Title 1 - ADMINISTRATION

Chapter 1
BRIAN HEAD TOWN CODE

1-1-1: TITLE:
1-1-2: ACCEPTANCE:
1-1-3: AMENDMENTS:
1-1-4: ALTERATIONS:
1-1-5: ADOPTION OF STATE CONSTITUTION AND LAWS:

1-1-1: TITLE:

Upon the adoption by the Town Council, this code is hereby declared to be and shall hereafter constitute the official Town Code of Brian Head Town. This code of ordinances shall be known and cited as the *BRIAN HEAD TOWN CODE* and is hereby published by the authority of the Town Council and shall be supplemented to incorporate the most recent legislation of the Town as provided in section 1-1-3 of this chapter. Any reference to the number of any section contained herein shall be understood to refer to the position of the same number, its appropriate chapter and title heading, and to the general penalty clause relating thereto, as well as to the section itself, when reference is made to this code by title in any legal documents. (1984 Code § 10-1-1; amd. 2010 Code)

1-1-2: ACCEPTANCE:

This code, as hereby presented in printed form, shall hereafter be received without further proof in all courts and administrative tribunals of this state as the ordinances of the Town of general and permanent effect, except the excluded ordinances enumerated in section 1-2-1 of this title. (2010 Code)

1-1-3: AMENDMENTS:

A. All amendments made to this code shall be by ordinance. Any ordinance amending the Town Code shall set forth the title, chapter and section number of the section or sections to be amended, and this shall constitute sufficient compliance with any statutory requirement pertaining to the amendment or revision by ordinance of any part of this code. All such amendments or revisions by ordinance shall be immediately forwarded to the codifiers, and the said ordinance material shall be prepared for insertion in its proper place in each copy of this code. Each such replacement page shall be properly identified and shall be inserted in each copy of the Town Code.

B. No amendment shall be made by interlineation or by reference to a title, chapter or section only. All amendments shall be made by setting forth and reenacting each amended section in full as amended. (1984 Code, amd. 2010 Code)

1-1-4: ALTERATIONS:

It shall be deemed unlawful for any person to alter, change, replace or deface in any way any section or any page of this code in such a manner that the meaning of any phrase or order may be changed or omitted. Replacement pages may be inserted according to the official instructions when so authorized by the Town Council. The Town Clerk shall see that the replacement pages are properly inserted in the official copies maintained in the office of the Town Clerk. Any person having custody of a copy of the Town Code shall make every effort to maintain said code current as to the most recent ordinances passed. Such person shall see to the immediate insertion of new or replacement pages when such are delivered or made available to such person through the office of the Town Clerk. Said codebooks, while in actual possession of officials and other interested persons, shall be and remain the property of the town and shall be returned to the office of the Town Clerk when directed so to do by order of the Town Council. (2010 Code)

1-1-5: ADOPTION OF STATE CONSTITUTION AND LAWS:

The provisions of the constitution of the state and all provisions of state law relating to towns are hereby adopted as if they were specifically ordained and fully set forth in this code. (1984 Code § 10-1-5)

Title 1 – Administration

Chapter 2
SAVING CLAUSE

1-2-1: REPEAL OF GENERAL ORDINANCES:
1-2-2: PUBLIC WAYS AND PUBLIC UTILITY ORDINANCES:
1-2-3: COURT PROCEEDINGS:
1-2-4: SEVERABILITY CLAUSE:

1-2-1: REPEAL OF GENERAL ORDINANCES:

A. **Repealer;** Exceptions: Except as provided in Utah Code Annotated section 10-3-709, all general ordinances of the Town passed prior to the adoption of this code are hereby repealed, except such as are included in this code or are by necessary implication herein reserved from repeal (subject to the saving clauses contained in the following sections), and excluding the following ordinances which are not hereby repealed: tax levy ordinances; appropriation ordinances; ordinances relating to boundaries and annexations; franchise ordinances and other ordinances granting special rights to persons or corporations; contract ordinances and ordinances authorizing the execution of a contract or the issuance of warrants; salary ordinances; fee ordinances; ordinances establishing, naming or vacating streets, alleys or other public places; improvement ordinances; bond ordinances; ordinances relating to elections; ordinances relating to the transfer or acceptance of real estate by or from the town; and all special ordinances.

B. **Effect Of Repealing Ordinances:** The repeal of the ordinances provided in subsection A of this section shall not affect any debt or fee which is accrued, any duty imposed, any penalty incurred, nor any action or proceeding commenced under or by virtue of the ordinances repealed or the term of office of any person holding office at the time these ordinances take effect; nor shall the repeal of any ordinance have the effect of reviving any ordinance heretofore repealed or superseded. (1984 Code § 10-1-2; amd. 2010 Code)

1-2-2: PUBLIC WAYS AND PUBLIC UTILITY ORDINANCES:

No ordinance relating to railroad crossings with streets and other public ways, or relating to the conduct, duties, service or rates of public utilities shall be repealed by virtue of the adoption of this code or by virtue of the preceding section, excepting as the town code may contain provisions for such matters, in which case, this code shall be considered as amending such ordinance or ordinances in respect to such provisions only. (2010 Code)

1-2-3: COURT PROCEEDINGS:

A. **Prior Acts**: No new ordinance shall be construed or held to repeal a former ordinance, whether such former ordinance is expressly repealed or not, as to any offense committed against such former ordinance or as to any act done, any penalty, forfeiture or punishment so incurred, or any right accrued or claim arising under the former ordinance, or in any way whatever to affect any such offense or act so committed or so done, or any penalty, forfeiture or punishment so incurred or any right accrued or claim arising before the new ordinance takes effect, save only that the proceedings thereafter shall conform to the ordinance in force at the time of such proceeding, so far as practicable. If any penalty, forfeiture or punishment may be mitigated by any provision of a new ordinance, such provision may be, by consent of the party affected, applied to any judgment announced after the new ordinance takes effect.

B. **Scope Of Section:** This section shall extend to all repeals, either by express words or implication, whether the repeal is in the ordinance making any new provisions upon the same subject or in any other ordinance.

C. **Actions Now Pending**: Nothing contained in this chapter shall be construed as abating any action now pending under or by virtue of any general ordinance of the Town herein repealed, and the provisions of all general ordinances contained in this code shall be deemed to be continuing provisions and not a new enactment of the same provisions; nor shall this chapter be deemed as discontinuing, abating, modifying or altering any penalty accrued or to accrue, or as affecting the liability of any person, firm or corporation, or as waiving any right of the town under any ordinance or provision thereof in force at the time of the adoption of this code. (1984 Code § 10-1-3; amd. 2010 Code)

1-2-4: SEVERABILITY CLAUSE:

If any section, subsection, subdivision, paragraph, sentence, clause or phrase of this code or any part thereof is for any reason held to be unconstitutional or invalid or ineffective by any court of competent jurisdiction, such decision shall not affect the validity or effectiveness of the remaining portions of this code, or any part thereof. The Town Council hereby declares that it would have passed each section, subsection, subdivision, paragraph, sentence, clause, or phrase thereof irrespective of the fact that any one or more sections, subsections, subdivisions, paragraphs, sentences, clauses or phrases be declared unconstitutional, invalid or ineffective. (1984 Code, amd. 2010 Code)

Title 1 – Administration

Chapter 3
DEFINITIONS

1-3-1: CONSTRUCTION OF WORDS:
1-3-2: GENERAL DEFINITIONS:
1-3-3: CATCHLINES:

1-3-1: CONSTRUCTION OF WORDS:

A. **Liberal Construction:** All general provisions, terms, phrases, and expressions contained in this code shall be liberally construed in order that the true intent and meaning of the Mayor and Town Council may be fully carried out.

B. **Interpretation:** In the interpretation and application of any provision of this code, it shall be held to be the minimum requirements adopted for the promotion of the public health, safety, and general welfare. Where any provision of a code imposes greater restrictions upon the subject matter than the general provision imposed by the code, the provision imposing the greater restriction or regulation shall be deemed to be controlling.

C. **Additional Interpretations**:

1. **Computation Of Time:** Whenever a notice is required to be given or an act to be done in a certain length of time before any proceeding shall be had, the day on which such notice is given, or such act is done shall not be counted in computing the time but the day on which such proceeding is to be held shall be counted.

2. **Delegation Of Authority:** Whenever a provision appears requiring the head of a department or some other town officer to do some act or perform some duty, it is to be construed to authorize the head of the department or other officer to designate, delegate and authorize subordinates to perform the required act or perform the duty unless the terms of the provision or section specify otherwise.

3. **Gender:** A word importing the masculine gender only shall extend and be applied to females, firms, partnerships, and corporations as well as to males.

4. **Joint Authority**: All words giving a joint authority to three (3) or more persons or officers shall be construed as giving such authority to a majority of such persons or officers.

5. **May/Shall:** The word "may" is permissive; the word "shall" is mandatory.

6. **Nontechnical And Technical Words:** Words and phrases shall be construed according to the common and approved usage of the language, but technical words and phrases

and such others as may have acquired a peculiar and appropriate meaning in law shall be construed and understood according to such meaning.

7. **Number:** A word importing the singular number only may extend and be applied to several persons and things as well as to one person and thing.
8. **Officers Generally:** Whenever any officer is referred by title, such as "Clerk ", "Treasurer", etc., such reference shall be construed as if followed by the words "of Brian Head Town".
9. **Tense**: Words used in the past or present tense include the future as well as the past and present. (2010 Code)

1-3-2: GENERAL DEFINITIONS:

Whenever the following words or terms are used in this code, they shall have such meanings herein ascribed to them, unless the context makes such meaning repugnant thereto:

AGENT: A person acting on behalf of another with authority conferred, either expressly or by implication.

CODE: The town code of Brian Head Town, Utah.

COMPUTATION OF TIME: In computing any period of time prescribed or allowed by this code, the day of the act, event or default from which the designated period of time begins to run shall not be included. The last day of the period so computed shall be included, unless it is a Saturday, a Sunday, or a legal holiday, in which event the period runs until the end of the next day which is not a Saturday, a Sunday or a legal holiday. As used in this definition, "legal holiday" includes New Year's Day, President's Day, Martin Luther King, Jr. birthday, Memorial Day, Independence Day, July 24, Labor Day, Columbus Day, general election day, Veterans Day, Thanksgiving Day, Christmas Day and any other day appointed as a holiday by the president or congress of the United States, or pursuant to Utah statutes. Time periods of five (5) days or less shall exclude intervening Saturdays, Sundays, and holidays.

COUNTY: Iron County, state of Utah.

FEE: A sum of money charged by the Town for the carrying on of a business, profession or occupation or other activity subject to town regulation, authorization or limitation.

GOVERNING BODY: The Town Council of Brian Head Town, Utah.

HIGHWAY, ROAD: Includes public bridges, and may be equivalent to the words "county way", "county road", "common road" and "state road".

LICENSE: The permission granted for the carrying on of a business, profession, or occupation.

LOCATION: Whenever any act, conduct or offense is prohibited or required and no reference is made to location, unless the context specifically indicates otherwise, the act, conduct or offense prohibited or required shall be within the boundaries of the town.

NUISANCE: Anything offensive to the sensibilities of reasonable persons, or any act or activity creating a hazard which threatens the health and welfare of inhabitants of the town, or any activity which by its perpetuation can reasonable be said to have a detrimental effect on the property of a person or persons within the community.

OCCUPANT: As applied to a building or land shall include any person who occupies the whole or any part of such building or land whether alone or with others.

OFFENSE: Any act forbidden by any provision of this code, or the omission of any act required by the provisions of this code.

OPERATOR: The person who is in charge of any operation, business or profession.

OWNER: As applied to a building or land, shall include any part owner, joint owner, tenant in common, joint tenant or lessee of the whole or of a part of such building or land.

PERSON: Any public or private corporation, firm, partnership, association, organization, government, or any other group acting as a unit, as well as a natural person.

PERSONAL PROPERTY: Includes every description of money, goods, chattels, effects, evidence of rights in action and all written instruments by which any pecuniary obligation, right or title to property is created, acknowledged, transferred, increased, defeated, discharged or diminished and every right or interest therein.

PROPERTY: Includes both real and personal property.

REASONABLE TIME: In all cases where any ordinance requires that an act be done in a reasonable time or that reasonable notice be given, such reasonable time for such notice shall be deemed to mean such time as may be necessary for the expeditious performance of such duty or compliance with such notice.

RETAILER: Unless otherwise specifically defined, shall be understood to relate to the sale of goods, merchandise, articles or things direct to the consumer.

RIGHT OF WAY: The privilege of the immediate use of the roadway or other property.

STATE: The state of Utah.

STREET: Shall include alleys, lanes, courts, boulevards, public ways, public squares, public places and sidewalks.

TENANT: As applied to a building or land, shall include any person who occupies the whole or any part of such building or land, whether alone or with others.

TOWN: Brian Head Town, Utah.

TOWN COUNCIL: The Town Council of Brian Head Town, Utah.

WEEK: Any seven (7) day period.

WHOLESALER: The terms "wholesaler" and "wholesale dealer" as used in this code, unless otherwise specifically defined, shall be understood to relate to the sale of goods, merchandise, articles or things to persons who purchase for the purpose of resale.

WRITTEN, IN WRITING: May include printing and any other mode of representing words and letters, but when the written signature of any person is required by law to any official or public writing or bond, it shall be in the proper handwriting of such person, or in case such person is unable to write, by such person's proper mark. (2010 Code)

1-3-3: CATCHLINES:

The catch lines of the several sections of the town code are intended as mere catchwords to indicate the content of the section and shall not be deemed or taken to be titles of such sections, nor be deemed to govern, limit, modify or in any manner affect the scope, meaning or intent of the provisions of any section hereof, nor unless expressly so provided, shall they be so deemed when any of such sections, including the catch lines, are amended or reenacted. (2010 Code)

Title 1 – Administration

Chapter 4
GENERAL PENALTY

1-4-1: SENTENCING:
1-4-2: OFFENSES DESIGNATED; CLASSIFIED:

1-4-1: SENTENCING:

A. Penalty For Violation Of Ordinance

1. **Criminal:** The Town Council may impose a minimum criminal penalty for the violation of any municipal ordinance by a fine not to exceed the maximum class B misdemeanor fine under Utah Code Annotated section 76-3-301 or by a term of imprisonment up to six (6) months, or by both the fine and term of imprisonment.

2. **Civil:**

   a. Except as provided in subsection A.2(b) of this section, the Town Council may prescribe a minimum civil penalty for the violation of any municipal ordinance by a fine not to exceed the maximum class B misdemeanor fine under Utah Code Annotated section 76-3-301.

   b. A municipality may not impose a civil penalty and adjudication for the violation of a municipal moving traffic ordinance.

B. **Term Of Imprisonment For Misdemeanors**: A person who has been convicted of a misdemeanor may be sentenced to imprisonment as follows under UCA § 76-3-204:

1. In the case of a class B misdemeanor, for a term not exceeding six (6) months;

2. In the case of a class C misdemeanor, for a term not exceeding ninety (90) days.

C. **Infraction**s (UCA § 76-3-205):

1. A person convicted of an infraction may not be imprisoned but may be subject to a fine, forfeiture and disqualification, or any combination.

2. Whenever a person is convicted of an infraction and no punishment is specified, the person may be fined as for a class C misdemeanor.

D. **Fines Of Persons:** A person convicted of an offense may, in addition to any term of imprisonment imposed, be sentenced to pay a fine not to exceed: (UCA § 76-3-301):

1. **Class B Misdemeanor:** One thousand dollars ($1,000.00) when the conviction is of a class B misdemeanor conviction; and

2. **Class C Misdemeanor;** Infraction: Seven hundred fifty dollars ($750.00) when the conviction is of a class C misdemeanor conviction or infraction conviction.

E. **Fines Of Corporations:** The sentence to pay a fine, when imposed upon a corporation, association, partnership or governmental instrumentality for an offense defined in this code, or the ordinances of the Town, or for an offense defined outside of this code over which this town has jurisdiction, for which no special corporate fine is specified, shall be to pay an amount fixed by the court, not exceeding (UCA § 76-3-302):

1. **Class B Misdemeanor:** Five thousand dollars ($5,000.00) when the conviction is for a class B misdemeanor conviction; and

2. **Class C Misdemeanor**; Infraction: One thousand dollars ($1,000.00) when the conviction is for a class C misdemeanor conviction or for an infraction conviction. (2010 Code)

1-4-2: OFFENSES DESIGNATED; CLASSIFIED:

A. **Sentencing In Accordance With Chapter:**

1. A person adjudged guilty of an offense under this code, or the ordinances of this town shall be sentenced in accordance with the provisions of this chapter.

2. Ordinances enacted after the effective date of this code which involve an offense should be classified for sentencing purposes in accordance with this chapter, unless otherwise expressly provided.

B. **Designation Of Offenses:** Offenses are designated as misdemeanors or infractions.

C. **Misdemeanors Classified** (UCA § 76-3-104):

1. Misdemeanors are classified into two (2) categories:

   a. Class B misdemeanors.

   b. Class C misdemeanors.

2. An offense designated as a misdemeanor, or any act prohibited or declared to be unlawful in this code or any ordinance of this town when no other specification as to punishment or category is made is a class B misdemeanor.

D. **Infractions**:

1. Infractions are not classified.

2. Any offense which is made an infraction in this code or other ordinances of this town, or which is expressly designated an infraction and any offense designated by this code or other ordinances of this town which is not designated as a misdemeanor and for which no penalty is specified is an infraction.

E. **Continuing Violation:** In all instances where the violation of this code or any ordinance hereinafter enacted is a continuing violation, a separate offense shall be deemed committed on each day during or on which the violation occurs or continues to occur. (2010 Code)

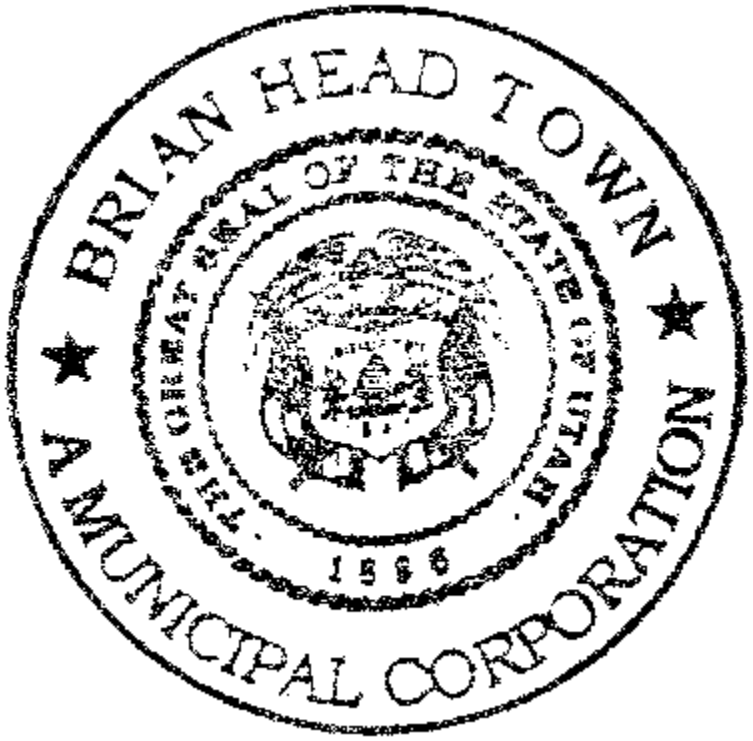
Title 1 – Administration

Chapter 5
OFFICIAL AND CORPORATE PROVISIONS

1-5-1: TOWN SEAL:

1-5-1: TOWN SEAL:

The official seal of the Town shall be kept in the office of the Town Clerk. The seal shall be circular in form and one and three-fourths inches ($1\frac{3}{4}$") in diameter, the impression on which is two (2) semicircles meeting at about the ten o'clock and two o'clock position with the words "Brian Head Town" forming the semicircle, and the words "A Municipal Corporation" forming the bottom semicircle. Within the semicircle are the words "Corporate" on top forming a semicircle, "Utah" on the bottom forming a semicircle, and the word "Seal", in bold type, in the center. The two (2) semicircles are separated by a series of dots. This seal is hereby established as the official seal of the Town.



(1984 Code § 8-4-1)

Title 1 – Administration

Chapter 6
FORM OF GOVERNMENT

1-6-1: COUNCIL-MANAGER FORM OF GOVERNMENT:
1-6-2: PREPARATION OF MUNICIPAL ADMINISTRATIVE CODE:

1-6-1: COUNCIL-MANAGER FORM OF GOVERNMENT:

Pursuant to Utah Code Annotated section 10-3b-103(7), the Town Council hereby adopts and establishes a council-manager form of government and further establishes the office of Town Manager. (Ord. 88-003, 4-12-1988; amd. 2010 Code)

1-6-2: PREPARATION OF MUNICIPAL ADMINISTRATIVE CODE:

It shall be the duty of the first manager appointed under the provisions of this chapter to draft and submit to the Town Council, within six (6) months after assuming office, a proposed ordinance providing for the division of the administrative service of the Town into departments, divisions and bureaus, and defining the functions and duties of each. Subsequent to the adoption of such ordinance, upon recommendation of the Town Manager, the Town Council, by ordinance, may create, consolidate, or abolish departments, divisions and bureaus, and define or alter the functions and duties of each. The compilation of these ordinances shall be known as the Municipal Administrative Code. Prior to the adoption of the Municipal Administrative Code, the Town Manager shall have the power to establish temporary rules and regulations to ensure efficiency and effectiveness in divisions of the municipal government. (Ord. 88-003, 4-12-1988)

Footnote: See chapter 7 of this title.

Title 1 - Administration

Chapter 7
ADMINISTRATIVE CODE

1-7-1: SHORT TITLE:
1-7-2: DEFINITIONS:
1-7-3: INVALIDITY OR UNCONSTITUTIONALITY
1-7-4: INTERPRETATION
1-7-5: GOVERNMENT VESTED IN TOWN COUNCIL AND MANAGER
1-7-6: GOVERNMENTAL RESPONSBILITIES
1-7-7: RELATIONSHIP BETWEEN COUNCIL AND MANAGER
1-7-8: TOWN MANAGER POSITION ESTABLISHED
1-7-9: APPOINTMENT OF TOWN MANAGER
1-7-10: REMOVAL OF TOWN MANAGER
1-7-11: TOWN OPERATIONS – TOWN ADMINISTRATION
1-7-12: TOWN ORGANIZATION
1-7-13: ADMINISTRATIVE POLICY AND PROCEDURES
1-7-14: OATH OF OFFICE
1-7-15: CONFLICT OF INTEREST AND USE OF OFFICE FOR PERSONAL BENEFIT PROHIBITED
1-7-16: CLAIMS AGAINST THE TOWN
1-7-17: HEARING OFFICER
1-7-18: PERFORMANCE BONDS AND DELAY AGREEMENT PREAPPROVED BY TOWN COUNCIL, SUBJECT TO COUNTERSIGNING BY TOWN MANAGER
1-7-19: BONDS
1-7-20: EMERGENCY MANAGEMENT SUCCESSION OF OFFICE
1-7-21: PENALTIES

1-7-1: SHORT TITLE:

This chapter shall be known as the *BRIAN HEAD TOWN ADMINISTRATIVE CODE*.

1-7-2: DEFINITIONS:

As used in this code, unless the context otherwise requires:

MAYOR: The chairperson of the Town Council and recognized "head" of the Town for ceremonial and legal purposes.

TOWN: Brian Head Town, Utah.

TOWN COUNCIL OR COUNCIL: The Town Council of Brian Head Town, Utah.

TOWN MANAGER: The chief executive and administrative officer of the town of Brian Head Town, Utah.

1-7-3 INVALIDITY OR UNCONSTITUTIONALITY.

Should any portion of the Town Administrative Code for Brian Head Town be found to be invalid or unconstitutional by a court of competent jurisdiction, all remaining portions not found to be invalid or unconstitutional shall remain in full force and effect.

1-7-4 INTERPRETATION.

Nothing in this Chapter shall be interpreted to conflict with applicable State or Federal laws. No elected official, appointee, officer, or employee of the town shall be held personally liable for actions made in good faith pursuant to this Chapter, or policies or regulations developed pursuant to this Chapter, even if such actions, policies, or regulations are later found to be in conflict with Federal, State or other requirements.

1-7-5 GOVERNMENT VESTED IN THE TOWN COUNCIL AND MANAGER

Town government is vested in a Town Council, which shall be the governing body of the Town, and a Town Manager appointed by the Town Council.

1-7-6 GOVERNMENTAL RESPONSIBILITIES

A. The Town Council shall, except as otherwise required by state law or this Chapter, conduct the legislative affairs of town government.

B. The Town Manager and supporting staff shall, except as otherwise required by State law or this Chapter, conduct the administrative and executive affairs of town government.

1-7-7 RELATIONSHIP BETWEEN COUNCIL AND MANAGER

A. The Town Council and Town Manager have separate and distinct duties and responsibilities. Each shall allow the other to perform their duties and responsibilities without improper interference.

B. The Town Manager, in supervising the administrative and executive activities of the town, shall attempt to carry out the will of the Town Council. The Town Council shall express its will through ordinances, resolutions, motions, proclamations, budget approvals and general

policy directives. The will of the Town Council shall be expressed by vote of the Council. No statement or act of any individual member of the Council shall be viewed as the will of the Council.

C. The Town Manager shall support and assist the Town Council in accomplishing its duties and responsibilities by identifying policy areas that require Council attention, by recommending the adoption of specific ordinances, resolutions, or other measures, by preparing and proposing an annual budget and advising the Council of the financial condition and needs of the Town, and by keeping the Council abreast of events happening in the town and matters that affect the town.

D. The Town Council shall support and assist the Town Manager in accomplishing his or her duties and responsibilities by providing specific policy directives, and by providing the resources necessary to accomplish those directives.

E. No member of the Town Council shall direct or request, excepting in writing, the appointment of any person to, or removal from office. No member of the Town Council shall interfere in any way with appointed officers in the performance of their duties. No member of the Council shall give an order to any subordinate of the Town Manager, either publicly or privately, but may make suggestions and recommendations to the Town Manager.

F. The Town Manager shall have sole authority for appointment or removal of town staff with the advice and consent of the Town Council for specific positions as provided for in this title.

