total number of off-street parking spaces, including those associated with a single-family residential development;

(D) Estimated number of gallons per day of water system requirements;

(E) Estimated construction cost and proposed method of financing of the streets and related facilities; water distribution system; storm drainage facilities; and such other utilities as may be necessary; and

(F) Survey notes of subdivision perimeter survey and copies of all monument records.
(Ord. passed 12-14-1985)

§ 152.026 REVIEW PROCEDURES; PRELIMINARY PLAT.

(A) When a preliminary plat has been officially submitted and received at a Planning Commission meeting, it shall be placed on the agenda of the Planning Commission meeting within 30 days for subdivision review. This means that all review data has been completed and recommendations received by the Planning Commission. In no case shall the preliminary plat be first considered by the Planning Commission later than its second meeting following receipt of the plat.

(B) The Planning Commission shall immediately upon receipt of the complete submission have distributed copies of prints of the plan provided by the subdivider to the staff for review and other interested agencies as follows:

(1) To any utility or special district or irrigation company, as applicable;

(2) To the local fire control where applicable; and

(3) To any other agency the Planning Commission deems necessary.

(Ord. passed 12-14-1985)

§ 152.027 PLANNING COMMISSION APPROVAL.

(A) The Planning Commission shall determine from an on-site review of the proposed subdivision area whether the soil, slope, vegetation and drainage characteristics of the site are such as to require substantial cutting, clearing, grading and other earth-moving operations in the construction of the subdivision or otherwise entail an erosion hazard, and if so, the Planning Commission shall require the subdivider to provide soil erosion and sedimentation control plans and specifications. If the site requires substantial cutting, clearing, grading or other earth moving operations in construction of structures or roads in the proposed development, the Planning Commission shall require the applicant to provide soil erosion and sediment control plans and specifications prepared by a registered civil engineer.

(B) The Planning Commission shall approve only those preliminary plats which it finds have been developed in accordance with the standards and criteria specified in this chapter and all other ordinances of the town, including, but not limited to, the town's zoning ordinances, major road plans, the town's master plan, building codes, design standards and construction standards.

(C) Within 30 days after review of the preliminary plat at a public meeting, the Planning Commission shall approve, approve with conditions or disapprove the preliminary plat. Upon failure to act within such time frame, the preliminary plat shall be deemed disapproved.

(D) If the preliminary plat is approved, the Planning Commission shall return one copy of the plat signed by the Planning Commission Chairperson to the subdivider with any conditions attached. The Planning Commission shall retain one signed copy of the plat for its files. If the preliminary plat is disapproved, the Planning Commission shall indicate its disapproval by returning one copy of the plat to the subdivider along with the reason for disapproval. The receipt of a signed copy of the approval plat shall authorize the subdivider to proceed with the preparation of the final plat.

(Ord. passed 12-14-1985)

FINAL PLAT**§ 152.040 FINAL PLAT REQUIRED.**

After compliance with the provisions of §§ 152.020 through 152.027, a final plat of the subdivision covering all or part of an approved preliminary plat shall be prepared by a licensed surveyor not employed by the town in conformance with the design standards and submitted within one year from the date of preliminary plat approval, unless the time is, in writing, extended by the Planning Commission. Otherwise, preliminary approval shall be deemed to have been withdrawn.

(Ord. passed 12-14-1985)

§ 152.041 SUBMISSION REQUIREMENTS.

(A) The final plat submission shall conform to the approved preliminary plat, in addition, to the

five copies as specified for the preliminary plat.

(B) Sketch plans, preliminary plats and final plats shall all conform to the requirements and specifications of these regulations and shall be submitted in the manner prescribed.

(C) Copies of all required material shall be officially submitted to the Planning Commission at an official meeting by the subdivider or his or her authorized representative.

(D) Final plats shall be submitted for approval within one year of the date a preliminary plat has been approved by the Planning Commission.
(Ord. passed 12-14-1985)

§ 152.042 PHASE DEVELOPMENT.

(A) The final platting of subdivisions shall be done in phases, except as provided in division (C) below. Each phase shall consist of the number of lots which can be completely developed with off-site improvements within a two-year period, or 25% of the lots whichever is larger. If the roads and utilities are not established within two years, the plat shall be considered null and void and subject to re-application by the subdivider.

(B) When the off-site improvements have been 100% completed within the boundaries of the recorded plat and approved by the town's Engineer, the subdivider may submit the next phase of the proposed development in accordance with the provisions of this chapter.

(C) A final plat will be accepted only upon the submission of qualified evidence indicating that the market absorption rate is such, and the financial ability of the subdivider is such that the off-site improvements for all lots in such final plat will be completed within two years.
(Ord. passed 12-14-1985)

§ 152.043 TOWN COUNCIL ACTION.

After conditional approval of the final plat by the Planning Commission, the subdivider or his or her agent shall appear at the next regularly scheduled meeting of the Town Council to request review of the final plat. The Town Council shall act on the application within 30 days of such request. Upon failure to act within such time frame, the final plat shall be deemed disapproved.
(Ord. passed 12-14-1985)

§ 152.044 ACCEPTANCE OF STREETS AND OTHER PUBLIC LAND DEDICATION.

Acceptance of dedication of proposed public lands or streets or street right-of-way in an approved plat can be made only by the Town Council. Plat approval will be deemed as acceptance of dedication unless streets and other public spaces are shown as "not intended for dedication" in the case of a planned development or condominium.
(Ord. passed 12-14-1985)

§ 152.045 PLAT REQUIREMENTS.

(A) The final plat submission shall conform in all major respects to the preliminary plat as previously reviewed and approved by the Planning Commission and shall incorporate all modifications required in its review.

(B) The original final plat drawing that is submitted shall be 24 inches by 36 inches with five black on white or blue on white prints of the final plat.

(C) A receipt shall be issued to the subdivider or his or her authorized representative for the final plat submission when it has been determined that the submission appears to include all the requirements set forth in these regulations.

(Ord. passed 12-14-1985)

§ 152.046 DRAWING REQUIREMENTS.

The final plat drawing shall have the following standards.

(A) The plat shall be prepared and certification made as to its accuracy by a registered land surveyor licensed to do such work in the state. A workmanlike execution of that plat shall be made in every detail. A poorly drawn or illegible plat is sufficient cause for rejection.

(B) The bearings, distances and curve data of all perimeter boundary lines shall be indicated outside the boundary line, not inside with lot dimensions. When the plat is bounded by an irregular shore line or a body of water, the bearings and distances of a closing meander traverse should be given and a notation made that the plat includes all land to the water's edge or otherwise.

(C) If a plat is revised, a copy of the old plat shall be provided for comparison purposes.

(D) All blocks and all lots within each block shall be consecutively numbered.

(E) On curved boundaries and all curves in the plat, sufficient data shall be given to enable the re-establishment of the curves on the ground. This curve data shall include the following for circular curves:

- (1) Radius of curve;
- (2) Central angle;
- (3) Tangent; and
- (4) Arc length.

(F) Excepted parcels shall be marked "not included in the subdivision" and the boundary completely indicated by bearings and distances.

(G) All streets, walkways, existing fences and alleys in and adjacent to the proposed subdivision shall be designated as such and streets shall be named; bearings and dimensions must be given.

(H) All easements shall be designated as such and bearings and dimensions given.

(I) All lands within the boundaries of the plat shall be accounted for either as lots, walkways, streets, alleys or as excepted parcels.

(J) All dimensions of irregularly-shaped lots shall be indicated in each lot.

(K) All bearings and lengths shall be given for all lot lines, except that bearings and lengths need not be given for interior lot lines where the bearings and lengths are the same as those of both end lot lines.

(L) Parcels not contiguous shall not be included in one plat, nor shall more than one plat be made on the same street. Contiguous parcels owned by different parties may be embraced in one plat provided that all owners join in the dedication and acknowledgment.

(M) Lengths shall be shown to hundredths of a foot and angles and bearings shall be shown to seconds of arc.

(N) The information on the plat shall include:

(1) Name of subdivision, astronomic north arrow and basis thereof, and date;

(2) Name and address of owner or owners of record;

(3) Total acreage of subdivision, total number of lots;

(4) Township, range, section (and quarter section, of portion);

(5) Graphic scale;

(6) Town Engineer's certificate;

(7) Town Surveyor's certificate;

(8) Town Attorney's approval certificate;

(9) Town Planning Commission approval certificate;

(10) Town Council approval certificate; and

(11) Any additional information required by local ordinance or state law.

(Ord. passed 12-14-1985)

§ 152.047 SURVEY CERTIFICATION

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The surveyor making a plat shall certify on the plat that it conforms to these survey regulations and to all applicable state laws. He or she shall affix his or her name and seal.
(Ord. passed 12-14-1985)

§ 152.048 SUPPORTING DOCUMENTS.

The following documents shall be submitted with the final plat drawing, and be considered a part of the submission: drawings showing layout, profile and detail design of:

(A) All utilities and easements, existing fences, plus statements from utility companies (water, sewer, electric, gas, telephone and the like) as applicable, that service will be provided to the development;

(B) Plan, profile and typical cross-section drawings of the roads, bridges, culverts, sewers and other drainage structures;

(C) Grading and drainage plan. The proposed grading plan shall be indicated by solid line contours superimposed on dashed line contours of existing topography for the area of the final plat. Such contours shall be at two-foot intervals for predominant ground slopes within the tract between level and 5% grade, and five-foot contours for predominant ground slopes within the tract over 5% grade. In case of predominantly level topography throughout a subdivision, one-foot contour intervals may be required;

(D) Erosion control plan when required, to be submitted as result of preliminary plat review; and

(E) (1) An exact copy of a certificate of a title insurance company or attorney which shall set forth the names of all property owners included in the plat and shall include a list of all mortgages, judgments, liens, easements, contracts and agreements of record in the town which shall affect the property covered by such plats.

(2) If the opinion of title discloses any of the above, then at the option of the Town Council the holders or owners of such mortgages, judgments, liens, easements, contracts or agreements shall be required to join in and approve the application before the plat shall be acted upon by the Planning Commission.

(Ord. passed 12-14-1985)

§ 152.049 ATTORNEY.

The Town Attorney shall approve the final plat if he or she finds that:

(A) There is a current title opinion from a licensed title company showing that the person dedicating the property described on the final plat is the title owner as shown on the records of the County Recorder's office;

(B) The performance bond, escrow deposit, letter of credit or trust deed with the town is in appropriate form and signed by the necessary parties;

(C) The subdivider has executed the subdivision improvements agreement required by this chapter (Appendix A); or

(D) The subdivision does not, in his or her opinion, violate any ordinance of the town or the laws of the state of the rules and regulations promulgated pursuant thereto.
(Ord. passed 12-14-1985)

§ 152.050 PLANNING COMMISSION REVIEW.

(A) The Planning Commission shall review the final plat at a regularly scheduled meeting.

(B) (1) Within 30 days after review of the final plat at a public meeting, the Planning Commission shall send written notification of its review to the Town Council.

(2) Required distribution of the final plat shall be one copy to be transmitted to the Town Council, one to be retained in the Planning Commission files and one to be transmitted to the subdivider.
(Ord. passed 12-14-1985)

§ 152.051 TOWN COUNCIL.

(A) (1) The Town Council shall review the final plat within 30 days of receipt of transmittal from the Planning Commission at a regularly scheduled public meeting.

(2) If the Town Council determines that the final plat submission complies with the applicable requirements of these regulations, it may certify approval of the plat on the space provided.

(B) The subdivider shall provide an adequate number of the approved plats or prints marked for modification, together with the official notification of the action, to be distributed by the Town Council as follows:

- (1) One copy to the Town Council files;
- (2) Two copies to the Planning Commission files;
- (3) One copy to each utility company serving the subdivision; and
- (4) One copy to the subdivider.

(Ord. passed 12-14-1985)

§ 152.052 RECORDING FINAL PLAT.

(A) (1) The Town Recorder shall record the final plat with the County Recorder within five working days of the approval of the final plat by the Town Council.

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(2) The subdivider shall pay in advance all expenses of such recordings.

(B) The County Recorder shall furnish the subdivider with a receipt, upon filing of the final plat.
(Ord. passed 12-14-1985)

§ 152.053 RE-SUBDIVISION PROCEDURE.

Re-subdivision of land or changes to a recorded plat shall be considered a new subdivision and it shall comply with all regulations.
(Ord. passed 12-14-1985)

ACCEPTANCE OF DEDICATED STREETS AND PUBLIC IMPROVEMENTS**§ 152.065 DEDICATION.**

(A) The subdivider shall dedicate the streets, easements and other public improvements to the town at the time the final plat is approved by the town. The subdivider shall notify the town in writing that all improvements are completed. The dedication shall be deemed an offer by the subdivider which shall be irrevocable until one year after all of the improvements are completed.

(B) The town shall accept the offer of dedication only if it finds that the subdivider has constructed, installed and maintained the public improvements required by this chapter and that the improvements comply with the minimum standards and requirements of this chapter and the town standard town specifications at the time of acceptance.
(Ord. passed 12-14-1985)

§ 152.066 TIME OF ACCEPTANCE.

Unless the Town Council extends the time for acceptance of the dedicated public improvements, the dedication shall be accepted on action by the Town Council, or at the expiration of one year following the completion of the public improvements. In the event the Town Council does not accept the dedicated public improvements, the subdivider shall be so advised in writing and of the reason for the non-acceptance.
(Ord. passed 12-14-1985)

DESIGN STANDARDS**§ 152.080 GENERAL PROVISIONS.**

All subdivisions must comply with the following standards.

(A) The design and development of subdivisions shall preserve insofar as possible the natural terrain, natural drainage, existing topsoil and trees.

(B) Land subject to hazardous conditions such as slides, mud flows, rock falls, snow avalanches, possible mine subsidence, shallow water table, open quarries, floods and polluted or non-potable water supply shall be identified and shall not be subdivided until the hazards have been eliminated or will be eliminated by the subdivision and construction plans.

(Ord. passed 12-14-1985)

§ 152.081 LOTS.

(A) All lots shown on the subdivision plan shall conform to the minimum requirements of the town zoning ordinance for the zone in which the subdivision is located, and to the minimum requirements of the Southwest Utah Health Department for sewage disposal. The minimum width for any residential building lot shall be as required by the town zoning ordinance.

(B) All lots shall abut a dedicated street, a public street, or a street which has become public by right of use. Streets shall be at least 50 feet wide. In the event a lot abuts a public right-of-way created by use, the subdividers shall improve the right-of-way to the standards required by this chapter and the town design and construction standards.

(C) Corner lots shall have extra width sufficient for maintenance of required building lines on both streets.

(D) All remnants of lots less than minimum size left over after subdividing a larger tract shall be added to adjacent lots rather than allowed to remain lot remnants.

(E) Where the land in a subdivision includes two or more parcels in separate ownership and the lot arrangement is such that a property ownership line divides one or more lots, the land in each lot so divided shall be held in either single or joint ownership before approval of the final plat and such ownership shall be recorded in the office of the County Recorder.

(F) No single lot shall be divided by a municipal or county boundary line.

(G) A lot shall not be divided by a road, alley or other lot.

(H) No wedge-shaped lot shall be less than 30 feet in width at the front property line, or the lot frontage required by the zoning ordinance, whichever is larger.

(I) Side lot lines shall be at substantially right angles or radial to street lines. Where lot lines are not at right angle to the street lines, this shall be shown.

(J) All residential lots in subdivisions shall front on a public street, or on a private street or court approved by the Planning Commission and the Town Council, except as may be approved for planning unit developments, cluster subdivisions or other special dwellings.

(K) Fire hydrants shall be installed within any new or amended subdivisions at locations determined by the Fire Department and approved by the Planning Commission, which locations shall not be a greater distance than 500 feet along the road from any proposed primary structure. (Ord. passed 12-14-1985; Ord. 20-1, passed 12-9-2020)

§ 152.082 STREETS.

(A) Stub streets shall be provided where needed to connect to adjacent undeveloped land and new streets must be provided where needed to connect to existing stub streets in adjacent subdivision. Not more than three lots shall front stub streets, except where a temporary cul-de-sac turnaround side is provided.

(B) Intersections of local streets with collector streets shall be kept to the minimum.

(C) Streets shall have the following minimum right-of-way widths:

(1) Arterial street: a minimum of 80 feet;

(2) Collector street: 66 feet;

(3) Local streets and frontage road: 50 feet; and

(4) Private street or road: as required by the City Planning Commission but not less than 50 feet

(D) Streets shall have the following roadway widths (face of curb to face of curb):

(1) Arterial street: minimum of 60 feet;

(2) Collector street: 50 feet;

(3) Local street or frontage road: 32 feet; and

(4) Private street or road: as required by the Planning Commission.

(E) Half streets: no half-streets are permitted, except if required to complete a half-street already existing, or if approved by the Planning Commission and the Town Council.

(F) Dead-end streets, including stub streets, shall be permitted, or required by the Planning Commission only to provide future access to adjoining property, except for dead-end street systems in cluster subdivisions, planned unit developments, condominium developments or similar special projects.

(G) Streets shall not be designed to have one end permanently closed. No cul-de-sacs will be permitted.

(H) No more than four streets shall enter an intersection.

(I) Streets should intersect at 90 degrees. All other angles may be designed only with approval of the Planning Commission.

(J) Two subordinate streets meeting through a street from opposite sides shall meet at the same point, or their centerlines shall be offset at least 200 feet.

(K) Streets shall have the names or numbering system of existing streets which are in alignment. There shall be no duplication of street names or numbering within the area. All street names shall be approved by the Planning Commission.

(L) Traffic-control signs, including stop or yield right-of-way signs, shall be installed to insure a smooth flow of traffic through the subdivision as required by the Planning Commission.
(Ord. passed 12-14-1985) (Ord. 07-1, passed 3-14-2007)

§ 152.083 CURB, GUTTER AND SIDEWALKS.

Curb, gutter and sidewalks are not required in all subdivisions in accordance with the town's design and construction standards, unless required to match adjoining property.
(Ord. passed 12-14-1985)

§ 152.084 CURVATURE AND ALIGNMENT.

(A) To ensure adequate sight distances, when street roadway lines deflect more than five degrees, connection shall be made by horizontal curves. The minimum centerline radii for local streets shall be 150 feet and of all other streets shall be 300 feet. On collector and arterial streets, a minimum tangent of 100 feet shall be required between a curve and a street intersection; a minimum tangent of 100 feet shall be required between reverse curves. This shall be limited to a maximum of 13.5 degree curve.