G. Nothing in paragraph E, above, shall prevent the Town Council from appointing committees of its own members or of citizens to conduct investigations into the conduct of any officer, department or agency of the town government, or any matter relating to the welfare of the town, and delegating to these committees such powers of inquiry as the Town Council may deem necessary. Any committee appointed to investigate the conduct of any officer of the town shall be authorized to review that officer's personnel records.

1-7.8 TOWN MANAGER POSITION ESTABLISHED:

The position of Town Manager is hereby established.

1-7-9 APPOINTMENT OF TOWN MANAGER.

A. The Town Manager shall be appointed by two-thirds vote of the full membership of the Town Council.

B. The Town Manager shall be appointed solely on the basis of his or her abilities, integrity, and prior experience relating to the duties of the office, including but not limited to, abilities in public administration and executive leadership, and shall possess such leadership and managerial capabilities as in the opinion of the Council befit him or her to provide professional direction to the executive affairs of the Town.

1-7-10 REMOVAL OF TOWN MANAGER.

A. The Town Council may remove the Town Manager by majority vote.

B. Except in the case of removal for proven malfeasance in office, the Council shall cause the manager, upon his or her removal, to be paid any unpaid balance of his or her salary due to the date of removal, together with his or her salary at the same rate for the next six calendar months following the date of removal.

1-7-11 TOWN OPERATIONS

A. Town Administration.
The administration of the Town shall be conducted by and through the Town Manager and the operating departments as identified in 1-7-13.

The Town Manager shall be the chief executive and administrative officer of the town government, and shall:

1. Faithfully execute and enforce all applicable laws, ordinances, rules, and regulations, and see that all franchises, leases, permits, contracts, licenses, and privileges granted by the Town are observed;

2. Carry out the policies and programs established by the Town Council;

3. Organize and direct the management of the executive affairs of the Town in a manner consistent with the council-manager form of government[1] and with town ordinances;

4. Appoint a budget officer or be the budget officer in the absence of such appointment, for the purpose of complying with the requirements of the uniform municipal fiscal procedures act.

5. Appoint, with the advice and consent of the Town Council, a qualified person to each of the offices of Public Safety Director and Public Works Director, Clerk, Treasurer, boards and commissions; create any other offices as may be deemed necessary for the good government of the town; and regulate and prescribe the powers and duties of all other officers of the town, except as provided by law or by ordinance.

6. Appoint, with the advice and consent of the Town Council, a qualified person to the position of Town Attorney and Town Engineer. These offices will be identified by resolution.

7. Examine and inspect the books, records and official papers of any office, department, agency, board, or commission of the town, and make investigations and require reports from personnel.

8. Subject to the provisions of the Council-Manager form of government[1] and the Town Administrative Code, and with the advice and consent of the Town Council, have the ability to suspend, remove or terminate department heads, statutory officers, boards, commissions, Town Attorney and Town Engineer.

9. Establish standards, qualifications, criteria, and procedures to govern the appointments, by heads of offices, departments, and agencies or by other authorized officers, of

divisional officers, assistants, deputies, and employees within their respective organizational units, subject to any applicable provisions of the merit system and Administrative Code.

10. Submit to the Town Council plans and programs relating to the development and needs of the town, monthly financial statements, annual and special reports concerning the financial, administrative and operational activities of the town offices, departments, agencies, boards, and commissions, together with his or her evaluation and recommendations relating to them.

11. Attend all meetings of the Town Council and take part in its discussions and deliberations, but without the right to vote.

12. Appoint, with approval by majority vote of the full membership of the Town Council, an acting Town Manager to serve in his or her absence or temporary incapacity to perform the powers and duties of the Town Manager. This shall be set by resolution.

13. Discharge any other duties specified by statute or imposed by the Town Council.

B. Supplemental Powers of Town Manager

In addition to the powers and duties enumerated in Section 1-7-11.A, the Town Manager may:

1. Authorize a department head or officer responsible to him to appoint and remove subordinates serving under that department head or officer;

2. Designate himself/herself, unless the office legally requires a particular designation or certification, or some other officer or employee to perform the duties of any office or position under his control which is vacant, or which lacks administration due to the absence or disability of the incumbent.

3. Assign any employee of the town to any department or branch thereof requiring services appropriate to the personnel system classification of the employee so assigned.

4. Assign any department, division or office to perform the work for any other department, division or office, except where legally prohibited.

5. Prescribe policies, rules and regulations, not inconsistent with the law to ensure efficiency and effectiveness in the operation of town government.

6. Execute administrative agreements which carry out the directives of the Town Council

7. Have the power, either by himself/herself or by any officer or person designated for the purposes to him/her, to investigate and examine or inquire into the affairs or operation of any department, division or office; and when so authorized by the Town Council, he/she shall have the power to employ consultants and professional counsel to aid in such investigations, examinations or inquires.

8. Approve pay increases and bonuses for town employees when appropriate within approved budget levels.

9. Set aside any action taken by a department head and may supersede them in the functions of their office.

10. Negotiate and settle all claims presented against the town where payment in settlement does not exceed the amount of any deductible in any Town insurance policy, so long as the sum does not exceed twenty-five thousand dollars ($25,000).

11. Power to designate committees as he/she shall find necessary for the proper consideration of issues affecting the town. Such committees shall meet at the request of the Town Manager and shall make such recommendation on matters referred to them as they shall find necessary for the best interest of the town.

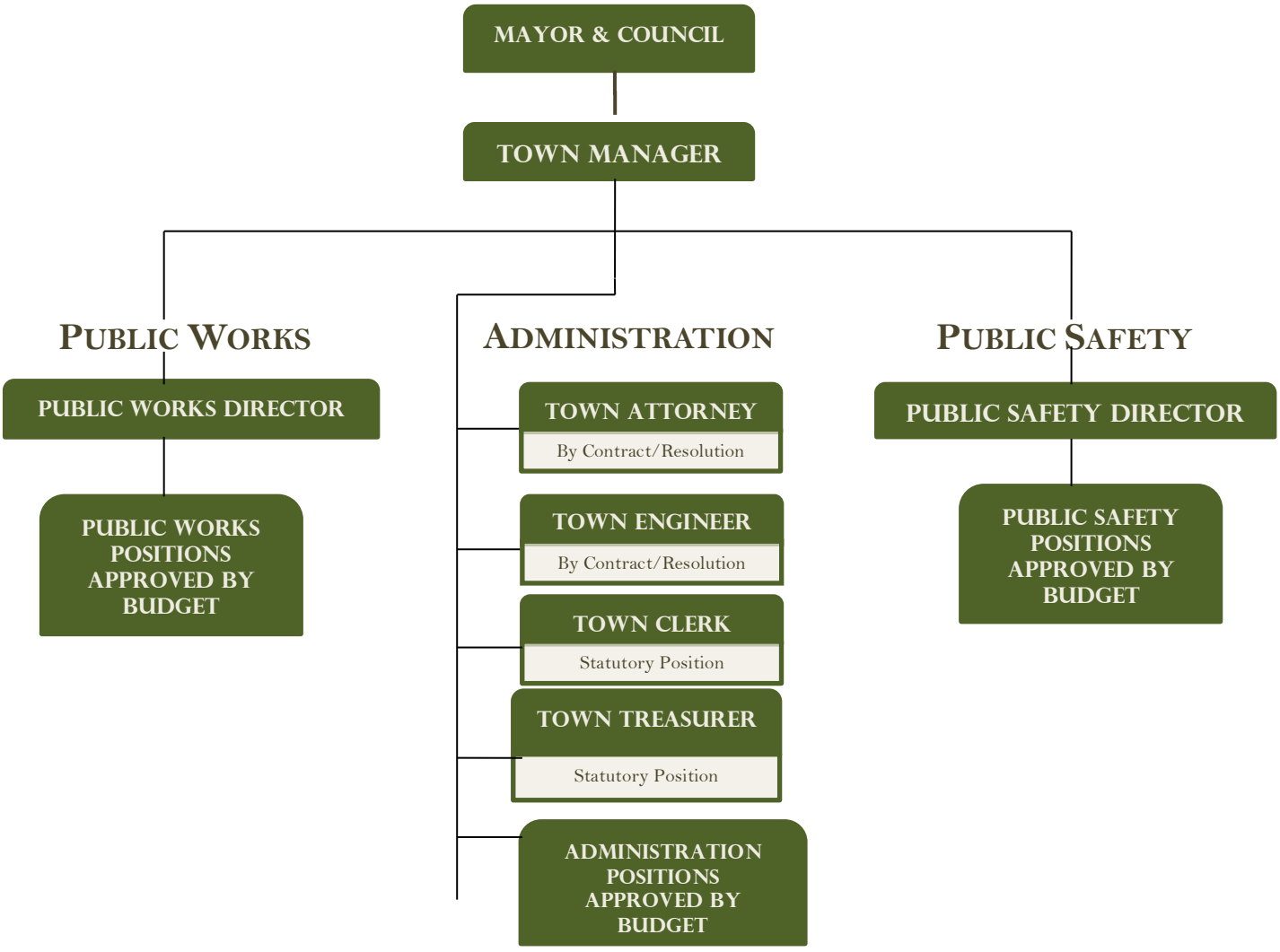
12. Unilaterally declare any property valued at one thousand dollars ($1,000) or less, as estimated by him/her, to be surplus to the needs of the Town and dispose of said property, if possible, by sale for the best price.

13. Accept, reduce, extend and release performance bonds, payment bonds, and delay agreements required or established under this code. The Town Manager shall notify the Town Council of such acceptances, reductions, extension, and releases by a periodic report to the Town Council.

14. Perform any other activity, not inconsistent with law that is necessary to effectively administer the operations of the Town or to fulfill the will of the Town Council.

1-7-12 TOWN ORGANIZATION:

A. The town organization shall be divided into such offices and the following departments as the Town Manager may require:



B. The Mayor may appoint members of the Town Council to act as a council liaison with each department. Such liaisons shall be for the sole purposes of obtaining information for use by the Town Council in carrying out its functions and providing for a means of communication by the department with the Town Council. Council members serving as liaisons are subject to, and shall strictly comply with, the provisions of this chapter regarding interference with Town Administration.

1-7-13 ADMINISTRATIVE POLICY AND PROCEDURES:

A. Each officer of the Town shall perform all duties required of their office by state law, this code and other ordinances of the Town, and such other duties not in conflict therewith as may be assigned by the Town Manager.

B. The heads of departments shall:

1. Be immediately responsible to the Town Manager for the effective administration of their respective departments and all activities assigned thereto.

2. Develop and maintain such up to date departmental policies and procedures as they deem necessary for carrying out departmental operations in conformity with law and other Town policies and in the most efficient and effective manner possible.

3. Keep informed as to the latest practices in their particular field and inaugurate, with the approval of the Town Manager, such new practices as appear to be of benefit to the town and to the public.

4. Submit regular reports of the activities of the department to the Town Council.

5. Establish and maintain a system of filing and indexing records and reports in sufficient detail to furnish all information necessary for proper control of departmental activities and to form a basis for the periodic reports to the Town Manager.

6. Have power, when authorized by the Town Manager, to appoint and remove, subject to town personnel policies and procedures, all subordinates.

7. Exercise authority of all subordinates unless such subordinate has certification or licensing not possessed by the department head. The fact that a subordinate possesses a license or certificate not possessed by the department head shall not authorize said subordinate to overrule the department head on matters of departmental policy.

8. Be responsible for the proper maintenance of all town property and equipment used in his department.

C. Each department shall cooperate with other departments and furnish, upon the direction of the Town Manager, any other department such service, labor and materials as may be requisitioned by the head of such department and as its own facilities permit, through the same procedures and subject to the same audit and control as other expenditures are incurred.

D. All departments and units thereof shall:

1. Be open during regular business hours as defined by the Town Manager.

2. Make a regular deposit, as required by state law, with the Town Treasurer of any public monies.

3. Pay out monies belonging to the town only in the manner prescribed by law, ordinance and Town policy.

4. Deliver all records, documents, and property of every description, belonging to the office or to the town, to the successor in office.

5. Stay within the approved budget for the department.

1-7-14 OATH OF OFFICE:

A. All elected officials, Town Manager, Department Heads, Clerk, Treasurer and appointed commissions shall take the constitutional oath of office before assuming the duties of their respective offices. Once an oath is administered, the oath need not be re-administered unless job assignment or description changes.

B. The form of oath shall be as authorized by the laws of the state.

C. Appointed officers shall take their oath at any time before assuming their duties.

D. No official act of any person required to take the constitutional oath of office shall be invalid for the reason that he or she failed to take the oath of office.

E. The Town Manager may require any other officer or employee to take the oath of office.

F. All oaths of office shall be filed with the Town Clerk.

1-7-15 CONFLICT OF INTEREST AND USE OF OFFICE FOR PERSONAL BENEFIT PROHIBITED.

A. Each public servant shall comply with the provisions of the Utah Municipal Officers and Employees Ethics Act, § 10-3-1301 et seq. U.C.A. (1953, as amended) and among other things but not by way of limitation the conduct themselves consistent with the following Utah statutes: the Utah Public Officers' and Employee's Ethics Act (U.C.A. § 67-16-1, *et seq.*, as amended); Utah law prohibiting employment of relatives (U.C.A. § 52-3-1, *et seq.,* as amended), U.C.A. § 10-6-146; and U.C.A. §§ 76-8-105, 201, 202, 203 and 402.

B. Whenever the performance of a public servant's official duty requires governmental action on any matter involving that person's or a relative of that person's direct financial or personal interest and it is reasonably foreseeable that the decision will have an individualized material effect on such interest, distinguishable from its effect on the public generally, the public servant shall disclose the conflict and disqualify herself or himself from deliberating, deciding and voting upon the matter. Disclosure shall be made to the public body of which the public servant is a member, or in the case of an employee of the Town, to the employee's supervisor.

C. Subsection B shall not apply to (1) decisions regarding the payment of salaries, benefits, or other compensation made by the town in exchange for the performance of the public servant's official duties, (2) decisions regarding the attendance at official functions or training where the public servant is sent by or representing the Town as part of his or her official duties, or (3) similar decisions which are part of the public servant's official duties and are approved through normal town channels or procedures.

D. For purposes of this section “public servant” shall be defined as any elected or appointed official of the down, any member of a board, commission or committee of the Town, or any employee of the town. “Relative” shall be defined as the immediate family of a public servant.

1-7-16 CLAIMS AGAINST TOWN.

All claims against the Town shall be filed according to State law, including the Utah Governmental Immunity Act, and handled according to any policies or procedures adopted by the Town Manager.

1-7-17 HEARING OFFICER:

A. **Hearing Officer:** There is hereby created a Hearing Officer to hear employee appeals of a final decision under Utah Code Annotated § 10-3-1106. (Ord. 15-010, 6-23-2015)

B. **Selection and Appointment of Hearing Officer:** The Hearing Officer shall be appointed by the Town Council after a recommendation from the Town Manager. The Town Manager shall identify a qualified candidate who can competently fill the position. The candidate shall have knowledge of public human resource law and appeals procedures. The candidate shall be impartial and not have any conflicts with the town. (ord. 15-010, 6-23-2015)

C. **Right to Appeal**. All full-time employees of the town, other than those employees identified in UCA § 10-3-1105(2), shall have the right to appeal any discharge, suspension of more than two days, or involuntary transfer for less remuneration to the Hearing Officer. (ord. 15-010, 6-23-2015)

D. **Appeals Procedure:** The Hearing Office and Town employees shall comply with the appeal procedures set forth in UCA § 10-3-1106 as well as the Town’s current personnel policy and procedure manual. (ord. 15-010, 6-23-2015).

1.7.18 PERFORMANCE BONDS AND DELAY AGREEMENTS PREAPPROVED BY TOWN COUNCIL, SUBJECT TO COUNTERSIGNING BY TOWN MANAGER:

A. Performance bonds and delay agreements, as approved by the town attorney and required by the subdivision ordinance, zoning ordinance and other town ordinances, are hereby approved and adopted by the Town Council for each development that receives the proper approvals and permits as required by said ordinances. A copy of the bond and delay agreement forms shall be filed with the Town Council by the Town Manager each time it is amended.

B. The manual or facsimile signature of the mayor is hereby authorized on said bonds and delay agreements without the necessity of each one being brought to the Town Council, except that no such bond or delay agreement shall be valid until it has been countersigned manually by the Town Manager and attested to by the Town Clerk.

C. The time for completion of the improvements under said bonds may be extended by the Town Manager, as provided in the applicable provisions governing said bonding.

1-7-19 BONDS:

Such Town officials, as determined by the Town Manager, shall, before entering upon the duties of their respective offices, shall be bonded with good and sufficient sureties, payable to the Town, duly approved by the Town Attorney, and conditioned upon the faithful performance and discharge of their respective duties, and for proper application and payment of all money or property coming into their hands by virtue of their offices, in the amount of twenty five thousand dollars ($25,000.00) each, except for the Town Treasurer, who shall give bond in the amount as prescribed by state law for town treasurers. The town shall pay all premiums for the above required bonds.

1-7-20 EMERGENCY MANAGEMENT SUCCESSION OF OFFICE:

A. **Definitions:**

ABSENT: Not physically present or not able to be communicated with for forty-eight (48) hours, or, during an emergency, a shorter period of time as determined by the Town Manager on a case by case basis. "Absent" does not include a person who can be communicated with via telephone, radio, telecommunications or electronic means.

EMERGENCY INTERIM SUCCESSOR: A person designated to exercise the powers and discharge the duties of an office when the person legally exercising the powers and duties of the office is unavailable. For purposes of this section only, "officer" means the Town Manager, Department Heads, Town Clerk, Town Treasurer, and Emergency Management Coordinator.

UNAVAILABLE: Absent from the place of governance during a disaster that seriously disrupts normal governmental operations, whether or not that absence or inability would give rise to a vacancy under existing constitutional or statutory provisions.

All other definitions found in Utah Code Annotated §53-2a-102 (emergency management act- UCA) as amended, are incorporated herein as may be applicable.

B. Each "officer", as defined in this section, shall provide to the Town Manager, a written list designating three (3) emergency interim successors and their order of succession. Thereafter, each officer shall submit a new list only when the officer or any of the successor's changes.

C. After the Town Manager approves the emergency interim successors and their order of succession, the Town Manager shall compile a master list for the town and submit it to the division of comprehensive emergency management for the state.

D. If the officer is unavailable once a disaster has occurred, the designated emergency interim successor shall exercise the powers and duties of the office according to the order of succession. The emergency interim successor shall exercise the powers and duties of the

office only until the vacancy is filled in accordance with the constitution or statutes, or until the officer, his deputy or an emergency interim successor earlier in the order of succession becomes available to exercise the powers and duties of the office.

E. The emergency interim successor shall not be required to take an oath of office, unless specifically provided by law.

F. All emergency interim successors serve at the pleasure of the Town Manager, and may be removed and replaced at any time, with or without cause.

G. The Town Manager, upon a determination that the town hall is not capable of functioning as the seat of government for the town, may designate another location, outside of the town, if necessary, to serve as a seat of government during the emergency.

1-7-21 PENALTIES:

Any employee violating the provisions of this chapter may be reprimanded, suspended or removed from office by the Town Manager, as provided by law or the Town Personnel Policies and Procedures. The provisions of this chapter, however, are directory and to promote the orderly functioning of the Town only, and are not intended to hold the Town or its personnel to a higher duty than otherwise required by law or subject the Town or its personnel to criminal sanctions or civil liability. (amd Ord. 14-008, 10-28-2014)

[1] Former Council-manager form of government is provided for in Laws of Utah 1977, Chapter 48. This form of government is no longer available as of May 2008. Those cities operating under council-manager form will continue to do so until an election to change the form of government.

Title 1 – Administration

Chapter 8
MAYOR AND TOWN COUNCIL

1-8-1: ELIGIBILITY AND RESIDENCY REQUIREMENTS:
1-8-2: MAYOR:
1-8-3: VACANCIES:
1-8-4: ORDINANCES AND RESOLUTIONS; PROCEDURES:

1-8-1: ELIGIBILITY AND RESIDENCY REQUIREMENTS:

A. **Statute Requirements**: A person filing a declaration of candidacy for a municipal office shall meet the requirements of Utah Code Annotated section 20A-9-203.

B. **Registered Voter:** Any person elected to municipal office shall be a registered voter in the municipality in which the person was elected.

C. **Residency**:

1. Each elected officer of a municipality shall maintain residency within the boundaries of the municipality during the officer's term of office.

2. If an elected officer of a municipality establishes a principal place of residence, as provided in Utah Code Annotated § 20A-2-105, outside the municipality during the officer's term of office, the office is automatically vacant.

D. **Continuous Absence**: If an elected municipal officer is absent from the municipality any time during the officer's term of office for a continuous period of more than sixty (60) days without the consent of the municipal legislative body, the municipal office is automatically vacant. (1984 Code § 8-1-5; amd. 2010 Code)

1-8-2: MAYOR:

A. **Presiding Officer:** The Mayor shall be the presiding officer of meetings of the Town Council and shall have a vote in all council meetings. All bonds, notes, contracts and written obligations in the town shall be executed on its behalf by the mayor, or in the event of his inability to act, by a council member that the Council shall designate to act as Mayor Pro Tempore during his absence, disability or refusal to act. He shall be chief ceremonial officer in the Town and shall represent the town in all its external relationships. The mayor shall have the duty to perform civil marriages as provided under Utah Code Annotated. In the absence of the mayor, or because of his inability or refusal to act, the Town Council may

elect one of its members to preside over the meeting as Mayor Pro Tempore, who shall have all the powers and duties of the mayor to act during his absence, disability or refusal to act. The election of the Mayor Pro Tempore shall be entered in the minutes of the Town Council. The powers and duties of the mayor shall be only those conferred upon him by this section.

B. **Signature Required:** The Mayor's signature, properly attested by the Town Clerk, shall be required on all deeds made by the Town, except as otherwise authorized by the Town Council, provisions of law or town ordinance. The signature of the mayor shall also be required on all contracts to which the Town is a party. (Ord. 88-004, 4-12-1988)

1-8-3: VACANCIES:

Mayor or Town Council vacancies shall be filled as provided in Utah Code Annotated section 20A-1-510. (1984 Code § 8-1-6; amd. 2010 Code)

1-8-4: ORDINANCES AND RESOLUTIONS; PROCEDURES:

A. **Power Exercised By Ordinance:** The Town Council may pass any ordinance to regulate, require, prohibit, govern, control or supervise any activity, business, conduct or condition authorized by statute or any other provision of law. An officer of the Town shall not be convicted of a criminal offense where he relied on or enforced an ordinance, he reasonably believed to be a valid ordinance. It shall be a defense to any action for punitive damages that the official acted in good faith in enforcing an ordinance or that he enforced an ordinance on advice of legal counsel. (2010 Code)

B. **Form Of Ordinance:** Any ordinance passed by the Town Council shall contain and be in substantially the following order and form:

1. A number;

2. A title which indicates the nature of the subject matter of the ordinance;

3. A preamble which states the need or reason for the ordinance;

4. An ordaining clause which states "Be it ordained by Brian Head Town";

5. The body or subject of the ordinance;

6. When applicable, a statement indicating the penalty for violation of the ordinance or a reference that the punishment is covered by an ordinance which prescribes the fines and terms of imprisonment for the violation of the town ordinance; or, the penalty may establish a classification of penalties and refer to such ordinance in which the penalty for such violation is established;

7. A statement indicating the effective date of the ordinance or the date when the ordinance shall become effective after publication or posting as required by this section;

8. A line for the signature of the mayor or acting mayor to sign the ordinance;

9. A place for the Town Clerk to attest the ordinance and affix the seal of the town;

10. Where the Mayor may disapprove an ordinance passed by the Town Council, the ordinance must show it was passed with the mayor's approval, or if the mayor disapproved the ordinance, that it was passed over his disapproval. If the mayor neither approves or disapproves an ordinance, the ordinance should show that it became effective without the approval or disapproval of the Mayor. (1984 Code § 10-2-1; amd. 2010 Code)

C. **Requirements As To Form; Effective Date:**

1. Ordinances passed or enacted by the Town Council shall be signed by the mayor, or if he is absent, by the Mayor Pro Tempore, or by a quorum of the Town Council, and shall be recorded before taking effect. No ordinance shall be void or unlawful by reason of its failure to conform to the provisions of Utah Code Annotated § 10-3-704(1), (2), (3) or (4). Ordinances which do not have an effective date shall become effective twenty (20) days after publication or posting, or thirty (30) days after final passage by the governing body, whichever is sooner. (1984 Code § 10-2-2; amd. 2010 Code)

2. Ordinances shall become effective twenty (20) days after publication or posting, or thirty (30) days after final passage by the Town Council, whichever is closer to the date of final passage, but ordinances may become effective at an earlier or later date after publication or posting if so provided in the ordinance. (1984 Code § 10-2-3; amd. 2010 Code)

D. **Publication And Posting Of Ordinances:**

1. Before an ordinance may take effect, the legislative body of the Town adopting an ordinance, except an ordinance enacted under Utah Code Annotated § 10-3-706 through 10-3-710, shall:

a. Deposit a copy of the ordinance in the office of the Town Clerk; and

b. (1) Publish a short summary of the ordinance at least once:

(A) In a newspaper published within the town; or

(B) If there is no newspaper published within the town, in a newspaper of general circulation within the town; or

(2) Post a complete copy of the ordinance in three (3) public places within the town.

2.

a. Any ordinance, code or book, other than the state code, relating to building or safety standards, municipal functions, administration, control or regulations, may be adopted and shall take effect without further publication or posting, if reference is made to the code or book and at least one copy has been filed for use and examination by the public in the office of the Town Clerk prior to the adoption of the ordinance by the governing body.

c. Any state law relating to building or safety standards, municipal functions, administration, control or regulations, may be adopted and shall take effect without further publication or posting if reference is made to the state code.

d. The ordinance adopting the code or book shall be published in the manner provided in this subsection. (2010 Code)

E. **Recording, Numbering And Certification Of Passage:** The Town Clerk shall record, in a book used exclusively for that purpose, all ordinances passed by the Town Council. All ordinances shall be numbered with each number to contain the year the ordinance was finally passed by the Town Council, followed by a hyphen, followed by a sequential number beginning with the first ordinance passed in each year (i.e., 1984-1, 1984-2...1985-1...). Immediately following each ordinance, the Town Clerk shall make a certificate stating the date of passage and of publication of the ordinance. (1984 Code § 10-2-4)

F. **Resolutions:**

1. **Purpose:** Unless otherwise required by law, the Town Council may exercise all administrative powers by resolution, including, but not limited to: a) establishing water and sewer rates; b) charges for garbage collection and fees charged for town services; c) establishing personnel policies and guidelines; and d) regulating the use and operation of the town property. Punishment, fines or forfeitures may not be imposed by resolution.