(B) Vertical curves shall be used at all changes of grades and exceeding 1% and shall be designed to provide minimum sight distances of 200 feet for local streets and 300 feet for all other streets, except that vertical curves for arterial streets shall be as determined by the current specification of the state.

(C) Where a residential subdivision abuts a major highway, frontage roads may be required.
(Ord. passed 12-14-1985)

§ 152.085 ROADBED CONSTRUCTION.

Minimum roadbed grading and paving for local, collector and arterial streets, shall be in compliance with the town design and construction standards. Reduction of such roadway grading and paving may be approved by the Planning Commission and Town Council for one-way streets.
(Ord. passed 12-14-1985)

§ 152.086 ROAD GRADES.

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All road and street grades shall be designed as follows:

(A) Arterial streets: limited to maximum grade of 8%;

(B) Collector streets: limited to a maximum grade of 8%;

(C) Local streets: limited to a maximum grade of 15%;

(D) Cul-de-sacs: those with a negative grade progressing toward the turnaround shall terminate with a grade of not to exceed 3% for the last 100 feet of traveled surface. The cul-de-sac shall have adequate easement for drainage;

(E) Street intersections: these shall have a vertical alignment such that the grade shall not exceed three percent for a minimum distance of 50 feet each way from the centerline of the intersection; and

(F) Maximum grades: approved only when accompanied by changes to a lesser grade, and where length of that portion of that road to maximum grade is less than 600 feet.
(Ord. passed 12-14-1985)

§ 152.087 BLOCK STANDARDS.

Block lengths shall be reasonable as approved by the Planning Commission and in total design shall provide for convenient access and circulation for emergency vehicles.
(Ord. passed 12-14-1985)

§ 152.088 EASEMENT STANDARDS.

(A) Easements shall follow rear and side lot lines whenever practical and shall have a minimum total width of 15 feet apportioned equally in abutting properties.

(B) Where front-line easements are required, a minimum of 15 feet shall be allocated as a utility easement. Perimeter easements shall not be less than 15 feet in width, extending throughout the peripheral area of the development, if required by the Planning Commission.

(C) All easements shall be designed so as to provide efficient installation of utilities or street planting.
(Ord. passed 12-14-1985)

§ 152.089 ALLEYS.

The Planning Commission may approve service access to the interior of blocks in certain instances, in which case alleys must be indicated on the plan and plat.
(Ord. passed 12-14-1985)

§ 152.090 SANITARY SEWAGE DISPOSAL.

The sewage system shall meet the minimum standards and requirements of the State Division of Environmental Health.

(Ord. passed 12-14-1985)

§ 152.091 WATER SUPPLY.

(A) All subdivisions shall be connected to the town culinary water system. The subdivider shall place all water main lines in accordance with town specifications and requirements for future installation of meters. The main lines shall be placed within the limits of a normal lot connection for payment of standard fees.

(B) Before any work is commenced on water lines, plans must be submitted to the Town Board for approval, indicating:

(1) Exact placement of all water lines;

(2) Exact pipe measurements; and

(3) Location of any fire hydrants, (minimum size six-inch hydrants) which shall be installed at a maximum distance of 500 feet along the road from any proposed primary structure as recommended by the Fire Department.

(C) All lots annexed into the town boundaries shall be within 500 feet of a fire hydrant (see minutes of July 8, 1988, and August 11, 1998).

(D) The subdivider shall be responsible to provide a fire hydrant and have it installed by a certified water operator, at its expense and must comply with the International Fire Code, as adopted by state statute and as thereafter may be amended by the state, as well as this subdivision chapter. Exact locations of fire hydrants shall be determined by the Fire Department and approved by the Planning Commission during platting of the subdivision. Fire hydrants shall be shown on the final plat approved by the Town Board.

(E) When an existing lot is subdivided, the party responsible for the subdivision must supply the town with one-acre-foot of usable water rights for every new lot created.

(Ord. passed 12-14-1985) (Ord. passed 12-11-1996; Ord. 20-1, passed 12-9-2020)

§ 152.092 FLOODPLAIN.

No subdivision in the town shall be allowed in a floodplain.

(Ord. passed 12-14-1985)

§ 152.093 STORM DRAINAGE.

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(A) Complete drainage systems for the entire subdivision area shall be designed by a professional engineer, licensed in the state and qualified to perform such work, and shall be shown graphically. All existing drainage features which are to be incorporated in the design shall be so identified. If the final plat is to be presented in phases, a general drainage plan for the entire area shall be presented with the first phase, and appropriate development stages for the drainage system for each phase.

(B) The drainage system shall be designed by a certified engineer and approved by the Town Engineer and Planning Commission

(C) Drainage system plans:

(1) The drainage system shall be designed to consider the drainage basin as a whole and shall accommodate not only runoff from the subdivision area but also where applicable, the system shall be designed to accommodate the runoff from those areas adjacent to and “upstream” from the subdivision itself, as well as its effects on lands “downstream;”

(2) All proposed surface drainage structures shall be indicated on the plans; and

(3) All appropriate designs, details and dimensions needed to explain clearly proposed construction materials and elevations shall be included in the drainage plans.

(Ord. passed 12-14-1985)

§ 152.094 FENCES AND GUARDS.

(A) In locations where a subdivision abuts on or is adjacent to public or private grazing land, a fence of material and quality satisfactory to the Town Council shall be erected around the outer limits of the subdivision as shown on the final approved subdivision map.

(B) The town, when appropriate, shall also require the installation of cattle guards on any street entering the proposed subdivision from other existing streets.

(Ord. passed 12-14-1985)

§ 152.999 PENALTY.

Whoever shall violate any of the provisions of this chapter shall be guilty of a misdemeanor and, upon conviction of any such violation, shall be punishable by a fine of not more than \$299, or by imprisonment for not more than six months, or by both such fine and imprisonment, or by the penalty for transfer and sale of property provided in UCA § 17-27-21, except that in all cases where a corporation would be punishable as a misdemeanor, and there is no other punishment prescribed by ordinance, such corporation is punishable by a fine not exceeding \$1,000.

(Ord. passed 12-14-1985)

APPENDIX A: APPLICATION AND AGREEMENT FORMS

AGREEMENT
(Corporate)

This Agreement is made by and between _____ (hereafter ("Subdivider")) and Paragonah Town.

Subdivider hereby acknowledges receipt of a copy of the Paragonah Town Subdivision Ordinance. Subdivider hereby acknowledges that it has read the Subdivision Ordinance (or that an agent of the Subdivider has), and that it understands the provisions of the Subdivision Ordinance and that it will fully and completely comply with the provisions and requirements therein contained.

Dated this _____ day of _____, 20_____.

Attest:

Subdivider

Secretary

By _____
President

STATE OF UTAH)
) ss.
COUNTY OF IRON)

On the _____ day of _____ 20_____, _____ personally appeared before me _____ and _____, who, being by me duly sworn did say that they are the president and secretary of _____ and that said instrument was signed on behalf of said corporation by authority of its bylaws or a resolution of its board of directors and said _____ and _____ acknowledged to me that said corporation executed the same.

Notary Public

Residing at: _____

My Commission Expires: _____

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PRE-APPLICATION
(Paragonah Town Subdivision Ordinance; Paragraph 3-1)

SUBDIVISION _____

TO PARAGONAH TOWN PLANNING COMMISSION DATE: _____

1. Preliminary to application for Subdivision approval the attached sketch plan is submitted showing:

a. The general location of the subdivision and the property boundaries of the proposed subdivision area, date outlined in red, true North and designated public access. It should show significant natural and man-made features on the site and within one-half (1/2) mile of any portion.

b. Topographic contours from available data, e.g. USGS maps.

c. Paragonah Town Council approval for the type of water system proposed; also, 1 documentation of water source, water rights and of historic water use.

d. Type of sewer or sanitary waste system proposed, as approved by the Utah State Health Department.

e. Acreage of the entire tract as well as the number of lots and the average size of the lots.

f. Brief written statement or oral presentation in sufficient detail that the intent of the subdivider is clear to those who review the proposals.

Subdivider

By _____
Address _____
City, State _____
Phone _____

APPLICATION FOR APPROVAL OF PRELIMINARY PLAT
(Paragonah Town Subdivision Ordinance; Paragraph 4-1)

SUBDIVISION _____

TO PARAGONAH TOWN PLANNING COMMISSION

DATE _____

Submitted for your approval is the preliminary plat of the _____ Subdivision.

Attached are:

	STAFF ONLY	
	Present	Missing
1. 5 prints of Preliminary Plat [4-2(2)]	_____	_____
2. 3 Copies of on-lot sewage disposal report if applicable [4-2(3)]	_____	_____
3. Agreement [4-5(1), 2-4]	_____	_____
4. Location and Vicinity Map [4-5(3)]	_____	_____
5. Site Map [4-5(4)]	_____	_____
6. Geologic Map and Report [4-5(5)]	_____	_____
7. Letters from Utilities Companies approving easements [4-5(6)]	_____	_____
8. Treasurer's statement that all taxes or assessments are paid [4-5(7)]	_____	_____
9. Executed copy of restrictions or covenants [4-5(9)]	_____	_____
10. Summary Statement [4-6]	_____	_____

* HEARING IS REQUESTED FOR _____
Date

(AT LEAST EIGHT DAYS BUT NOT MORE THAN 30 DAYS DISTANT)

SUMMARY STATEMENT
(Paragonah Town Subdivision Ordinance; Paragraph 4-6)

1. a. Total Development Area _____

b. Number of Developing Units _____

2. Square feet of non-residential floor space _____

3. Off-street parking spaces _____

4. Gallons per day of water required _____

5. a. Construction Costs

Labor

Material

Streets, Curb and Gutter and Sidewalk if required

Water Distribution System

Sewer System

Storm Drainage Facilities

Other Utilities

b. Method of Financing and Recovery:

6. Survey Notes of Perimeter Survey and Copies of Monument Records are attached.

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ON-SITE REVIEW

Date _____ Present _____

COMPLIANCE REVIEW

Master Plan _____

Street Plan _____

Building Codes _____

Zoning Ordinance _____

Subdivision Ordinance

Section 4-4 _____

Section 4-5 _____

PLANNING COMMISSION ACTION
(Within 30 days of public meeting)

_____ Disapprove

_____ Approve

CONDITIONS/REASONS

Date: _____

PARAGONAH TOWN PLANNING COMMISSION
By _____

APPLICATION FOR APPROVAL OF FINAL PLAT
(Paragonah Town Subdivision Ordinance; Paragraph 5-1)

SUBDIVISION _____ DEVELOPER _____

DATE _____

TO PARAGONAH TOWN

Application is hereby made for approval of the final plat of
_____ Subdivision.

Approval of sketch plan was given Date _____

Approval of Preliminary Plat was given Date _____
(Must be within one year)

Attached are:

1. 5 copies of final plat.
2. Copy of prior plat if final plat is revised.
3. Evidence of financial ability to complete off-site improvements within two years.
4. Drawing showing utilities, easements, fences.
5. Statement from Utility Company that service will be provided.
6. Plan, profile and cross-section of roads, sewers, culverts, etc.
7. Grading and drainage plan.
8. Erosion control plan.
9. Certificate of Title Insurance or Attorney.

I hereby acknowledge receipt of a copy of the Paragonah Town Subdivision Ordinance and review of any condition attached to approval of my preliminary plat, and that I understand the provisions of the Subdivision Ordinance and the required conditions and that I fully and completely comply with the provisions and requirements therein contained.

Date this _____ day of _____, 20 _____.

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Subdivider

RECEIPT

Receipt is hereby acknowledged of the foregoing application.

PARAGONAH TOWN

Date _____

By _____

PLANNING COMMISSION ACTION

DENIED _____
Date

REASONS

CONDITIONAL APPROVAL _____
Date

This matter shall be on the Paragonah Town Council Agenda on the _____ day of _____, 20_____. (within 15 days)

PARAGONAH TOWN PLANNING COMMISSION

By _____

PLANNING COMMISSION ACTION
(Within 30 days)

1. _____ Possible problems:

—

—

—

- 2. a. Approval granted. Date _____
- b. Approval denied. Date _____

SKETCH PLAN APPROVAL IS VALID FOR ONE YEAR, AND SHALL EXPIRE UNLESS A PRELIMINARY PLAT IS PRESENTED WITHIN THAT TIME SKETCH PLAN APPROVAL IS NOT PRELIMINARY PLAT APPROVAL.

PARAGONAH TOWN PLANNING COMMISSION

By_____

PARAGONAH TOWN COUNCIL APPROVAL

The application relating to the final plat for the _____ Subdivision has been approved by:

_____ Paragonah Town Planning Commission
 _____ Paragonah Town Attorney

The Subdivider has posted:

- _____ a) a performance bond (paragraph 10-2)
- _____ b) an escrow deposit (paragraph 10-3)
- _____ c) a trust deed (paragraph 10-4)
- _____ d) a letter of credit (paragraph 10-5)

in the amount of \$_____ which amount has been approved by the Paragonah Town Building Inspector and the form of which has been approved by the Paragonah Town Attorney.

Dedication, if any, in the plat shall be deemed an offer by the subdivider which shall be irrevocable until one (1) year after all of the improvements are completed. The Town shall accept the

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offer of dedication only if it finds that the subdivider has constructed, installed and maintained the public improvements required by this chapter and that the improvements comply with the minimum standards and requirements of this chapter and the Paragonah Town Construction Standards at the time of acceptance.

Unless the Paragonah Town Council extends the time for acceptance of the dedicated public improvements, the dedication shall be accepted on action by the Paragonah Town Council, or at the expiration of one (1) year following the completion of the public improvements. In the event the Paragonah Town Council does not accept the dedicated public improvements, notice shall be mailed to the subdivider in writing stating the reason for the non-acceptance.

The final plat is hereby

_____ APPROVED
_____ DISAPPROVED

Date: _____ PARAGONAH TOWN

Attest: By _____
Mayor

Town Clerk

**PARAGONAH TOWN
SUBDIVISION CHECKLIST**

SUBDIVISION _____ DEVELOPER _____

- | | | |
|----|------------------|-------|
| 1. | SKETCH PLAN | DATE |
| | a. Submitted | _____ |
| | b. Denied | _____ |
| | c. Approved | _____ |
| 2. | PRELIMINARY PLAT | |
| | a. Submitted | _____ |
| | b. Distributed | _____ |
| | c. Rejected | _____ |
| | d. Approved | _____ |

3. FINAL PLAT

- a. Submitted _____
- b. Planning Commission _____ (next meeting)
- c. Town Attorney _____
- d. Town Council _____ (15 days)
- e. Recorded _____ (5 days)

4. ACCEPTANCE

AUTOMATIC ONE YEAR AFTER COUNCIL ACTS UNLESS CONTRARY WRITTEN NOTICE IS GIVEN.

CHAPTER 153: ZONING

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- 153.003 Interpretation
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-
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GENERAL PROVISIONS

§ 153.001 SHORT TITLE.

This chapter shall be known as the “Uniform Zoning Ordinance of the Town of Paragonah, Utah”, and may be so cited and pleaded.
(Ord. passed 7-14-1984)

§ 153.002 PURPOSE.

This chapter is designed and enacted for the purpose of promoting the health, safety, morals, convenience, order, prosperity and welfare of the present and future inhabitants of the town, including among other things, the lessening of congestion in the streets or roads, securing safety from fire and other dangers, providing adequate light and air, classification of land uses and distribution of land development and utilization, protection of the tax base, securing economy in governmental expenditures, fostering the rural atmosphere and other industries, and the protection of urban development.
(Ord. passed 7-14-1984)

§ 153.003 INTERPRETATION.

In interpreting and applying the provisions of this chapter, the requirements contained herein are declared to be the minimum requirements for the purposes set forth.

(Ord. passed 7-14-1984)

§ 153.004 CONFLICT.

This chapter shall not nullify the more restrictive provisions of covenants, agreements or other ordinances or laws, but shall prevail notwithstanding such provisions which are less restrictive.

(Ord. passed 7-14-1984)

§ 153.005 EFFECT ON PREVIOUS ORDINANCES AND MAPS.

The existing ordinances covering zoning, in their entirety and including the maps heretofore adopted and made a part of said ordinances are hereby superseded and amended to read as set forth herein; provided, however, that this chapter, including the attached map, shall be deemed a continuation of previous ordinances and not a new enactment; insofar as the substance of revisions of previous ordinances is included in this chapter, whether in the same or in different language; and this chapter shall be so interpreted upon all questions of construction relating to tenure of officers and boards established by previous ordinances and to questions of conforming or nonconforming uses and buildings and structures, and to questions as to the dates upon which such uses, buildings or structures became conforming or nonconforming.

(Ord. passed 7-14-1984)

§ 153.006 DEFINITIONS.

For the purpose of this chapter, the following definitions shall apply unless the context clearly indicates or requires a different meaning. Words used in the present tense include the future; the singular number shall include the plural, and the plural the singular; the word "building" shall include the word "structure"; the words "used" or "occupied" shall include arranged, designed, constructed, altered, converted, rented, leased or intended to be used or occupied; the word "shall" is mandatory and not directory, and the word "may" is permissive; the word "person" includes a firm, association, organization, partnership, trust, company or corporation as well as an individual; the word "lot" includes the words plot or parcel. Words used in this chapter but not defined herein shall have the meaning as defined in any other ordinance adopted by the local jurisdiction.

ACCESSORY USE OR BUILDING. A use or building on the same lot with, and of a nature customarily incidental and subordinate to, the principal use or building.

ADULT DAY CARE FACILITY. Any building or structure furnishing care, supervision and guidance for three or more adults unaccompanied by guardian for periods of less than 24 hours per day.

AGRICULTURAL INDUSTRY OR BUSINESS. An industry or business involving agricultural products in manufacturing, packaging, treatment, sales, intensive feeding or storage, including, but not limited to, animal feed yards, fur farms, food packaging or processing plants, commercial poultry or

egg production, and similar uses as determined by the Planning Commission.

AGRICULTURE. The tilling of the soil, the raising of crops, horticulture and gardening, commercial greenhouses; breeding, grazing and keeping or raising of domestic animals and fowl, except household pets, and not including any agricultural industry or business, such as fruit packing plants, fur farms, animal hospitals or similar uses.

ALLEY. A public accessway less than 26 feet in width, which is designed to give secondary access to lots or abutting properties; an **ALLEY** shall not be considered a street, for the purposes of this chapter.

ANIMAL UNIT.