2. **Form:** Any resolution passed by the Town Council shall be in a form and contain sections substantially similar to that prescribed for ordinances.

3. **Publication;** Effective Date: Resolutions may become effective without publication or posting and may take effect on passage or at a later date as the Town Council may determine, but resolutions may not become effective more than three (3) months from the date of passage. (2010 Code)

Title 1 – Administration

Chapter 9
CAMPAIGN FINANCE DISCLOSURE

1-9-1: COMPLIANCE WITH STATE STATUTE REQUIRED:

1-9-1: COMPLIANCE WITH STATE STATUTE REQUIRED:

All candidates for elective office shall comply with the campaign finance disclosure requirements set forth in Utah Code Annotated § 10-3-208. (Ord. 01-003, 7-10-2001; amd. 2010 Code)

Title 1 – Administration

Chapter 10
ELECTIONS

1-10-1: ELECTIONS:
1-10-2: ABSENTEE VOTING:

1-10-1: ELECTIONS:

Election for Mayor and Council Members shall be conducted according to the municipal election section of Utah Code Annotated section 20A-9-404. (1984 Code § 8-1-2; amd. 2010 Code)

1-10-2: ABSENTEE VOTING:

The town hereby identifies a "by mail" (absentee ballot) prescient as per Utah Code Annotated section 20A-3-302, in which its population is less than five hundred (500) residents and would eliminate the requirement for poll workers and election judges during the early voting and election day. (Ord. 07-019, 5-22-2007, eff. 5-22-2007; amd. 2010 Code)

Title 1 – Administration

Chapter 11
PURCHASING PROCEDURES

1-11-1: CONTRACT VALIDITY AND EXECUTION:
1-11-2: PURCHASING ADMINISTRATION:
1-11-3: COMPETITIVE BIDDING; WHEN NECESSARY:
1-11-4: BIDDING PROCEDURES:
1-11-5: EXCEPTIONS TO BIDDING REQUIREMENTS:
1-11-6: LOWEST RESPONSIBLE BIDDER:
1-11-7: EMERGENCY PURCHASES:
1-11-8: INSURANCE AND BONDS:
1-11-9: BID BONDS:
1-11-10: PERFORMANCE BONDS:
1-11-11: PUBLIC RECORD:
1-11-12: PROHIBITION AGAINST SUBDIVIDING:
1-11-13: INTERLOCAL COOPERATION:
1-11-14: DISCLOSURE OF INTEREST:
1-11-15: PROHIBITED PRACTICES:
1-11-16: PENALTY:

1-11-1: CONTRACT VALIDITY AND EXECUTION:

A. No liability against the town shall or may be created and no expenditure of public funds may be made which is not for a public purpose.

B. No contract may become valid or is binding against the town until:

1. The contract has been reduced to writing;

2. The town has received certification from the Town Treasurer that funds are lawfully available within budgeted appropriations to fulfill the town's financial obligations thereunder;

3. Where certifications of compliance with federal contract or grant assurances are required, the documents are approved as to form by the Town Attorney;

4. The contract has been administered by the Town Manager or appropriate department head and fully complies with the requirements of the department involved;

5. The contract has been reviewed by the Town Attorney and executed by the Town Manager or appropriately authorized department head, or where required, the Mayor; and

6. The signature of the Mayor, if required, has been attested by the Town Clerk. (Ord. 02-002, 2-12-2002)

1-11-2: PURCHASING ADMINISTRATION:

The Town Manager and department heads shall have the responsibility for the purchasing activities of the town and its various departments as set forth herein. (Ord. 02-002, 2-12-2002)

1-11-3: COMPETITIVE BIDDING; WHEN NECESSARY:

A. Supplies, Equipment And Services: Except as otherwise provided in this chapter, purchases of supplies, equipment or contractual services of an estimated value less than twenty five thousand dollars ($25,000.00) shall be effected only by contract with the lowest responsive and responsible bidder pursuant to solicitation of verbal bids. Such purchases with an estimated value of twenty-five thousand dollars ($25,000.00) or greater shall be by written contract with the lowest responsive and responsible bidder, pursuant to the formal procedure hereinafter prescribed. Value amounts used herein refer to both unit cost and combined multiple unit costs, and determination shall be made by the Town Manager of the necessity of bidding after review of the pertinent requisition and specifications. Purchases of supplies, equipment or contractual services of an estimated value less than five thousand dollars ($5,000.00) may be made in the open market without complying with bidding procedures, but at least three (3) informal bids (price quotations) should be utilized by the Town Manager or department head whenever possible, with bids solicited from prospective vendors either in writing or by telephonic request.

B. Construction Projects: Except for maintenance and improvement projects performed by town personnel, all construction projects estimated by the Town Engineer or other appropriate party to have a value in excess of twenty-five thousand dollars ($25,000), or where required by state law, shall be advertised for bid and awarded to the lowest responsive and responsible bidder pursuant to the procedure hereinafter prescribed. All such contract awards shall be made by written contract as provided in section 1-11-1 of this chapter.

C. Bids Not Required For Certain Work: It is the policy of the town to reserve to itself all legal prerogatives to perform services and work with its own personnel and equipment; therefore, nothing in this chapter shall be construed to require bids to be called for or contracts let for: 1) conducting or managing any department, business or property of the town; 2) installing, lowering or repairing water mains or sewers or making connections with water mains or sewers; or 3) grading, repairing, relocating or maintaining streets, sidewalks, bridges, culverts or conduits; except where other provisions of state statutes may limit the value of work that can be performed by the town on its own account in these excluded areas. Any portion of a public works or improvement project not included in the above description shall be affected through bid and contract as provided in subsection B of this section, if the cost thereof is twenty-five thousand dollars ($25,000.00) or more.

D. Professional Services: Contracts for professional services estimated to be in excess of twenty-five thousand dollars ($25,000.00) shall be awarded at the discretion of the Town Council, including, but not limited to, auditing, banking, insurance, legal, engineering and similar professional consultation.

E. Refusal To Receive Bids: The Town Manager may promulgate rules, procedures and regulations for guidance of the department heads to preclude contractors or suppliers from submitting bids where said proposed bidder has not completely satisfied prior notices to comply with construction documents, drawings and/or other specifications, or has otherwise failed to perform any work for the town or the state in a timely and satisfactory manner. If adopted, such rules and procedures shall provide for reasonable notice to the contractor and opportunity for hearing. (Ord. 02-002, 2-12-2002)

1-11-4: BIDDING PROCEDURES:

Where formal bidding is required, the lowest responsive and responsible bidder shall be determined through use of the following procedures:

A. Notice For Bids: Notices inviting bids shall include a general description of the articles or services to be purchased, advise where bid forms and specifications are available, and state the time and place for opening bids. Under normal circumstances a notice shall be published at least twice in a newspaper of general circulation in the town with the first such publication occurring at least fourteen (14) days before the date of opening bids and the last such publication occurring at least five (5) days before the date of opening bids. In special circumstances where time is of the essence and authorized by consent of at least three (3) members of the Town Council, notice shall be published at least once in a newspaper of general circulation in the town with the publication occurring at least five (5) business days before the date of opening bids. Sealed bids shall be solicited from all responsive and responsible prospective bidders whose names are on any bidders list maintained by the town for the article or service being purchased. Where applicable, notice shall contain the town engineer's estimate of cost or advise as to its availability whenever such cost estimate has been made.

B. Bid Opening: Sealed bids shall be submitted as designated in the notice with the statement "Bid for (Item)" on the envelope. Bids shall be opened in public at the time and place stated in the notice. A tabulation of all bids received shall be open for public inspection during regular business hours for a period of not less than thirty (30) days after the bid opening.

C. Rejection Of Bids: The Town Manager or Town Council, as the case may be, shall have the authority to reject all bids, parts of all bids, or all bids for any one or more supplies or contractual services included in the proposed contract, when the low responsive and responsible bid exceeds Tie Bids: If two (2) or more bids received are for the same total amount or unit price, with quality and service being equivalent, and if the public interest will not permit the delay of re-advertising for bids, the town shall accept the lowest bid made after negotiation with the tie bidders at or after the time of the bid opening.

D. Tie Bids: If two (2) or more bids received are for the same total amount or unit price, with quality and service being equivalent, and if the public interest will not permit the delay of re-advertising for bids, the town shall accept the lowest bid made after negotiations with the bidders at or after the time of the bid opening.

E. Award Of Contracts: Contracts under one thousand dollars ($1,000.00) shall be awarded by the department head of the department intending to purchase the supplies or services. Contracts for more than one thousand dollars ($1,000.00), but less than twenty-five thousand dollars ($25,000.00), shall be awarded by such department head with the concurrence of the Town Manager. The Town Manager is granted discretion to change the amounts for purchases to be made by approval of only the department head down to five hundred dollars ($500.00) or up to two thousand five hundred dollars ($2,500.00). Contracts of twenty five thousand dollars ($25,000.00) or more shall be awarded to the lowest responsive and responsible bidder by the Town Council, except that in the event the Town Council, as part of its review and approval of the town budget, has approved a specific line item appropriation for the supplies or services, the contract may be awarded by the Town Manager, regardless of amount, as long as the approved line item appropriation is not exceeded. In such event, the Town Manager shall follow applicable bidding requirements before award of the bid.

F. Local Preference: In awarding bids for public work or the procurement of supplies or services, preference shall be given to residents of Iron County when quality, suitability and performance are equal. If the bid or offering from a non-preferred bidder submitted in response to an invitation to bid is the low bid and there is a preferred bidder, then the supplies, services or construction shall be obtained from or awarded to the preferred bidder if the lowest bid of a preferred bidder is within five percent (5%) of the low non-preferred bid and if he agrees to meet the low bid, in writing, within seventy two (72) hours after the notification to him that he is a qualifying preferred bidder. Such notice shall contain the exact price or bid submitted by the non-preferred bidder, and the town shall enter into no contract until seventy-two (72) hours have elapsed after notification to the qualifying low preferred bidder. For purposes of this subsection a "resident" is one who maintains its principal place of business in Iron County on the date of award and for at least ninety (90) consecutive days prior to such date. (Ord. 11-005, 6-14-2011, eff. 6-14-2011)

1-11-5: EXCEPTIONS TO BIDDING REQUIREMENTS:

A. Uniqueness: Contracts which by their nature are not adapted to an award by competitive bidding, such as contracts for items available from a single source only, contracts for repair and maintenance of equipment already owned by the town which may be most efficiently performed by the originator of the equipment or its agent, contracts for the purchase of used equipment or items that are unique as to quality, condition and price, or contracts for a particular brand of equipment or product which is uniquely suited to the town's needs by reason of training of its personnel or compatibility with existing equipment, shall not be subject to the competitive bidding requirements of this chapter. Notwithstanding the exception from competitive bidding requirements, the town shall advertise in the same manner as provided in subs: If the Town Manager determines that supplies, materials or equipment can be purchased at any public auction, closeout sale, bankruptcy, foreclosure or other similar sale, and that such purchase can be made at a cost below the market cost in the county, the purchase may be made without complying with the competitive bidding requirements of this chapter if otherwise allowed by law.

B. Auction, Closeouts, Bankruptcy Sales: If the Town Manager determines that supplies, materials or equipment can be purchased at any public auction, closeout sale, bankruptcy,

foreclosure or other similar sale, and that such purchase can be made at a clost below the market cost in the county, the purchase may be made without complying with the competitive bidding requirements of this chapter if otherwise allowed by law. (2010 Code)

C. Necessity Of Council Approval: An exception to bidding requirements under this section shall not eliminate the necessity of Town Council approval of any contract in excess of twenty five thousand dollars ($25,000.00) and for which a line item appropriation has not been made in the town budget. The only variation in the requirement for such approval shall be in the event of urgent time constraints creating an emergency, in which event an expenditure in excess of twenty five thousand dollars ($25,000.00) may be authorized upon personal verbal approval of a majority of the council members, after explanation of the circumstances, subject to formal ratification at the first public council meeting after authorization of the expenditure. (Ord. 02-002, 2-12-2002)

1-11-6: LOWEST RESPONSIBLE BIDDER:

A. Considerations: In awarding to the lowest responsive and responsible bidder, the Town shall consider, in addition to price:

1. The quality of supplies offered;

2. The ability, capacity and skill of the bidder to perform the contract or provide the supplies or service required;

3. Whether the bidder can perform the contract or provide the supplies promptly, or within the time specified, without delay or interference;

4. The sufficiency of the bidder's financial resources and the effect thereof on his ability to perform the contract or provide the supplies or services;

5. The character, integrity, reputation, judgment, experience and efficiency of the bidder;

6. The quality of the bidder's performance on previous orders or contracts for the town or others;

7. Litigation by or against the bidder, either pending or threatened, where claim is made that the bidder provided or furnished materially defective workmanship or materials to the town, or failed to substantially comply with bid specifications or contract terms and conditions;

8. Any previous or existing noncompliance by the bidder with laws and ordinances of the town relating directly or indirectly to the subject of the contract:

9. The ability of the bidder to provide future maintenance and service, where such maintenance and service is essential;

10. Possession or ability to obtain all necessary town and state licenses either at the time of bid or before doing business with the town, as specified by the contracting agent; and

11. A statement by bidder of all subcontractors that will be used who may do or supply ten percent (10%) or more of the total contract being awarded, or a willingness to supply such listing of subcontractors at the time of bid award.

B. Award To Other Than Low Bidder: When the award is not given to the lowest bidder, a statement of the reasons therefor shall be prepared by the department head involved, sent to and approved by the Town Manager, and filed with any other papers related to the transaction.

C. Challenge To Action: Where a bid is protested by someone having standing to do so, or an irregularity is waived by the person awarding the bid, written notice of such protest or waiver shall be given to each bidder, immediately advising them of the right of any person adversely affected to file a protest with the Town Manager. Such protest must be made in writing within seventy-two (72) hours after the bid tabulation is made or after receipt of the notice of protest or waiver from the person awarding the bid, and failure to so file shall constitute a waiver of further challenge. Upon receipt of such challenge, the contract award process must cease until decision of the hearing board, as set forth below, unless the person responsible for award of the bid sets forth in writing particular facts and circumstances which require continuance of the contract award process without delay in order to avoid an immediate and serious danger to the public health, safety or welfare. An administrative hearing of the protest shall be held within fifteen (15) days before a board made up of the person awarding the bid, the Town Manager and the Town Attorney. (Ord. 02-002, 2-12-2002 2010 Code)

1-11-7: EMERGENCY PURCHASES:

In case of an actual or apparent emergency which requires immediate procurement of supplies or contractual services, the Town Manager may approve acquisition at the lowest attainable price without further compliance with the procedures provided herein. In such event, however, a full report of the circumstances of an emergency purchase shall be filed with the Town Clerk by the Town Manager and shall be open to public inspection. An "emergency" is any fact, circumstance or situation which threatens injury or damage as the result of any happening or circumstance which would delay the work of the town in such manner as to vitally affect life, health or convenience of the public. (Ord. 02-002, 2-12-2002)

1-11-8: INSURANCE AND BONDS:

When directed by the Town Council or Town Manager, or when required by state statute or town ordinance, insurance certificates and/or bonds, whether permit, bid, performance or material-men, shall be provided to the Town Clerk in a form approved by the Town Attorney and in amounts recommended by the department head affected and approved by the Town Manager. Such bonds or insurance shall: a) name the town as an additional insured; b) where cancelable, provide that no cancellation thereof may be made without first giving the town at least thirty (30) days' prior written notice; and c) be in sums sufficient to fully protect the town and its interests. All corporate guarantors or sureties shall be licensed to do business in the state and shall be sound and reputable firms, as determined acceptable to the Town Attorney. (Ord. 02-002, 2-12-2002)

1-11-9: BID BONDS:

A. When Required: Bid security in an amount equal to at least five percent (5%) of the amount of the bid shall be required for all competitive sealed bidding for construction contracts where the total value of the contract is in excess of ten thousand dollars ($10,000.00). Bid security shall be a bond provided by a surety company authorized to do business in this state, the equivalent in cash, or any other form satisfactory to the town.

B. Failure To Comply: When a bidder fails to comply with the requirement for bid security set forth in the invitation for bids, that bidder's bid shall be rejected unless it is determined that the failure to comply with the security requirements is non-substantial.

C. Irrevocable: After the bids are opened, they shall be irrevocable for the period specified in the invitation for bids, except as provided below. If a bidder is permitted to withdraw a bid before award, no action shall be taken against the bidder or bid security.

D. Failure: If after being accepted the bid fails, the bid security bond shall be forfeited unless there has been a mistake in the bid of such consequence as to make it apparent that:

1. A meeting of the minds never occurred, and that enforcement of the contract would be unconscionable;

2. Where the mistake related to a material feature of the contract;

3. Where the mistake does not constitute culpable negligence or violation of a positive legal duty; and

4. Where the town has been placed in status quo so that it suffers no serious prejudice. (Ord. 02-002, 2-12-2002)

1-11-10: PERFORMANCE BONDS:

A. Public Improvements: The contractor on a project to construct public improvements shall be required to post performance and material-men bonds; provided, however, that if the estimated construction cost is under five thousand dollars ($5,000.00), or if in bond will exceed the risk or benefit to the town, in which event the town may waive the performance bond requirement.

B. Supplies Or Services: The Town Manager shall have the authority to require a performance bond before a contract is entered into to purchase or acquire supplies or services, in such amount as he may find reasonably necessary to protect the best interests of the Town. (Ord. 02-002, 2-12-2002)

1-11-11: PUBLIC RECORD:

The statement of reasons for rejection of a low bid as provided in subsection 1-11-6 B of this chapter, the reasons for an emergency purchase made pursuant to section 1-11-7 of this chapter, any waiver pursuant to subsection 1-11-10A of this chapter, and any estimate of the cost of public

construction work made by the Town Engineer pursuant to subsection 1-11-3B of this chapter, where the estimate exceeds the sum of five thousand dollars ($5,000.00), shall become a part of the official records of the town and shall be made available to the public upon request. (Ord. 02-002, 2-12-2002)

1-11-12: PROHIBITION AGAINST SUBDIVIDING:

No contract or purchase shall be subdivided so as to avoid the requirements of this chapter. (Ord. 02-002, 2-12-2002)

1-11-13: INTERLOCAL COOPERATION:

Wherever the public benefit can be maximized and costs minimized by entering into joint agreements with other public agencies within the state for the purchase or construction of any commodity, service or public work, the town shall have the power to so agree, upon approval and action by the Town Council. (Ord. 02-002, 2-12-2002)

1-11-14: DISCLOSURE OF INTEREST:

Any purchase order or contract within the purview of this chapter in which any elected or appointed officer, or municipal employee, has a financial interest, direct or indirect, shall be void unless a sworn statement has been filed with the Town Manager disclosing the name and address of the entity dealing with the town in which the officer or employee has an interest or from which he receives compensation, and in the case of an elected or appointed officer, there is additional disclosure in an open meeting to members of the body before which the matter is presented. Disclosure statements filed pursuant hereto are public information and shall be available for examination by the public. (Ord. 02-002, 2-12-2002)

1-11-15: PROHIBITED PRACTICES:

It shall be unlawful for any officer, agent or employee of the town, or any outside party or entity dealing or seeking to deal with the town, to engage in any of the following practices:

A. Collusion or other agreement among bidders or prospective bidders, in restraint of freedom of competition, to fix or in any way rig prices or bids. In addition, any bid tainted with such collusion shall be voidable at the option of the town.

B. Disclosure in advance of the opening of bids of the amount or content of one bid to another bidder or potential bidder. If such disclosure is deemed sufficiently material by the Town Manager, it shall void the bidding process and require a new advertisement or request for bids.

C. Tender or acceptance of any gratuity in the form of cash, merchandise or other thing of value by a bidder, vendor or contractor to an officer, agent or employee of the town, whether before or after a bid or contract.

D. Purchase of supplies or equipment for the personal use of an officer, agent or employee of the town in the name of the town, whether part of a town purchase or contract or separate, and whether paid for with town funds or personal funds of the purchaser. Sole exception shall be where the item or items purchased are required parts of a worker's equipment or uniform and necessary to the successful performance of his duties as a town officer or employee, although personally owned by him. (Ord. 02-002, 2-12-2002)

1-11-16: PENALTY:

The penalty for actions made unlawful by this chapter shall be a class B misdemeanor or infraction, subject to penalty as provided in section 1-4-1 of this code, in the discretion of the charging Town Attorney, unless those action involve conduct which would be a felony under the laws of the state, in which event the town may refer the case to the County Attorney for prosecution. Imposition of a criminal penalty shall not affect the town's right to take administrative action with regard to an employee, impose sanctions against a contractor or purchaser, such as a refusal to deal with him further, or avail itself of any other right which it may have by law or otherwise. (Ord. 02-002, 2-12-2002; amd. 2010 Code)

Title 1 – Administration

Chapter 12

TOWN BOUNDARIES

1-12-1: EXISTING BOUNDARY
1-12-2: BOUNDARY MAP
1-12-3: ANNEXATIONS

1-12-1: EXISTING BOUNDARY:

The boundary or town limit shall be as existing on the effective date hereof, and the same may be changed from time to time by appropriate annexation ordinances or de-annexation proceedings. (1984 Code § 1-1-1)

1-12-2: BOUNDARY MAP:

A. Compilation And Maintenance: The Town Clerk shall, as soon as is practicable after the effective date hereof, compile an official boundary map showing the now existing boundary or limit of the town. Said map shall be submitted to the Town Council and upon adoption by the Town Council, shall constitute part of this section as though fully set forth herein and shall be determinative of the boundary of the town. Said map shall be changed from time to time as the boundary of the town changes. The official boundary map shall be maintained in the office of the Town Clerk and shall be open to public inspection. (1984 Code §1-1-2)

B. Contents Of Map: The boundary map shall be in such form as the Town Clerk shall determine but shall contain sufficient details to show the exact boundary of the town. The map shall also, among other things, show all annexation, de-annexation and respective dates thereof. Said map may, at the Town Clerk discretion, consist of an aerial photograph or photographs with appropriate markings. (1984 Code § 1-1-3)

C. Code Amendment Not Necessary: It shall not necessary to amend any provision of this code to change the boundary or limit of the town. The Town Council shall adopt an appropriate ordinance changing the boundary and such change shall be indicated on the official boundary map. (1984 Code § 1-1-4)

1-12-3: ANNEXATIONS:

A. Adoption Of State Law: The laws of the state, as set forth in Utah Code Annotated section 10-2-401 et seq., as amended, is hereby approved and adopted as the annexation and change of boundaries ordinance for the town, and by this reference is made part of this section as though set forth fully herein. (1984 Code § 1-2-1)

B. Adoption Of Amendment: Whenever any amendment, revision or supplement is made to the state law referred to in subsection A of this section, the same shall become a revision, amendment or supplement to this section as though enacted by the Town Council and posted and recorded by the Town Clerk. (1984 Code § 1-2-2)

C. Approved Annexations; Filing: Whenever real property annexation proposals are approved by the Town Council pursuant to state law requirements, copies of the annexation ordinances, with attached legal descriptions, shall be filed chronologically in the town offices by the Town Clerk, subject to inspection by any interested party and need not be incorporated in the Town Code. (1984 Code § 1-2-3)

Title 1 – Administration

Chapter 13

PUBLIC BODY MEETING POLICY AND PROCEDURES

1-13-1: PURPOSE:
1-13-2: ESTABLISHMENT OF AGENDAS:
1-13-3: COUNCIL / COMMISSION / BOARD PACKETS:
1-13-4: OPEN AND CLOSED MEETINGS:
1-13-5: ELECTRONIC TELECOMMUNICATIONS:
1-13-6: MINUTES OF MEETINGS:
1-13-7: MEETING PROCEDURE AND DECORUM; GENERAL RULES:
1-13-8: ATTENDANCE / REMOVAL:
1-13-9: MAYOR OR CHAIR RESPONSIBILITIES:
1-13-10: MAYOR OR CHAIR PRO TEM RESPONSIBILITIES:
1-13-11: MEMBER RESPONSIBILITIES:
1-13-12: QUORUM:
1-13-13: VOTING:
1-13-14: ABSTENTION & RECUSING FROM VOTING:
1-13-15: CONFLICTS OF INTEREST / DISCLOSURE STATEMENTS:
1-13-16: MOTIONS:

1-13-1: PURPOSE:

In order to conduct the public's business in an open and efficient manner, the Town Council of Brian Head, Utah hereby establishes rules of order and procedure for public meetings of the Town, including, but not limited to, the Planning Commission and the Town Council. These procedures and policies are to ensure a) parliamentary order and procedure; b) ethical behavior; and c) civil discourse. (Ord. 11-003, 5-24-2011, eff. 7-1-2011)

1-13-2: ESTABLISHMENT OF AGENDAS:

A. All proposed agenda items from the public must be submitted to the Town Clerk or designee as an agenda request either in writing or by notifying the Town Clerk or designee. (Ord. 11-003, 5-24-2011, amd. Ord 18-003, 5-29-2018).

B. In order for information to be included in the meeting packet, all supporting documents must be submitted to the Town Clerk, or designee, six (6) days prior to the scheduled meeting of which the topic is to be addressed. (Ord. 11-003, 5-24-2011, amd. Ord 18-003, 5-29-2018).

C. Upon receiving a request to be on the agenda, the Town Clerk, or designee, will route the request through the various town departments to receive Department Head's input. If a department feels that more research is needed, they will state the reason why in writing to the applicant and notify the Town Clerk, or designee, that it may not be identified on the agenda as requested. (Ord. 11-003, 5-24-2011, amd. Ord 18-003, 5-29-2018).

D. Four (4) days prior to the public meeting, the Town Clerk, or designee, along with the Town Manager will review all agenda requests to determine the final agenda for the next meeting. If the Town Manager deems necessary, he/she will request further input from the department heads. If a particular agenda request is not ready for the public meeting as requested, it may be removed, and the applicant will be notified. (Ord. 11-003, 5-24-2011, amd. Ord 18-003, 5-29-2018).

E. The Town Manager, or appropriate staff member will be expected to work with agenda applicants to ensure that the proper information is included in the packet, and the meeting procedures, proposed action, and any other information in order to make the agenda items flow smoothly. (Ord. 11-003, 5-24-2011, amd. Ord 18-003, 5-29-2018).

F. The Utah Open Meeting Act will be adhered to. The public has the right to request to be on the agenda, but must contact the Town Manager, Town Clerk or designee to submit applicable documents (if needed) for the packets if they wish to be addressed during an agenda topic requesting action from the public body, otherwise, the public has the option to address the public body during the public input portion of the agenda for non-agenda items, but no action will be taken by the public body. (Ord. 11-003, 5-24-2011, amd. Ord 18-003, 5-29-2018).

G. All agendas will comply with the Utah state open meeting act Utah Code Annotated 52-4 for noticing requirements. (Ord. 11-003, 5-24-2011, amd. Ord 18-003, 5-29-2018).

1-13-3: COUNCIL / COMMISSION / BOARD PACKETS:

A. The Town Clerk, or designee, will coordinate with the Town Manager, department heads and public to compile all documents necessary for the public meeting packets. (Ord. 11-003, 5-24-2011, amd. Ord 18-003, 5-29-2018).

B. Each agenda item will identify a memorandum as to the subject and any recommendations staff has m public body the three (3) days prior to the meeting unless extenuating circumstances prevail.

C. Upon receiving the agenda application, the Town Clerk will route the application through the various town departments to receive department head input. If a department feels that more research is needed, they will state the reason why in writing to the applicant and may not be identified on the agenda as requested.

D. Packets will be delivered electronically to the member's designated email four (4) days prior to the meeting unless extenuating circumstances prevail. If a member does not have an email; other means of submitting a packet will be used. (Ord. 11-003, 5-24-2011, amd. Ord 18-003, 5-29-2018)

1-13-4: OPEN AND CLOSED MEETINGS:

A. The regular meetings of Town Council are hereby established by ordinance or order of the public body and may be amended with a majority vote of the public body establishing the regular meeting schedule by the end of the calendar year, specifying dates, times, and place of such meetings by motion. (Ord. 11-003, 5-24-2011, amd. Ord 18-003, 5-29-2018).

B. All meetings of public bodies of the town shall be held in compliance with the Utah State Open Meeting Act (UCA §52-4) regulating open and public meetings. (Ord. 11-003, 5-24-2011, amd. Ord 18-003, 5-29-2018).

C. A closed meeting may be held upon the affirmative vote of two-thirds ($^2/_3$) of the public body members present at an open meeting for which the required notice has been given.

D. Closed meetings will be held in compliance with the Utah State Open Meeting Act (UCA §42-4-205. (Ord. 11-003, 5-24-2011, amd. Ord 18-003, 5-29-2018).

1-13-5: ELECTRONIC TELECOMMUNICATIONS:

A. The public body may convene and conduct an electronic meeting in accordance with UCA §42-4-207, as amended. (Ord. 11-003, 5-24-2011, amd. Ord. 18-003, 5-29-2018).

B. The Town Clerk or designee shall give public notice of the electronic meeting in accordance with UCA §52-4-202 and post the written notice of the electronic meeting at the anchor location. (Ord. 23-004, 2-14-23)

C. The Town Clerk or designee shall at least 24 hours before the electronic meeting is scheduled to begin, provide each member of the public body a description of how to electronically connect to the meeting. (Ord. 23-004, 2-14-23)

D. The purpose of electronic telecommunications is to ensure a quorum is present for all public meetings. Members are discouraged from using electronic telecommunication procedures during their absence due to cost, logistic issues, and the importance of seeing body language and facial expressions of participants in the meeting to ensure a smooth and effective meeting. In special circumstances, a public body member may request the ability to attend a meeting via electronic means at the proceeding meeting via the approval of the Mayor and/or Chairperson of the public body. (ord. 11-003, 5-24-2011, amd. ord 18-003, 5-29-2018).

E. The Brian Head Town Hall currently located at 56 North Highway 143, Brian Head, Utah, shall be the anchor location for all electronic meetings, unless otherwise publicly noticed (Ord. 11-003, 5-24-2011, amd. Ord 18-003, 5-29-2018)

F. To participate electronically, the agenda shall identify the authority given to the public bodies to allow one or more members to participate by electronic means and their vote shall be counted as present for agenda items, including the determination that a quorum is present. (amd. Ord 18-003, 5-29-2018, amd. Ord. 23-004, 2-14-23)

G. A quorum of the public body must be present, either in person at the anchor location or by electronic participation. At minimum, two (2) members must be in attendance at the anchor location, if, for any reason, lack of communication with a member of the public body causes a lack of a quorum, no additional business may be conducted until the quorum can be reconstituted. Business already conducted remains valid and binding (Ord. 18-003, 5-29-2018)

1-13-6: MINUTES OF TOWN COUNCIL MEETINGS:

A. Records: The public bodies of the town shall keep minutes of their proceedings. The approved minutes and associated documents of each public board shall be kept at the office of the Town Clerk. (Ord. 11-003, 5-24-2011, amd. Ord. 18-003, 5-29-2018).

B. Minutes: Draft or pending minutes shall be made available to the public within a reasonable time after holding the open meeting that is the subject of the pending minutes, but no later than 30 days after the meeting. (Ord. 11-003, 5-24-2011, amd. Ord. 18-003, 5-29-2018).

C. The draft or pending minutes shall contain a clear indication that the public body has not yet approved the minutes and are subject to change until the public body approves them. (ord. 18-003, 5-29-2018).

D. Minutes are the history of the community and should contain as much information necessary for clarity purposes. (Ord. 11-003, 5-24-2011, amd. Ord. 18-003, 5-29-2018).

E. Approval Of The Written Minutes: The minutes of the current meeting should reflect that those minutes were "approved as presented", or if the draft minutes have corrections within the minutes, the minutes of the current meeting should reflect that those minutes were "approved as corrected or amended". Grammatical errors or typos which do not change the substance of the text are not identified as corrected minutes and the Town Clerk, or designee, will make minor corrections to the minutes. (Ord. 11-003, 5-24-2011, amd. Ord. 18-003, 5-29-2018).

F. The Town Clerk shall within three (3) business days after the approval of the written minutes of an open meeting, post on the Utah Public Meeting Website and make available to the public a copy of the approved minutes and any public materials distributed at the meeting in accordance with UCA §52-4-203(4) (e) (ii). This provision shall apply only to the elected public body. (Ord. 18-003, 5-29-2018)

1-13-7: MEETING PROCEDURE AND DECORUM; GENERAL RULES:

A. The purpose is to ensure fairness and common courtesy to all members and public of the meeting. These procedures and policies are to ensure: 1) parliamentary order and procedure; 2) ethical behavior; and 3) civil discourse in an orderly and professional manner of conducting the public's business. (Ord. 11-003, 5-24-2011, amd. Ord. 18-003, 5-29-2018).

B. The public body, staff and public will turn off or turn their cellphones to vibrate during an opening meeting. The exception for this rule will be the public safety officers.

C. Any member of the public body or staff member that is expected to attend the meeting and will be absent or tardy shall inform the Mayor/Chairperson, Town Manager, or Town Clerk or designee prior to the meeting so as not to delay the start of the meeting. (Ord. 11-003, 5-24-2011, amd. Ord. 18-003, 5-29-2018).

D. The Town encourages citizen's input during public meetings. The Mayor or Chair of the public body may invite the public to share their comments at the appropriate time during public hearings, public input, or public comments for a period of not more than three (3) minutes. The Mayor or Chair of the public body may also permit citizens to speak during individual agenda items at his/her discretion when they feel that the comments will be pertinent to the topic. (Ord. 11-003, 5-24-2011, amd. Ord. 18-003, 5-29-2018).

E. Members of the public body shall not talk over one another, interrupt, or speak in a condescending manner to one another. It is expected the members shall take turns speaking, deferring to someone who intends to speak, and in general, maintaining civil rules of conduct toward one another, the staff, and public. Members of the public body and staff members are expected to dress appropriately for the meeting and office which they hold. (ord. 11-003, 5-24-2011, amd. Ord. 18-003, 5-29-2018).

F. When person(s) are addressing the public body, the person(s) should only speak on the merits of the topic immediately at hand.

G. Printed materials should be distributed to the public body prior to the meeting. If the public wishes to distribute printed materials to the public body during a meeting, they may do so, but must have additional copies for the Town Clerk for the official record.

H. No public body of the town will tolerate disorderly conduct which includes insulting language or behavior by any person, including members of the audience, the public body itself, or administration. No name calling, shouting, or booing is allowed during a meeting and shall avoid reference to personalities and refrain from questioning motives and other members and staff. The Mayor or Chair of the public body may call the person to order or excuse them from the meeting. The town reserves the right to have a public safety officer in attendance at a meeting to maintain public order. (ord. 11-003, 5-24-2011, amd. ord. 18-003, 5-29-2018).

1-13-8: ATTENDANCE / REMOVAL:

A. The public body may require the attendance of any person to give testimony or produce records, documents, or things for inspection, copying or examination necessary or useful for the governance of the Town.

B. The Town Council may issue subpoenas in its own name in the same manner as provided in the Utah rules of civil procedure. (Ord. 11-003, 5-24-2011, eff. 7-1-2011)

C. Attendance of the members of the public body is expected at all scheduled meetings. If a member is not able to attend a meeting, they will notify either the Mayor/Chair, Town Manager, Town Clerk, or designee of their absence prior to the meeting. (Ord. 18-003, 5-29-2018)

D. The Town Manager may remove a member from a public board, with the exception of the Town Council, with the advice and consent of the Town Council for cause after filing written charges against the member. (Ord. 18-003, 5/29/2018)

1-13-9: MAYOR OR CHAIR RESPONSIBILITIES:

A. The Mayor is the Chair of the Council meetings. A Chair shall be designated for all other public bodies. The Mayor or Chair, as applicable, will lead the meeting/attention to process, rules of conduct and facilitate closure, summarization of main discussion point, and request motions be formulated.

B. The Mayor or Chair, as applicable, at his/her discretion, may recognize person(s) wishing to make comments or address the public body and request them to address the public body at the podium, stating their name and address for the official record. All comments should be directed to the public body and not to others in attendance. Person(s) wishing to speak should not request recognition while someone else is speaking. (Ord. 11-003, 5-24-2011, amd. Ord. 18-003, 5-29-2018).

1-13-10: MAYOR OR CHAIR PRO TEM RESPONSIBILITIES:

A. The Mayor or Chair Pro Tem will be established by resolution or motion by a majority vote of the public body. (Ord. 11-003, 5-24-2011, amd. Ord. 18-003, 5-29-2018).

B. The Mayor or Chair Pro Tem will chair the meetings in the absence of the Mayor or Chair and will conduct in accordance with meeting procedures. (Ord. 11-003, 5-24-2011)

1-13-11: MEMBER RESPONSIBILITIES:

A. It is the duty of the voting members of a public body to consider interest of the municipality in its entirety.

B. To prepare for the meetings by reviewing the agenda, supporting materials, and asking questions in advance.

C. Communicate needs to staff and other members about personal learning style, physical or mental limitations, and other accommodations required as permitted under the Americans with disabilities act and respect the accommodation needs of other members.

D. Respect the public process and decisions.

E. The members of a public body may expel any public body members for disorderly conduct on a two-thirds ($^2/_3$) vote of the members.

F. Maintain confidential information and discussion that is shared in closed sessions per the Utah State Open Meeting Act. (Ord. 11-003, 5-24-2011, amd. Ord. 18-003, 5-29-2018).

1-13-12: QUORUM:

A. Defined: The number of members of the Town Council necessary to constitute a quorum is three (3) or more. (ord. 18-003, 5-29-2018)

B. If a position is vacant, a quorum is the majority of the remaining members of the public body.

C. Abstention does not impact a quorum.

(Ord. 11-003, 5-24-2011, amd. Ord. 18-003, 5-29-2018)

1-13-13: VOTING:

A. How A Vote is Taken: A roll-call vote shall be taken and recorded for all ordinances, resolutions and any action which would create a liability against the town and in any other case at the request of any member by an "Aye" or a "Nay" vote and shall be recorded. Every resolution or ordinance shall be in writing before the vote is taken. Each member of the public body has one vote each time a vote is held. (Ord. 11-003, 5-25-2012, amd. Ord. 18-003, 5-29,2018)

B. The requirement for a recorded vote must include the vote of each member and reason for abstention. (Ord. 11-003, 5-24-2011)

C. Minimum Vote Required: The minimum number of "Aye" votes required to pass any ordinance, resolution or to take any action by the public body, unless otherwise prescribed by law, shall be a majority of the members of the quorum, but shall never be less than three (3). (Ord. 18-003, 5-29-2018)

1. Any ordinance, resolution or motion by the Town Council having fewer favorable votes than required herein shall be deemed defeated and invalid, except a meeting may be adjourned to a specific time by a majority vote of the Town Council even though such majority vote is less than that required herein. (Ord. 18-003, 5-29-2018)

2. A majority of the members of the Town Council, regardless of number, may fill any vacancy in the Town Council (Ord. 18-003, 5-29-2018)

D. Reconsideration: Any action taken by the public body shall not be reconsidered or rescinded at any special meeting unless the number of members of the public body present at the special meeting is equal to or greater than the number of members present at the meeting when the action was approved. (Ord. 18-003, 5-29-2018)

1-13-14: ABSTENTION & RECUSING FROM VOTING:

A. A member may decide not to vote either in favor or against a motion.

B. Abstention may occur if a member has been absent and/or feels insufficient information has been received on an issue. (Ord. 11-003, 5-24-2011)

C. Abstention is not to be confused with voting against a matter.

D. Members not abstaining carry the vote, as long as the motion receives the minimum required affirmative votes. (Ord. 11-003, 5-24-2011)

E. If a If a public body member should choose to recuse themselves from an agenda item, they will need to remove themselves from their seat. (Ord. 11-003, 5-24-2011. amd Ord. 18-003, 5-29-2018)

1-13-15: CONFLICTS OF INTEREST / DISCLOSURE STATEMENTS:

A. All public body members will complete a written disclosure statement annually or when there is a change in the nature of the conflict and file it with the Town Clerk. All disclosure statements will adhere to the Utah Municipal Officers and Employees' Ethics Act UCA §10-3-1301.

B. All disclosure statements are public information and may be inspected by the public during normal business hours.

C. A conflict of interest must be made orally in an open meeting to the members of the public body and public before the discussion about the topic involved in the conflict of interest as per the Municipal Officers and Employees Ethics Act. UCA §10-3-1301 (Ord. 11-003, 5-24-2011 amd. Ord. 18-003, 5-29-2018)

1-13-16: MOTIONS:

A. The Mayor or Chair may recommend language to the council for a motion.

B. Motions should begin with "I move to".

C. Before a motion can be discussed it must be seconded.

D. Agenda items identified as discussion items only may not require a motion.

E. Amending a motion requires recognition by the Mayor or Chair; the member must state the change clearly and specifically and requires a second. It is debatable at this point before a majority vote to pass.

F. The motion must be made at the appropriate time in the order of business.

G. Agenda items needing more attention/investigation and/or discussion may be referred to a committee, staff for further review. A motion should be made which identifies specifics of the committee or staff on when and how they are to report on the matter.

H. A motion to recess the meeting for a break must be made and should state for how long or a time to reconvene the meeting. This motion requires a second and is not debatable.

I. If a public body member requests to withdraw a motion, the Mayor or Chair will ask for any objections to the motion being withdrawn; if no objection, the motion is immediately withdrawn. If there is an objection, the request to withdraw becomes a motion, which must be seconded and is not debatable and requires a simple majority to pass. (Ord. 11-003, 5-24-2011)

Title 1 – Administration

Chapter 14

TRAILS COMMITTEE

1-14-1: TRAILS COMMITTEE ESTABLISHED
1-14-2: MEMBERSHIP
1-14-3: TERMS OF SERVICE, REMOVAL AND VACANCIES
1-14-4: OFFICERS AND THEIR DUTIES
1-14-5: PUPOSE AND DUTIES OF THE COMMITTEE
1-14-6: MEETINGS AND PROCEDURES

1-14-1: TRAILS COMMITTEE ESTABLISHED

The Trails Master Plan Committee created by ordinance 09-015 is hereby amended and renamed the “Trails Committee”. (Ord. 09-015, 10-13-2009 amd. Ord. 14-003, 5-13-2014)

1-14-2: MEMBERSHIP

The Trails Master Plan Committee shall consist of six (6) members. Members shall consist of one (1) Town Council member, one (1) Planning Commission member, Cedar Breaks National Monument representative, Dixie national forest representative, Brian Head Resort representative and one town staff member. The Town shall appoint a Secretary which shall not be a voting member of the committee. (Ord. 09-015, 10-13-2009 amd. Ord. 14-003, 5-13-2014)

1-14-3: TERMS OF SERVICE, REMOVAL AND VACANCIES

A. Members of the Trails Committee shall be appointed by the Town Manager with the advice and consent of the Town Council. They shall serve for a term of four years. The initial terms of the Council member representative, Town staff representative, and National Forest representative shall be set at two years. The initial term of the Planning Commission representative, National Monument representative and Resort Representative shall be four years. All initial terms shall begin retroactively on January 1, 2014. Thereafter, all appointees shall serve a four-year term. (Ord. 09-015, 10-13-2009 amd. Ord. 14-003, 5-13-2014)

B. Vacancies in the Committee occasioned by removals, resignations, or otherwise shall be filled for the unexpired term in the same manner as the original appointments. The Town

Manager will serve as an Ex-officio member, and other ex-officio members may be added as the committee deems necessary. They shall serve by the invitation of the secretary and shall have no vote. (Ord. 09-015, 10-13-2009 amd. Ord. 14-003, 5-13-2014)

1-14-4: OFFICERS AND THEIR DUTIES

At its first meeting, and annually at the first meeting of a new year, the Committee shall elect a Chairman, Vice-Chairman and any additional officers as necessary. The Chairman shall preside at the meetings, appoint sub-committees with the concurrence of the Committee, and generally perform the duties of a presiding officer. The Chairman shall have the right to vote. The Vice-Chairman or a Board member designated by the Chairman shall preside when the Chairman is absent. The agenda for meetings shall be prepared by the secretary. (Ord. 09-015, 10-13-2009 amd. Ord. 14-003, 5-13-2014)

1-14-5: PURPOSE AND DUTIES OF THE COMMITTEE

The purpose and duties of the committee are as follows:

A. Prepare a trails master plan for the town with associated maps, sign design standards, and associated information relevant to a trails master plan (Ord. 09-015, 10-13-2009 amd. Ord. 14-003, 5-13-2014)

B. Recommend projects and ordinances necessary for the implementation of the Trails Master Plan, along with associated budget proposals. (Ord. 14-003, 5-13-2014)

C. Make recommendations regarding the obtaining of easement or licenses for usage of trails identified in the Master Plan. (Ord. 14-003, 5-13-2014)

D. Review and revise the Trails Master Plan as deemed necessary. (Ord. 14-003, 5-13-2014)

E. Address other trails related issues and projects and make recommendations as assigned by the Town Council or Town Manager. (Ord. 14-003, 5-13-2014)

1-14-6: MEETINGS AND PROCEDURES

The Committee may adopt rules and regulations not inconsistent with the law applicable to public bodies for governing of its meeting. The committee shall abide by the Utah Open Public Meeting laws as outline in U.C.A. 52-4-2 and the Brian Head Public Body Meeting Policy and Procedures. Meetings may be called at the request of the Chair or Town Manager. A quorum for the transaction of business shall be a simple majority of the Committee Members. When vacancies occur, a simple majority of the remaining Committee members shall constitute a quorum. Minutes shall be kept at all meetings. Closed meetings may only be held for purposes authorized by U.C.A. 52-4-2-205, as amended. (Ord. 09-015, 10-13-2009 amd. Ord. 14-003, 5-13-2014)

Title 1 – Administration

Chapter 15

BUSINESS TECHNICAL ADVISORY COMMITTEE

1-15-1: ESTABLISHMENT OF THE BUSINESS TECHNICAL ADVISORY COMMITTEE
1-15-2: TERM OF SERVICE, REMOVAL AND VACANCIES
1-15-3: OFFICERS AND THEIR DUTIES
1-15-4: PURPOSE AND DUTIES OF THE COMMITTEE
1-15-5: MEETINGS AND PROCEDURES

1-15-1: ESTABLISHMENT OF THE BUSINESS TECHNICAL ADVISORY COMMITTEE

The Business Technical Advisory Committee (BTAC) is hereby established and shall consist of six members to include a representative of the following: Lodging, resort, restaurant, retail, service, and citizens.

The Town Manager shall serve as secretary which shall not be a voting member of the Committee. The members shall serve without any additional compensation from the Town for this position.

1-15-2: TERM OF SERVICE, REMOVAL AND VACANCIES

Members of the Business Technical Advisory Committee shall be appointed by the Town Manager with the advice and consent of the Town Council. They shall serve for a term of four years. All initial terms shall begin retroactively on January 1, 2015. Thereafter, all appointees shall serve a four-year term.

Vacancies in the Committee occasioned by removals, resignations, or otherwise shall be filled for the unexpired term in the same manner as the original appointments.

Other ex-officio members may be added as the committee deems necessary. They shall serve by the invitation of the Town Manager and shall have no vote.

1-15-3: OFFICERS AND THEIR DUTIES

At its first meeting, and annually at the first meeting of a new year, the Committee shall elect a Chairman, Vice-Chairman and any additional officers as necessary. The Chairman shall preside at the meetings, appoint sub-committees with the concurrence of the Committee, and generally perform the duties of a presiding officer. The Chairman shall have the right to vote. The Vice-Chairman or a Board member designated by the Chairman shall preside when the Chairman is absent. The agenda for meetings shall be prepared by the secretary.

1-15-4: PURPOSE AND DUTIES OF THE COMMITTEE

The purpose and duties of the Committee are as follows:

A. Complete preparation of the Brian Head Economic Development Plan.

B. Assist in studying economically related issues.

C. Make recommendations to the Town Council.

D. Review and revise the Economic Development Plan as necessary.

E. Address economic development-related issues and projects and make recommendations as assigned by the Town Council or Town Manager.

1-15-5: MEETINGS AND PROCEDURES

The Committee may adopt rules and regulations not inconsistent with the law applicable to public bodies for governing of its meeting. The committee shall abide by the Utah Open Public Meeting laws as outline in U.C.A. and the Brian Head Public Body Meeting Policy and Procedures. Meetings may be called at the request of the Chair or Town Manager. A quorum for the transaction of business shall be a simple majority of the Committee Members. When vacancies occur, a simple majority of the remaining Committee members shall constitute a quorum. Minutes shall be kept at all meetings.

Title 1 – Administration

Chapter 16

Brian Head Town Tree Commission

1-16-1: PURPOSE
1-16-2: COMMISSION ESTABLISHED
1-16-3: TERM OF OFFICE
1-16-4: ORGANIZATION SECTION
1-16-5: GIFTS AND BEQUESTS SECTION
1-16-6: AUTHORITY OF COMMISSION
1-16-7: TOWN MANAGER
1-16-8: PLANTING REGULATIONS
1-16-9: REMOVAL OF TREES BY COMMISSION
1-16-10: FIRE MITIGATION
1-16-11: REVIEW BY TOWN COUNCIL

1-16-1: PURPOSE:

Brian Head Town prides itself on its natural landscape and recognizes the importance of trees within the community. Besides adding to the beauty of the community trees stabilize surface drainage, help with soil erosions, and mitigate siltation of streams. Trees can also reduce air and sound pollution, regulate solar radiation, and help with wind control.

1-16-2: COMMISSION ESTABLISHED:

There is hereby created a Brian Head Town Tree Commission consisting of up to eight members. One designated Public Works employee, one Public Safety Officer or a Representative from the Public Safety Department, and one Town Council Member shall be members of the Brian Head Town Tree Commission. The remaining members shall be appointed by the Town Manager with the advice and consent of the Town Council and consultation with the Brian Head Town Tree Commission. (2010 Code, amd. Ord. 18-012, 10-8-2018).

1-16-3: TERM OF OFFICE:

The eight appointed members of the Brian Head Town Tree Commission shall serve for a term of four years and until their successors are appointed; provided that the members first appointed

shall be appointed for such terms that the term of one member shall expire annually thereafter. The term of office of each appointed member shall commence on the first day of January in the year in which such member is appointed. The term of office of the other members of the Brian Head Town Tree Commission shall correspond to their tenure as Public Works employee, Public Safety Officer, or Councilman respectively. The Town Manager, with the advice and consent of the Town Council, may remove any member of the Brian Head Town Tree Commission for cause and after a public hearing, if such hearing is requested. Vacancies shall be filled in the same manner as the original appointment for the unexpired term. (2010 Code, amd. Ord. 18-012, 10-8-2018)

1-16-4: ORGANIZATION:

In January of each year, the Brian Head Town Tree Commission shall designate one member of the Brian Head Town Tree Commission as Chairman for the ensuing year. A member of the Commission may, at the pleasure of the Commission, serve as Chairman in successive years. Following the appointment of the Chairman by the Commission, the Brian Head Town Tree Commission may select from their own members such other officers and adopt such rules and regulations for their own proceedings as they may deem expedient. Meetings of the Commission shall comply with the Utah open meeting laws and shall be held at the call of the Chairman along with meetings held in April, June, and August of each year and at such other times as the Commission may determine. The Commission shall keep minutes of its proceedings and its official actions which shall be immediately filed in the office of the Town Clerk and shall be a public record. (2010 Code, amd. Ord. 18-012, 10-8-2018)

1-16-5: GIFTS AND BEQUESTS:

The Brian Head Town Tree Commission shall, on behalf of the Town and with the consent of the Town Council, have authority to receive gifts or bequests from any person or organization for the building, improvement or maintenance of a civic arboretum, for tree planting, or tree planting maintenance on any street or public property. All such gifts shall be received by the Town Treasurer and paid over to a special fund for such purposes. Said funds shall not be used for any other purpose.