- (1) One animal unit for the purpose of this chapter shall consist of the following:
 - (a) One cow and present offspring;
 - (b) One horse and present offspring;
 - (c) Six sheep and present offspring; or
 - (d) Six goats and present offspring.
- (2) All other animals will be handled on a case by case basis.

ASSISTED LIVING FACILITY.

- (1) A residential facility, licensed by the state, with a home-like setting that provides an array of coordinated support of personnel and health care services, available 24 hours per day, to residents who have been assessed under the State Department of Health or the State Department of Human Services Rule to need any of these services.
- (2) Each resident shall have a service plan based on the assessment, which may include:
 - (a) Specified services of intermediate nursing care;
 - (b) Administration of medication; and
 - (c) Support services promoting residence independence and self sufficiency.
- (3) Such a facility does not include adult day care provided in conjunction with a residential facility for elderly persons or a residential facility for persons with a disability.

AUTOMOBILE SERVICE STATION. A place where gasoline, or any other motor fuel or lubricating oil or grease for operating motor vehicles is offered for sale to the public and deliveries are made directly into motor vehicles, and where services performed may include tube and tire repair, battery charging, storage of merchandise, lubricating of automobiles, replacement of spark plugs, lights, fans and other small parts, but not including major auto repair.

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AVERAGE PERCENT OF SLOPE. An expression of rise or fall in elevation along a line perpendicular to the contours of the land, connecting the highest point of land to the lowest point of land within an area or within a lot. A vertical rise of 100 feet between two points 100 feet apart, measured on a horizontal plane is a 100% slope.

BASEMENT. A story whose floor is more than 12 inches below the average level of the adjoining ground, but where no more than one-half of its floor-to-ceiling heights is above the average contact level of the adjoining ground. A **BASEMENT** shall be counted as a story for purposes of height measurement, and as a half-story for the purpose of side yard determination.

BEGINNING OF CONSTRUCTION. The placing of concrete footings for a building or structure.

BLOCK. The land surrounded by streets or other rights-of-way, other than an alley, or land which is designed as a block on any recorded subdivision plat.

BOARDER. A person living in a rented room in a boarding house. The boarding house operator or member of his or her immediate family who reside on the premises with the operator, shall not be considered to be a **BOARDER**.

BOARDING HOUSE. A building or a portion thereof where, for compensation, rooms are rented together with meals for not more than 15 boarders who generally do not directly utilize kitchen facilities. The operator of a boarding house must reside on the premises of the **BOARDING HOUSE**. The work shall include compensation in money, services or other things of value. A **BOARDING HOUSE** does not include a residential facility for disabled persons or a residential facility for the elderly. A **BOARDING HOUSE** does not include a nonresidential facility, such as rehabilitation/treatment facility, where the primary purpose of the facility is to deliver rehabilitation, treatment, counseling, medical, protective or other similar services to the occupants.

BUILDABLE AREA. The portion of a lot remaining after required yards have been provided, except that land with an average grade exceeding 15% shall not be considered buildable area unless it is approved by conditional use permit for construction, after study by a geologist, soils engineer or sanitarian as required by the Planning Commission.

BUILDING. Any structure used or intended to be used for the shelter, or enclosure of persons, animals or property.

BUILDING, ACCESSORY. A building which is subordinate to, and the use of which is incidental to, that of the main building or use on the same lot.

BUILDING, HEIGHT OF. The vertical distance from the average finished grade surface to the highest point of the building roof or coping.

BUILDING INSPECTOR. The official designated as the building inspector for the town by the Town Board. The Town Building Inspector may also be the Town Zoning Administrator, if so designated.

BUILDING, PUBLIC.

(1) For purposes of §§ 153.325 through 153.337 only, a **PUBLIC BUILDING** is a building owned and operated, or owned and intended to be operated by the city, a public agency or the United States of America, the state or any of its political subdivisions. The use of a **PUBLIC BUILDING**, with immunity, is non-transferrable and terminates if the structure is devoted to a use other than as a **PUBLIC BUILDING** with immunity.

(2) A **PUBLIC BUILDING** referred to as with immunity under the provisions of this chapter includes:

(a) Properties owned by the state or the United States government which are outside of the jurisdiction of the city zoning authority as provided under UCA § 9-10-105, as amended; and

(b) The ownership or use of a building which is immune from the city zoning authority under the supremacy clause of the United States Constitution.

CARPORT. A private garage not completely enclosed by walls or doors. For the purposes of this chapter, a **CARPORT** shall be subject to all the regulations prescribed for a private garage.

CHURCH. A building, together with its accessory buildings and uses, maintained and controlled by a duly-recognized religious organization where persons regularly assemble for worship.

COMMUNITY CORRECTIONAL FACILITY. A facility licensed or contracted by the state to provide temporary occupancy for previously incarcerated persons which assists such persons in making a transition from a correctional institution environment to independent living.

CONDITIONAL USE. A use of land for which a conditional use permit is required, pursuant to this chapter.

CORRAL. A space, other than a building, less than one acre in area, or less than 100 feet in width, used for the confinement of animals or fowl.

CORRECTIONAL INSTITUTION. A prison, jail, juvenile detention facility, or juvenile secure facility.

COVERAGE, BUILDING. The percent of the total site area covered by buildings.

DISABILITY.

(1) A physical or mental impairments that substantially limits one or more of a persons major life activities, including a person having a record of such a problem or being regarded as having such an impairment.

(2) The following definitions are incorporated into the definition of **DISABILITY**:

(a) Disability does not include current illegal use of, or addiction to, any federally controlled substance as defined in § 102 of the Controlled Substances Act, 21 U.S.C. §§ 802 et seq., or as defined under UCA Title 58, Chapter 37, as amended;

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(b) A physical or mental impairment includes the following, to wit:

1. Any psychological disorder or condition, cosmetic disfigurement or anatomical loss affecting one or more of the following body systems: neurological; musculoskeletal; special sense organs; respiratory, including speech organs; cardiovascular, reproductive; digestive; genitourinary; hemic and lymphatic; skin; and endocrine;

2. Any mental or physiological disorder, such as mental retardation, organic brain syndrome, emotional or mental illness, and specific learning disabilities; or

3. Such diseases and conditions as orthopedic, visual, speech and hearing impairments, cerebral palsy, autism, epilepsy, muscular dystrophy, multiple sclerosis, cancer, heart disease, diabetes, human immunodeficiency virus (HIV), mental retardation, emotional illness, drug addiction, (other than addiction caused by current, illegal use of controlled substances) and alcoholism.

DISTRICT. A portion of the territory of the Town of Paragonah, established as a zoning district by this chapter, within which certain uniform regulations and requirements or various combinations thereof apply under the provisions of this chapter; also includes “zone” and “zoning district”.

DOMESTIC STAFF. Persons employed or residing on the premises of a dwelling or other residential facility to perform domestic services or to assist residents in performing major life activities.

DRIVEWAY. A private roadway, the use of which is limited to persons residing, employed or otherwise using or visiting the parcel on which the driveway is located.

DWELLING. Any building or portion thereof containing one or more dwelling units occupied as or designated or intended for occupancy as a residence by one or more families.

DWELLING, MOBILE HOME. See ***MOBILE HOME.***

DWELLING, MULTIPLE FAMILY. Any building arranged or designed to include three or more dwelling units, each to be occupied by one family.

DWELLING, SINGLE-FAMILY. Any building arranged or designed to include only one dwelling unit.

DWELLING, TWO-FAMILY/DUPLEX. A building arranged or designed to include two dwelling units, each to be occupied by one family.

DWELLING UNIT. Any building or portion thereof designated, occupied or intended as a residence for a family with complete and independent facilities for living, sleeping, eating, cooking and sanitation.

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

EDUCATIONAL INSTITUTION. Any elementary or secondary school, seminary, parochial school or private educational institution having a curriculum similar to that ordinarily given in grades one through 12 in public school systems. The term **EDUCATIONAL INSTITUTION** for the purpose of this chapter does not include post high school educational facilities or educational facilities which include residential facilities for its students.

EDUCATIONAL INSTITUTION WITH HOUSING. Public or private educational institution with residential facilities or housing for its students and or staff.

ELDERLY PERSON. A person who is 60 years or older, who desires or needs to live with other elderly persons in a group setting, but who is capable of living independently.

ESSENTIAL FACILITIES. Utilities or sanitary and public safety facilities provided by a public utility or other governmental agency for overhead or surface or underground services, excluding any building, electrical sub-station or transmission line of 50 KV or greater capacity, except by conditional use permit.

FAMILY. One or more persons related by blood, marriage, adoption or guardianship, or a group of not more than four unrelated persons living together as a single nonprofit housekeeping unit, together with any incidental domestic staff who may or may not reside on the premises. **FAMILY** does not exclude the care of foster children.

FENCE. A physical barrier to delineate, contain or designate an area designed for a specific use, i.e., an enclosure for a dwelling unit; an area for storage and the like.

FLOOD HAZARD. A hazard to land or improvements due to inundation or overflow water having sufficient velocity to transport or deposit debris, scour the surface soil, dislodge or damage buildings, or erode the banks of watercourses.

FRATERNITY OR SORORITY HOUSE. A building occupied by and maintained exclusively for students affiliated with an academic or professional college or university or other recognized institution of higher learning who are associated together in a fraternity or sorority that is officially recognized by such institution and who receives lodging and/or meals on the premises for compensation.

FRONTAGE, LOT. The lineal measurement of the front lot line used or intended to be used for the storage of motor vehicles, recreational coaches, boats or other recreational vehicles, but not including the parking or storage of trucks or vans having a capacity in excess of one and one-half tons, and not including space for more than a total of four such vehicles for each dwelling unit on the premises.

GARAGE, REPAIR. A structure or portion thereof, other than a private garage, used for the repair of self-propelled vehicles, trailers or boats, including general repair, rebuilding or reconditioning of engines, motor vehicles, recreational coaches and minor collision service, but not including major body, frame or fender repairs or overall automobile or truck painting.

GEOLOGICAL HAZARD. A hazard inherent in the crust of the earth, or artificially created, which is dangerous or potentially dangerous to life, property or improvement, due to the movement, failure, or shifting of the earth.

GRADE.

(1) For buildings adjoining one street only, the elevation of the sidewalk at the center of the wall adjoining the street;

(2) For buildings adjoining more than one street, the average of the elevations of the sidewalk at the centers of all walls adjoining the streets;

(3) For buildings having no wall adjoining the street, the average level of the finished surface of the ground adjacent to the centers of all exterior walls of the building; and

(4) Any wall parallel or nearly parallel to and not more than five feet from a street line is to be considered as adjoining the street.

GOVERNING BODY. The elected legislative body of the Town of Paragonah.

HOME OCCUPATION. Any use conducted entirely within a dwelling and carried on by persons residing in the dwelling unit, occupying no more than 25% of the dwelling unit which use is clearly incidental and secondary to the use of the dwelling for dwelling purposes and does not change the character thereof and in connection with which there is no display, nor stock in trade. A **HOME OCCUPATION** shall not include the sale of commodities and shall not involve the use of any accessory building or yard space or activity outside the main building. **HOME OCCUPATION** may include the use of the home by a physician, surgeon, dentist, lawyer, clergyman, engineer or other professional person for emergency consultation or treatment, but not for the general practice of his or her trade or profession. **HOME OCCUPATION** shall include the care of not more than five children other than members of the family residing in the dwelling. In all cases where a **HOME OCCUPATION** is engaged in, there shall be no advertising of said occupation, no window displays, or signs and no employees employed.

HOSPITAL. An institution licensed by the state which provides diagnostic, therapeutic and rehabilitative services to individuals on both an in-patient and out-patient basis by or under the supervision of one or more physicians. A medical clinic or professional office which offers any in-patient or overnight care, or operates on a 24-hour basis shall be considered to be a **HOSPITAL**. A **HOSPITAL** may include necessary support service facilities such as laboratories, out-patient units and training and central services, together with staff offices necessary to operate the **HOSPITAL**.

HOTEL. A building designed for or occupied as the more or less temporary abiding place of individuals who are, for compensation lodged with or without meals.

HOUSEHOLD PETS. Animals or fowl ordinarily permitted in the house and kept for company or pleasure, such as dogs, cats and canaries, but not including a sufficient number of dogs as to constitute a kennel as defined in this chapter. **HOUSEHOLD PETS** shall not include the keeping of dangerous animals.

JAIL. A place of incarceration owned and operated by the county.

JUNK. Old or scrap copper, brass, rope, rags, batteries, paper trash, rubber debris or other waste or salvage materials; dismantled, junked or wrecked automobiles or parts thereof; and old or scrap ferrous or non-ferrous metal material.

JUVENILE DETENTION FACILITY. A place of temporary detention for delinquent juveniles, which either is owned or operated by the state or is under contract with the state.

JUVENILE SECURE FACILITY. A place of incarceration for delinquent juveniles which is either owned or operated by the state or is under contract with the state.

KENNEL. Any premises where four or more dogs older than four months are kept.

LOCAL ATTORNEY. The attorney employed by or officially representing the town.

LOCAL BUILDING INSPECTOR. The Town Building Inspector employed by or officially representing the town.

LOCAL ENGINEER. The engineer employed by or officially representing the town.

LOCAL JURISDICTION. The Town of Paragonah.

LOCAL PLANNER. The planner employed by or officially representing the town.

LOT. A parcel or unit of land described by metes and bounds and held or intended to be held in separate lease or ownership, or a parcel or unit of land shown as a lot or parcel on a recorded subdivision map, or shown on a plat used in the lease or sale or offer of lease or sale of land resulting from the division of a larger tract into three or more smaller units.

LOT, CORNER. A lot abutting upon two or more streets at their intersection or upon two parts of the same street, such streets or parts of the same street forming an interior angle of less than 135 degrees.

LOT, DEPTH. The horizontal distance between the front and the rear lot lines measured along the length of and at all points between the side lot lines.

LOT LINE, FRONT. For an interior lot, the lot line adjoining the street; for a corner lot or through a lot, the lot line adjoining either street, as elected by the lot owner.

LOT LINE, REAR. Ordinarily, that line of a lot which is opposite and most distant from the front line of the lot. In the case of a triangular or gore-shaped lot, a line ten feet in length within the parcel parallel to and at a maximum distance from the front lot line. In cases where these definitions are not applicable, the Town Building Inspector shall designate the **REAR LOT LINE**.

LOT LINE, SIDE. Any lot boundary line not a front or rear lot line. A **SIDE LOT LINE** separating a lot from another lot or lots in an interior side lot line; a **SIDE LOT LINE** separating a lot from a street is a **STREET SIDE LOT LINE**.

LOT LINES. The property lines bounding the lot.

LOT, RIGHT-OF-WAY. A strip of land of not less than 16 feet in width connecting a lot to a street for use as private access to that lot.

LOT, WIDTH. The horizontal distance between the side lot lines measured along the length of and at all points between both the front and the rear lot lines.

MAJOR LIFE ACTIVITIES. Functions such as caring for one's self, performing manual tasks, walking, seeing, hearing, speaking, breathing, learning and working.

MOBILE HOME. A detached, single-family dwelling unit of not less than 45 feet in length, designed for long-term occupancy, and to be transported on its own wheels or on flatbed or other trailers or detachable wheels; containing a flush toilet, sleeping accommodations, a tub or a shower bath, kitchen facilities, and plumbing and electrical connections provided for attachment to appropriate external systems, and ready for occupancy except for connections to utilities and other minor work. Pre-sectionalized, modular or prefabricated houses not placed on a permanent foundation shall be regarded as **MOBILE HOMES**; if placed upon a permanent foundation, such structures which meet all applicable building and housing codes shall not be considered as **MOBILE HOMES**, but shall be regulated as conventional housing; and double wide **MOBILE HOMES** which are placed on permanent foundations which meet all applicable building and housing codes, and contain at least 1,000 square feet of floor space shall be regulated as conventional housing.

MOBILE HOME LOT. A lot within a mobile home subdivision, designed and to be used for the accommodation of one mobile home.

MOBILE HOME PARK. A space designed and approved by the town for occupancy by mobile homes, to be under a single ownership or management, and meeting all requirements of the town zoning regulations and the town mobile home park regulations for mobile home parks.

MOBILE HOME SPACE. A space within a mobile home park, designed and to be used for the accommodation of one mobile home.

MOBILE HOME SUBDIVISION. A subdivision designed and intended for residential use where the lots are to be individually owned or leased, and occupied by mobile homes exclusively.

MODULAR HOME. A permanent dwelling structure build in prefabricated units, which are assembled and erected on the site, or at another location and brought as a unit to the site; said modular home is classed as a mobile home until it is placed on a permanent foundation and complies with all governing building codes.

MOTEL. A building or group of buildings for the drive-in accommodation of transient guests, comprising individual sleeping or living units, and designed and located to serve the motoring public.

NONCONFORMING BUILDING OR STRUCTURE. A building or structure which does not conform to the regulations for height, coverage or yards of the district in which it is situated, but which was in conformity with applicable regulations, if any, at the time of its erection.

NONCONFORMING USE. The use of a building or structure or land which does not conform to use regulations for the district in which it is situated, but which was in conformity with applicable regulations, if any, at the time of its establishment.

NON-RESIDENTIAL TREATMENT FACILITY. A facility wherein no persons will be housed on an overnight basis, and provides services including rehabilitation, treatment, counseling or assessment and evaluation services related to delinquent behavior, alcohol abuse, drug abuse, sexual offenders, sexual abuse or mental health. Associated educational services may also be provided to juvenile occupants.

NURSING HOME. An intermediate care/nursing facility or a skilled nursing facility licensed by the state, for the care of individuals who, due to illness, advance stage, disability, or impairment require assistance and/or supervision on a 24-hour per day basis. Such a facility does not include an adult day care facility or adult day care provider in conjunction with residential facilities for elderly persons or a residential facility for persons with a disability.

OFFICIAL MAP. A map which has been adopted as the official map of the town, showing existing public streets, streets on plats of subdivisions which have been approved by the Town Planning Commission, and/or other street extensions, widening, narrowing or variations which have been accurately surveyed and definitely located.

OFF-STREET PARKING SPACE. The space required to park one passenger vehicle, which space shall meet the requirements of this chapter.

PARKING LOT. An open area, other than a street, used for the parking of more than four automobiles and available for public use, whether free, for compensation, or accommodation for clients or customers.

PLOT PLAN. A plat of a lot, drawn to scale, showing its actual measurements, the size and location of any existing buildings or buildings to be erected, the location of the lot in relation to abutting streets, and such other information as may be required by the Town Planning Commission.

PRISON. A place of incarceration owned or operated by the state.

PRIVATE PRISONS. A correctional facility established or operated under contract with the state under the provisions of the Private Correctional Facilities Act, UCA Title 64, Chapter 13C, as amended.

PRIVATE JAIL. A place of incarceration established or operated under contract with the county.

PROTECTIVE HOUSING FACILITY. A facility either:

- (1) Operated, licensed or contracted by a governmental entity; or
- (2) Operated by a charitable, nonprofit organization, where no compensation, temporary, protective housing is provided to:
 - (a) Abused or neglected children waiting placement of foster care;

- (b) Pregnant or parenting teens;
- (c) Victims of sexual abuse; or
- (d) Victims of domestic abuse.

REASONABLE ACCOMMODATION. A change in any rule, policy, practice or service necessary to afford a person with a disability equal opportunity to use and enjoy a dwelling. The following words, have the following definitions, to wit.

(1) **EQUAL OPPORTUNITY.** Achieving equal results as between a person with a disability and a non-disabled person.

(2) **NECESSARY.** The applicant must show that, but for the accommodation, one or more persons with a disability likely will be denied an equal opportunity to enjoy the housing of their choice.

(3) **REASONABLE.** A requested accommodation that will not undermine the legitimate purpose of existing zoning regulations notwithstanding the benefit that the accommodation will provide to a person with a disability.

RECORD OF IMPAIRMENT. Having a history of, or having been mis-classified as having a mental or physical impairment that substantially limits one or more major life activities.

RECREATIONAL COACH. A vehicle, such as a travel trailer, tent camper, camp car or other vehicle with or without motive power, designed and/or constructed to travel on the public thoroughfare in accordance with the provisions of the Utah Vehicle Code, and designed for use as human habitation for a temporary and recreational nature.

REGARDED AS HAVING AN IMPAIRMENT. A person is regarded as having an impairment when:

- (1) The person has a physical or mental impairment that does not substantially limit one or more major life activity but is treated by another person as having such a limitation;
- (2) Has a physical or mental impairment that substantially limits one or more major life activities only as a result of the attitudes of others towards such an impairment; or
- (3) Has none of the impairments defined in this section but is treated by another person as having such an impairment.

REHABILITATION/TREATMENT FACILITY. A facility licensed or contracted by the state to provide temporary occupancy and supervision of individuals (adults and/or juveniles) in order to provide rehabilitation, treatment or counseling services. Without limitation, such services may include rehabilitation, treatment, counseling or assessment and evaluation services related to delinquent behavior, alcohol abuse, drug abuse, sexual offenders, sexual abuse or mental health. Associated educational services may also be provided to juvenile occupants.

RESIDENTIAL FACILITY FOR ELDERLY PERSONS. A dwelling unit that is occupied on a

24-hour per day basis by eight or fewer elderly persons in a family type arrangement. A **RESIDENTIAL FACILITY FOR ELDERLY PERSONS** shall not include any of the following, to wit:

(1) A facility which is operated as a business; provided that such facility may not be considered to be operated as a business solely because a fee is charged for food or for actual and necessary costs of preparation and maintenance of the facility; and

(2) A facility where persons being treated for alcoholism or drug abuse are placed; a facility where placement is not on a strictly voluntary basis or where placement is part of, or in lieu of, confinement, rehabilitation or treatment in a correctional institution; or a facility which is a health care facility as defined by UCA § 26-2-21, as amended; or a facility which is a residential facility for persons with a disability.

RESIDENTIAL FACILITY FOR PERSONS WITH A DISABILITY. Any residence in which more than one person with a disability resides and which is:

(1) Licensed or certified by the Department of Human Services under UCA Title 62A, Chapter 2, licenser for programs and facilities; or

(2) Licensed or certified by the Department of Human Health under UCA Title 26, Chapter 21, Health Care Facilities Licensing and Inspection Act.

RESIDENTS, RESIDENTIAL FACILITY. Any building or portion thereof where an individual is actually living at a given point and time and intends to remain, and not a place of temporary sojourn or transient visit.

RETIREMENT HOME. A residential facility designated, occupied and intending for residents 50 years of age or older where common facilities for cooking and dining are available to all residents in independent facilities are provided for living, sleeping and sanitation.

SHELTERED WORKSHOP. An on-site supervised educational or vocational training facility for persons with a disability and does not provide any residential facilities.

SHELTER FOR THE HOMELESS. Charitable lodging or sleeping rooms provided on a temporary basis (usually on a daily basis) to those members of society lacking other safe, sanitary or affordable shelter. A **SHELTER FOR THE HOMELESS** may also include kitchen and cafeteria facilities.

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

SIGN AREA. The area in square feet of the smallest rectangle enclosing the total exterior surface of a sign having but one exposed exterior surface. Should the sign have more than one surface, the sign area shall be the aggregate of all surfaces measured as above which can be seen from any one direction

at one time.

SIGN, CIVIC. A sign identifying name and/or function of a public building.

SIGN, DEVELOPMENT. A sign indicating the name of, and information pertinent to, new construction.

SIGN, IDENTIFICATION AND INFORMATION. A sign displayed to indicate the name or nature of a building, or of a use.

SIGN, REAL ESTATE. A sign identifying property for sale, lease or rent.

SITE PLAN. A plan required by, and providing the information required by § 153.009.

STABLE, PUBLIC. Any stable where horses are boarded and/or kept for hire.

STORY, HALF- A partial story under a gable, hip or gambrel roof, the wall plates of which on at least two opposite exterior walls do not extend more than four feet above the floor of such story, and the ceiling area of which does not exceed two-thirds of the floor area of the same half-story.

STRUCTURE. Anything constructed, the use of which requires fixed location on the ground, or attachment to something having a fixed location upon the ground; includes “building”.

TRADE OR VOCATIONAL SCHOOL. A post high school educational or vocational training facility.

TRANSITIONAL HOUSING FACILITY. A facility owned, operated or contracted by a governmental entity or a charitable, not for profit organization, where, for no compensation, temporary housing (usually three to 24 months, but in no event less than 30 days) is provided to homeless persons, while they obtain work, job skills or otherwise take steps to stabilize their circumstances. A **TRANSITIONAL HOUSING FACILITY** shall not include a shelter for the homeless, a dwelling unit provided to a family for the exclusive use as part of a transitional housing program, for more than 30 days, shall not be considered to be a transitional housing facility.

YARD. A required open space on a lot, unoccupied and unobstructed from the ground upward, except as permitted elsewhere in this chapter.

YARD, FRONT. A space on the same lot with a building, between the front line of the building and the front lot line, and extending across the full width of the lot. The “depth” of the **FRONT YARD** is the minimum distance between the front lot line and the front line of the building.

YARD, REAR. A space on the same lot with a building, between the rear line of the building and the rear lot line, and extending the full width of the lot. The “depth” of the **REAR YARD** is the minimum distance between the rear lot line and the rear line of the building.

YARD, SIDE. A space on the same lot with a building, between the side line of the building, and the side lot line and extending from the front yard to the rear yard. The “width” of the **SIDE YARD** shall be the minimum distance between the side lot line and the side line of the building.

YOUTH HOME. Any residence, dwelling or other structure utilized for the domicile, residence or sleeping accommodation of more than two children of the age of 18 years or less for more than one week where such children are not related within three degrees of consanguinity to the adult persons occupying the same residence or premises.

ZONE. See *DISTRICT*.

ZONING ADMINISTRATOR. The local official designated by the Town Board to enforce the regulations of this chapter; the *TOWN ZONING ADMINISTRATOR* may also be the Town Building Inspector.

ZONING ORDINANCE. The Paragonah Town Zoning Ordinance.
(Ord. passed 7-14-1984; Ord. passed 10-4-1995; Ord. passed 9-9-1998; Ord. passed 8-9-2000; Ord. passed 10-13-2004)

§ 153.007 BUILDING PERMIT REQUIRED.

(A) The construction, alteration, repair or removal of any building, structure, or part thereof as provided or as restricted in this chapter shall not be commenced or continued except after the issuance of a zoning permit by the Town Zoning Administrator, and a written permit from the designated Town Building Inspector. Work not started within six months will require a new permit.

(B) Any person who intends to dig, excavate or cause ground disturbance in order to construct, enlarge, alter, repair, move, demolish or change the occupancy of a building or structure, or cause such work to be done, shall first make application to the town's Building Official, or designee and obtain the required permit.

(C) For any construction exempt from the requirement for a building or zoning permit, as allowed by state law, the town's designated Building Official or Zoning Administrator may require the submission of a site plan and such other documents and materials that may be necessary to ensure compliance with the provisions of state law and this chapter.

(D) The adoption and enforcement of building codes serves the public interest by the providing for the inspection of structures and for structural stability, fire resistance, adequate ventilation and other safety and sanitary features, as well as the preservation of critical habitat.
(Ord. passed 7-14-1984; Ord. passed 6-8-2005)

§ 153.008 OCCUPANCY PERMIT REQUIRED.

Land, buildings or premises in any district shall hereafter be used only for a purpose permitted in such district and in accordance with district regulations. A permit of occupancy shall be issued by the Town Zoning Administrator to the effect that the use, building or premises will conform to provisions of this and related ordinances prior to occupancy, for any building erected, enlarged or altered structurally, or the occupancy or use of any land, except for permitted agricultural uses. Such a permit is needed whenever use or character of any building or land is to be changed. Upon written request from the owner, a permit shall be issued covering any lawful use of buildings or premises existing on

the effective date of this amendment, including nonconforming buildings and uses.
(Ord. passed 7-14-1984; Ord. passed 9-9-1998)

§ 153.009 SITE PLANS REQUIRED.

(A) A detailed site plan, with scale and sheet size determined by the Town Planning Commission or the Town Zoning Administrator, when authorized, shall be filed as part of any application, prior to request for a zoning permit.

(B) It shall show, where pertinent:

- (1) Scale of plan, and direction of north point;
- (2) Lot lines, adjacent streets, roads, rights-of-way;
- (3) Location of all existing structures on subject property and adjoining properties, with utility lines, poles and the like, fully dimensioned;
- (4) Location of proposed construction and improvements, with location and dimension of all signs;
- (5) Any parking lot to be build new or re-modeled must be built to plan, have proper drainage, and must have a building permit. The building permit fee shall be determined by the Town Board;
- (6) Motor vehicle access, circulation patterns, with individual parking stalls, and curb gutter, and sidewalk location;
- (7) Necessary explanatory notes;
- (8) Name, address, telephone number of builder and owner; and
- (9) All other information required as determined by the Town Planning Commission or the Town Zoning Administrator when authorized.
(Ord. passed 7-14-1984)

§ 153.010 INSPECTION.

The Town Zoning Administrator is authorized to inspect or to, have inspected all buildings and structures in the course of their construction, modification or repair, and to inspect land uses to determine compliance with zoning ordinance provisions. The Town Zoning Administrator or any authorized employee of the town shall use the right to enter any building for the purpose of determining the use, or to enter premises for the purpose of determining compliance with the said ordinance, provided that such right of entry is to be used only at reasonable hours. In no case shall entry be made to any occupied building in the absence of the owner or tenant thereof without written permission of an owner, or written order of a court of competent jurisdiction.

(Ord. passed 7-14-1984)

§ 153.011 ENFORCEMENT.

The Town Zoning Administrator is authorized as the enforcing officer for this chapter, and shall enforce all provisions, entering actions in court if necessary, and his or her failure to do so shall not legalize any violations of such provisions. The Town Board may, by resolution or ordinance, from time to time, entrust administration of this chapter, in whole or in part, to another officer of the town, without amendment to this chapter.

(Ord. passed 7-14-1984)

§ 153.012 NUISANCE AND ABATEMENT.

Any building or structure erected, constructed, altered, enlarged, converted, moved or maintained contrary to provisions of this chapter, and any use of land, building or premises established, conducted or maintained contrary to provisions of this chapter shall be, and the same hereby is, declared to be unlawful and a public nuisance; and the local attorney shall, upon request of the governing body, at once commence action or proceedings for abatement and removal or injunction thereof in a manner provided by law, and take other steps and apply to such courts as may have jurisdiction to grant such relief as will abate and remove such building or structure, and restrain or enjoin any person, firm or corporation from erecting, building, maintaining or using said building or structure or property contrary to the provisions of this chapter. The remedies provided for herein shall be cumulative and not exclusive.

(Ord. passed 7-14-1984)

§ 153.013 SEVERABILITY.

If any section, subsection, sentence, clause or phrase of this chapter is for any reason held to be invalid, such holding shall not effect the validity of the remaining portion of this chapter.

(Ord. passed 7-14-1984)

§ 153.014 AMENDMENTS.

The town may from time to time amend the number, shape, boundaries or areas of any district, or regulation, or other provision of this zoning chapter, but any such amendment shall not be made or become effective until after 15 days' notice and public hearing and unless the same shall have been proposed by or be first submitted to the Town Planning Commission for its recommendation, which shall be returned within 30 days.

(Ord. passed 7-14-1984)

§ 153.015 HEARING AND PUBLICATION AND NOTICE BEFORE AMENDMENT.

Before finally adopting any such amendment, the Town Board shall hold a public hearing thereon,

at least 15 days' notice of the time and place of which shall be given by at least one publication in a newspaper of general circulation in the town.

(Ord. passed 7-14-1984)

§ 153.016 LICENSING.

All departments and public employees of the town which are vested with duty or authority to issue permits or licenses shall conform to the provisions of this chapter and shall issue no permit or license for uses, buildings or purposes where the same would be conflict with the provisions of this chapter and any such permit or license, if issued in conflict with the provisions of this chapter, shall be null and void.

(Ord. passed 7-14-1984)

§ 153.017 FEES.

Fees may be charged applicants for building, occupancy and conditional use permits, and planned development approval, Town Planning Commission and Town Board of Adjustment hearings, and such other services as are required by this chapter to be performed by public officers or agencies. Such fees shall be established by the town and be in amounts reasonably needed to defray costs to the public.

(Ord. passed 7-14-1984)

PLANNING COMMISSION

§ 153.030 CREATION OF A PLANNING COMMISSION, NUMBER OF MEMBERS, APPOINTMENT.

The Town Planning Commission shall consist of five members, each to be appointed by the Town Mayor with the advice and consent of the Town Board. The Town Board may designate, by resolution the composition of the Town Planning Commission. It is the intent of this chapter that the Town Planning Commission shall be residents of the town and owners of property within said town. At least three of the five members shall hold no other public office or position within the town. The Town Board shall appoint a representative from among its members to act as a liaison between the Town Board and the Town Planning Commission. One member, but not more than one of the Town Board of Adjustment, shall be a member of the Town Planning Commission.

(Ord. passed 7-14-1984)

§ 153.031 TERMS OF OFFICE.

The terms of office for the five Town Planning Commission members shall be for five years. The Town Planning Commission members terms shall be staggered so that no two members terms shall expire at the same time. The term of office for the Town Board member designated liaison for the Town Planning Commission shall correspond to his or her tenure of office as the Town Board member.

(Ord. passed 7-14-1984)

§ 153.032 VACANCIES AND CAUSE FOR REMOVALS.

Vacancies of appointed members occurring otherwise than through the expiration of terms shall be filed for the remainder of the unexpired term by appointment of the Town Board. The Town Board shall have the right to remove any member of the Town Planning Commission for misconduct and may remove any member for nonperformance of duty. Nonperformance of duty shall include a repeated failure to attend Town Planning Commission meetings.

(Ord. passed 7-14-1984)

§ 153.033 COMPENSATION.

The Town Planning Commission shall serve without compensation, except that the Town Board shall provide for reimbursement of the Town Planning Commission for actual expenses incurred, upon presentation of proper receipts and vouchers.

(Ord. passed 7-14-1984)

§ 153.034 OFFICERS.

The Town Planning Commission shall elect a Chairperson and a Chairperson Pro-Tem from among its members, whose terms shall be for one year. The Town Planning Commission Chairperson shall vote only in the case of a tie.

(Ord. passed 7-14-1984)

§ 153.035 RULES AND PROCEDURES.

The Town Planning Commission may adopt such rules and procedures as it may deem necessary for the proper conduct of its business. The Town Planning Commission shall keep a record of its proceedings, such record shall be open to inspection by the public at all reasonable times.

(Ord. passed 7-14-1984)

§ 153.036 QUORUM AND VOTE.

A quorum shall consist of three members and a Chairperson. Evidence shall not be presented unless a quorum is present. A majority vote shall be constituted of at least a majority of members present.

(Ord. passed 7-14-1984)

§ 153.037 EMPLOYEES; EXPENDITURES.

The Town Planning Commission may, upon the approval of the Town Board, employ experts and staff, including consultants and a secretary, and pay such expenses, exclusive of gifts, as may be

reasonable and necessary for carrying out the duties defined in this chapter, providing that such expenditures may not exceed the amount appropriated for the operation of the Town Planning Commission by the Town Board.

(Ord. passed 7-14-1984)

BOARD OF ADJUSTMENT

§ 153.050 BOARD, NUMBER OF MEMBERS, APPOINTMENT, TERM AND REMOVAL, VACANCIES.

The Town Board of Adjustment shall consist of five members, each to be appointed by the legislative body for the term of five years provided that the term of one member shall expire each year. Any member may be removed for cause by the appointing authority upon written charges and after public hearing, if such public hearing is requested. Vacancies shall be filled for the unexpired term of any member whose term becomes vacant. One member, but not more than one member of the Town Planning Commission, shall be a member of the Town Board of Adjustment.

(Ord. passed 7-14-1984)

§ 153.051 OFFICERS.

The Town Board of Adjustment shall elect a Chairperson and a Chairperson Pro-Tem from among its members, who shall serve for a term of one year.

(Ord. passed 7-14-1984)

§ 153.052 DUTIES AND POWERS OF THE BOARD.

The Board of Adjustment shall have the following powers:

(A) To hear and decide appeals where it is alleged that there is error in any order, requirement, decision or determination made by the administrative official in the enforcement of this chapter or of any ordinance adopted pursuant thereto;

(B) To hear and decide special exceptions to the terms of this chapter upon which such Board is required to pass under the provisions of this chapter. A special exception may be granted for front setbacks of a primary residence only when the following criteria is met.

(1) *Age of the home.* The applicant must provide proof, satisfactory to the Board of Adjustment, that the house was built prior to the adoption of the July 14, 1984, zoning ordinance.

(2) *Location of house on property.* The applicant must submit a site plan of property that includes the following:

(a) Location and size of lot;

- (b) North arrow;
- (c) Scale;
- (d) Adjacent streets;
- (e) Adjacent properties (including names and addresses);
- (f) Location of all buildings on lot and all buildings on adjacent lots;
- (g) Existing setbacks; and
- (h) Location of easements and utilities.