1-16-6: AUTHORITY OF COMMISSION:

The Town, through its Brian Head Tree Commission, shall exercise full control over and regulate the planting, maintenance, and care of shade or ornamental trees and shrubbery now growing or which may hereafter be planted on any street (right-of-way) or on any public property within the Town. It shall be the duty of the Brian Head Town Tree Commission to make recommendations to the Town Council relating to the planting, pruning, spraying, removing, and irrigating of trees and shrubs on public streets and places; to make recommendations to the Town Council relating to the regulation and control of the grounds surrounding trees,

shrubs, and plants on public streets and places insofar as the same may be necessary for the proper growth, care, and protection of the same; to recommend to the Town Council the removal of any trees or parts thereof growing on public or private land as outlined in this Ordinance which have become a nuisance or may be dangerous to the public safety; and to recommend to the Town Council the marking, maintenance and preservation of historic or notable trees.

1-16-7: TOWN MANAGER:

The Town Manager will administer the provisions of this Tree Commission Ordinance and such policies, recommendations, rules, and regulations of the Brian Head Tree Commission as approved by the Town Council.

A. Until otherwise provided, the Town Manager shall have the following duties and authority (or may delegate said duties as deemed necessary):

1. He shall have supervision of all trees and plants planted or growing in public streets or places within the Town.
2. He shall supervise planting, trimming, spraying, preserving, and removing trees and other plants in public streets which front on property owned by the Town and in Town parks to promote safety and preserve the beauty of such public places.
3. He shall care for all trees in the Town which have been designated by the Town Council or Brian Head Town Tree Commission as historic or notable trees.

B. All owners and occupants of each parcel of real property within the Town shall be responsible for the care of trees located in public streets which front on that parcel of real property. All pruning of such trees must be done pursuant to proper maintenance and in no event will pruning be allowed which will be detrimental to the healthy growth of said trees.

1-16-8: PLANTING REGULATIONS:

The Brian Head Town Tree Commission shall coordinate with overhead utility companies and prepare a list designating the species of trees and shrubs which may be planted under overhead Town utility lines and on public streets within the Town; and, upon approval of such list by the Town Council, no trees or shrubs, other than the kind designated, shall be planted under any overhead Town utility lines and on any public street or public place without the consent of the Brian Head Town Tree Commission. The Brian Head Town Tree Commission shall also prepare and submit to the Town Council rules and regulations establishing standards for the planting of trees and shrubs under overhead utility lines and upon the public streets and on public property, and, after approval of said rules and regulations by the Town Council, no trees or shrubs shall be planted other than in accordance with the standards so established, unless the written consent of the Brian Head Town Tree Commission is obtained. The utility companies will construct, own, operate, and maintain existing overhead utility lines only along public streets, roads, and other rights-of-ways which the Town has the legal right

to occupy, and cross other public and private property across which the utility company has a utility easement. In no event shall any tree be planted over the underground utility easements.

1-16-9: REMOVAL OF TREES BY COMMISSION:

The Town, through its Brian Head Town Tree Commission, shall condemn and remove, or order the removal of any tree, tree stump, shrub, or plant upon any of the public streets or on public property within this Town where the same is dead, diseased or for any reason whatsoever is deemed undesirable by the Brian Head Town Tree Commission. The Town, through its Brian Head Town Tree Commission, shall have authority to condemn and remove, or order to be removed any tree, tree limbs, tree stump, shrub, or plant upon private property which encroaches and inhibits over a public way or, when the Brian Head Town Tree Commission shall find such action necessary to the public safety or to prevent the spread of disease or insects to public trees and places. However, the affected private property owner shall have after reasonable notice and after thirty (30) days thereof an opportunity to remedy any condition deemed undesirable by the Brian Head Tree Commission. The Brian Head Town Tree Commission shall have authority, with reasonable notice to the abutting property owner, to remove or order the removal of any tree, shrub, or plant which has been planted upon any public street or on any public property in violation of this Ordinance, or any other Ordinance pertaining to the trees in Brian Head. Utility companies that have overhead utility lines within the Town's limits have the authority to maintain and trim trees located in their utility lines.

1-16-10: FIRE MITIGATION:

Since Brian Head Town is a mountain resort and most trees are naturally grown in the Town, the Town will conduct a fire mitigation process each year, as needed. Said fire mitigation duties will be conducted by the Town's volunteer fire department, under the direction of the Public Safety Director. The Public Safety Director shall work closely with all entities (i.e., Utah Department of Transportation, Bureau of Land Management, and Forest Service) involved with tree removals, etc. as it pertains to them. All funds for the fire mitigation projects will be budgeted under the General Fund – Fire Department. Grants may also be obtained to help with fire mitigation projects.

1-16-11: REVIEW BY TOWN COUNCIL:

The Town Council shall have the right to review the acts and decisions of the Brian Head Town Tree Commission and the Town Manager. Any person may appeal any ruling or order from the Brian Head Town Tree Commission or the Town Manager to the Town Council and the Town Council shall hear the matter and make a final decision.

Title 2 – Finance & Taxation

Chapter 1

BUDGET AND ACCOUNTING

2-1-1: PROCEDURES:
2-1-2: DUTIES OF TOWN OFFICERS:

2-1-1: PROCEDURES:

The budget and accounting procedures of the Town shall be those required by the state uniform fiscal procedures act, Utah Code Annotated section 10-5-101 et seq., as the same may be amended from time to time. All of the hearings, notices and other requirements set forth in that act shall be complied by the town. (1984 Code § 8-5-1; amd. 2010 Code)

2-1-2: DUTIES OF TOWN OFFICERS:

The Town Treasurer shall, in his function as auditor, be the primary budget officer of the town and shall be responsible for preparing the proposed budget under the direction of the Town Manager. The proposed budget shall be submitted to the Town Council for consideration and adoption as outlined and specified by state law and shall be adopted by the Town Council only after having met hearing and other requirements imposed by state law. It shall be the duty of the Town Manager to see that the town budgetary and accounting procedures are in conformity with state law. (1984 Code § 8-5-2; amd. 2010 Code)

Title 2 – Finance & Taxation

Chapter 2

SALES AND PURCHASES OF TOWN PROPERTY

2-2-1: PURPOSE:
2-2-2: DISPOSAL OF TOWN OWNED REAL PROPERTY:

2-2-1: PURPOSE:

In order to be in compliance with Utah Code section 10-8-2, which requires municipalities to provide reasonable notice before disposing of a significant parcel of real property, the Town Council of Brian Head, Utah, hereby defines "significant parcel of property" and "reasonable notice". (Ord. 12-005, 6-29-2012)

2-2-2: DISPOSAL OF TOWN OWNED REAL PROPERTY:

The Town Council may declare any town owned significant parcel of real property (as defined) below to be surplus. The Town Manager may declare any town owned non-significant parcel of real property (as defined below) to be surplus if it is found that the parcel is no longer needed by the Town. After town owned real property is declared to be surplus, the Town may dispose of real property pursuant to the following guidelines:

A. Definitions: For the purpose of this section, the designated words shall have the following meanings:

NONSIGNIFICANT PARCEL OF REAL PROPERTY: Any parcel of real property that is not included in the definition of "significant parcel of real property".

REASONABLE NOTICE: A brief summary of the proposed disposition including: 1) a general description of the parcel (including the approximate address of the parcel, the approximate size of the parcel, the zone designation of the parcel, and the current use of the parcel); and 2) the date, time and location where the public can comment on the proposed disposition. The notice shall be published at least once in a newspaper of general circulation within Iron County and posted in at least three (3) locations within the town boundaries.

SIGNIFICANT PARCEL OF REAL PROPERTY: A parcel of real property that is larger than five (5) acres in size. The following parcels of real property are excluded from this definition, even if they meet the size standards set forth herein:

1. Parcels disposed of by the Town as part of a boundary line agreement or adjustment.

2. Parcels created by a right of way vacation or an easement vacation.

3. Parcels that are undevelopable unless combined with an adjacent parcel. A parcel will be considered to be undevelopable if it cannot be developed as an independent parcel due to the town ordinance requirements and due to the physical characteristics of the parcel.

4. Parcels acquired by eminent domain or other means if the Town is statutorily or contractually obligated to first offer the parcel to a specific party, provided that the parcel is offered, sold or conveyed to the party holding the right to acquire the parcel.

B. Disposal Of Significant Parcel Of Real Property: Before disposing of a significant parcel of real property, the town shall:

1. Notice: Provide reasonable notice of the proposed disposition at least fourteen (14) days before the opportunity for public comment; and

2. Public Comment: Allow an opportunity for public comment on the proposed disposition. The opportunity for public comment shall take place at the Brian Head Town Council meeting.

C. Manner Of Disposal: The Town may dispose of real property by sale, trade, lease, sublease, or other means deemed to be in the best interest of the town by the Town Council for significant parcels of real property. (Ord. 12-005, 6-29-2012)

1) Trading Surplus Property

a) The Town Manager will maintain a prioritized list of properties designated by the Town Council as properties the Town has interest in obtaining through trade

b) Prior to listing any surplus properties for sale, the Town Manager will attempt to negotiate a trade for one or more of the properties on the prioritized trade list

c) The Town may trade any parcel or parcels from the surplus list for any parcel or parcels from the trade list if it is deemed in the best interest of the Town by the Town Council, regardless of the appraised value of any of the parcels involved in the trade.

2) Selling Surplus Property

a) Listing the Parcel

i) The Town Manger may list for sale any parcel designated as surplus for which an advantageous trade cannot be identified

ii) An appraisal will be obtained for any surplus property prior to being listed for sale

iii) The Town Manager may set the list price within 10% of the appraised value

iv) Town Council approval is required for any listing price which varies in excess of 10% of the appraised value

b) Professional real estate services

i) The Town Manager may contract with a real estate professional for services related to the disposal of surplus real property

ii) If the Town Manager chooses to contract for services, the Town Manager will follow the Town's purchasing policies related to contracting for professional services

iii) Commission for professional real estate services shall not exceed 6% of the sale price of the property without Town Council approval

c) Final purchase price approval

i) The Town Manager is authorized to (but not required to) accept an offer on the Town's behalf if the offer is within 10% of the appraised value

ii) Acceptance of any offer not within 10% of the appraised value requires Council approval

iii) All sales of significant property require Town Council approval. (amd Ord. 14-006, 7-22-2014)

Title 2 – Finance & Taxation

Chapter 3

PROPERTY TAXES

2-3-1: TOWN COUNCIL TO LEVY TAXES:
2-3-2: BASIS FOR DETERMINING TAX:
2-3-3: COLLECTION OF TAXES:
2-3-4: APPORTIONMENT OF PROCEEDS:
2-3-5: CERTIFICATION OF LEVY:

2-3-1: TOWN COUNCIL TO LEVY TAXES:

Prior to and not later than June 22 of each year, the Town Council, at a regularly scheduled meeting, shall by resolution set the property tax mill levy for real and personal property within the town that has been made taxable for various municipal purposes at the assessed, rather than actual, valuation of the property. (1984 Code § 18-1-1; amd. 2010 Code)

2-3-2: BASIS FOR DETERMINING TAX:

From the effective date of the budget or of any amendment relating to the budget adopted prior budget to the date on which property taxes are levied, the amount stated therein as the amount of estimated revenue from property taxes shall constitute the basis for a determination of the amount of the property tax levy to be imposed by the Town during the corresponding tax year, subject to the limitations on the amount of the tax which are imposed by state law. In the computation of the total levy, the Town Council shall determine the requirements for each fund for which property taxes are to be levied and shall specify in its resolution which adopted the yearly levy, the number of mills apportioned to each said fund with the total mill levy not to exceed thirty-five (35) mills in any one year. (1984 Code § 18-1-2)

2-3-3: COLLECTION OF TAXES:

The Town Treasurer shall be responsible for collecting all taxes that are due and payable to the Town pursuant to this chapter. (1984 Code § 18-1-3)

2-3-4: APPORTIONMENT OF PROCEEDS:

The proceeds of said levy apportioned for general fund purposes shall be received as revenue in the general fund. The proceeds of the levy apportioned for utility and other special fund purposes shall be credited to the appropriate accounts in the utility or other special funds. (1984 Code § 18-1-4)

2-3-5: CERTIFICATION OF LEVY:

The Town Treasurer shall certify the resolution adopting the yearly mill levy and deliver the same to the office of the County Auditor not later than June 22 of each year. (1984 Code § 18-1-5; amd. 2010 Code)

Title 2 – Finance & Taxation

Chapter 4

SALES AND USE TAX

2-4-1: TITLE:
2-4-2: PURPOSE:
2-4-3: EFFECTIVE DATE:
2-4-4: TAX IMPOSED:
2-4-5: PENALTY:

2-4-1: TITLE:

This chapter shall be known as the *SALES AND USE TAX ORDINANCE OF BRIAN HEAD TOWN*. (Ord. 90-002, 2-13-1990)

2-4-2: PURPOSE:

A. Authorization Of Tax: The forty eighth session of the Utah legislature authorized the counties and municipalities of the state to enact sales and use tax ordinance imposing a one percent (1%) tax.

B. Tax Established: It is the purpose of this chapter to conform the sales and use tax of the Town to conform to the requirements of the sales and use tax act, Utah Code Annotated title 59, chapter 12, as currently amended. (Ord. 90-002, 2-13-1990)

2-4-3: EFFECTIVE DATE:

This chapter shall become effective as of one minute after twelve o'clock (12:01) A.M., February 13, 1990. (Ord. 90-002, 2-13-1990)

2-4-4: TAX IMPOSED:

A. Imposed:

1. From and after the effective date hereof, there is levied and there shall be collected and paid a tax upon every retail sale of tangible personal property, services and meals made within the town at the rate of one percent (1%).

2. An excise tax is hereby imposed on the storage, use or other consumption in the town of tangible personal property from any retailer on or after the operative date hereof at the rate of one percent (1%) of the sales price of the property.

3. For the purposes of this chapter, all retail sales shall be presumed to have been consummated at the place of business delivered by the retailer or his agent to an out of state destination or to a common carrier for delivery to an out of state designation. In the event a retailer has no permanent place of business, the place or places at which the retail sales are consummated shall be as determined under the rules and regulations prescribed and adopted by the state tax commission. "Public utilities", as defined by Utah Code Annotated title 54, shall not be obligated to determine the place or places within any county or municipality where public utilities are rendered, but the place of sale or the sales tax revenue arising from such service allocable to the Town shall be as determined by the State Tax Commission pursuant to an appropriate formula and other rules and regulations to be prescribed and adopted by it. (Ord. 90-002, 2-13-1990; amd. 2010 Code)

B. Adoption of Sate Codes; Provisions:

1. Except as hereinafter provided, and except insofar as they are inconsistent with the provision of the sales and use tax act, all of the provision of the Utah Code Annotated title 59, chapter 12, as amended, insofar as they relate to sales taxes, excepting section 59-12-104 thereof, are hereby adopted and made part of this chapter as though fully set forth herein. (Ord. 90-002, 2-13-1990; amd. 2010 Code)

2. Wherever, and to the extent that in Utah Code Annotated title 59, chapter 12, the state of Utah is named or referred to as the taxing agency, the name of this Town shall be substituted therefore. Nothing in this subsection shall be deemed to require substitution of the name of the town for the word "state" when the word is used as part of the title of the state tax commission, or of the constitution of the state of Utah, nor shall the name of the town be substituted for that of the state in any section when the result of that substitution would require action to be taken by or against the state tax commission in performing the functions incident to the administration or operation of this chapter.

3. If an annual license has been issued to a retailer under Utah Code Annotated section 59-12-106, an additional license shall not be required by reason of this section.

4. There shall be excluded from the purchase price paid or charged by which the tax is measured:

a. The amount of any sales or use tax imposed by the state upon a retailer or consumer.

b. The gross receipts from the sale of or the cost of storage, use or other consumption of tangible personal property upon which a sales or use tax has become due by reason of the sales transaction to any other municipality and any county in the state under the sales or use tax ordinance enacted by that county or municipality in accordance with the sales and use tax act. (Ord. 90-002, 2-13-1990)

2-4-5: PENALTY:

Any person violating any of the provisions of this chapter shall be deemed guilty of a class B misdemeanor and, upon conviction thereof, shall be subject to penalty as provided in section 1-4-1 of this code. (Ord. 90-002, 2-13-1990; amd. 2010 Code)

Title 2 – Finance & Taxation

Chapter 5

MUNICIPAL ENERGY SALES AND USE TAX

2-5-1: DEFINITIONS:
2-5-2: TAX IMPOSED:
2-5-3: EXEMPTIONS TO TAX:
2-5-4: EXISTING FRANCHISE AGREEMENTS:
2-5-5: CONTRACT WITH STATE TAX COMMISSION:
2-5-6: STATE STATUTES INCORPORATED:
2-5-7: ADDITIONAL LICENSE OR REPORTING NOT REQUIRED:
2-5-8: EFFECTIVE DATE OF LEVY:

2-5-1: DEFINITIONS:

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

CONSUMER: A person who acquires taxable energy for any use that is subject to the Brian Head Town municipal energy sales and use tax.

CONTRACTUAL FRANCHISE FEE:

A. A fee:

1. Provided for in a franchise agreement; and

2. That is consideration for the franchise agreement; or

B.

1. A fee similar to subsection A of this definition; or

2. Any combination of subsections A or B of this definition.

DELIVERED VALUE:

A. The fair market value of the taxable energy delivered for sale or use in Brian Head Town and includes:

1. The value of the energy itself; and

2. Any transportation, freight, customer demand charges, service charges or other costs typically incurred in providing taxable energy in usable form to each class of customer in the town.

B. "Delivered value" does not include the amount of a tax paid under Utah Code Annotated title 59, chapter 12, part 1 or part 2, or this chapter.

ENERGY SUPPLIER: A person supplying taxable energy, except for persons supplying a de minimis amount of taxable energy, if such persons are excluded by rule promulgated by the state tax commission.

FRANCHISE AGREEMENT: A franchise or an ordinance, contract or agreement granting a franchise.

FRANCHISE TAX:

A. A franchise tax.

B. A tax similar to a franchise tax; or

C. Any combinations of subsection A or B of this definition.

PERSON: Includes any individual, firm, partnership, joint venture, association, corporation, estate, trust, business trust, receiver, syndicate, this state, any county, town, municipality, district, or other local governmental entity of the state of Utah, or any group or combination acting as a unit.

SALE: Any transfer of title, exchange, or barter, conditional or otherwise, in any manner, of taxable energy for a consideration. It includes:

A. Installment and credit sales;

B. Any closed transaction constituting a sale;

C. Any transaction under which right to acquire, use or consume taxable energy is granted under a lease or contract and the transfer would be taxable if an outright sale were made.

STORAGE: Any keeping or retention of taxable energy in Brian Head Town for any purpose, except sale in the regular course of business.

TAXABLE ENERGY: Gas and electricity.

USE:

A. The exercise of any right or power over taxable energy incident to the ownership or the leasing of the taxable energy.

B. "Use" does not include the sale, display, demonstration or trial of the taxable energy in the regular course of business and held for resale. (Ord. 00-001, 2-22-2000; amd. 2010 Code)

2-5-2: TAX IMPOSED:

There is hereby levied, subject to the provisions of this chapter, a tax on every sale or use of taxable energy made within the town equaling six percent (6%) of the delivered value of the taxable energy. This tax shall be known as the municipal energy sales and use tax.

A. Calculation: The tax shall be calculated on the delivered value of the taxable energy to the consumer.

B. Additional Tax: The tax shall be in addition to any sales or use tax on taxable energy imposed by the town as authorized by Utah Code Annotated title 59, chapter 12, part 2, the local sales and use tax act. (Ord. 00-001, 2-22-2000)

2-5-3: EXEMPTIONS TO TAX:

A. No exemptions are granted from the municipal energy sales and use tax, except as expressly provided in Utah Code Annotated section 10-1-305(2)(b); notwithstanding an exemption granted under Utah Code Annotated section 59-12-104.

B. The following are exempt from the municipal energy sales and use tax, pursuant to Utah Code Annotated section 10-1-305(2)(b):

1. Sales and use of aviation fuel, motor fuel and special fuels subject to taxation under Utah Code Annotated title 59, chapter 13;

2. Sales and use of taxable energy that is exempt from taxation under federal law, the United States constitution or the Utah constitution;

3. Sales and use of taxable energy purchased or stored for resale;

4. Sales or use of taxable energy to a person, if the primary use of the taxable energy is for use in compounding or producing taxable energy or a fuel subject to taxation under Utah Code Annotated title 59, chapter 13;

5. Taxable energy brought into the state by a nonresident for the nonresident's own personal use or enjoyment while within the state, except taxable energy purchased for use in the state by a nonresident living or working in the state at the time of purchase;

6. The sale or use of taxable energy for any purpose other than as a fuel or energy; and

7. The sale of taxable energy for use outside the boundaries of the town.

C. The sale, storage, use or other consumption of taxable energy is exempt from the municipal energy sales and use tax levied by this chapter, provided:

1. The delivered value of the taxable energy has been subject to a municipal energy sales or use tax levied by another municipality within the state authorized by Utah Code Annotated title 10, chapter 1, part 3; and

2. The town is paid the difference between the tax paid to the other municipality and the tax that would otherwise be due under this chapter, if the tax due under this chapter exceeds the tax paid to the other municipality. (Ord. 00-001, 2-22-2000)

2-5-4: EXISTING FRANCHISE AGREEMENTS:

A. No Alteration: This chapter shall not alter any existing franchise agreements between the town and energy suppliers.

B. Credit Against Tax Due: There is a credit against the tax due from any consumer in the amount of a contractual franchise fee paid if:

1. The energy supplier pays the contractual franchise fee to the town pursuant to a franchise agreement in effect on February 22, 2000;

2. The contractual franchise fee is passed through by the energy supplier to a consumer as a separately itemized charge; and

3. The energy supplier has accepted the franchise. (Ord. 00-001, 2-22-2000)

2-5-5: CONTRACT WITH STATE TAX COMMISSION:

A. Required; Authority: On or before the effective date hereof, the Town shall contract with the State Tax Commission to perform all functions incident to the administration and collection of the municipal energy sales and use tax, in accordance with this chapter. The Mayor is hereby authorized to enter into agreements with the State Tax Commission that may be necessary to the continued administration and operation of the municipal energy sales and use tax ordinance enacted by this chapter.

B. Monthly Payments By Supplier; Conditions: Any energy supplier shall pay the municipal energy sales and use tax revenues collected from consumers directly to the town monthly if:

1. The town is the energy supplier; or

2.
   a. The energy supplier estimates that the municipal energy sales and use tax collected annually from its Utah consumers equals one million dollars ($1,000,000.00) or more; and

   b. The energy supplier collects the municipal energy sales and use tax.

C. Deduction Of Franchise Fees: An energy supplier paying the municipal energy sales and use tax directly to the town may deduct any contractual franchise fees collected by the

energy supplier qualifying as a credit and remit the net tax less any amount the energy supplier retains as authorized by Utah Code Annotated section 10-1-307(4). (Ord. 00-001, 2-22-2000)

2-5-6: STATE STATUTES INCORPORATED:

A. Specified; Exemptions: Except as herein provided, and except insofar as they are inconsistent with the provisions of Utah Code Annotated title 10, chapter 1, part 3, municipal energy sales and use tax act, as well as this chapter, all of the provisions of Utah Code Annotated title 59, chapter 12, part 1, as amended, and in force and effect on the effective date hereof, insofar as they relate to sales and use taxes, excepting section 59-12-101 thereof, and excepting for the amount of the sales and use taxes levied therein, are hereby adopted and made a part of this chapter as if fully set forth herein.

B. Substitution Of Terms: Wherever, and to the extent that in Utah Code Annotated title 59, chapter 12, part 1 as amended, the state is named or referred to as the “taxing agency”, the name of the Town shall be substituted, insofar as is necessary for the purposes of that part, as well as Utah Code Annotated title 10, chapter 1, part 3, as amended. Nothing in this subsection shall be deemed to require substitution of the name of the Town for the word "state" when that word is used as part of the title of the state tax commission, or of the constitution of Utah, nor shall the name of the town be substituted for that of the state in any section when the result of such a substitution would require action to be taken by or against the Town or any agency thereof, rather than by or against the state tax commission in performing the functions incident to the administration or operation of this chapter.

C. Amendments: Any amendments made to Utah Code Annotated title 59, chapter 12, part 1, as amended, which would be applicable to the town for the purpose of carrying out this chapter are hereby incorporated herein by reference and shall be effective upon the date that they are effective as a Utah statute. (Ord. 00-001, 2-22-2000)

2-5-7: ADDITIONAL LICENSE OR REPORTING NOT REQUIRED:

No additional license to collect or report the municipal energy sales and use tax levied by this chapter is required, provided the energy supplier collecting the tax has a license issued under Utah Code Annotated section 59-12-106. (Ord. 00-001, 2-22-2000)

2-5-8: EFFECTIVE DATE OF LEVY:

This chapter is effective February 22, 2000. The municipal energy sales and use tax shall be levied beginning one minute after twelve o'clock (12:01) A.M., April 1, 2000. (Ord. 00-001, 2-22-2000)

Title 2 – Finance & Taxation

Chapter 6

RESORT TAX

2-6-1: DEFINITIONS:
2-6-2: APPLICATION OF TAX:
2-6-3: TAX IMPOSED:
2-6-4: PLACE OF SALE:
2-6-5: COLLECTION AND PAYMENT OF TAX:
2-6-6: STATE STATUTES APPLICABLE:
2-6-7: EXEMPTIONS:
2-6-8: SEVERABILITY:
2-6-9: PENALTY:

2-6-1: DEFINITIONS:

For purposes of this chapter, all terms used herein shall have the same meaning and definition as applied to those terms by the provisions of Utah Code Annotated title 59, chapter 12, and the State Tax Commission regulations adopted under those sections, unless superseded by the definitions provided below:

PURCHASE PRICE: The purchase price for a retail sale of tangible personal property subject to the tax shall be the gross selling price, exclusive of the state general sales tax imposed by the state of Utah by Utah Code Annotated title 59, chapter 12, and exclusive of the local option sales tax imposed by the Town under the Uniform Local Sales and Use tax law, Utah Code Annotated title 59, chapter 12, and the local ordinance adopting the tax, so that each of these sales taxes is imposed independently of the retail sales price, and does not result in the application of this tax on the amount of other sales taxes on the same sale.