(3) *Compatibility with adjacent properties.* Adjacent properties setbacks must be similar to what the applicant is requesting. The applicant's site plan must include location and setbacks of existing structures on adjacent properties.

(4) *Setback requirements.* The other setbacks for buildings on this property must meet the minimum required for the zone.

(5) *Adjacent property notification.* The applicant must provide written notice of special exception request to adjacent property owners seven days prior to the meeting scheduled to consider the special exception, explaining the request and the time and location of the meeting.

(6) *Minimum setback.* If a special exception is granted, the minimum front setback allowed shall be:

- (a) Primary residence: 15 feet;
- (b) If the driveway is located between building and street: 20 feet; and
- (c) Corner lots (front and side setbacks along a public street): 15 feet.

(7) *Nonconforming buildings.* Existing setbacks may be used to establish setbacks for additions.

(8) *Accessory buildings.* Special exceptions shall not be granted for accessory buildings. The setbacks shall conform with this chapter.

(9) *General provisions for granting special exception.*

(a) The special exception would not contribute to the adverse effect or diminution in values of surrounding properties. (The special exception will not be injurious to the neighborhood or otherwise detrimental to the public welfare). Generally compatible with surrounding properties;

- (b) The special exception does not create a traffic or other health or safety hazard.

(Ingress and egress to property with particular reference to automotive and pedestrian safety and convenience, traffic flow and control, and access in case of fire or catastrophe.);

(c) The special exception will be in harmony with the spirit and intent of the zoning chapter;

(d) The special exception will be considerate to utilities, with reference to locations, availability, adequacy and compatibility; and

(e) The special exception will consider screens and buffers with reference to type, dimensions, character and adequacy (i.e., fences, hedges, plants, trees, and the like).

(10) *Other conditions for granting a special exception.*

(a) Reasonable conditions necessary to meet one or more of the standards in division (B)(1) through (B)(9) above may be attached to the approval of a special exception.

(b) At the discretion of the Board of Adjustment, the time period for rendering a final decision may be extended an additional 30 days, or such additional time as may be consented to by the applicant.

(c) In the case of denial of any request for a special exception, the ground(s) for such denial shall be stated on the record and shall be provided to the applicant in writing.

(C) To authorize upon appeal such variance from the terms of this chapter as will not be contrary to the public interest, where owing to special conditions a literal enforcement of the provisions of this chapter will result in unnecessary hardship; provided, that the spirit of this chapter shall be observed and substantial justice done. Before any variance may be authorized, however, it shall be shown that:

(1) The variance will not substantially adversely affect the town's master plan or zoning regulations and that adherence to the strict letter of this chapter will cause difficulties and hardships, the imposition of which upon the petitioner is unnecessary in order to carry out the general purpose of this master plan;

(2) Special circumstances are attached to the property covered by the application which do not generally apply to other property in the same district; and

(3) That because of said special circumstances, property covered by application is deprived of privileges possessed by other properties in the same district; and that the granting of the variance is essential to the enjoyment of a substantial property right that is possessed by other property in the same district.

(Ord. passed 7-14-1984; Ord. passed, 12-8-2004)

§ 153.053 MEETINGS.

Meetings of the Town Board of Adjustment shall be held at the call of the Chairperson, and at such other times as the Board may determine. The Chairperson may administer oaths and compel the

attendance of witnesses. All meetings of the Town Board of Adjustment shall be open to the public.
(Ord. passed 7-14-1984)

§ 153.054 MINUTES.

The Town Board of Adjustment shall keep minutes of its proceedings, showing the vote of each member on each question, or if absent or failure to vote, indicating such fact and shall keep records of its examinations and other official actions, all of which shall be filed with the Town Clerk and shall be public record.
(Ord. passed 7-14-1984)

§ 153.055 QUORUM.

A quorum shall be considered four members of the Town Board of Adjustment, and no evidence shall be presented to the Board unless a quorum is present.
(Ord. passed 7-14-1984)

§ 153.056 ACTION TO BE TAKEN.

Approval or disapproval, rejection or modified approval of an application shall be based upon findings which shall be made a part of the official record.
(Ord. passed 7-14-1984)

§ 153.057 VOTE NECESSARY FOR REVERSAL.

The concurring vote of three members of the Town Board of Adjustment shall be necessary to reverse any order, requirement or determination of any such administrative official, or to decide in favor of the appellant on any matter upon which it is required to pass under this chapter or to effect any variation in the provisions of this chapter.
(Ord. passed 7-14-1984)

§ 153.058 APPEALS TO BOARD; TIME ENTITLED; TRANSMISSION OF PAPERS.

Appeals to the Town Board of Adjustment may be taken by any person aggrieved or by any officer, department or board of the town affected by any decision of the administrative officer. Such appeal shall be taken within 15 days as provided by the rules of the Board by filing with the officer from whom the appeal is taken and with the Town Board of Adjustment a notice of appeal specifying the grounds thereof. The officer from whom the appeal is taken shall forthwith transmit to the Town Board of Adjustment all the papers constituting the record upon which the action appealed from was taken.
(Ord. passed 7-14-1984)

§ 153.059 STAY OF PROCEEDINGS PENDING APPEAL.

An appeal stays all proceedings in furtherance of the action appealed from, unless the officer from whom the appeal is taken certifies to the Town Board of Adjustment after the notice of appeal shall have been filed with him or her that by reason of facts stated in the certificate a stay would in his or her opinion cause imminent peril to life or property. In such case, proceedings shall not be stayed otherwise than by restraining order which may be granted by the Town Board of Adjustment or by district court on application and notice and on due cause shown.

(Ord. passed 7-14-1984)

§ 153.060 DECISION ON APPEAL.

In exercising the above-mentioned powers, the Town Board of Adjustment may in conformity with the provisions of this chapter reverse or affirm, wholly or partly, or may modify the order, requirement, decision or determination appealed from and may make such other requirement, decision or determination as ought to be made, and to that end shall have all the powers of the officer from whom the appeal is taken.

(Ord. passed 7-14-1984)

§ 153.061 RULES.

The Town Board of Adjustment shall adopt rules for the regulation of its procedure and the conduct of its duties not inconsistent with the provisions of this chapter or the state law. Such rules, to become effective, shall be first approved by the town.

(Ord. passed 7-14-1984)

§ 153.062 JUDICIAL REVIEW OF BOARD'S DECISION-TIME LIMITATIONS.

The town or any person aggrieved by any decision of the Town Board of Adjustment may have and maintain a plenary action for relief therefrom in any court of competent jurisdiction; provided, petition for such relief is presented to the court within 30 days after the filing of such decision in the office of the Board.

(Ord. passed 7-14-1984)

SUPPLEMENTARY AND QUALIFYING REGULATIONS**§ 153.075 EFFECT OF CHAPTER.**

The regulations hereinafter set forth in this subchapter qualify or supplement, as the case may be, the zone regulations appearing elsewhere in this chapter.

(Ord. passed 7-14-1984)

§ 153.076 SUBSTANDARD LOTS AT TIME OF ORDINANCE PASSAGE.

Any lot legally held in separate ownership as indicated by a recorded deed at the time of passage of this chapter, which lot is below the requirements for lot area or lot width for the district in which it is located may be used for a single-family dwelling if such lot is located in a district which permits single-family dwellings.

(Ord. passed 7-14-1984; Ord. passed 8-13-1997)

§ 153.077 LOT STANDARDS.

Except as provided in this chapter, every lot, existing or intended to be created, shall have such area, width and depth as is required by this chapter for the district in which such lot is located and shall have frontage upon a dedicated or publicly-approved street or upon a private street or right-of-way approved by the Town Planning Commission, before a building permit may be issued.

(Ord. passed 7-14-1984)

§ 153.078 EVERY DWELLING TO BE ON A LOT; EXCEPTIONS.

Every dwelling structure shall be located and maintained on a separate lot having no less than the minimum area, width, depth and frontage required by this chapter for the district in which the dwelling structure is located, except that group dwellings, cluster dwellings, condominiums and other multi-structure dwelling complexes under single ownership and management, which are permitted by this chapter and have approval from the Town Planning Commission, may occupy one lot for each such multi-structure complex.

(Ord. passed 7-14-1984)

§ 153.079 YARD SPACE FOR ONE BUILDING ONLY.

No required yard or other open space around an existing building or which is hereafter provided around any building for the purpose of complying with the provisions of this chapter shall be considered as providing a yard or open space for any other building; nor shall any yard or other required open space on an adjoining lot be considered as providing a yard or open space on a lot whereon a building is to be erected or established.

(Ord. passed 7-14-1984)

§ 153.080 PRIVATE GARAGE WITH SIDE YARD; REDUCED YARDS.

On any interior lot where a private garage, containing a sufficient number of parking spaces to meet the requirements of this chapter, has a side yard equal to the minimum side yard required for a dwelling in the same district, the width of the other side yard for the dwelling may be reduced to equal that of the minimum required side yard; and on any lot where such garage has such side yard, the rear yard of the dwelling may be reduced to 15 feet, provided the garage also has a rear yard of at least 15 feet.

(Ord. passed 7-14-1984)

§ 153.081 SALE OR LEASE OF REQUIRED SPACE.

No space needed to meet the width, yard, area, coverage, parking or other requirements of this chapter for lot or building may be sold or leased away from such lot or building.

(Ord. passed 7-14-1984)

§ 153.082 SALE OF LOTS BELOW MINIMUM SPACE REQUIREMENTS.

No parcel of land which has less than the minimum width and area requirements for the district in which is located may be cut off from a larger parcel of land for the purpose, whether immediate or future, of building or development as a lot.

(Ord. passed 7-14-1984)

§ 153.083 YARDS TO BE UNOBSTRUCTED; EXCEPTIONS.

Every part of a required yard shall be open to the sky, unobstructed except for accessory buildings in a rear yard, the ordinary projections of skylights, sills, belt courses, cornices, chimneys, flues and other ornamental features which project into a yard not more than two and one-half feet, and open or lattice-enclosed fire escapes, fireproof outside stairways and balconies opening upon fire towers projecting into a yard not more than five feet.

(Ord. passed 7-14-1984)

§ 153.084 AREA OF ACCESSORY BUILDINGS.

No accessory building or group of accessory buildings in any residential district shall cover more than 25% of the rear yard.

(Ord. passed 7-14-1984)

§ 153.085 ADDITIONAL HEIGHT ALLOWED.

Public and quasi-public utility buildings, when authorized in a district, may be erected to a height greater than the district height limit by conditional use permit.

(Ord. passed 7-14-1984)

§ 153.086 EXCEPTIONS TO HEIGHT LIMITATIONS.

Penthouse or roof structures for the housing of elevators, stairways, tanks, ventilating fans or similar equipment required to operate and maintain the building, and fire or parapet walls, skylights, towers, steeples, flagpoles, chimneys, smokestacks, water tanks, wireless or television masts, theater lofts, silos or similar structures may be erected above the height limits herein prescribed, but no space

above the height limit shall be allowed for purposes of providing additional floor space. All height exceptions are subject to conditional use permit.
(Ord. passed 7-14-1984)

§ 153.087 MINIMUM HEIGHT OF MAIN BUILDINGS.

No dwelling shall be erected to a height less than one story above grade.
(Ord. passed 7-14-1984)

§ 153.088 MAXIMUM HEIGHT OF ACCESSORY BUILDINGS.

No building which is accessory to a one-family, two-family or multi-family dwelling shall be erected to a height greater than one story or 20 feet.
(Ord. passed 7-14-1984)

§ 153.089 CLEAR VIEW OF INTERSECTING STREET.

In all districts which require a front yard, no obstruction to view in excess of two feet in height shall be placed on any corner lot within a triangular area formed by the street property lines and a line connecting them at points 40 feet from the intersection of the street lines, except a reasonable number of trees pruned high enough to permit unobstructed vision to automobile drivers; and pedestal-type identification signs and pumps at gasoline service stations.
(Ord. passed 7-14-1984)

§ 153.090 MAXIMUM HEIGHT OF FENCES, WALLS AND HEDGES.

(A) Fences, walls and hedges may be erected or allowed to the permitted building height when located within the buildable area, provided that any physical structure over six feet in height shall require a building permit.

(B) Fences, walls and hedges may not exceed four feet in height within any required front yard or side street side yard.

(C) Fences, walls and hedges may not exceed six feet in height within any required rear yard or interior side yard.

(D) Notwithstanding any other provisions herein, no fence, wall or hedge exceeding four feet in height shall be erected or allowed closer to any street line than the required building setback line.

(E) For purpose of this section, single shrub planting shall not constitute a hedge if the closest distance between the foliage of any two plants is and remains at least five feet.

(F) Where a fence, wall or hedge is located along a property line separating two lots and there is a difference in the grade of the properties on the two sides of the property line, the fence, wall or hedge

may be erected or allowed to the maximum height permitted on either side of the property line.

(G) Fencing and walls six feet in height, including protective gates, shall be required around swimming pools, Jacuzzi and similar structures.

(H) Fencing with adequate screening or walls six feet in height shall border all commercial and manufacturing/distribution districts as they border other zones.
(Ord. passed 7-14-1984)

§ 153.091 WATER AND SEWAGE REQUIREMENTS.

All proposed building or proposed use shall be connected to a public water system within the town limits. Sewer hookups are required to individual septic systems in the town.
(Ord. passed 7-14-1984)

§ 153.092 CURBS, GUTTERS AND SIDEWALKS.

The installation or curb, gutter and sidewalks of a type approved by the Town Board may be required on any existing or proposed street adjoining a lot on which a building is to be constructed or remodeled, or on which a new use is to be established. Such curbs, gutters and sidewalks may be required as a condition of building or use permit approval.
(Ord. passed 7-14-1984)

NONCONFORMING BUILDINGS AND USES

§ 153.105 MAINTENANCE PERMITTED.

A nonconforming building or structure may be maintained.
(Ord. passed 7-14-1984)

§ 153.106 REPAIRS AND ALTERATIONS.

Repairs and structural alterations may be made to a nonconforming building or to a building housing a nonconforming use.
(Ord. passed 7-14-1984)

§ 153.107 ADDITIONS, ENLARGEMENTS AND MOVING.

A building or structure occupied by a nonconforming use and a building or structure nonconforming as to height, area or yard requirements shall not be added to or enlarged in any manner unless such addition or enlargement conforms or is made to conform to all regulations of the zone in

which it is located except as permitted by the Town Board of Adjustment.
(Ord. passed 7-14-1984)

§ 153.108 ALTERATION WHERE PARKING INSUFFICIENT.

A building or structure lacking sufficient automobile parking space in connection therewith as required by this chapter may be altered or enlarged provided additional automobile parking space is supplied to meet the requirements of this chapter for such alteration or enlargement. All parking spaces shall be on the site or adjacent to the site.
(Ord. passed 7-14-1984)

§ 153.109 RESTORATION OF DAMAGED BUILDINGS.

A nonconforming building or structure or a building or structure occupied by a nonconforming use which is damaged by fire, flood, wind, earthquake or other calamity or act of God, or the public enemy may be restored and the occupancy or use of such building, structure or part thereof, which existed at the time of such damage may be continued or resumed, provided that such restoration is started within a period of one year and is diligently prosecuted to completion.
(Ord. passed 7-14-1984)

§ 153.110 ONE YEAR VACANCY.

A building or structure or portion thereof occupied by a nonconforming use, which is, or hereafter becomes, vacant and remains unoccupied by a nonconforming use of a continuous period of one year shall not thereafter be occupied by a use which conforms to the use regulations of the district in which it is located.
(Ord. passed 7-14-1984)

§ 153.111 CONTINUATION OF USE.

The occupancy of a building or structure by a nonconforming use, existing at the time this chapter became effective, may be continued.
(Ord. passed 7-14-1984)

§ 153.112 OCCUPATION WITHIN ONE YEAR.

A vacant building or structure may be occupied by a use for which the building or structure was designed or intended, if so occupied within a period of one year after the use became nonconforming.
(Ord. passed 7-14-1984)

§ 153.113 CHANGE OF USE.

Paragonah - Land Usage

The nonconforming use of land, existing at the time this chapter became effective, may be continued, provided that no such nonconforming use of land shall in any way be expanded or extended either on the same or on adjoining property, and provided that if such nonconforming use of land, or any portion thereof, is abandoned or changed for a period of one year or more, any future use of such land shall be in conformity with the provisions of this chapter.

(Ord. passed 7-14-1984)

§ 153.114 NONCONFORMING USE OF LAND.

The nonconforming use of land, existing at the time this chapter became effective, may be continued, provided that no such nonconforming use of land shall in any way be expanded or extended either on the same or on adjoining property, and provided that if such nonconforming use of land, or any portion thereof, is abandoned or changed for a period of one year or more, or three years for animals; any future use of such land shall be in conformity with the provisions of this chapter.

(Ord. passed 7-14-1984; Ord. passed 9-9-1998)

OFF-STREET PARKING REQUIREMENTS**§ 153.125 OFF-STREET PARKING REQUIRED.**

At the time any building or structure is erected or enlarged or increased in capacity or any use is established, there shall be provided off-street parking spaces for automobiles adjacent to the building, structure or use in accordance with the following requirements.

(Ord. passed 7-14-1984)

§ 153.126 NUMBER OF PARKING SPACES.

The number of off-street parking spaces required shall be as follows:

(A) *Dwellings, single-family, two-family.* Two parking spaces for each dwelling unit;

(B) *Retail stores, shops.* One parking space for each 200 square feet of retail floor space;

(C) *Churches and meeting halls.* One parking space for each three seats of maximum seating capacity; and

(D) *All other uses.* As determined by the Town Planning Commission, based on nearest comparable standards.

(Ord. passed 7-14-1984)

§ 153.127 ACCESS REQUIREMENTS.

Adequate ingress and egress to and from all uses shall be provided as follows.

(A) *Residential lots.* For each residential lot not more than two driveways, each of which shall be a maximum of 20 feet wide at the street lot line, and such driveways shall not be closer than 12 feet to each other. No driveway shall be closer to a side property line than three feet.

(B) *Other than residential lots.* Access shall be provided to meet the following requirements.

(1) Not more than two driveways shall be used for each 100 feet or fraction thereof of frontage on any street.

(2) No two of said driveways shall be closer to each other than 12 feet, and no driveway shall be closer to a side property line than three feet.

(3) No driveway shall be closer than ten feet of any intersection at any corner as measured along the property line.

(4) Where there is no existing curb and gutter or sidewalk, the applicant may at his or her option install a safety island and curb, or, in place thereof shall construct along the entire length of the property line (except in front of the permitted driveways) a curb, fence or pipe rail not exceeding two feet or less than eight inches in height.

(5) All other uses not listed above as determined by the Town Planning Commission, based on the nearest compatible use standards.
(Ord. passed 7-14-1984)

§ 153.128 LOCATION OF GASOLINE PUMPS.

Gasoline pumps shall be set back not less than 18 feet from any street line to which the pump island is perpendicular, and 12 feet from any street line to which the pump island is parallel, and not less than ten feet from any residential or agricultural district boundary line. If the pump island is set at an angle on the property, it shall be so located that the automobiles stopped for service will not extend over the property line.

(Ord. passed 7-14-1984)

§ 153.129 MAINTENANCE OF PARKING LOTS.

Every parcel of land used as a public or private parking lot shall be developed and maintained in accordance with the following requirements.

(A) *Surfacing.* Each off-street parking lot shall be surfaced with an asphaltic or portland cement or other binder pavement so as to provide a dustless surface. The parking area shall be so graded as to dispose of all surface water. If such water is to be carried to adjacent streets, it shall be piped under sidewalks.

(B) *Screening.* The sides and rear of any off-street parking lot which face or adjoin a residential

district shall be screened from such district by a masonry wall or solid visual barrier fence not less than four or more than six feet in height.

(C) *Landscaping*. Each parking lot shall be adequately landscaped and permanently maintained.

(D) *Lighting*. Lighting used to illuminate any parking lot shall be arranged to reflect the light away from adjoining premises in any R District, and from street traffic.
(Ord. passed 7-14-1984)

CONDITIONAL USES

§ 153.140 PURPOSE OF CONDITIONAL USE PROVISIONS.

Certain uses which may be harmonious under special conditions and in specific locations within a district, but be improper under general conditions and in other locations, are classed as conditional uses within the various districts and require conditional use permits for approval.
(Ord. passed 7-14-1984)

§ 153.141 PERMIT REQUIRED.

A conditional use permit shall be required for all uses listed as conditional uses in the district regulations or elsewhere in this chapter. A conditional use permit may be revoked upon failure to comply with conditions precedent to the original approval of the certificate. No building permit or other permit or license shall be issued for a use requiring conditional use without first being reviewed and/or approved by the Town Planning Commission or the Town Board.
(Ord. passed 7-14-1984)

§ 153.142 APPLICATION.

A conditional use permit application shall be made to the Town Planning Commission as provided in this chapter. Applications for a conditional use permit shall be accompanied by maps, drawings, statements or other documents as required by the Town Planning Commission.
(Ord. passed 7-14-1984)

§ 153.143 FEE.

The application for any conditional use permit shall be accompanied by the appropriate fee as determined by the Town Board.
(Ord. passed 7-14-1984)

§ 153.144 DEVELOPMENT PLAN.

The application for a conditional use permit shall prepare a site plan with elevations (as may be necessary) for the site being proposed for development. The plan shall be drawn to scale and show all existing and proposed buildings, roads, parking and other information that the Town Planning Commission may deem necessary.

(Ord. passed 7-14-1984)

§ 153.145 PLANNING COMMISSION ACTION.

(A) The Town Planning Commission may approve or deny the conditional use permit (with the exception of conditional use permits for mobile homes and mobile home parks). In granting approval or recommending approval of any conditional use, the Town Planning Commission shall suggest regulations and conditions which are necessary to protect the public health, safety and welfare.

(B) In approving or recommending approval of a conditional use permit, the Town Planning Commission shall find:

(1) The proposed use is necessary or desirable and will contribute to the general well-being of the community;

(2) The use will not be detrimental to the health, safety or welfare of persons residing, or working in the vicinity, or injurious to property or improvements in the vicinity;

(3) The proposed use will comply with the regulations of this chapter; and

(4) The proposed use is in harmony with the intent and purpose of the town master plan or that the plan shall have first been amended through public hearing.

(Ord. passed 7-14-1984)

§ 153.146 TOWN BOARD ACTION.

Upon denial of a conditional use permit for uses other than mobile homes and mobile home parks by the Town Planning Commission, the applicant may appeal in writing within 30 days to the Town Board. The Town Board may approve, modify and approve, or deny the conditional use application in a public meeting. In approving any conditional use, the Town Board shall impose regulations and conditions as are necessary to protect the public health, safety and welfare. The Town Board shall follow the same conditions as stated in § 153.145.

(Ord. passed 7-14-1984)

§ 153.147 TOWN BOARD ACTION ON MOBILE HOMES AND MOBILE HOME PARKS.

Where applications require a conditional use permit, the permit shall be submitted to the Town Planning Commission at its regular meeting and after review shall be recommended for approval or disapproval to the Town Board. The Town Board shall approve or disapprove the conditional use

permit for mobile homes and mobile home parks.
(Ord. passed 7-14-1984)

§ 153.148 EXPANSION OF A CONDITIONAL USE.

No structure in which a conditional use is located may expand without the approval of the Town Planning Commission and the Town Board. Before expanding, the applicant shall present to the Town Planning Commission a development plan meeting the requirements of § 153.144. No public hearing need be held. However, the Town Planning Commission may deem a hearing necessary.
(Ord. passed 7-14-1984)

§ 153.149 INSPECTION.

Following the issuance of a conditional use permit by the Town Planning Commission, the Town Building Inspector shall approve an application for a building permit, and shall ensure that development is undertaken and completed in compliance with said conditional use and building permit.
(Ord. passed 7-14-1984)

§ 153.150 TIME LIMITATION.

A conditional use permit shall be good for one year after approval. Extensions may be granted by the Town Planning Commission or the Town Board for mobile homes and mobile home parks for periods of time not to exceed one year at each extension.
(Ord. passed 7-14-1984)

§ 153.151 REVOCATION.

A conditional use permit may be revoked upon failure to comply with the conditions imposed with the original approval of the permit and the applicant shall be so notified of revocation by the town. The permit may be reinstated upon determination by the Town Planning Commission that the cause for revocation has been corrected and that the applicant intends to proceed according to the plans approved by the Town Planning Commission at the time the permit was originally issued, or as they might have time during the period of the conditional use. Revocation or reinstatement of a conditional use permit for mobile homes and mobile home parks is the responsibility of the Town Board.
(Ord. passed 7-14-1984)

DESIGN REVIEW

§ 153.165 PURPOSE.

(A) The purpose and intent of design review is to secure the general purposes of this chapter and

the town master plan and to ensure that the general appearance of buildings and structures and the development of the land shall in no case be such as would impair the orderly and harmonious development of the neighborhood or impair investment in the occupation of the neighborhood.

(B) It shall not be the intent of this subchapter to restrict or specify the particular architectural design proposed or to specify the exterior detail of design, color or materials proposed by the applicant, except as such detail is of such magnitude as to affect the general appearance and compatibility of the development with its surroundings.

(Ord. passed 7-14-1984)

§ 153.166 APPLICATION AND REVIEW.

All applications for building permits for all buildings and structures, except for single-family dwellings and their accessory buildings, shall be accompanied by architectural and site development plans to scale, which shall show building locations, landscaping, prominent existing trees, general treatment, fences, off-street parking and circulation, location and size of the adjacent streets, north arrow and property lines, drawings of the major exterior elevations, the building materials, proposed exterior color scheme, existing grades and proposed new grades. All such drawings and sketches shall be reviewed by the Town Planning Commission except that the review and approval of such permits by the Town Zoning Administrator may be authorized by the Town Planning Commission when the application meets all requirements of this chapter. All of the above required architectural and site development plans shall have been reviewed and approved prior to the issuance of a building permit.

(Ord. passed 7-14-1984)

§ 153.167 EXCEPTIONS.

For buildings and uses covered by conditional use permits, design review shall be incorporated within such conditional use permit and need not be a separate application, provided the requirements of this subchapter are met.

(Ord. passed 7-14-1984)

§ 153.168 PLANNING COMMISSION APPROVAL.

The Town Planning Commission, or the Town Zoning Administrator when authorized by the Commission, shall determine whether the proposed architectural and site development plans submitted are consistent with this subchapter and with the general objectives of this chapter, and shall give or withhold approval accordingly. Denial of approval by the Town Planning Commission may be appealed to the Town Board, as provided for in the appeals section of this chapter.

(Ord. passed 7-14-1984)

§ 153.169 CONSIDERATION IN REVIEW OF APPLICATIONS.

The Town Planning Commission and the Town Zoning Administrator, when authorized, shall consider the following matters, and others when applicable, in their review of applications:

Paragonah - Land Usage*(A) Considerations relating to traffic safety and traffic congestion.*

- (1) The effect of the site development plan on traffic conditions on abutting streets;
- (2) The layout of the site with respect to locations and dimensions of vehicular and pedestrian entrances, exits, drives and wall ways;
- (3) The arrangement and adequacy of off-street parking facilities;
- (4) The location, arrangement and dimensions of truck loading and unloading facilities;
- (5) The circulation patterns within the boundaries of the development; and
- (6) The surfacing and lighting of off-street parking facilities.

(B) Considerations relating to outdoor advertising. The number, location, color, size, height, lighting, and landscaping of outdoor advertising signs and structures in relation to the creation of traffic hazards and the appearance and harmony with adjacent development;

(C) Consideration relating to landscaping.

- (1) The location, height and materials of walls, fences, hedges, screen plant to ensure harmony with adjacent development, or to conceal storage areas, utility installations or other unsightly development;
- (2) The planting of ground cover or other surfacing to prevent dust and erosion; and
- (3) The unnecessary destruction of existing healthy trees.

(D) Considerations relating to buildings and site layout.

- (1) Consideration of general silhouette and mass, including location on the site, elevation and relation to natural plant coverage, all in relationship to the neighborhood; and
- (2) Consideration of exterior design in relation to adjoining structures in height, bulk and area openings, breaks in facade facing on the street (or streets), line and pitch of roofs, and the arrangement of structures on the parcel.

(Ord. passed 7-14-1984)

§ 153.170 CONDITIONS.

The Town Planning Commission, or the Town Zoning Administrator when authorized, shall decide all applications for design review. Design approval may include such conditions consistent with the consideration of this subchapter as the Town Planning Commission or Town Zoning Administrator deem reasonable and necessary under the circumstances to carry out the intent of this subchapter.

(Ord. passed 7-14-1984)

§ 153.171 FINDINGS AND DECISIONS.

Upon a finding by the Town Planning Commission or the Town Zoning Administrator, when authorized, that the application meets the intent of this subchapter, the design approval shall be granted, subject to such conditions as are necessary; otherwise, approval shall be denied.

(Ord. passed 7-14-1984)

§ 153.172 NOTIFICATION OF APPROVAL OR DENIAL.

Upon the granting of design approval, the secretary of the Town Planning Commission shall prepare and mail or deliver to the applicant a formal statement thereof, stating the fact of the grant and any conditions attached thereof, or the fact of denial and the reasons therefor.

(Ord. passed 7-14-1984)

§ 153.173 TIME LIMITATIONS ON APPROVAL.

If construction in harmony with the permit for any development for which design approval has been granted has not been commenced within one year from date of notification of approval, the approval shall be deemed automatically revoked. Upon application, an extension of time may be granted by the Town Planning Commission or by the Town Zoning Administrator, when authorized.

(Ord. passed 7-14-1984)

§ 153.174 TRANSFER OF APPROVAL UPON CHANGE IN USE.

Design approval shall be deemed revoked if the buildings erected or the classification of their use or the classification of the use of land for which the approval was granted is changed, unless the approval is transferred by the Town Planning Commission, or the Town Zoning Administrator, when authorized to do so. If the transfer is not approved, a new application must be filed.

(Ord. passed 7-14-1984)

§ 153.175 CONFORMANCE TO APPROVAL.

Development for which design approval has been granted shall conform to the approval and any conditions attached thereto.

(Ord. passed 7-14-1984)

§ 153.176 MODIFICATIONS.

Upon request of the applicant, modifications in the approved plan may be made by the Town Planning Commission or the Town Zoning Administrator when authorized to do so, if it is found that the modifications will meet the requirements of this subchapter. The Town Planning Commission may revoke or modify a design approval which does not conform to any requirements of the approved

permit.
(Ord. passed 7-14-1984)

CONSTRUCTION SUBJECT TO GEOLOGIC, FLOOD OR OTHER NATURAL HAZARDS

§ 153.190 PURPOSE.

To protect the general public from geologic, flood or other natural hazards that might be detrimental to the health, safety and general welfare of the residents of the town. Any application for a conditional use or building permit which has, in the opinion of the Town Planning Commission or the Town Zoning Administrator, when authorized, potential soils, earthquake, flood or other discernible hazards may be required to provide a report addressing such hazards.
(Ord. passed 7-14-1984)

§ 153.191 REQUIREMENTS.

(A) The report shall be prepared at the applicant's expense by a registered or licensed geologist, soils engineer or civil engineer, and shall show the suitability of the soils on the property to accommodate the proposed construction, and any discernible flood or earthquake hazards.

(B) Whenever a professional expert indicates a parcel may be subject to a potential or actual hazard, the applicant shall meet the special conditions required by the Town Planning Commission or the Town Zoning Administrator, when authorized, to reduce or eliminate such hazards.
(Ord. passed 7-14-1984)

MOBILE HOMES AND MOBILE HOME PARKS

§ 153.205 PURPOSE.

To require that mobile home developments will be of such character as to promote the objectives and purposes of this chapter; to protect the integrity and characteristics of the districts contiguous to those in which mobile home parks are located; and to protect other use values contiguous to or near mobile home park uses.
(Ord. passed 7-14-1984)

§ 153.206 LOCATION AND USE.

No mobile home shall be located, placed, used or occupied in any district other than within an approved mobile home park or mobile home subdivision.
(Ord. passed 7-14-1984; Ord. 08-1, passed 7-9-2008)

§ 153.207 APPROVAL.

(A) Mobile home parks may not be constructed unless first approved by the Town Board, after review of plans for said mobile home park by the Town Planning Commission which ensure that the said development will:

(1) Be in keeping with the general character of the district within which the development is to be located;

(2) Be located on a parcel of land containing not less than five acres, or on two or more parcels separated by a street or alley only, and totaling at least five acres;

(3) Have at least five spaces completed and ready for occupancy before first occupancy is permitted;

(4) Meet all standards and requirements effective upon the adoption of the mobile home park ordinance of the town;

(5) Shall be connected to the municipal facilities of the town; and

(6) Be developed according to plans prepared by a professional team. In all cases it is recommended that professional design and other assistance be obtained early in the program including (as needed) a geologist or soils engineer, an urban planner, a lawyer, a financial expert or others. It is the intent of the town that the developer solve problems associated with the development before approval is given and construction begins. Determination of qualifications of required professional individuals or firms shall be made by the Town Planning Commission.

(B) In a mobile home park, the number of mobile homes shall be limited to five units per acre. The mobile homes may be clustered, provided that the total number of units does not exceed the number permitted on one acre, multiplied by the number of acres in the development. The remaining land not contained in individual lots, roads or parking shall be set aside and developed as parks, playground and service areas for common use and enjoyment of occupants of the development and of the visitors thereto.

(Ord. passed 7-14-1984)

§ 153.208 APPLICATION.

(A) (1) An overall plan for development of a mobile home park shall be submitted to the Town Planning Commission for review. The plan shall be drawn to a scale no smaller than one inch to 50 feet. At least six copies of the plan shall be submitted.

(2) The plan shall show:

(a) The topography of the site represented by contours, shown at not greater intervals than two feet when required by the Town Planning Commission;

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- (b) The proposed street and mobile home space layout;
- (c) Proposed reservations for parks, playgrounds, open space;
- (d) Tabulations showing percent of area to be devoted to parks, playgrounds and open spaces, number of mobile home spaces, and total area to be developed;
- (e) Proposed locations of parking spaces;
- (f) Generalized landscaping and utility plan, including locations of water, electric lines and fire hydrants as required; and
- (g) Any other data the Town Planning Commission may require.

(3) The applicant for approval of plans for a mobile home park shall pay to the town at the time of application a checking fee, in addition to all other required fees. The checking fee shall be as established by the Town Board.

(4) Applications for approval shall be in writing, submitted to the Town Planning Commission at its regular meeting and shall be recommended for approval or disapproval to the Town Board within 30 days, unless an extension of time is approved by the Town Planning Commission. An application recommended for approval or disapproval by the Town Planning Commission shall be submitted to the Town Board, which decision must be made in writing within 15 days after the recommendation is submitted by the Town Planning Commission to the Town Board.

(B) The applicant for approval of plans for a mobile home park shall pay to the town at the time of application a checking fee, in addition to all other required fees. The checking fee shall be as established by the Town Board.

(C) Applications for approval shall be in writing, submitted to the Town Planning Commission at its regular meeting and shall be recommended for approval or disapproval to the Paragonah Town Board within 30 days, unless an extension of time is approved by the Town Planning Commission. An application recommended for approval or disapproval by the Town Planning Commission shall be submitted to the Town Board, which decision must be made in writing within 15 days after the recommendation is submitted by the Town Planning Commission to the Town Board.

(Ord. passed 7-14-1984)

§ 153.209 STANDARDS AND REQUIREMENTS.

Standards and requirements for mobile home parks shall be as provided in the mobile home park ordinance, subsequent to the effective date of adoption by the town.

(Ord. passed 7-14-1984)

ZONING DISTRICTS

§ 153.220 ESTABLISHMENT OF ZONING DISTRICTS.

For the purposes of this chapter, the territory of the town to which this chapter applies is divided into zoning districts as follows:

Rural Residential	RE
Mobile Home	M-H
General Commercial	C-G

(Ord. passed 7-14-1984; Ord. passed 8-13-1997)

§ 153.221 RULES FOR LOCATING BOUNDARIES.

Where uncertainty exists as to the boundaries of districts as shown on the town zoning map, the following shall apply.

(A) Boundaries indicated as approximately following the centerlines of streets, highways or alleys shall be construed to follow such centerlines and in the event of change in the centerline shall be construed as moving with the centerlines.

(B) Boundaries indicated as approximately following the right-of-way lines of streets, highways or alleys shall be construed to follow such right-of-way lines, and in the event of a change in the right-of-way line shall be construed as moving with the right-of-way line.

(C) Boundaries indicated as approximately following platted lot lines shall be construed to follow such lot lines.