WHOLESALE SALES: A sale of tangible personal property by any person to a retailer, merchant, jobber, dealer or commission agent, or another wholesaler, for the purpose of resale within a retail business. (1984 Code § 18-3-1; amd. 2010 Code)

2-6-2: APPLICATION OF TAX:

There is hereby imposed an optional general sales tax in the town since transient room capacity equals or exceeds the permanent census population in the town. (1984 Code § 18-3-2)

2-6-3: TAX IMPOSED:

There is hereby imposed a tax upon every retail sale within the town of tangible personal property, services, meals, lodging, admissions to places of recreation, entertainment or amusements, utility service, and ad sections 59-12-102 and 59-12-103, within the town at the rate of one and one-sixth percent (1.6%) of the retail selling price.

This section shall become effective on January 1, 1998, and the increased resort tax shall be levied beginning one minute after twelve o'clock (12:00) A.M., January 1, 1998. (Ord. 97-005, 11-18-1997; amd. 2010 Code) An increase of 0.1% became effective October 01, 2013 (amd Ord. 13-004, 6-11-2013 eff. 10-01-2013)

2-6-4: PLACE OF SALE:

For the purpose of this chapter, all retail sales shall be presumed to have been consummated at the place of business of the retailer unless the tangible personal property is sold and delivered by the retailer or his agent to an out of state destination or sold or delivered to a common carrier, including the United States Postal Service, for delivery to an out of state destination. In the event the retailer has no permanent place of business in the town, or has more than one scribed and adopted by the State Tax Commission for the administration of the local sales tax under Utah Code Annotated title 59, chapter 12. "Public utilities", as defined by Utah Code Annotated title 54, shall not be obligated to determine the place or places within any municipality where public utility services are rendered, but the place of sale or the sales tax revenue arising from such service allocable to the Town shall be as determined by the State Tax Commission pursuant to an appropriate formula and other rules and regulations or prescribed and adopted by the commission for the application of the general sales tax. (1984 Code § 18-3-4; amd. 2010 Code)

2-6-5: COLLECTION AND PAYMENT OF TAX:

The tax imposed by this chapter is in addition to, and not in lieu of, the general sales tax imposed under the provisions of the uniform local sales and use tax chapter adopted by the Town under Utah Code Annotated title 59, chapter 12, and the state sales tax under Utah Code Annotated title 59, chapter 12. The procedure for collection and payment of this tax shall be identical to the procedure prescribed by Utah Code Annotated title 59, chapter 12, and the State Tax Commission regulations adopted under these actions. The Town shall contract with the State Tax Commission for collection and all other functions incident to the administration and operation of this tax for as long as the tax is imposed. (1984 Code § 18-3-5; amd. 2010 Code)

2-6-6: STATE STATUTES APPLICABLE:

A. Except as hereinafter provided, and except as they are inconsistent with the provisions of the uniform local sales tax law, Utah Code Annotated title 59, chapter 12, pertaining to sales tax as in force on the effective date hereof, are hereby adopted in full and made a part of

this chapter as though fully set forth herein, except for provisions stating the rate of the tax applied.

B. Wherever, and to the extent that in Utah Code Annotated title 59, chapter 12, the State of Utah is named or referred to as the taxing agency, the name of Brian Head Town shall be substituted therefore, nothing in this subsection shall be deemed to require substitution of the name of the "Town" for the word "state" when the word is used as part of the title of the State Tax Commission, or of the constitution of the state, nor shall the name of the Town be substituted for that of the state in any section when the result of that substitution would require action to be taken by or against the Town, or any agency thereof, rather than by or against the state tax commission in performing the functions incident to the administration or operation of this chapter.

C. If an annual license has been issued to a retailer under Utah Code Annotated title 59, chapter 12, an additional license shall not be required by reason of this section. (1984 Code § 18-3-6; amd. 2010 Code)

2-6-7: EXEMPTIONS:

This optional resort tax shall not apply to the following sales or kinds of sales:

A. Sales of a single item with a price of two thousand five hundred dollars ($2,500.00) or more.

B. "Wholesale sales", as defined in section 2-6-1 of this chapter

C. Items exempted from the general sales tax under the provisions of Utah Code Annotated title 59, chapter 12.

D. Tax collected on contracts for sales which are executed prior to the adoption of this chapter, but which have not been fully performed. Said taxes shall be refunded upon application to the state tax commission pursuant to its regulations. (1984 Code § 18-3-7; amd. 2010 Code)

2-6-8: SEVERABILITY:

In the event that any provision, section or clause of this chapter is found to be unlawful or unconstitutional, only the particular section, provision or clause shall be stricken, and the remainder of the chapter shall stand and not be affected thereby. Should any exclusion or exemption granted in this chapter be found to be unlawful or unconstitutional, that exemption or exclusion shall be stricken, and the tax shall apply to the item formerly exempted or excluded. (1984 Code § 18-3-8)

2-6-9: PENALTY:

Any person violating any of the provisions of this chapter shall be deemed guilty of a class B

misdemeanor and, upon conviction thereof, shall be subject to penalty as provided in section 1-4-1 of this code. This penalty shall be in addition to any penalties that may apply for violation of state statutes pertaining to the collection, payment and accounting for sales and use taxes. (1984 Code § 18-3-9; amd. Ord. 87-008, 8-11-1987; 2010 Code)

Title 2 – Finance & Taxation

Chapter 7

MUNICIPAL HIGHWAY TAX

2-7-1: TAX IMPOSED:
2-7-2: COMPUTATION OF TAX:
2-7-3: EXEMPTIONS:
2-7-4: RECORDS AND REPORTS:
2-7-5: TAXES ADDITIONAL TO OTHER TAXES OR FEES:
2-7-6: FAILURE TO PAY TAX; ACTION TO COLLECT; PENALTY:

2-7-1: TAX IMPOSED:

A tax is hereby imposed upon every retail sale within the town of "tangible personal property", as defined under Utah Code Annotated section 59-12-102(124)(b) within the Town at the rate of three-tenths of one percent (0.3%) of the retail selling price. (Ord. 07-12, 10-9-2007, eff. 1-1-2008)

2-7-2: COMPUTATION OF TAX:

A. Each person licensed as a retail business in the town, shall pay a quarterly license fee computed on the "retail sales", as defined herein, for each separate place of business during each calendar quarter of the year. Such fees shall be paid on or before the thirtieth day of the month immediately following the end of such quarter and shall be an amount equal to the total of the following:

   A fee upon every retail sale of “tangible personal property”, as defined under Utah Code Annotated sections 59-12-102(124)(b), made within the town equivalent to three-tenths of one percent (0.3%) of the purchase price paid or charged; or in the case of retail sales involving the exchange of property, equivalent to three-tenths of one percent (0.3%) of the consideration paid or charged, including the fair market value of the property exchanged at the time and place of the exchange.

B. The taxes imposed hereunder shall be paid to the State Tax Commission in the same manner as required for the other state sales taxes. (Ord. 07-12, 10-9-2007, eff. 1-1-2008)

2-7-3: EXEMPTIONS:

Sales and uses exempted under Utah Code Annotated §59-12-501 and 59-12-1001 shall be exempted from the highway tax provided hereunder. (Ord. 07-12, 10-9-2007, eff. 1-1-2008)

2-7-4: RECORDS AND REPORTS:

A. Each person licensed as a retail business in the town pursuant to the town business licenses and regulations ordinance shall maintain at and for each place of business required to be licensed under town law, records of purchases, sales and other data normally required by good accounting practices to disclose and verify the retail sales of such place of business and the gross sales price or other consideration received for the sale or transfer of personal property and services which are sold or transferred during each calendar quarter year. Each such person shall make such report relating to the retail sales during the calendar quarters as may be required from time to time by the Town Manager.

B. Taxes computed in the return to the state shall in all cases be based upon the total sales made during the period, including both cash and charge sales.

C. If the accounting methods regularly employed by the retail business in the transaction of the business are such that reports of sales made during a calendar month will impose unnecessary hardships, the Town Manager may accept reports at such intervals as will in his opinion better suit the convenience of both business and will not jeopardize the collection of the tax. Wherever possible, the Town Manager shall seek to make the reporting and record keeping requirements of the state tax commission under the provisions of the state sales tax.

D. It shall be the duty of every person subject to this chapter to preserve the records required by this section to be kept for a period of five (5) years from the date of sale.

E. Returns made under this section shall not be made public nor shall they be subject to the inspection of any person except the Town Manager or his authorized agent. It shall be unlawful for any person to make public or to inform any other person as to the contents of any information contained in or permit the inspection of any return except as authorized in this section.

F. No person shall make and file a false return knowing the same to be false.

G. If any business under this chapter fails, neglects or refuses to file the taxes provided hereunder, when required, the Town Manager is authorized to determine the amount of the taxes due, together with penalties and interest, and to notify such business by mail of the amount so determined. The amount so fixed shall thereupon become the amount due and shall be immediately payable. For purposes of determining the amount of the tax due, the Town Manager shall have access to all books, records, invoices, inventories and stock of goods, wares and merchandise of such business, and it shall be unlawful for any such business to refuse the Town Manager or designee free access thereto at all reasonable times. (Ord. 07-12, 10-9-2007, eff. 1-1-2008)

2-7-5: TAXES ADDITIONAL TO OTHER TAXES OR FEES:

The tax imposed by this chapter shall be in addition to any other taxes, whether called a fee or tax or otherwise, imposed by any other provision of this code or any other ordinances of the town. (Ord. 07-12, 10-9-2007, eff. 1-1-2008)

2-7-6: FAILURE TO PAY TAX; ACTION TO COLLECT; PENALTY:

A. Whenever any tax required to be paid under this chapter is not paid on or before the day on which it becomes delinquent, a penalty of ten percent (10%) of the amount due shall be imposed, or a minimum penalty of ten dollars ($10.00) shall be imposed, whichever sum shall be greater.

B. Any taxes due and unpaid under this chapter and all penalties thereon shall constitute a debt to the town and shall be collected by court proceedings in the same manner as any other debt in like amount; which remedy shall be in addition to all other existing remedies. (Ord. 07-12, 10-9-2007, eff. 1-1-2008)

C. A failure to pay any tax required under this chapter in a timely manner shall constitute a class B misdemeanor and shall be subject to penalty as provided in section 1-4-1 of this code. (Ord. 07-12, 10-9-2007, eff. 1-1-2008; amd. 2010 Code)

Title 2 - Finance & Taxation

Chapter 8

MOBILE TELEPHONE SERVICE REVENUE TAX

2-8-1: DEFINITIONS:
2-8-2: MONTHLY TAX LEVIED:
2-8-3: REMITTANCE DATE:
2-8-4: ELECTRONIC DATABASE OR ENHANCED ZIP CODE LISTING:
2-8-5: PLACE OF PRIMARY USE:
2-8-6: TAX AGAINST CUSTOMER:
2-8-7: NONAPPLICATION:
2-8-8: IMPLEMENTATION DATE:
2-8-9: SEVERABILITY:

2-8-1: DEFINITIONS:

For purposes of this chapter, the following terms are defined as follows:

CUSTOMER:

D. The person or entity having a place of primary use within the town, that contracts with the home service provider for mobile telecommunications services; or

E. If the end user of mobile telecommunications services is not the contracting party, the end user of the mobile telecommunications services; but this clause applies only for the purpose of determining the place of primary use.

C. "Customer" does not include:

1. A reseller of mobile telecommunications service; or

2. A serving carrier under an arrangement to serve the customer outside the home service provider's licensed service area.

DESIGNATED DATABASE PROVIDER: A corporation, association or other entity representing all the political subdivisions of a state that is:

A. Responsible for providing an electronic database prescribed in subsection 119(a) of chapter 4, title 4 of the United States code if the state has not provided such electronic database; and

B. Approved by municipal and county associations or leagues of the state whose responsibility it would otherwise be to provide such database prescribed by sections 116 through 126 of chapter 4, title 4 of the United States code.

ENHANCED ZIP CODE: A United States postal zip code of nine (9) or more digits.

HOME SERVICE PROVIDER: The facilities-based carrier or reseller with which the customer contracts for the provision of mobile telecommunications services.

LICENSED SERVICE AREA: The geographic area in which the home service provider is authorized by law or contract to provide commercial mobile radio service to the customer.

MOBILE TELECOMMUNICATIONS SERVICE: Commercial mobile radio service, as defined in section 20.3 of title 47 of the code of federal regulations as in effect on June 1, 1999. For purposes of this chapter, "mobile telecommunications services" shall not include:

A. Pager services using mobile devices that do not allow for two-way voice communication;

B. Narrowband personal communications services; and

C. Short message services (SMS).

PLACE OF PRIMARY USE: The street address representative of where the customer's use of the mobile telecommunications service primarily occurs, which must be:

A. The residential street address or the primary business street address of the customer; and

B. Within the licensed service area of the home service provider.

PREPAID TELEPHONE CALLING SERVICES: The right to purchase exclusively telecommunications services that must be paid for in advance, that enables the origination of calls using an access number, authorization code, or both, whether manually or electronically dialed, if the remaining amount of units of service that have been prepaid is known by the provider of the prepaid service on a continuous basis.

RESELLER:

A. A provider who purchases telecommunications services from another telecommunications service provider and then resells, uses as a component part of, or integrates the purchased services into a mobile telecommunications service; and

B. Does not include a serving carrier with which a home service provider arranges for the service to its customers outside the home service provider's licensed service area.

SERVING CARRIER: A facilities-based carrier providing mobile telecommunications service to a customer outside a home service provider's or reseller's licensed service area. (Ord. 00-007, 11-28-2000, eff. 1-1-2001)

2-8-2: MONTHLY TAX LEVIED:

There is levied upon every home service provider a tax of one dollar ($1.00) per month for each telephone number assigned to any customer whose place of primary use is within the town. The home service provider may or may not pass this tax on to its customers. If the home service provider passes the tax on to the customer, and the tax is reflected on the customer's bill, the tax shall be shown on the bill as a flat rate municipal tax charge. (Ord. 00-007, 11-28-2000, eff. 1-1-2001)

2-8-3: REMITTANCE DATE:

A. Filing And Payment: Within thirty (30) days after the end of each calendar month, the home service provider taxed hereunder shall file, with the Town Treasurer, a report computing the tax. Coincidental with the filing of such report, the business shall pay to the Town Treasurer the amount of the tax due for the calendar month subject to the report. If the thirtieth day after the end of each calendar month falls on a Saturday, Sunday or state or federal holiday, the deadline for filing the monthly report and remitting payment for that month is extended to the next subsequent business day.

B. Delinquent Payment: Any payment not paid when due shall be subject to a delinquency penalty charge of ten percent (10%) of the unpaid amount. Failure to make full payment and penalty charges within sixty (60) days of the applicable payment date shall constitute a violation of this chapter. All overdue amounts, including penalty charges, shall bear interest until paid at the rate of an additional ten percent (10%) per annum.

C. Reconciliation: Within three (3) years after the filing of any report or the making of any payment, the Town Treasurer may examine such report or payment, determine the accuracy thereof, and, if the Town Treasurer finds any errors, report such errors to the home service provider for correction. If any tax, as paid, shall be found deficient, the home service provider shall within sixty (60) days remit the difference, and if the tax as paid to be found excessive, the town shall within sixty (60) days refund the difference, plus interest, at the same rate as if such amount were deficient. In the event of a disagreement, the home services provider shall file under protest pending the resolution of the dispute between the parties or through the courts.

D. Record Inspection: The records of the home service provider pertaining to the reports and payment of the tax, including, but not limited to, any records deemed necessary by the town to calculate or confirm proper payment by the home service provider, shall be open for inspection by the town and its duly authorized representatives upon reasonable notice at all reasonable business hours of the home services provider within the statute of limitations period defined in subsection C of this section, "reconciliation".

E. Home Service Provider Duty To Cooperate On Record Inspection:

1. In order to facilitate any record inspection, the home service provider shall, upon thirty (30) days' prior written request:

    a. Grant the town or its duly authorized representatives' reasonable access to those portions of the books and records of the home service provider necessary to calculate and confirm property payment of the tax; or

b. Provide the town or its duly authorized representatives with reports containing or based on information necessary to calculate and confirm proper payment of the tax.

2. Any requests for such books, records, reports or portions thereof shall specify in writing the purpose for such request. Any books, records, reports or portions thereof provided by the home service provider to the town under a claim that such documents are confidential business records are hereby designated as "protected records" and shall not be copied or disclosed by the town to third parties without the written permission of the home service provider, unless such documents are determined by a court of law to constitute "public records" within the meaning of the Utah government records access and management act. (Ord. 00-007, 11-28-2000, eff. 1-1-2001)

2-8-4: ELECTRONIC DATABASE OR ENHANCED ZIP CODE LISTING:

A. Electronic Database:

1. Provision Of Database: The state may provide an electronic database to a home service provider; or, if the state does not provide such an electronic database, the designated database provider may choose to provide an electronic database to a home service provider.

2. Format:
   a. Such electronic database, whether provided by the state or the designated database provider, shall be provided in a format approved by the American National Standards Institute's accredited standards committee X12, which, allowing for de minimis deviations, designates for each street address in the town, including, to the extent practicable, any multiple postal street addresses applicable to one street location, the appropriate taxing jurisdictions, and the appropriate code identified by one nationwide standard numeric code.

   b. Such electronic database shall also provide the appropriate code for each street address with respect to political subdivisions that are not taxing jurisdictions when reasonably needed to determine the proper taxing jurisdiction.

   c. The nationwide standard numeric codes shall contain the same number of numeric digits, with each digit or combination of digits referring to the same level of taxing jurisdiction throughout the United States, using a format similar to FIPS 55-3 or other appropriate standard approved by the federation of tax administrators and the multistate tax commission, or their successors. Each address shall be provided in standard postal format.

B. Notice; Updates: The state or designated database provider that provides or maintains an electronic database described above shall provide notice of the availability of the then current electronic database and any subsequent revisions thereof, by publication in the manner normally employed for the publication of informational tax, charge or fee notices to taxpayers in such state.

C. User Held Harmless: A home service provider using the data contained in an electronic database described above shall be held harmless from any tax, charge or fee liability that otherwise would be due solely as a result of any error or omission in such database provided by the town or designated database provider. The home service provider shall reflect the changes made to such database during a calendar quarter, no later than thirty (30) days after the end of such calendar quarter the state has issued notice of the availability of an electronic database reflecting such changes under subsection B of this section, "notice; updates".

D. Procedure If No Electronic Database Provided:

1. Safe Harbor: If neither the state nor the designated database provider provides an electronic database, a home service provider shall be held harmless from any tax, charge or fee liability in the town that otherwise would be due solely as a result of an assignment of a street address to an incorrect taxing jurisdiction, if the home service provider employs an enhanced zip code to assign each street address to a specific taxing jurisdiction and exercises due diligence to ensure that each such street address is assigned to the correct taxing jurisdiction. If an enhanced zip code overlaps boundaries of taxing jurisdictions of the same level, the home service provider must designate one specific jurisdiction within such enhanced zip code for use in taxing the activity for such enhanced zip code. Any enhanced zip code assignment changed is deemed to be in compliance with this section. For purposes of this section, there is a rebuttable presumption that a home service provider has exercised due diligence if the home service provider demonstrates that it has:

   a. Expended reasonable resources to implement and maintain an appropriately detailed electronic database of street address assignments to taxing jurisdictions;

   b. Implemented and maintained reasonable internal controls to promptly correct mis-assignments of street addresses to taxing jurisdictions; and

   c. Used all reasonably obtainable and usable data pertaining to municipal annexations, incorporations, reorganizations, and any other changes in jurisdictional boundaries that materially affect the accuracy of such database.

2. Termination Of Safe Harbor: Subsection D1 of this section, "safe harbor", applies to a home service provider that is in compliance with the requirements of the "safe harbor" subsection with respect to a state for which an electronic database is not provided, until the later of:

   a. Eighteen (18) months after the nationwide standard numeric code has been approved by the federation of tax administrators and the multistate tax commission; or

   b. Six (6) months after the state or a designated database provider in the state provides such database. (Ord. 00-007, 11-28-2000, eff. 1-1-2001)

2-8-5: PLACE OF PRIMARY USE:

A. A home service provider is responsible for obtaining and maintaining the customer's place of primary use, subject to section 2-8-4 of this chapter, and if the home service provider's reliance on information by its customer is in good faith, a home service provider:

1. May rely upon the applicable residential or business street address supplied by the home service provider's customer.

2. Is not liable for any additional taxes, charges or fees based on a different determination of the place of primary use for taxes, charge or fees that are customarily passed on to the customer as a separate address under existing agreements.

B. A home service provider may treat the address used by the home service provider for tax purposes for any customer under a service contract or agreement in effect two (2) years after the date of this amendment to this chapter as that customer's place of primary use for the remaining term of such service contract or agreement, excluding any extension or renewal of such service contract or agreement, for purposes of determining the taxing jurisdiction to which taxes, charges or fees on charges for mobile telecommunication services are remitted. (Ord. 00-007, 11-28-2000, eff. 1-1-2001)

2-8-6: TAX AGAINST CUSTOMER:

Each customer shall accurately report the customer's place of primary use. The customer shall be liable for any taxes not paid by the home service provider as a result of the customer's failure to accurately report the customer's place of primary use. (Ord. 00-007, 11-28-2000, eff. 1-1-2001)

2-8-7: NONAPPLICATION:

This chapter does not apply to the determination of the taxing situs of:

A. Prepaid telephone calling services; or

B. Air-ground radio telephone service, as defined in section 22.99 of title 47 of the code of federal regulations as in effect on June 1, 1999. (Ord. 00-007, 11-28-2000, eff. 1-1-2001)

2-8-8: IMPLEMENTATION DATE:

If this chapter is adopted before January 1, 2001, a home service provider shall have a minimum of thirty (30) days' notice before being obligated to collect the tax described in this chapter. After January 1, 2001, a home service provider shall have a minimum of sixty (60) days' notice before being obligated to collect the tax described in this chapter. After January 1, 2001, a home service provider shall receive a minimum of sixty (60) days' notice regarding any changes to this chapter. (Ord. 00-007, 11-28-2000, eff. 1-1-2001)

2-8-9: SEVERABILITY:

If the monthly tax levied, section 2-8-2 of this chapter, is for any reason determined to be, or is rendered, illegal, invalid or superseded by other lawful authority, including any state or federal, legislative, regulatory or administrative authority having jurisdiction thereof, or determined to be unconstitutional, illegal or invalid by any court of competent jurisdiction, such section shall be deemed a separate, distinct and independent provision, and such determination shall have no effect on the validity of any other section; provided, however, upon such event and in lieu of such tax, there is levied upon every home service provider a tax equal to six percent (6%) of the annual gross revenue of the home service provider generated from services and products to customers. (Ord. 00-007, 11-28-2000, eff. 1-1-2001)

Title 2 – Finance & Taxation

Chapter 9

TELECOMMUNICATIONS SERVICE PROVIDERS TAX

2-9-1: DEFINITIONS:
2-9-2: LEVY OF TAX:
2-9-3: RATE:
2-9-4: RATE LIMITATION AND EXEMPTION:
2-9-5: EFFECTIVE DATE OF TAX LEVY:
2-9-6: TAXES ERRONEOUSLY RECOVERED:
2-9-7: CHANGES IN RATE OR REPEAL OF TAX:
2-9-8: INTERLOCAL AGREEMENT FOR COLLECTION:
2-9-9: REPEAL OF INCONSISTENT TAXES AND FEES:

2-9-1: DEFINITIONS:

As used in this chapter:

COMMISSION: The State Tax Commission.

CUSTOMER:

A. The person who is obligated under a contract with a telecommunications provider to pay for telecommunications service received under the contract.

B. For purposes of this chapter, "customer" means:

1. The person who is obligated under a contract with a telecommunications provider to pay for telecommunications service received under the contract; or

2. If the end user is not the person described in subsection B1 of this definition, the end user of the telecommunications service.

C. "Customer" does not include a reseller:

1. Of telecommunications service; or

2. For mobile telecommunications service, of a serving carrier under an agreement to serve the customer outside the telecommunications provider's licensed service area.

END USER: The person who uses a telecommunications service. For purposes of telecommunications service provided to a person who is not an individual, "end user" means the individual who uses the telecommunications service on behalf of the person who is provided the telecommunications service.

GROSS RECEIPTS ATTRIBUTED TO THE TOWN: Those gross receipts from a transaction for telecommunications services that is located within the town for purposes of sales and use taxes under Utah Code Annotated title 59, chapter 12, the sales and use tax act, and determined in accordance with Utah Code Annotated section 59-12-207.

GROSS RECEIPTS FROM TELECOMMUNICATIONS SERVICE: The revenue that a telecommunications provider receives for telecommunications service rendered, except for amounts collected or paid as:

A. A tax, fee or charge:

1. Imposed by a governmental entity;

2. Separately identified as a tax, fee or charge in the transaction with the customer for the telecommunications service; and

3. Imposed only on a telecommunications provider;

B. Sales and use taxes collected by the telecommunications provider from a customer under Utah Code Annotated title 59, chapter 12, the sales and use tax act; or

C. Interest, a fee, or a charge that is charged by a telecommunications provider on a customer for failure to pay for telecommunications service when payment is due.

MOBILE TELECOMMUNICATIONS SERVICE: Is as defined in the mobile telecommunications sourcing act, 4 USC section 124.

PLACE OF PRIMARY USE:

A. For telecommunications service, other than mobile telecommunications service, means the street address representative of where the customer's use of the telecommunications service primarily occurs, which shall be:

1. The residential street address of the customer; or

2. The primary business street address of the customer; or

B. For mobile telecommunications service, is as defined in the mobile telecommunications sourcing act, 4 USC section 124.

SERVICE ADDRESS: Notwithstanding where a call is billed or paid, means:

A. If the location described in subsection A of this definition is known, the location of the telecommunications equipment:

1. To which a call is charged; and

2. From which the call originates or terminates;

B. If the location described in subsection A of this definition is not known but the location described in subsection B of this definition is known, the location of the origination point of the signal of the telecommunications service first identified by:

1. The telecommunications system of the telecommunications provider; or

2. If the system used to transport the signal is not a system of the telecommunications provider, information received by the telecommunications provider from its service provider; or

C. If the locations described in subsections A or B of this definition are not known, the location of a customer's place of primary use.