(D) Boundaries indicated as parallel to or extensions of features indicated in divisions (A) through (C) above shall be so construed. Distances not specifically indicated on the official map shall be determined by the scale of the map.

(E) In case any further uncertainty exists, the Town Board of Adjustments shall determine the location of such boundaries.

(F) Boundaries of each of the said zones are hereby established as described herein or as shown on the map entitled Paragonah Town Zoning Map which map is on file with the Town Clerk and all boundaries show thereon are made by this reference as much a part of this chapter as is fully described and detailed herein.

(Ord. passed 7-14-1984)

§ 153.222 SUPPLEMENTARY REGULATIONS TO ALL ZONES.

No trash, rubbish, weeds or other combustible material shall be allowed to remain on any lot outside of approved containers in any residential or commercial zone. No junk, debris, abandoned or

dismantled automobile or similar material shall be stored or allowed to remain on any lot in any residential zone.

(Ord. passed 7-14-1984) Penalty, see § 153.999

§ 153.223 ANNEXATIONS.

All annexed property will come into the town zoned RE-Residential Estate, pending future changes recommended by the Planning Commission and approved by the Town Board.

(Ord. passed 7-14-1984)

RESIDENTIAL ESTATE DISTRICT (RE)

§ 153.235 PURPOSE.

To provide for neighborhoods of a rural character for small farms, hobby farms and large lot residential use.

(Ord. passed 7-14-1984)

§ 153.236 PERMITTED USES.

(A) Agriculture:

(1) Tilling of the soil, the raising of crops, horticulture and gardening for personal use; and

(2) Animals and fowl for recreational use of family food production for the primary use of persons residing on the premises, excluding the keeping or raising of exotic or dangerous animals.

(B) Single-family homes;

(C) Household pets; and

(D) Accessory uses and buildings customarily incidental to the permitted use.

(Ord. passed 7-14-1984)

§ 153.237 CONDITIONAL USES.

(A) Agricultural business or industry;

(B) Public stable;

(C) Kennel;

(D) Park and playground;

(E) Public utilities, essential services;

(F) Public buildings;

(G) Church;

(H) School;

(I) Cemetery;

(J) Home occupation;

(K) Mobile homes subject to conditional use permit and the following:

(1) Mobile homes shall be on a permanent foundation;

(2) Shall have wheels and tongue removed and have skirting in place;

(3) All skirts shall be kept in place and in good repair at all times;

(4) Shall meet design review standards for the town as set forth in §§ 153.165 through 153.176; and

(5) All mobile homes shall be adequately tied down.

(L) Accessory uses and buildings customarily incidental to the conditional use; and

(M) Other uses similar to the above and judged by the Planning Commission to be in harmony with the character and intent of this zone.

(Ord. passed 7-14-1984)

§ 153.238 HEIGHT REGULATIONS.

No building shall exceed two and one-half stories or 35 feet in height. No dwelling shall be less than one story in height.

(Ord. passed 7-14-1984)

§ 153.239 MINIMUM AREA, WIDTH AND YARD REQUIREMENT.

<i>District</i>	<i>*Area</i>	<i>Width</i>	<i>Yards in Feet</i>		
			<i>Front</i>	<i>Side</i>	<i>Rear</i>
RE	43,560 sq. ft.	80 ft.	30	10	30

* Prior minimum area was 12,500 sq. ft. (to meet Public Health Department requirements). See also §§ 153.075 and 153.076

(Ord. passed 7-14-1984; Ord. passed 12-11-1996)

§ 153.240 MODIFYING REGULATIONS.

(A) *Side yard.* On corner lots, the side yard which faces on a street shall not be less than 20 feet.

(B) *Rear yard/side yard.* All accessory buildings and storage containers shall be located at the rear of and at least ten feet from the main building and shall have a rear yard of at least ten feet and a side yard of at least ten feet.

(C) *Livestock and animals.* The raising or keeping of livestock or animals is permitted in the RE District.

(1) All livestock or animals shall be housed in enclosed corrals, stables or other enclosures with open fence exercise areas located a minimum of 50 feet from any dwelling. Animals used for grazing and weed control must be located a minimum of ten feet from any dwelling.

(2) On lots of 39,000 square feet or more, livestock or animals may be kept and raised in combinations of not more than four animal units and 40 fowl and four pigs. On lots less than 39,000 square feet, livestock or animals may be kept or raised in combinations of not more than two animal units and 20 fowl and two pigs.

(D) *Recreational coaches or vehicles.* A recreational coach or vehicle parked on a lot may not be inhabited for more than 20 days during any calendar year except by an administrative permit as provided in §§ 153.350 through 153.358, and satisfying, at a minimum, the following conditions:

(1) The recreational coach or vehicle must be hooked up to a state approved septic system for waste disposal;

(2) The recreational coach or vehicle must be hooked up to water and power from the town;

(3) If the party seeking the conditional use permit is engaged in the construction of a dwelling on the same lot where the recreational coach or vehicle is parked, the construction must be continuous and ongoing (improvements must be evident to an objective observer);

(4) The party seeking the conditional use permit and intending to live on the lot while engaged in construction must have an ownership interest in the lot. (A leasehold interest is inadequate.); and

(5) The party is bound by and must satisfy the requirements of Chapter 150 of this code of ordinances.

(Ord. passed 7-14-1984; Ord. passed 9-9-1998; Ord. 08-1, passed 7-9-2008; Ord. 15-1, passed 9-9-2015)

§ 153.241 OTHER PROVISIONS.

Exceptions to these regulations are provided in §§ 153.075 through 153.092.
(Ord. passed 7-14-1984)

SINGLE-FAMILY RESIDENTIAL DISTRICT (R1)

§ 153.255 GENERALLY.

This zoning district was repealed August 13, 1997. Single-Family Residential District (R-1) is not a zoning district in the town. All areas within the town that were in the R-1 Zoning District before the passage of this amendment will be zoned Rural Residential (RE) from the date of adoption of this amendment.
(Ord. passed 7-14-1984; Ord. passed 8-13-1997)

MOBILE HOME DISTRICT (M-H)

§ 153.270 PURPOSE.

To provide and protect areas for mobile home neighborhoods, while permitting limited establishment of public and quasi-public uses which serve the requirements of the neighborhood.
(Ord. passed 7-14-1984)

§ 153.271 PERMITTED USES.

- (A) Mobile home subdivision;
- (B) Mobile homes on individual lots, provided they are on permanent foundations;
- (C) Gardening for personal use;
- (D) Household pets; and
- (E) Accessory uses and buildings customarily incidental to the permitted use.

(Ord. passed 7-14-1984)

§ 153.272 CONDITIONAL USES.

- (A) Mobile home park;
- (B) School;
- (C) Church;
- (D) Cemetery;
- (E) Home occupation;
- (F) Park or playground;
- (G) Public utilities, essential services;
- (H) Public buildings; and

(I) Other uses similar to the above and judged by the Planning Commission to be in harmony with the character and intent of this district.

(Ord. passed 7-14-1984)

§ 153.273 HEIGHT REGULATIONS.

No main building may exceed two and one-half stories or 35 feet in height. No dwelling shall be less than one story in height.

(Ord. passed 7-14-1984)

§ 153.274 MODIFYING REGULATIONS.

(A) *Side yards.* The side yard setback on a street side shall be the same as front yard setback.

(B) *Private garage and accessory buildings.* Private garage and accessory buildings located ten feet behind the main dwelling may have a side yard and rear yard of two feet provided that all corner lots shall maintain a setback of 25 feet on the street side.

(C) *Adjacent lots.* No mobile homes on adjacent lots shall be closer together than 15 feet.

(D) *Tongue; wheels; skirts.* All mobile homes shall have the tongue and wheels removed and be skirted. All skirts shall be kept in place as in good repair at all times.

(E) *Tied down.* All mobile homes shall be adequately tied down.

(F) *Design review standards.* All mobile homes shall meet design review standards for the town as set forth in §§ 153.165 through 153.176.

(Ord. passed 7-14-1984)

§ 153.275 OTHER PROVISIONS.

Exceptions to these regulations are provided in §§ 153.075 through 153.092.
(Ord. passed 7-14-1984)

GENERAL COMMERCIAL DISTRICT (C-G)

§ 153.290 PURPOSE.

To provide an area within the town where a variety of goods and services can be conveniently provided.
(Ord. passed 7-14-1984)

§ 153.291 PERMITTED USES.

All uses subject to a conditional use permit and town business license.
(Ord. passed 7-14-1984)

§ 153.292 CONDITIONAL USES.

- (A) Animal hospital, small animals only and provided conducted within completely enclosed building;
- (B) Art shop;
- (C) Athletic and sporting goods store, excluding sale or repair of motor boats, motor vehicles or motors;
- (D) Automobile parts sales;
- (E) Automobile repair including brake, muffler, transmission work provided conducted within enclosed building;
- (F) Bakery, manufacturing limited to goods retailed on premises;
- (G) Bank or financial institution;
- (H) Barber shop and beauty shop;
- (I) Building material sales;
- (J) Bus terminal;

- (K) Church;
- (L) Clinics, medical, dental and hospitals;
- (M) Clothing and accessory store;
- (N) Coal and fuels sales office;
- (O) Convenience markets;
- (P) Delicatessen;
- (Q) Drug store;
- (R) Farm implement sales;
- (S) Florist shop;
- (T) Government building or uses, non-industrial;
- (U) Greenhouse and nursery; soil and lawn service;
- (V) Grocery store;
- (W) Gunsmith;
- (X) Hardware store;
- (Y) Hobby and crafts store;
- (Z) Janitorial service and supply;
- (AA) Jewelry store, sales and service;
- (BB) Laundry or dry cleaners, laundromat;
- (CC) Library;
- (DD) Mortuary;
- (EE) Motels;
- (FF) Music store;
- (GG) Park and playground;
- (HH) Pet and pet supply store;

- (II) Pharmacy;
- (JJ) Plumbing shop;
- (KK) Post office;
- (LL) Real estate agency;
- (MM) Recreation facility;
- (NN) Rental agency for home and garden tools;
- (OO) Restaurant;
- (PP) Second hand store;
- (QQ) Service station, automobile, excluding painting, body and fender, and upholstery work;
- (RR) Welding shop; and

(SS) Other uses similar to the above and judged by the Town Planning Commission to be in harmony with the character and intent of this zone.
 (Ord. passed 7-14-1984)

§ 153.293 HEIGHT REGULATIONS.

No building shall be erected to height greater than 35 feet without a conditional use permit. No building shall be erected a height lower than eight feet.
 (Ord. passed 7-14-1984)

§ 153.294 MINIMUM AREA, WIDTH, AND YARD REGULATIONS.

(A) *Minimum area, width and yard regulations.*

<i>District</i>	<i>Area</i>	<i>Width</i>	<i>Yards in Feet</i>		
			<i>Front</i>	<i>Side</i>	<i>Rear</i>
<u>C-G</u>	<u>2,000 sq. ft.</u>	<u>None</u>	<u>0</u>	<u>0</u>	<u>20</u>

(B) *Abutting a residential district.* Where the C-G District abuts a residential district, yards will be as follows:

<i>Yards in Feet</i>		
<i>Front</i>	<i>Side</i>	<i>Rear</i>

<u>10</u>	<u>20</u>	<u>20</u>
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(Ord. passed 7-14-1984)

§ 153.295 SPECIAL PROVISIONS.

(A) All materials and merchandise, except vehicles in running order, shall be stored in an enclosed building or within an enclosure surrounded by a sight-obscuring fence or wall of not less than six feet in height and no material or merchandise shall be stored to a height of more than the height of the enclosing fence or wall.

(B) No trash, rubbish, weeds or other combustible material shall be allowed to remain on any lot outside of approved containers in any General Commercial District. No junk, debris, abandoned or dismantled automobile or automobile parts or similar material shall be stored or allowed to remain on any lot in any General Commercial District.

(C) All solid waste storage facilities shall be located at the rear of the main building or else behind a sight-obscuring fence or wall which will prevent the facility from being seen from a public street.

(Ord. passed 7-14-1984)

§ 153.296 SIGNS.

(A) Business signs, not to exceed a total of one square foot of sign for each one linear foot business building frontage; no such sign to exceed 50 square feet in area and not more than three signs for any one business; all such signs to be flat wall or freestanding signs; no such sign to be revolving or to have flashing or intermittent lighting.

(B) The following non-advertising signs, subject to the limitation stated. All such signs to be flat wall signs or pole signs but no such sign shall project above the eaves or parapet wall of the building on the premises to which it is appurtenant. The maximum sign area may be used in not more than three signs.

(1) Development sign, maximum 40 square feet;

(2) Civic sign, maximum 14 square feet;

(3) Real estate sign, maximum 16 square feet; and

(4) Residential: personal name plate, maximum two square feet; other maximum eight square feet.

(Ord. passed 7-14-1984)

SINGLE-FAMILY OR TWO-FAMILY DWELLING

§ 153.310 STANDARDS.

Any detached single-family or two-family dwelling located on an individual lot outside of a mobile home park or mobile home subdivision must meet the off-street parking requirements in §§ 153.125 through 153.129 and the following standards in addition to any others required by law except as provided in division (I) below.

(A) The dwelling must meet the Town Building Code or, if it is a manufactured home, it must be certified under the National Manufactured Housing Construction and Safety Standards Act of 1974, and must have been issued an insignia and approved by the U.S. Department of Housing and Urban Development and must not have been altered in violation of such codes. A used manufactured home must be inspected by the Town Building Official or his or her designated representative prior to placement on a lot to ensure it has not been altered in violation of such codes.

(B) The dwelling must be taxed as real property. If the dwelling is a manufactured home, an affidavit must be filed with the State Tax Commission pursuant to UCA § 59-2-602.

(C) The dwelling must be permanently connected to and approved for all required utilities.

(D) The dwelling must provide a minimum of 72 square feet (per dwelling unit) of enclosed storage with a minimum height of six feet located in the basement or garage area or in an accessory storage structure. Said structure shall conform to all applicable building codes.

(E) The dwelling must be attached to a site built permanent foundation which meets the Uniform Building Code or if the dwelling is a manufactured home, the installation must meet the ICBO Guidelines for manufactured housing installations including any successors to these standards and the space beneath the structure must be enclosed at the perimeter of the dwelling in accordance with said ICBO guidelines and constructed of materials that are weather-resistant and aesthetically consistent with concrete or masonry type foundation materials. At each exit door there must be a landing that is a minimum of 36 inches by 36 inches and is constructed to meet the requirements of the Uniform Building Code. All manufactured home running gear, tongues, axles and wheels must be removed at the time of installation.

(F) At least 60% of the roof of the dwelling must be pitched at a minimum of 2.5:12 and shall have a roof surface of wood shakes, asphalt, composition, wood shingles, concrete, fiberglass or metal tiles or slate or built up gravel materials.

(G) The dwelling shall have exterior siding material consisting of wood, masonry, concrete, stucco, masonite, or metal or vinyl lap or any material meeting the Uniform Building Code or materials of like appearance approved by the Development Services Director. The roof overhang must not be less than six inches, including rain gutters which may account for up to four inches of overhang, measured from the vertical side of the dwelling. The roof overhang requirement shall not apply to areas above porches, alcoves and other appendages which together do not exceed 25% of the length of the dwelling. The roof overhang may be reduced to two inches on the side of the dwelling facing the rear yard except on corner lots.

(H) The width of the dwelling shall be at least 20 feet at the narrowest point of its first story for a

length of at least 20 feet exclusive of any garage area. The width shall be considered the lesser of the two primary dimensions. Factory built or manufactured homes shall be multiple transportable sections at least ten feet wide unless transportable in three or more sections in which case only one section need to be ten feet wide.

(I) The Development Services Director may approve deviations from one or more of the developmental or architectural standards provided herein in divisions (E) through (H) above on the basis of a finding that the architectural style proposed provides compensating design features and that the proposed dwelling will be compatible and harmonious with existing structures in the vicinity. The determination of the Development Services Director may be appealed to the Board of Adjustment pursuant to the provisions of §§ 153.050 through 153.062.

(J) Except as limited by division (K) below, use of one manufactured home as a dwelling on a parcel of land located outside of a mobile home park or mobile home subdivision prior to the initiation by town of the enactment of this chapter, which use does not meet the requirements set forth in divisions (A) through (H) above shall be considered as a nonconforming dwelling though not previously approved by the town if such manufactured home and the parcel on which it is located comes into compliance by December 31, 1995, with all development standards which would have been applicable to a single-family dwelling located on such parcel at the time the manufactured home was first used on the parcel as a dwelling. Development standards shall include subdivision, zoning, flood control, outside electrical hookup, applicable fees, health and Fire Department requirements for single-family dwellings on such parcel.

(K) The use of a manufactured home as a dwelling located on an individual parcel or lot outside of a mobile home park or mobile home subdivision shall terminate on December 31, 1995, unless the owner opts to have the manufactured home taxed as real property on or before such date by filing an affidavit with the State Tax Commission pursuant to UCA § 59-2-602 and meeting the requirements of that statute for having the manufactured home taxed as a real property.

(L) Replacement of an existing nonconforming manufactured home on a lot outside a mobile home park or mobile home subdivision shall comply with all requirements herein.
(Ord. passed 7-14-1984; Ord. 94-2, passed 4-21-1994)

YOUTH HOMES

§ 153.325 DEFINITION.

For the purpose of this subchapter, the following definition shall apply unless the context clearly indicates or requires a different meaning.

YOUTH HOME. Any residence, dwelling or other structure utilized for the domicile, residence or sleeping accommodation of more than two children of the age of 18 years or less for more than one week where such children are not related within three degrees of consanguinity to the adult persons occupying the same residence or premises.
(Ord. passed 7-14-1984)

§ 153.326 AUTHORIZATION.

Youth homes will be permitted only on granting of a conditional use permit located anywhere in any of the zoning districts within town limits after application to the Planning Commission and approval of the Town Council. The Town Council, prior to acting on the application, will receive a recommendation from the Planning Commission and entertain public comment at a duly noticed public hearing.

(Ord. passed 7-14-1984)

§ 153.327 APPLICATION.

The application must contain the following information, and no application shall be heard which does not contain this information:

(A) Name and address of applicant;

(B) Statement of ownership of the subject property executed by the owner or his or her agent under penalty of perjury;

(C) Description of the property, including legal description and address, and common means of identification;

(D) Map of the boundaries of the parcel and each separate lot or parcel within 300 feet of the exterior boundaries thereof; together with a list of the names and addresses of the last known owners of public record of each parcel;

(E) A statement indicating the precise manner of compliance with each of the applicable provisions of this subchapter together with any other information pertinent to the findings prerequisite to the granting of a use permit, prescribed in this chapter;

(F) A statement from the appropriate regulatory agency concerning availability of public utilities including culinary and irrigation water, power, sewage disposal and refuse disposal;

(G) A statement from the Paragonah Town School District indicating the availability of educational instruction and the impact of location of the proposed facility at the proposed location or, in the alternative, that education will be handled privately and designating the number of employees to be involved in education and the mandatory credentials required of such employees;

(H) A detailed written description of the anticipated ages and total number of occupants of the facility together with a diagram of the facility including all separate rooms and the intended use of each room;

(I) A detailed description of number of intended staff and job description for such staff; and

(J) A statement demonstrating the capability of the applicant, through insurance or other means, to insure timely restitution to any member of the public suffering damage as a result of intentional or

negligent conduct by members of the staff or residents of the facility.
(Ord. passed 7-14-1984)

§ 153.328 FEE.

The application must be accompanied by a receipt showing that the application fee of \$450 has been paid; provided that up to two-thirds of such fee may be returned upon demonstration that compliance with state licensing has obviated the necessity of more thorough screening of the application.

(Ord. passed 7-14-1984)

§ 153.329 PLANNING AND COMMISSION REVIEW.

The Planning Commission will review the application and, if deemed appropriate, request comment from potentially impacted public and private agencies and parties. The Planning Commission will, within 60 days of receipt of the application, submit a recommendation to the Town Council.

(Ord. passed 7-14-1984)

§ 153.330 PUBLIC HEARING.

(A) The Town Council shall hold a public hearing within 45 days of receipt of the recommendation of the Planning Commission.

(B) Notice of the time, place and purpose of such public hearing shall be given as follows: at least 14 days prior to the date set for the hearing, and not more than 45 days prior to that date, the Town Clerk shall see that a notice is mailed to each property owner identified on the list accompanying the application as required by § 153.327(D). The notice shall give the date, time and place of the hearing, the name of the applicant, the requested use, the identification of the property and such other information as may be prescribed by the Town Council in any individual case. The Clerk shall also cause such notice to be mailed to all governmental entities providing services to the subject property and all municipalities with boundaries located within five miles of the proposed development and shall publish notice in a newspaper of general local circulation twice within the above described notice period.

(Ord. passed 7-14-1984)

§ 153.331 USE PERMIT.

The Town Council may grant the use permit provided that it is established that the proposed use is in accordance with the provisions of the general plan, this chapter and that the following qualifications have been met.

(A) The location of the proposed use is compatible to other land uses in the general neighborhood area and does not place an undue burden on existing transportation, utilities and service facilities in the vicinity.

_____ (B) The site is of sufficient size to accommodate the proposed use together with all yards, open spaces, wall and fences, parking and loading facilities, landscaping and such other provisions required by this chapter.

_____ (C) The site will be served by streets of sufficient capacity to carry the traffic generated by the proposed use.

_____ (D) The proposed use, if it complies with all conditions on which approval is made contingent, will not adversely affect other property in the vicinity of the general health, safety or welfare of the town.

_____ (E) The proposed use is necessary or desirable and will contribute to the general well-being of the town.

_____ (F) The proposed use is in harmony with the intent and purpose of the master plan or that the plan should have first been amended through public hearing.
(Ord. passed 7-14-1984)

§ 153.332 CONDITIONS.

_____ In approving any application for a use permit, the Town Council may require higher standards of site development than listed for such use in the chapter and may make approval contingent on the acceptance and observance by the applicant of specified conditions relating to, but not limited to, the following considerations:

_____ (A) Conformity to plans and drawing submitted with the application;

_____ (B) The provision of open spaces, buffer strips, screen walls, fences, hedges and landscaping;

_____ (C) The volume of traffic generated, vehicular movements within the site, and points of vehicular ingress and egress;

_____ (D) Performance characteristics related to the emission of noise, vibration and other potentially dangerous or objectionable elements;

_____ (E) Limits on time of day for the conduct of specified activities;

_____ (F) Guarantees as to compliance with the terms of this approval;

_____ (G) Qualifications or training for supervisors or staff and provisions as to supervision of the youth;
and

_____ (H) Requirements as to licensing with local, state or other agencies.
(Ord. passed 7-14-1984)

§ 153.333 VIOLATIONS.

On violation of any of the provisions of this or any other applicable ordinances by a holder of a use permit, or on failure of the holder to comply with conditions of a use permit granted on conditions, the use permit shall be suspended automatically. A hearing shall be called within 15 days, and at the hearing the Town Council may be satisfied that either the violation has been discontinued or the conditions met; otherwise the permit will be revoked.
(Ord. passed 7-14-1984)

§ 153.334 CONTINUATION OF USE.

Approved conditional use permits will be reviewed on a yearly basis at which time the user, in addition to delivering a business license fee will supply a written confirmation that all conditions required by the initial approval of the use continue to be satisfied and honored and will itemize in writing the date, time and status of persons, e.g., staff or resident, who have engaged in any criminal misconduct or in the damaging or destruction of private property during the previous year and will confirm that restitution has been made to all victims of such occurrences.
(Ord. passed 7-14-1984)

§ 153.335 RESIDENTIAL FACILITIES FOR PERSONS WITH DISABILITY.

(A) *Applicability.* This section shall be deemed to govern any facility, residence or other circumstance that meets the definition of a residential facility as set forth in this chapter, and the definition of a disabled person as set forth in this chapter for the requirements of this section shall govern the same notwithstanding any other provisions of the town's ordinances.

(B) *Purpose.* The purposes of this section are:

(1) To comply with UCA § 10-9-605, as amended; and

(2) To avoid discrimination and housing against persons with disabilities as provided in the state's Fair Housing Act and the Fair Housing Amendments Act as interpreted by the courts having jurisdiction over the town.

(C) *Permitted; requirements.* A residential facility for persons with a disability shall be a permitted use in any zoning district where a dwelling is allowed. Each such facility shall conform to the following requirements.

(1) The facility shall comply with all building, safety and health regulations, the American with Disabilities Act, fire regulations, and all applicable state core standards and licensing requirements and any standards set forth in any contract with a state agency.

(2) The following site development standards and parking standards shall be applicable:

(a) Each facility shall be subject to a minimum site development standards applicable to a dwelling unit in the zone in which the facility is located; and

(b) The minimum number of parking spaces required shall be the same as the number required for a dwelling with similar occupancy density in the same zone.

(3) No facility shall be made available to an individual who has demonstrated, as a resident, that he or she:

(a) Constitutes a direct threat to the health or safety of other individuals; or

(b) Engages in conduct resulting in substantial physical damage to the property of others.

(4) Prior to occupancy of the facility, the person or entity licensed or certified by the Department of Human Services or the Department of Health to establish and operate the facility shall:

(a) Provide a certified copy of such license to the Town Clerk;

(b) Certify, in a sworn affidavit submitted with the application for a business license, compliance with the Americans with Disabilities Act; and

(c) Certify, in a sworn affidavit submitted with the application for a business license, that no person will remain in the facility whose behavior has demonstrated a direct threat to the health or safety of other individuals, or whose behavior has resulted in substantial physical damage to the property of others.

(5) The use permitted by this section is non-transferrable and shall terminate if:

(a) A facility is devoted to or used as other than a residential facility for persons with a disability;

(b) The license or certification issued by the Department of Human Services or Department of Health terminates or is revoked; or

(c) The facility fails to comply with the conditions set forth in this section.

(6) In all residential zoning districts (R-1, RE, M-H), no residential facility for persons with a disability shall exceed four residents not including staff or the family that owns residence.

(7) No residential facility for persons with a disability, licensed for the housing of persons shall be established or maintained within 1,000 feet measured in a straight line between the closest property lines of the lots or parcels of the following facilities/property:

(a) Another residential facility for persons with a disability;

(b) A residential facility for elderly with more than five elderly persons in a residence;

(c) Any of the following facilities: protective housing facility; transitional housing facility; assisted living facility or rehabilitation/treatment facility; a non-residential treatment facility; and the public schools; or

(d) Town Center - block enclosed by Main Street and First West, and Center Street and First North.

(8) In a C-G Zoning District, no residential facility for persons with disabilities shall exceed eight and shall be required to obtain a conditional use permit.

(D) Reasonable accommodations. None of the foregoing conditions shall be interpreted to limit reasonable accommodations necessary to allow the establishment or occupancy of a residential facility for person(s) with a disability.

(1) Any person or entity who wishes to request a reasonable accommodation shall make application to the Planning and Zoning Board for a conditional use permit. Said applications shall specifically articulate, in writing, the following:

(a) The name, mailing address and phone number of the applicant;

(b) The nature and extent of the disability;

(c) An exact statement of the ordinance or policy from which the applicant needs a reasonable accommodation;

(d) The applicant's proposed reasonable accommodations;

(e) A statement detailing why a reasonable accommodation is necessary; and

(f) The physical address of the property where the applicant intends on living.

(2) When considering whether or not to grant a reasonable accommodation, the Planning and Zoning Board shall use the following factors:

(a) The zoning ordinance applicable to the property;

(b) The parking, traffic and noise impact on the neighborhood if the reasonable accommodation is granted;

(c) Whether or not the accommodation will be an undue burden or expense to the town;

(d) The extent to which the accommodation will or will not benefit the applicant;

(e) The extent to which the accommodation will or will not benefit the community;

(f) Whether or not the accommodation fundamentally alters the town wide zoning ordinance;

(g) Has the applicant demonstrated that the accommodation will affirmatively enhance the applicant's life, or ameliorate the effects of the applicant's disability;

(h) Without the accommodation, is similar housing available in the town for the applicant or group of applicants; and

(i) Given the scope of the accommodation requested, what is the impact on the immediate neighborhood.

(3) Written findings and conclusions of the Planning and Zoning Board, shall be sent to the applicant within 90 days; and

(4) If a request for a reasonable accommodation is denied, such decision may be appealed to the Town Board.

(Ord. passed 7-14-1984)

§ 153.336 RESIDENTIAL FACILITIES FOR ELDERLY PERSONS.

(A) Purpose. The purpose of this section is to comply with UCA § 40-9-605, as amended.

(B) Requirements. A residential facility for elderly persons shall comply with the following requirements:

(1) The facility shall meet all applicable building codes, safety codes, zoning regulations, the Americans with Disabilities Act and health ordinances applicable to similar dwellings;

(2) Minimum site development standards shall be the same as those for a dwelling unit in the zone in which the facility is located;

(3) The facility shall be capable of being used as a residential facility for elderly persons without structural or landscaping alterations that would change the structures residential character; and

(4) The use granted and permitted by this section is non-transferrable and terminates if the structure is devoted to any use other than as a residential facility for the elderly or if the structure fails to comply with the applicable health, safety and building codes.

(Ord. passed 7-14-1984)

§ 153.337 PROTECTIVE HOUSING, REHABILITATION/TREATMENT FACILITIES (BOTH RESIDENTIAL AND NONRESIDENTIAL), TRANSITIONAL HOUSING, NURSING HOMES, AND ASSISTED LIVING FACILITIES.

(A) Any newly constructed or remodeled facility in a residential zone or immediately abutting a residential zone shall comply with the following design standards:

(1) All setbacks shall be according to the requirements of the residential zone in which the facility sits, or if the facility is in a commercial zone abutting a residential zone, the setbacks shall be those of the abutting residential zone;

(2) All required or accessory parking areas shall be located either in the rear yard area of the lot or behind the main building or garage;

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(3) Notwithstanding the maximum height restrictions of the individual residential zone, new building or additional buildings shall not exceed 110% of the average height of the closest dwellings on both sides of the proposed structure; and

(4) In order for new construction to reflect the design and character of the existing neighborhood the following standards shall be met:

(a) The roof design of the proposed structure or remodel roof shall be a pitched roof of the same slope as the most common roof slope of the homes on the side of the block which the building is proposed on; and

(b) The type of exterior materials shall be of the traditional home finished materials of brick, siding or stucco. The use of these materials shall be applied in such a manner as to blend in with the neighborhood where the building is located and not draw undue attention to the building because of the materials, their color and combination being uncharacteristic of the other buildings in the neighborhood.

(B) Protective housing, rehabilitation/treatment facilities (both residential and non-residential), transitional housing, nursing homes and assisted living facilities are all permitted uses in areas zoned General Commercial. Non-residential treatment facilities shall not be a permitted use in a R-1, RE or M-H Zone. Each permitted facility shall conform to the following requirements.

(1) The facility shall comply with all building, safety and health regulations, the American with Disabilities Act, fire regulations and all applicable state core standards and licensing requirements, and any standards set forth in any contract with a state agency.

(2) The following site development standards and parking standards shall be applicable:

(a) Each facility shall be subject to minimum site development standards applicable to a business in the zone in which the facility is located; and

(b) The minimum number of parking spaces required shall be the same as the number required for an office building with similar size, occupancy, and density in the same zone.

(3) Prior to occupancy of the facility, the person or entity licensed or certified by the Department of Human Services or the Department of Health to establish and operate the facility shall:

(a) Provide a certified copy of such license with the Town Clerk; and

(b) Certify, in a sworn affidavit submitted with application for a business license, compliance with the American with Disabilities Act.

(Ord. passed 7-14-1984)

CONDITIONAL USES OF RECREATION COACHES AND VEHICLES

§ 153.350 PURPOSE.

The purpose of this subchapter is to extend a privilege for the convenience of the town and property owners during the construction of a new dwelling or the remodel of an existing dwelling.
(Ord. passed 7-14-1984; Ord. 08-1, passed 7-9-2008)

§ 153.351 AUTHORIZATION.

During construction or remodeling of a dwelling, the town may issue an administrative permit as a privilege allowing the use of a recreation coach or vehicle (RV) as temporary living quarters on a legal lot of record for a period of time as set forth below. The permit may be issued after an application has been received and the applicable fees and requirements have been met.
(Ord. passed 7-14-1984; Ord. 08-1, passed 7-9-2008)

§ 153.352 REQUIREMENTS.

The following criteria qualify a property owner the privilege of receiving an administrative permit for the use of an RV as temporary living quarters during construction or remodeling of a dwelling:

(A) Payment of the applicable fee(s) as set out below;

(B) Issuance by the town of the appropriate building permit(s);

(C) Compliance with the following provisions:

(1) The RV must be hooked up to a state approved septic system for waste disposal;

(2) The RV must be hooked up to water and power from the town;

(3) If the party seeking the permit is engaged in the construction or remodeling of a dwelling on the same lot where the RV is parked, the construction must be continuous and ongoing (improvements must be evident to an objective observer); and

(4) The party is bound by and must satisfy the requirements of Chapter 150 of this code of ordinances.

(D) Completion of an application per § 153.353; and

(E) Inspection(s) per § 153.354.

(Ord. passed 7-14-1984; Ord. 08-1, passed 7-9-2008)

§ 153.353 APPLICATION.

(A) The application for the administrative permit shall be accompanied by the appropriate fee as determined by the Town Board in its discretion. Part of the fee shall be designated to cover

inspection(s) to confirm compliance.

(B) The application must contain the following information, and no application shall be heard which does not contain this information:

- (1) Name and address of the applicant;
- (2) Statement of ownership of the subject property, and, if the applicant is not the owner of the property, a statement granting permission to use the property, executed by the owner or authorized agent under penalty of perjury;
- (3) If the applicant is not the owner, a statement explaining the applicant's relationship to the owner;
- (4) If the applicant is not the individual who will be residing in the RV, a statement describing the occupant(s) and the purpose of the use;
- (5) Map and description of the property, including legal description and address and common means of identification;
- (6) A statement indicating the precise manner of compliance with each of the applicable provisions of this subchapter, together with any other information;
- (7) A detailed description of the RV including the number of occupants it is designed to hold, the intended use of the RV, including, but not limited to, the intended length of use, anticipated total number of occupants and ages, and reason for such use;
- (8) A statement of the construction plan and timetable;
- (9) Proof that there is a hookup to a state approved septic system; and
- (10) Proof of town water and power hookups for the RV.
(Ord. passed 7-14-1984; Ord. 08-1, passed 7-9-2008)

§ 153.354 INSPECTION.

Following the issuance of an administrative permit under this chapter, the town may inspect the premises to ensure that all conditions have been satisfied and that the applicant is in and remains in full compliance with the permit conditions and all other applicable laws, ordinances or regulations. The septic hookup and power and water connections shall be included in the inspection(s).
(Ord. passed 7-14-1984; Ord. 08-1, passed 7-9-2008)

§ 153.355 VIOLATIONS AND REVOCATION.

On violation of any of the provisions of this or any applicable regulation by the holder of the use permit, or on failure of the holder to comply with conditions of the use permit, the town shall suspend

the administrative permit upon notification. If suspended, the Town Board or a representative thereof will inspect the RV to ensure that the septic connection has been removed and the electricity and water connections have been turned off. The Town Board may reinstate the permit after the cause for revocation has been corrected. At the time, the septic, water and power may be reconnected and inspected. Additional fees may be assessed to defray the associated costs.

(Ord. passed 7-14-1984; Ord. 08-1, passed 7-9-2008)

§ 153.356 ENFORCEMENT.

Enforcement shall be set forth in § 153.011.

(Ord. passed 7-14-1984; Ord. 08-1, passed 7-9-2008)

§ 153.357 PENALTY.

Penalties shall be set forth in § 153.999.

(Ord. passed 7-14-1984; Ord. 08-1, passed 7-9-2008)

§ 153.358 TIME LIMITATIONS AND FEES.

(A) *New construction.* Use permitted for up to 180 days, with fee to be \$25 per month or part of a month, or such fee as established by the town.

(B) *Remodel construction.* Use permitted for 90 days, with a fee to be \$25 per month or part of a month, or such fee as established by the town.

(C) *Extensions.* The town may grant one extension of 30 days upon payment of this additional monthly fee and if the four-way inspection has been passed, as evidence of continuing progress towards completion of project.

(Ord. passed 7-14-1984; Ord. 08-1, passed 7-9-2008)

§ 153.999 PENALTY.

Any person, firm or corporation (as principal, agent, employee or otherwise) violating, causing or permitting violation of the provisions of this chapter shall be guilty of a misdemeanor, and punishable by not more than six months in jail and/or a fine not to exceed \$299. Such person, firm or corporation intentionally violating this chapter shall be deemed to be guilty of a separate offense for each day during which any portion of any violation of this chapter is permitted or continued by such person, firm or corporation, shall be punishable as herein provided.

(Ord. passed 7-14-1984)