TELECOMMUNICATIONS PROVIDER:

A. A person that:

1. Owns, controls, operates or manages a telecommunications service; or

2. Engages in an activity described in subsection (10)(a) for the shared use with or resale to any person of the telecommunications service.

B. A person described in subsection A of this definition is a telecommunications provider whether or not the public service commission of Utah regulates:

1. That person; or

2. The telecommunications service that the person owns, controls, operates or manages.

C. "Telecommunications provider" does not include an aggregator as defined in Utah Code Annotated section 54-8b-2.

TELECOMMUNICATIONS SERVICE:

A. "Telephone service", as defined in Utah Code Annotated section 59-12-102, other than mobile telecommunications service, that originates and terminates within the boundaries of this state; and

B. "Mobile telecommunications service", as defined in Utah Code Annotated section 59-12-102:

1. That originates and terminates within the boundaries of one state; and
2. Only to the extent permitted by the mobile telecommunications sourcing act, 4 USC section 116 et seq.

TOWN: Brian Head Town, Utah. (Ord. 04-002, 6-29-2004)

2-9-2: LEVY OF TAX:

There is hereby levied a municipal telecommunications license tax on the gross receipts from telecommunications service attributed to the town. (Ord. 04-002, 6-29-2004)

2-9-3: RATE:

The rate of the tax levy shall be four percent (4%) of the telecommunication provider's gross receipts from telecommunications service a transaction is determined to be other than this town, then the rate imposed on the gross receipts for telecommunications services shall be determined pursuant to the provisions of Utah Code Annotated section 10-1-407. (Ord. 04-002, 6-29-2004)

2-9-4: RATE LIMITATION AND EXEMPTION:

The rate of this levy shall not exceed four percent (4%) of the telecommunications provider's gross receipts from telecommunication service attributed to the town, unless a higher rate is approved by a majority vote of the voters in the town that vote in:

A. A municipal general election;

B. A regular general election; or

C. A local special election. (Ord. 04-002, 6-29-2004)

2-9-5: EFFECTIVE DATE OF TAX LEVY:

This tax shall be levied beginning July 1, 2004. (Ord. 04-002, 6-29-2004)

2-9-6: TAXES ERRONEOUSLY RECOVERED:

Pursuant to the provisions of Utah Code Annotated section 10-1-408, a customer may not bring a cause of action against a telecommunications provide on the basis that the telecommunications provider erroneously recovered from the customer the municipal telecommunication license tax, except as provided in Utah Code Annotated section 10-1-408. (Ord. 04-002, 6-29-2004)

2-9-7: CHANGES IN RATE OR REPEAL OF TAX:

This chapter is subject to the requirements of Utah Code Annotated section 10-1-401. If the tax rate is changed or the tax is repealed, then the appropriate notice shall be given as provided in Utah Code Annotated section 10-1-403. (Ord. 04-002, 6-29-2004)

2-9-8: INTERLOCAL AGREEMENT FOR COLLECTION:

On or before the effective date hereof, the town shall enter into a uniform inter-local agreement with the state tax commission, as described in Utah Code Annotated section 10-1-405, for the collection, enforcement and administration of this municipal telecommunications license tax. (Ord. 04-002, 6-29-2004)

2-9-9: REPEAL OF INCONSISTENT TAXES AND FEES:

A. Any tax or fee previously enacted by the town under authority of Utah Code Annotated section 10-1-203, or title 11, chapter 26, local taxation of utilities limitation, is hereby repealed.

B. Nothing in this chapter shall be interpreted to repeal any town ordinance or fee which provides that the town may recover from a telecommunications provider the management costs of the town caused by the activities of the telecommunications provider in the rights of way of the town, if the fee is imposed in accordance with Utah Code Annotated section 72-7-102, and is not related to the town's loss of use of a highway as a result of the activities of the telecommunications provider in a right of way, or increased deterioration of a highway as a result of the activities of the telecommunications provider in a right of way, nor does this chapter limit the town's right to charge fees or taxes on persons that are not subject to the municipal telecommunications license tax under this chapter and locate "telecommunication facilities", as defined in Utah Code Annotated section 72-7-108, in the town. (Ord. 04-002, 6-29-2004)

Title 2 – Finance & Taxation

Chapter 10

IMPACT FEES
ARTICLE A. TRANSPORTATION AND PARKS AND RECREATION SERVICES IMPACT FEES

2-10A-1: PURPOSE:
2-10A-2: DEFINITIONS:
2-10A-3: IMPACT FEE CALCULATIONS:
2-10A-4: CAPITAL FACILITIES PLAN:
2-10A-5: GROSS IMPACT FEE CALCULATIONS AND SCHEDULES:
2-10A-6: FEE EXCEPTIONS AND ADJUSTMENTS:
2-10A-7: APPEAL PROCEDURE:
2-10A-8: ADMINISTRATIVE PROVISIONS:

2-10A-1: PURPOSE:

This impact fee policy is promulgated pursuant to the requirements of the impact fees act, Utah Code Annotated section 11-36-101 et seq. (the "act"). (Ord. 99-001, 3-23-1999)

2-10A-2: DEFINITIONS:

Words and phrases that are defined in the act shall have the same definition in this impact fee policy. The following words and phrases shall have the following meanings:

CAPITAL FACILITIES PLAN: The plan required by Utah Code Annotated section 11-36-201 of the act. In section 11-36-201(2)(e), there is an exception to the capital facilities plan for towns of five thousand (5,000) or less in population, based on the latest census. The town does meet this exception; therefore, the town has completed a limited scope capital facility plan, adopted in October 1998 (exhibit A attached to ordinance 99-001, "Capital Facility Plan").

DEVELOPMENT ACTIVITY: Any construction or expansion of a building, structure or use, any change in the use of a building or structure, or any change in the use of land that creates additional demand and need for public facilities.

DEVELOPMENT APPROVAL: Any written authorization from the Town that authorizes the commencement of development activity, including, but not limited to, line extension agreements (LEAs).

HOOKUP FEES: Reasonable fees, not in excess of the approximate average costs to the Town for services provided for and directly attributable to the connection to services provided by the Town.

IMPACT FEE: A payment of money imposed upon development activity as a condition of development approval. “impact fee” includes development impact fees, but does not include a tax, a special assessment, a hookup fee, a building permit fee, a fee for project improvements, or other reasonable permit or application fees.

MUNICIPALITY: A local political subdivision of the state of Utah and herein shall mean Brian Head Town or "Town".

PROJECT IMPROVEMENTS: Site improvements and facilities that are planned and designed to provide service for development resulting from a development activity and are necessary for the use and convenience of the occupant or users of development resulting from a development activity. "Project improvements" do not include "system improvements", as defined in this section.

PROPORTIONATE SHARE OF THE COST OF PUBLIC FACILITY IMPROVEMENTS: An amount that is roughly proportionate and reasonably related to the service demands and needs of a development activity.

PUBLIC FACILITIES: Transportation improvements, and parks and recreation facility improvements of the town.

SERVICE AREA: Refers to a geographic area designated by the town based on sound planning or engineering principles in which a defined set of the Town's public facilities provides service. The "service area", for purposes of this transportation and parks and recreation impact fee policy, includes all of the area within the jurisdictional boundaries of the town.

SYSTEM IMPROVEMENTS: Refer both to existing public facilities designed to provide services to service areas within the town at large and to future public facilities identified in reasonable plans for capital improvements adopted by the Town that are intended to provide service to service areas within the town at large. "System improvements" do not include "project improvements", as defined in this section. (Ord. 99-001, 3-23-1999; amd. 2010 Code)

2-10A-3: IMPACT FEE CALCULATIONS:

A. Ordinance Enacting Impact Fees: The Town Council will, by this article, approve an impact fee in accordance with the impact fee analysis set forth in exhibit B attached to ordinance 99-001, "Impact Fee Study", for transportation, and parks and recreation facilities.

1. Elements: In calculating the impact fee, the Town may include the construction contract price, land acquisition costs, costs of improvements, material costs, the cost of fixtures, fees for planning, surveying and engineering services provided for and directly related to the construction of system improvements, and debt service charges if the Town might use impact fees as revenue stream to pay principal and interest on bonds or other obligations to finance the cost of system improvements.

2. Notice And Hearing: Before adopting the ordinance, the Town shall follow the notice and hearing requirements of Utah Code Annotated section 11-36-202(1)(F).

3. Contents Of Ordinance: The ordinance adopting or modifying an impact fee will contain such detail and elements as deemed appropriate by the Town Council, including a designation of the service area or service areas within which the impact fee is to be calculated and imposed. The ordinance will include: a) a schedule of impact fees to be imposed for each type of system improvement; or b) the formula to be used by the Town in calculating each impact fee, or both. A copy of this requirement is included in exhibit B attached to ordinance 99-001, "Impact Fee Study".

4. Adjustments: The standard impact fee may be adjusted at the time the fee is charged in response to unusual circumstances or to fairly allocate costs associated with impacts created by a development activity or project. The standard impact fee may also be adjusted to ensure that impact fees are imposed fairly for affordable housing projects, in accordance with the town affordable housing policy, and other development activities with broad public purposes.

5. Previously Incurred Costs: To the extent that the new growth and development will be served by previously constructed improvements, the town impact fee may include public facility costs previously incurred by the Town. The costs may include transportation and parks and recreation system improvements constructed with previously issued bonds and/or capital improvement reserve funds; the reimbursable costs under existing and future agreements with the developers for system improvements; and all projects included in the reasonable capital projects plan which are under construction or completed but have not been utilized to their capacity.

B. Developer Credits: A developer may be allowed a credit against impact fees for any dedication of land or improvement to, or new construction of, system improvements provided by the developer provided that: 1) it is identified in the Town reasonable capital projects plan; and 2) required by the Town as a condition of approving the development activity. Otherwise, no credit may be allowed.

C. Impact Fees Accounting:

1. Accounting, Reporting Requirements: The Town shall follow the accounting and reporting requirements of Utah Code Annotated section 11-36-301. (Ord. 99-001, 3-23-1999; amd. 2010 Code)

2. Impact Fee Expenditures: The Town may expend impact fees covered by impact fees policy only for system improvements that are: a) public facilities identified in the Town reasonable capital projects plan; and b) of the specific public facility type for which the fee was collected.

3. Time Of Expenditure: Impact fees collected pursuant to the requirements of this impact fees policy are to be either expended, dedicated, or encumbered for a permissible use within six (6) years of the receipt of those funds by the Town, unless the Town Council otherwise directs. For purposes of this calculation, the first funds received shall be deemed to be the first funds expended.

4. Extension Of Time: The Town may hold previously dedicated or unencumbered fees for longer than six (6) years if it identifies in writing: a) an extraordinary and compelling reason why the fees should be held longer than six (6) years; and b) an absolute date by which the fees will be expended.

D. Refunds: The Town shall refund any impact fees paid by a developer, plus interest actually earned, when: 1) the developer does not proceed with the development activity and files a written request for a refund; 2) the fees have not been spent or encumbered; and 3) no impact has resulted. An impact that would preclude a developer from a refund from the Town may include any impact reasonably identified by the Town, including, but not limited to, the Town having sized facilities and/or paid for, installed and/or caused the installation of facilities based, in whole or in part, upon the developer's planned development activity even though that capacity may, at some future time, be utilized by another development.

E. Other Impact Fees: To the extent allowed by law, the Town Council may negotiate or otherwise impose impact fees and other fees different from those currently charged. Those charges may, in the discretion of the Town Council, include, but not be limited to, reductions or increases in impact fees, all or part of which may be reimbursed to the developer who installed improvements that service the land to be connected with the Town systems.

F. Additional Fees And Costs: The impact fees authorized hereby are separate from and in addition to user fees and offer charges lawfully imposed by the Town, such as engineering and inspection fees, and other fees and costs that may not be included as itemized component parts of the impact fee schedule. In charging any such fees as a condition of development approval, the Town recognizes that the fees must be a reasonable charge for the service provided.

G. Fees Effective At Time Of Payment: Unless the Town is otherwise bound by a contractual requirement, the impact fee shall be determined from the fee schedule in effect at the time of payment in accordance with the provisions of section 2-10A-5 of this article.

H. Imposition Of Additional Fee Or Refund After Development: Should any developer undertake development activities such that the ultimate density or other impact of the development activity is not revealed to the Town, either through inadvertence, neglect, a change in plans, or any other cause whatsoever, and/or the impact fee is not initially charged against all units or the total density within the development, the Town shall be entitled to charge an additional impact fee to the developer or other appropriate person covering the density for which an impact fee was not previously paid. (Ord. 99-001, 3-23-1999)

2-10A-4: CAPITAL FACILITIES PLAN:

A. Written Analysis: As part of each reasonable capital projects plan, the Town shall prepare a written analysis of each impact fee adopted or modified under the requirements of the impact fees policy that identifies the impact on system improvements required by development activity, estimates the proportionate share of the costs of impacts on system improvements that are reasonably related to new development activity and identifies how the impact fee was calculated (impact fee study).

B. Elements: The analysis may contain such elements as deemed relevant by the Town. To the extent applicable and available, the analysis will identify the following: 1) the cost of existing facilities; 2) the manner of financing those facilities; 3) the relative extent to which newly developed properties and other properties have already contributed to the cost of existing public facilities; 4) the relative extent to which newly developed properties and other properties will contribute to the cost of existing public facilities in the future; 5) the extent, if any, to which newly developed properties are entitled to a credit because the Town is requiring the developer, by contractual arrangement or otherwise, to provide common facilities inside or outside the proposed development that have been provided by the Town and financed through general taxation or other means, apart from user charges, in other parts of the town; 6) any extraordinary costs in servicing the newly developed property; and 7) the time-price differential that may be inherent in comparisons of amounts paid at different times (impact fee study). (Ord. 99-001, 3-23-1999)

2-10A-5: GROSS IMPACT FEE CALCULATIONS AND SCHEDULES:

Impact fee calculations and schedules shall be updated periodically through an updated Capital Facilities Plan and Impact Fee Analysis and adopted by resolution in the Consolidated Fee Schedule. (Ord. 99-001, 3-23-1999; amd. 2010 Code)

2-10A-6: FEE EXCEPTIONS AND ADJUSTMENTS:

A. The Town Council may, on a project-by-project basis, authorize exceptions or adjustments to the then impact fee rate structure for those projects the Town Council determines to be of such benefit to the community as a whole to justify the exception or adjustment. Such projects may include facilities being funded by tax supported agencies, affordable housing project or facilities of a temporary nature.

B. Applications for exceptions are to be filed with the Town at the time the applicant first requests the extension of service to the applicant's development or property. (Ord. 99-001, 3-23-1999; amd. 2010 Code)

2-10A-7: APPEAL PROCEDURE:

A. Application: The appeal procedure applies both to challenges to the legality of impact fees, to similar and related fees of the Town and to the interpretation and/or application of those fees. By way of illustration, in addition to the legality of the impact fee schedule, determinations of the density of a development activity or calculation of the amount of the impact fee due will also be subject to this appeal procedure.

B. Declaratory Judgment Action: Any person or entity residing in or owning property within the Town and any organization, association or corporation representing the interests of persons or entities owning property within the town may file a declaratory judgment action challenging the validity of an impact fee only after having first exhausted their administrative remedies of this section.

C. Request For Information Concerning Fee: Any person or entity required to pay an impact fee may file a written request for information concerning the fee with the Town. The Town will provide the person or entity with the Town written impact fee analysis and other relevant information relating to the impact fee within fourteen (14) days after receipt of the request for information.

D. Appeal To Town Before Payment Of Impact Fee: Any affected or potentially affected person or entity who wishes to challenge an impact fee prior to payment thereof may file a written request for information concerning the fee and proceed under the Town Appeal Procedure.

E. Appeal To Town After Payment Of Impact Fee; Statute Of Limitations For Failure To File: Any person or entity who has paid an impact fee and wishes to challenge the fee shall file a written request for information concerning the fee within thirty (30) days after having paid the fee and proceed under the Town Appeal Procedure. If thirty (30) days has passed after payment of the impact fee and a written request for information or challenge has not been filed with the Town, the person or entity is barred from filing an appeal with the Town or seeking judicial relief.

F. Appeal To Town: Any developer, landowner or affected party desiring to challenge the legality of any impact fee or related fee or exaction may appeal directly to the Town Council by filing a written challenge with the Town; provided, that the affected party does so in writing within thirty (30) days after the action or decision to which the appeal relates. If no written challenge is filed with the Town within the said thirty (30) day period, the affected party may neither process an administrative appeal with the Town nor seek judicial relief.

1. Hearing: An informal hearing will be held no sooner than five (4) nor more than twenty-five (25) days after the written appeal to the Town Council is filed.

2. Decision: After the conclusion of the informal hearing, the Town Council, by majority vote, shall affirm, reverse, or take action with respect to the challenge or appeal as the Town Council deems to be appropriate in light of the town policies and procedures and any applicable law, rule or regulation. The decision of the Town Council may include the establishment or calculation of the impact fee applicable to the development activity at issue; any impact fee set by the Town Council may include the establishment or calculation of the impact fee applicable to the development activity at issue. Any impact fee set by the Town Council may be the same as or higher or lower than that being appealed; provided, that it shall not be higher than the maximum allowed under the Town lawful impact fee rate or form which is either in existence on the effective date of the act or as promulgated under the impact fees policy, as appropriate. The decision of the Town Council will be issued within thirty (30) days after the date the written challenge was filed with the town as mandated by Utah Code Annotated section 11-36-401(4)(b). In light of the statutory mandated time restriction, the Town shall not be required to provide more than three (3) working days' prior notice of the time, date and location of the informal hearing and the inconvenience of the hearing to the challenging party shall not serve as a basis of appeal of the Town's final determination.

G. Denial Due To Passage Of Time: Should the Town, for any reason, fail to issue a final decision on a written challenge to an impact fee, its calculation or application, within thirty (30) days after the filing of that challenge with the Town, the challenge shall be deemed

to have been denied and any affected party to the proceedings may seek appropriate judicial relief from such denial.

H. Judicial Review: Any party to the administrative action who is adversely affected by the Town's final decision must petition the district court for a review of the decision within ninety (90) days of a final Town decision upholding an impact fee, its calculation or application, or within one hundred twenty (120) days after the written challenge to the impact fee, its calculation or application, was filed with the Town, whichever is earlier.

I. Record Of Proceedings: After having been served with a copy of the pleadings initiating the Town Court review, the Town shall submit to the court, the record of the proceedings before the Town, including minutes, and, if available, a true and correct transcript of any proceedings. If the Town is able to provide a record of the proceedings, the Town court's review is limited, by Utah Code Annotated section 11-36-401(5)(c), to the record. The court may not accept or consider evidence outside of the record of proceedings before the Town unless the evidence was offered to the Town and improperly excluded in the proceedings before the Town. If the record is inadequate however, the court may call witnesses and take evidence. The court is to affirm the Town's decision if the decision is supported by substantial evidence in the record. (Ord. 99-001, 3-23-1999)

2-10A-8: ADMINISTRATIVE PROVISIONS:

A. Interpretation: This impact fee policy has been divided into sections, subsections, paragraphs and clauses for convenience only and the interpretation of this impact fee policy shall not be affected by such division or by any heading contained herein.

B. Effective Date: Except as otherwise specifically provided herein, this impact fee policy shall not repeal, modify or effect any impact fee of the Town in existence as of the effective date hereof. All impact fees established, including amendments and modifications to previously existing impact fees, after the effective date hereof, shall comply with the requirements of this impact fee policy. (Ord. 99-001, 3-23-1999)

Title 2 – Finance & Taxation

Chapter 10

IMPACT FEES
ARTICLE B. FIRE IMPACT FEES

2-10B-1: IMPOSED:
2-10B-2: APPLICABILITY:
2-10B-3: USE OF FUNDS:

2-10B-1: IMPOSED:

A fire impact fee shall be imposed on all new residential and commercial buildings as determined by resolution of the Town Council. (1984 Code § 14-2-12)

2-10B-2: APPLICABILITY:

A. Residential: "Residential" fees shall be applicable to all residential buildings, including, but limited to, condominiums, townhouses, cabins and homes.

B. Commercial: "Commercial" fees shall be applicable to all other commercial facilities, including, but not limited to, malls, restaurants, stores, motels, hotels, and gas stations. (1984 Code § 14-2-12)

2-10B-3: USE OF FUNDS:

The funds collected from the fire impact fee shall be used at the discretion of the Town Council for the prevention and suppression of fire within and around the town limits, as well as in any necessary fire related capital equipment or capital improvement investment. (1984 Code § 14-2-12)

Title 2 – Finance & Taxation

Chapter 10

IMPACT FEES
ARTICLE C. WASTEWATER IMPACT FEES

2-10C-1: PURPOSE:
2-10C-2: DEFINITIONS:
2-10C-3: IMPOSITION OF WASTEWATER IMPACT FEE:
2-10C-4: COMPUTATION OF AMOUNT OF WASTEWATER IMPACT FEE:
2-10C-5: USE OF FUNDS:
2-10C-6: SERVICE AREA:
2-10C-7: ADJUSTMENT OF FEES:
2-10C-8: REFUNDS:
2-10C-9: APPEALS:

2-10C-1: PURPOSE:

The purpose of this article is to regulate the use and development of land through impact fees so as to assure that new development bears an equitable and proportionate share of the cost of increasing the wastewater facilities necessitated and generated by such development, and to assist in the implementation of the General Plan of the Town. The intent of this article is to comply with the impact fee act, the Utah constitution, and the United States constitution. (Ord. 04-006(B), 10-27-2004)

2-10C-2: DEFINITIONS:

BUILDING PERMIT: A permit from the Town for the construction of any structure or building.

CAPITAL FACILITIES PLAN: A plan required by Utah Code Annotated section 11-36-201, which is satisfied by adoption of the reports as a "reasonable plan" in lieu of a capital facilities plan as allowed because the Town has a population of five thousand (5,000) or less based on the last census.

DEVELOPMENT ACTIVITY: Any construction or expansion of a building, structure or use, any change in use of a building or structure, or any change in the use of land that creates additional demand and need for water or wastewater facilities.

FEE PAYER: A person who seeks to develop land which uses water and requires the issuance of a building permit.

PERSON: An individual, a corporation, a partnership, an incorporated association, a limited liability company, or any other similar entity.

PROPORTIONATE SHARE: The cost of public facility improvements that are roughly proportionate and reasonably related to the service demands and needs of any development activity.

PUBILC WORKS DIRECTOR: The Public Works Director of Brian Head Town, or his designee.

TOWN MANAGER: The Town Manager of Brian Head Town, or his designee.

WASTEWATER FACILITIES: The town wastewater infrastructure systems, including, but not limited to, water treatment facilities, sewer lines and pipes, storage facilities, ditches, easements and rights of way, and all associated real property, structures and equipment used in connection with the town wastewater systems. "Wastewater facilities" does not mean water rights.

WASTEWATER IMPACT FEE: A payment of money imposed upon development activity as a condition of development approval to be used for the purpose of constructing and upgrading wastewater facilities necessitated by development activity. "Wastewater impact fee" does not mean a tax, a special assessment, a building permit fee, a hookup fee, a fee for project improvements, or other permits or application fee.

WATER METER: A device that measures the flow of water to a specific lot, parcel, structure, business or dwelling. "Water meter" does not mean a fire meter where the water passes through the meter only when there is a fire or immediate threat of fire to the structure or property serviced by the meter. (Ord. 04-006(B), 10-27-2004)

2-10C-3: IMPOSITION OF WASTEWATER IMPACT FEE:

A. Any person who, after the effective date hereof, seeks to develop land in the town by making improvements to the land which will generate additional water use is hereby required to pay a wastewater impact fee in the manner and amounts set forth in this article. The fees shall be paid at the time of the building permit application. The amount of the wastewater impact fee shall be as set forth in the Town schedule of fees and charges. The amount of the wastewater impact fee may be modified at any time by resolution of the Town Council. The amount of the wastewater impact fee shall be no more than that justified by the capital facilities plan for wastewater. (Ord. 04-006(B), 10-27-2004; amd. 2010 Code)

B. No building permit shall be issued by the Town unless or until the wastewater impact fee required by this article has been paid.

C. The following shall be exempted from payment of the wastewater impact fee:

1. Alterations or expansion of an existing residential building where no additional residential units are created and where no additional wastewater demand is added.

2. The construction of accessory buildings or structures where no additional wastewater demand is added.

3. The replacement of a destroyed or partially destroyed building or structure with a new building or structure where no additional wastewater demand is added.

4. Alterations or expansion of an existing commercial or manufacturing building not increasing the equivalent residential units of wastewater generated by such building.

D. Any claim or exemption must be made no later than the time of application for a building permit or permit for mobile home installation. Any claim not so made shall be deemed waived. (Ord. 04-006(B), 10-27-2004)

2-10C-4: COMPUTATION OF AMOUNT OF WASTEWATER IMPACT FEE:

A. At the option of the fee payer, the amount of the wastewater impact fee shall be determined as established in section 2-10C-3 of this article, or as set forth in subsection B of this section.

B. If a fee payer opts not to pay the wastewater impact fee as established in section 2-10C-3 of this article, the fee payer shall pay the wastewater impact fee as determined under this subsection. The fee payer shall prepare and submit to the Public Works Director an independent fee calculation study for the land development activity for which the building permit is sought. The cost of the independent fee calculation shall be borne by the fee payer. The independent fee calculation study shall follow accepted professional hydro-engineering methodologies as approved by the Public Works Director. The independent study submitted shall show the basis upon which the independent fee calculation was made. If the Public Works Director determines that the independent fee calculation study provides a more accurate and equitable basis upon which to calculate the wastewater impact fee, then the amount of the fee set forth in the independent fee calculation study shall be the fee that the fee payer is required to pay under this article. Any fees imposed under this article which are modified pursuant to an independent fee calculation as provided herein shall apply only to the fee payer who prepared and submitted the independent fee calculation.

C. If the fee payer opts to have the wastewater impact fee determined according to subsection B of this section, and the Public Works Director has approved the fee as determined in the independent fee calculation, the fee payer may not then choose to pay the fee under subsection A of this section. (Ord. 04-006(B), 10-27-2004)

2-10C-5: USE OF FUNDS:

A. There is hereby established a separate interest-bearing ledger account for the deposit of wastewater impact fees collected pursuant to this article.

B. Funds collected pursuant to the wastewater impact fee shall be deposited in such account and shall only be used by the Town to construct and upgrade wastewater facilities, which are identified in the capital facilities plan.

C. Interest earned on such account shall be retained therein and annually the Town shall prepare a report regarding it.

D. Funds may be used to provide refunds as described in section 2-10C-8 of this article.

E. A separate administrative charge may be established for impact assessment reviews for the purpose of recovering the governmental costs associated with preparing, reviewing, assessing, collecting and administering this article. (Ord. 04-006(B), 10-27-2004)

2-10C-6: SERVICE AREA:

Based upon the geographic size and the interconnection of the wastewater service of the town, there is hereby established a single wastewater impact fee service area comprising the corporate limits of the Town. (Ord. 04-006(B), 10-27-2004)

2-10C-7: ADJUSTMENT OF FEES:

The Public Works Director may adjust either up or down the standard wastewater impact fee at the time the fee is charged in order to respond to the unusual circumstances in specific cases and to ensure that the fees are imposed fairly. The Public Works Director may also adjust the amount of the fees to be imposed upon a developer if the developer submits studies and data clearly showing that the payment of an adjusted wastewater impact fee is more consistent with the intent and purposes of the article as provided in subsection 2-10C-4B of this article. If the Public Works Director makes an adjustment in the wastewater impact fee imposed, the Public Works Director shall make written findings that support the adjustment. (Ord. 04-006(B), 10-27-2004)

2-10C-8: REFUNDS:

The Town shall refund any wastewater impact fees paid by a fee payer when:

A. The fee payer has not proceeded with the development activity,

B. The fee pay has filed a written request with the Public Works Director for a refund within two (2) years after the wastewater impact fee was paid,

C. The fees have not been spent or encumbered; and

D. No impact has resulted. (Ord. 04-006(B), 10-27-2004)

2-10C-9: APPEALS:

A. Any person required to pay a wastewater impact fee who believes the fee does not meet the requirements of law may file a written request for information with the Town Clerk.

B. Within two (2) weeks of the receipt of the request for information, the Town shall provide the person or entity with a copy of the reports and with any other relevant information relating to the wastewater impact fee.

C. Any person or entity required to pay an impact fee imposed under this article who believes the fee does not meet the requirements of law may request and be granted a full administrative appeal of that grievance. An appeal shall be made to the Town Manager within thirty (30) calendar days of the date of the action complained of, or of the date when the complaining person reasonably should have become aware of the action.

D. The notice of the administrative appeal to the Town Manager shall be filed with the office of the Town Clerk and shall contain the following information:

1. The person's name, mailing address, and daytime telephone number,

2. A copy of the written request for information and a brief summary of the grounds for appeal,

3. The relief sought.

E. The Town Clerk shall schedule the appeal before the Town Manager no sooner than five (5) and not later than fifteen (15) days from the date of the filing of the appeal. The written decision of the Town Manager shall be made no later than thirty (30) days after the date the challenge to the fee is filed with the town and shall, when necessary, be forwarded to the appropriate town officials for corrective action.

F. Any person who is adversely affected by the Town Manager's decision may appeal to the district court in accordance with Utah Code Annotated section 11-36-401.

G. The provisions of this section notwithstanding, the Town and persons participating in the proceeding may, by written stipulation, extend the time periods specified in this section.

H. A person who has failed to comply with the administrative remedies established by this section may not file or join an action challenging the validity of any impact fee.

I. The Town shall transmit to the reviewing court the record of its proceedings, including its minutes, findings, order and, if available, a true and correct transcript of its proceedings. (Ord. 04-006(B), 10-27-2004)

Title 2 – Finance & Taxation

Chapter 10

IMPACT FEES
ARTICLE D. CULINARY WATER FACILITIES IMPACT FEES

2-10D-1: PURPOSE:
2-10D-2: DEFINITIONS:
2-10D-3: WRITTEN IMPACT FEE ANALYSIS:
2-10D-4: IMPACT FEE CALCULATIONS:
2-10D-5: CAPITAL FACILITIES PLAN:
2-10D-6: IMPACT FEES SCHEDULE AND FORMULA:
2-10D-7: FEE EXCEPTIONS AND ADJUSTMENTS:
2-10D-8: APPEAL PROCEDURE:
2-10D-9: ADMINISTRATIVE PROVISIONS:

2-10D-1: PURPOSE:

This impact fee article establishes the Town Culinary Water Impact Fee Policies and Procedures and repeals certain provisions of prior ordinances related to culinary water impact fees and conforms to the requirements of the Utah impact fees act, Utah Code Annotated Title 11, chapter 36a. This article repeals any prior ordinances related to culinary water impact fees and establishes impact fees for culinary water facilities within the town wide service area, provides a schedule of impact fees for differing types of land use development, and sets forth direction for challenging, modifying and appealing impact fees. (Ord. 09-002, 2-24-2009, eff. 5-25-2009)

2-10D-2: DEFINITIONS:

Words and phrases that are defined in the act shall have the same definition in this impact fee article. The following words and phrases shall have the following meanings:

CAPITAL FACILITIES PLAN: The plan required by Utah Code Annotated section 11-36-201 of the act. In Utah Code Annotated section 11-36-201 (2)(e), there is an exception to the Capital Facilities Plan for cities of five thousand (5,000) or less in population, based on the latest census. Brian Head Town does meet this exception, but has completed a Capital Facilities Plan in accordance with the act and has adopted the Capital Facilities Plan in conjunction with this article.

DEVELOPMENT ACTIVITY: Any construction or expansion of building, structure or use, any change in use of building or structure, or any change in the use of land located within the Brian

Head town wide service area that creates additional demand and need for public facilities related to culinary water.

DEVELOPMENT APPROVAL: Any written authorization from the Town that authorizes the commencement of development activity. Typically, development approval would be in the form of a building permit issued by the town building department.

IMPACT FEE: A payment of money imposed upon development activity as a condition of development approval. "Impact fee" includes development impact fees, but is not a tax, a special assessment, a hookup fee, a building permit fee, a fee for project improvements, or other reasonable permit or application fee.

PROJECT IMPROVEMENTS: Site improvements and facilities that are planned and designed to provide service for development resulting from a development activity and are necessary solely for the use and convenience of the occupants or users of said development activity. "Project improvements" do not include "system improvements", as defined in this section.

PROPORTIONATE SHARE OF THE COST OF PUBLIC FACILITY IMPROVEMENTS: An amount that is roughly proportionate and reasonably related to the service demands and needs of a development activity.

PUBLIC FACILITIES: For purposes of this article, culinary water or improvements or facilities of the town for the Brian Head town wide service area.

SERVICE AREA: Refers to a geographic area designated by the Town based on sound planning and engineering principles in which a defined set of the town public facilities provides service. For purposes of this article, the Brian Head town wide service area shall have coterminous boundaries with the town. The Brian Head town wide service area is identified in the map attached to ordinance 09-002 (exhibit A: "Map Of The Brian Head Town wide Service Area").

SYSTEM IMPROVEMENTS: Refer both to existing public facilities designed to provide services within the Brian Head town wide service area and to future public facilities identified in the Culinary Water Capital Facilities Plan adopted by the Town that are intended to provide service to the Brian Head town wide service area. "System improvements" do not include "project improvements", as defined in this section.

TOWN: A local political subdivision of the state of Utah and is referred to herein as Brian Head Town. (Ord. 09-002, 2-24-2009, eff. 5-25-2009)

2-10D-3: WRITTEN IMPACT FEE ANALYSIS:

A. Executive Summary: A summary of the findings of the written impact fee analysis that is designed to be understood by a lay person is included in the culinary water impact fee analysis and demonstrates the need for impact fees to be assessed on development activity. The executive summary has been available for public inspection at least fourteen (14) days prior to the adoption of this article.

B. Written Impact Fee Analysis: The Town has commissioned the written culinary water impact fee analysis for the culinary water impact fees that identifies the impacts upon the culinary water system and the facilities required by development activity, demonstrates how those impacts on system improvements are reasonably related to development

activity, estimates the proportionate share of the costs of impacts on system improvements that are reasonably related to the development activity, and identifies how the impact fees are calculated. A copy of written culinary water impact fee analysis has been available for public inspection at least fourteen (14) days prior to the adoption of this article.

C. Proportionate Share Analysis: The town has prepared a proportionate share analysis which analyzes whether or not the proportionate share of the costs of future public facilities is reasonably related to new development activity. The proportionate share analysis identifies the costs of existing public facilities, the manner of financing existing public facilities, the relative extent to which new development will contribute to the cost of existing facilities and the extent to which new development is entitled to a credit for payment towards the costs of new facilities from general taxation or other means apart from user charges in other parts of the town. A copy of the proportionate share analysis is included in the written culinary water impact fee analysis and has been available for public inspection at least fourteen (14) days prior to the adoption of this article. (Ord. 09-002, 2-24-2009, eff. 5-25-2009)

2-10D-4: IMPACT FEE CALCULATIONS:

A. Article Enacting Impact Fees: The Town Council will, by this article, approve impact fees in accordance with the written impact fee analysis.

1. Elements: In calculating the impact fee, the Town has included the construction costs, land acquisition costs, costs of improvements, fees for planning, surveying and engineering services provided for and directly related to the construction of system improvements, and outstanding or future debt service charges if the Town might use impact fees as a revenue stream to pay principal and interest on bonds or other obligations to finance the cost of system improvements.

2. Notice And Hearing: In conjunction with the approval of this article, the Town held a public hearing on February 24, 2008, and made a copy of ordinance 99-002 available to the public, at least fourteen (14) days before the date of the hearing, all in conformity with the requirements of Utah Code Annotated section 10-9-103(2). After the public hearing, the Town Council adopted this impact fee article as presented herein.

3. Contents Of Article: This article adopting or modifying an impact fee contains such detail and elements as deemed appropriate by the Town Council, including a designation of the town wide service area within which the impact fees are to be calculated and imposed. The town wide service area will be the only service area included in this analysis, with a map defining their boundaries included in exhibit A, "Map Of The Brian Head Town wide Service Area", attached to ordinance 99-002. Ordinance 99-002 includes: a) a schedule of impact fees to be imposed for culinary water; and b) the formula to be used by the Town in calculating the impact fee.

4. Adjustments: The standard impact fee may be adjusted at the time the fee is charged in response to unusual circumstances or to fairly allocate costs associated with impacts created by a development activity or project. The standard impact fee may also be adjusted to ensure that impact fees are imposed fairly for affordable housing projects, in accordance with the local government's affordable housing policy, and other development activities with broad public purposes. The impact fee assessed to

a particular development may also be adjusted should the developer supply sufficient written information and/or data to the town showing a discrepancy between the fee being assessed and the actual impact on the system.

5. Previously Incurred Costs: To the extent that new growth and development will be served by previously constructed improvements, the town impact fees may include public facility costs and outstanding bond costs related to the culinary water improvements previously incurred by the Town. These costs may include all projects included in the Capital Facilities Plan which are under construction or completed but have not been utilized to their capacity, as evidenced by outstanding debt obligations. Any future debt obligations determined to be necessitated by growth activity will also be included to offset the costs of future capital projects.

B. Developer Credits: A developer may be allowed a credit against impact fees for any dedication or improvement to land or new construction of system improvements provided by the developer; provided that it is 1) identified in the Town Capital Facilities Plan; and 2) required by the Town as a condition of approving the development activity. Otherwise, no credit may be given.

C. Impact Fees Accounting: The Town will establish a separate interest-bearing ledger account for the impact fees collected pursuant to this article and will conform to the accounting requirements provided in the impact fees act. All interest earned on the collection of culinary water impact fees shall accrue to the benefit of the segregated account. Impact fees collected prior to the effective date hereof need not meet the requirements in the subsection.

1. Reporting: At the end of each fiscal year, the Town shall prepare a report on each fund or account generally showing the source and amount of all monies collected, earned and received by the fund or account, and each expenditure from the fund or account.

2. Impact Fee Expenditures: The Town may expend impact fees covered by the impact fees policy only for system improvements that are: a) public facilities identified in the Town Capital Facilities Plan; and b) of the specific public facility type for which the fee was collected. Impact fees will be expended on a first in, first out ("FIFO") basis.

3. Time Of Expenditure: Impact fees collected pursuant to the requirements of this impact fees article are to be expended, dedicated, or encumbered for a permissible use within six (6) years of the receipt of those funds by the Town, unless the Town Council directs otherwise. For purposes of this calculation, the first funds received shall be deemed to be the first funds expended.

4. Extension Of Time: The Town may hold previously dedicated or unencumbered fees for longer than six (6) years if it identifies in writing: a) an extraordinary and compelling reason why the fees should be held longer than six (6) years; and b) an absolute date by which the fees will be expended.

D. Refunds: The Town shall refund any impact fees paid by a developer, plus interest actually earned, when: 1) the developer does not proceed with the development activity and files a written request for a refund; 2) the fees have not been spent or encumbered; and 3) no impact has resulted. An impact that would preclude a developer from a refund from the Town may include any impact reasonably identified by the Town, including, but not limited to, the Town having sized facilities and/or paid for, installed and/or caused the installation

of facilities based in whole or in part upon the developer's planned development activity even though that capacity may, at some future time, be utilized by another development.

E. Other Impact Fees: To the extent allowed by law, the Town Council may negotiate or otherwise impose impact fees and other fees different from those currently charged. Those charges may, at the discretion of the Town Council, include, but not be limited to, reductions or increases in impact fees, all or part of which may be reimbursed to the developer who installed improvements that service the land to be connected with the town system.

F. Additional Fees And Costs: The impact fees authorized hereby are separate from and in addition to user fees and other charges lawfully imposed by the town and other fees and costs that may not be included as itemized component parts of the impact fee schedule. In charging any such fees as a condition of development approval, the town recognizes that the fees must be a reasonable charge for the service provided.

G. Fees Effective At Time Of Payment: Unless the town is otherwise bound by a contractual requirement, the impact fee shall be determined from the fee schedule in effect at the time of payment in accordance with the provisions of section 2-10D-6 of this article.

H. Imposition Of Additional Fee Or Refund After Development Activity: Should any developer undertake development activities such that the ultimate density or other impact of the development activity is not revealed to the town, either through inadvertence, neglect, a change in plans, or any other cause whatsoever, and/or the impact fee is not initially charged against all units or the total density within the development, the town shall be entitled to charge an additional impact fee to the developer or other appropriate person covering the density for which an impact fee was not previously paid. (Ord. 09-002, 2-24-2009, eff. 5-25-2009)

2-10D-5: CAPITAL FACILITIES PLAN:

The Town has developed a culinary water capital facilities plan for the town culinary water system. The culinary water capital facilities plan has been prepared based on reasonable growth assumptions for the town wide service area and analyzes the general demand characteristics of current and future users of each system. Furthermore, the capital facilities plan identifies the impact on system improvements created by development activity and estimates the proportionate share of the costs of impacts on system improvements that are reasonably related to new development activity. (Ord. 09-002, 2-24-2009, eff. 5-25-2009)

2-10D-6: IMPACT FEE SCHEDULE AND FORMULA[1]:

A. Maximum Supportable Impact Fees:

1. The fee schedule included herein represents the maximum impact fees which the town may impose on development within the defined town wide service area and are based upon general demand characteristics and potential demand that can be created by each class of user. The town reserves the right under the impact fees act, Utah Code Annotated section 11-36-202(2)(c),(d), to assess an adjusted fee to respond to unusual circumstances to ensure that fees are equitably assessed.

2. This adjustment may result in a higher impact fee if the town determines that a user would create a greater than normal impact on any of the systems. The town may also decrease the impact fee if the developer can provide documentation that the proposed impact will be less than what could be expected, given the type of user (Utah Code Annotated section 11-36-202(3)(a)).

B. Actual Impact Fee Determination: The town is seeking funding from various sources which may or may not include grant monies. The town is not able to recoup costs of capital facilities paid through federal grants but can do so for the loan portion only. The actual impact fee will be set at or below the following recommended maximum impact fee prior to the effective date hereof and will be listed on the Town Consolidated Fee Schedule before May 25, 2009, which is the effective date of this article.

RECOMMENDED MAXIMUM CULINARY WATER IMPACT FEES

	Fee Per ERC
Maximum culinary water impact fee	$13,593.94

FORMULA FOR CALCULATING CULINARY WATER IMPACT FEES

Type Of Unit	Conversion Factor
Single-family	1 ERC
Condo unit	1 ERC
All other	Per actual fixture unit calculations[1]

Note:
1. One ERC is equivalent to 24 water fixture units as calculated in table 604.3 of the 2006 international plumbing code, and 20 drainage fixture units as calculated in table 709.1 of the 2006 international plumbing code.

(Ord. 09-002, 2-24-2009, eff. 5-25-2009)

2-10D-7: FEE EXCEPTIONS AND ADJUSTMENTS:

A. The Town Council may, on a project by project basis, authorize exceptions or adjustments to the impact fees due from development for those projects the Town Council determines to be of such benefit to the community as a whole to justify the exception or adjustment. Such projects may include facilities being funded by tax supported agencies, affordable housing projects, or facilities of a temporary nature. The Town Council may elect to waive or adjust impact fees in consideration of economic benefits to be received from the developer's activity.

B. Applications for exceptions are to be filed with the town at the time the applicant first requests the extension of service to the applicant's development or property. (Ord. 09-002, 2-24-2009, eff. 5-25-2009)

2-10D-8: APPEAL PROCEDURE:

A. Any person or entity that has paid an impact fee pursuant to this article may challenge the impact fee by filing:

1. An appeal to the town pursuant to subsections B, C and D of this section;

2. A request for arbitration as provided in Utah Code Annotated section 11-36-402(1), as amended; or

3. An action in state district court as provided in Utah Code Annotated section 11-36-401(4)(c)(iii), as amended.

B. Application: Any person or entity that has paid an impact fee pursuant to this article may challenge or appeal the impact fee by filing a written notice of appeal with the Town Council within thirty (30) days of the date that the fee was paid.

C. Hearing: Upon receiving the written notice of appeal, the town shall set a hearing date to consider the merits of the challenge or appeal. The person or entity challenging or appealing the fee may appear at the hearing and present any written or oral evidence deemed relevant to the challenge or appeal. Representatives of the town may also appear and present evidence to support the imposition of the fee.

D. Decision: The hearing panel, which shall consist of the Town Council or such other body as the town shall designate, shall hold a hearing and make a decision within thirty (30) days after the date the challenge or appeal is filed. (Ord. 09-002, 2-24-2009, eff. 5-25-2009)

2-10D-9: ADMINISTRATIVE PROVISIONS:

A. Interpretation: This impact fee article has been divided into sections, subsections, paragraphs and clauses for convenience only and the interpretation of this impact fee article shall not be affected by such division or by any heading contained herein.

B. Effective Date: Except as otherwise specifically provided herein, this impact fee article shall not repeal, modify or affect any impact fee of the town in existence as of the effective date hereof, other than those expressly referenced in section 2-10D-1 of this article. All impact fees established, including amendments and modifications to previously existing impact fees, after the effective date hereof, shall comply with the requirements of this impact fee article. (Ord. 09-002, 2-24-2009, eff. 5-25-2009)

Footnote 1: Fees included in this section are the maximum supportable impact fees which can be assessed. Adjustment to these fees may be made with adequate documentation from the developer that the true impact differs from that shown.

Title 2 – Finance & Taxation

Chapter 11

ENHANCED SERVICE BUSINESS LICENSE FEES

2-11-1: FINDINGS:
2-11-2: ENHANCED LEVEL OF SNOW REMOVAL SERVICES DEFINED:
2-11-3: FEE IMPOSED:
2-11-4: EFFECTIVE DATE:

2-11-1: FINDINGS:

A. Pursuant to Utah Code Annotated section 10-1-203(5), the Town Council finds that the basic level of municipal services in the town does not include public transportation of any sort. This would include buses, shuttles or trams of any type.

B. The Town Council further finds that the cost of providing such a shuttle service constitutes disproportionate costs which are caused by the increasing demand of commercial business customers for these municipal services; and further finds that the disproportionate cost of the enhanced service is approximately eighty-two thousand dollars ($82,000.00) per year for public transportation services. 2010 Code, amd. Ord. 18-004, 5-29-2018)

C. The basic level of municipal snow removal services in the town are those snow removal services provided up until the 1995-1996 winter season, and entailed two (2) part time personnel, and one piece of snow removal equipment at a cost of thirty-nine thousand dollars ($39,000.00) as of fiscal year ending 1996. The Town Council further finds that the costs of providing the enhanced snow removal services contemplated herein constitute disproportionate costs caused by the increasing demand of commercial business customers for these municipal services. (2010 Code, amd. (Ord. 18-004, 5-29-2018)

2-11-2: ENHANCED LEVEL OF SNOW REMOVAL SERVICES DEFINED:

For purposes of this chapter, the "enhanced level of snow removal services" provided under this chapter, is hereby defined as follows:

A. Snow removal operations will be sufficient to allow for continuous public transportation operations throughout the public transportation operating season. It is anticipated that the following guidelines will provide sufficient service in general, however, the Town may be required to go above and beyond these guidelines in specific instances in order to achieve the above-stated goal:

1. Plowing to begin when snow depth reaches four inches (4”) or at the direction of the Public Works Director and in cooperation with the Marshall’s Department.

2. Sanding/cindering to begin when snowfall ceases or at the direction of the Public Works Director and in cooperation with the Marshal’s Department.

3. Streets to be plowed (one pass minimum) within four-hours of the commencement of snow removal operations.

4. Snow removal to be done on a round-the-clock basis.

5. Street widening and clean-up to be completed as soon as possible after street plowing.

6. Brian Head Town will not be responsible for the clearing of private parking, driveways, stairs, or berms that accumulate as a result of snow removal on town streets.

7. Public parking at the Village Core will be plowed by within four-hours of the commencement of snow removal operations (existing parking only).

8. Brian Head Town is not responsible for the clearing of snow on State Highway 143. Public Works will do everything possible to assist Utah Department of Transportation (UDOT) on clearing snow, only after a request from UDOT and at the direction of the Public Works Director.

(Ord. 18-004, 5-29-2018)

2-11-3: FEE IMPOSED:

A fee shall be paid on or before the thirtieth day of each month immediately following the end of each quarter in an amount of one and one-half percent (1.50%) all taxable sales as defined in 2018 Utah Code annotated § 12-103(1) (2010 Code, amd. Ord. 18-004, 5-29-2018)

2-11-4: EFFECTIVE DATE:

This chapter shall become effective January 1, 1998, and the increased enhanced service business license fees shall be levied beginning at one minute after twelve o'clock (12:01) A.M., January 1, 1998. (2010 Code, amd. Ord. 18-004, 5-29-2018)

Title 2 – Finance & Taxation

Chapter 11

ARTICLE B:

NIGHTLY RENTAL DISPROPORTIONATE COST OF SERVICE BUSINESS LICENSE FEE

2-11B:1: FINDINGS
2-11B-2: DISPROPORTIONATE COST OF SERVICE DEFINED
2-11B-3: FEE IMPOSED
2-11B-4: EFFECTIVE DATE

2-11-1: FINDINGS:

A. Pursuant to Utah Code Annotated §10-1-203(5), the Town Council finds that there is a disproportionate level of service due to the increasing number of nightly rentals on the basic level of municipal services in Town.

B. The Town Council further finds that the cost of providing public safety services (which include police and fire services) constitutes disproportionate costs which are caused by the increasing demand of nightly rental businesses for these municipal services; and further finds that the disproportionate cost of the enhanced service is approximately $102,391 annually for public safety personnel.

2-11-2: DISPROPORTIONATE COST OF SERVICE DEFINED

A. The base level of police and fire service require at least single-deep public safety coverage at all times regardless of the volume of guests created by recreational activities or nightly rental businesses.

B. Due to the recreational nature of Brian Head Town's local economy, two-deep police and fire coverage would be needed during daylight hours at peak recreational times, namely weekends and holidays.

C. Two-deep police and fire coverage during nighttime hours are required largely due to the nightly rental businesses housing visitors in Brian Head overnight.

1. There are one thousand seven hundred sixty-four (1,764) overnight hours that require two-deep police and fire coverage due to nightly rental businesses.

2. Current average rates (as of fiscal year 2021) of total compensation for public safety officers is $53.67 per hour, with an additional $9,100 budget per officer annually for training and equipment. This results in a total disproportionate cost of $102,391 for fiscal year 2021.

3. As of fiscal year 2021, four hundred forty-four (444) nightly rental units were licensed in Brian Head Town. Of these, three hundred seventy-six (376) units were condominium units or multi-family residential units and sixty-eight (68) were cabins or single-family residential units, with an average maximum occupancy of 5.4 and 14.7 person per unit respectively.

4. The disproportionate cost of $102,391 apportioned to nightly rental units based on their type and weighted by average occupancy is $248 per cabin or single-family residential unit and $91 per condominium unit or multi-family residential unit.

2-11-3: FEE IMPOSED: A fee shall be paid annually either on the renewal date for business licensing or upon submission of a business license application for a nightly rental business and shall be paid annually hence forth as long as the nightly rental business hold a valid business license with the Town. The Nightly Rental Disproportionate Cost of Service Business License Fee shall be imposed as follows:

A. Flat rate fee identified by the Consolidated Fee Schedule.

B. Per unit.

C. Differentiated by unit type (i.e. cabin or condo).

The Town Council may elect to adopt a fee in the Consolidated Fee Schedule that is equal to or less than the disproportionate cost of service identified in this chapter.

2-11-4: EFFECTIVE DATE: This chapter shall become effective at 12:01 am on August 11, 2021.

Ord. 21-101, 8-10-2021

Title 2 – Finance & Taxation

Chapter 12

HAZARDOUS MATERIALS EMERGENCY RESPONSE EXPENSE RECOVERY

2-12-1: DEFINITIONS:
2-12-2: RECOVERY OF EXPENSES:
2-12-3: COST RECOVERY PROCEDURE:
2-12-4: ACTION TO RECOVER COSTS:
2-12-5: EXPENSES OF OTHER RESPONDING ENTITIES:

2-12-1: DEFINITIONS:

For the purpose of this chapter, the following terms, phrases and words shall have the following meanings:

EXPENSES: All costs incurred for the response, containment and/or removal and disposal of hazardous materials on initial remedial action. It includes, but is not necessarily limited to, the actual labor costs of government and other personnel, including workers' compensation benefits, fringe benefits, administrative overhead, and any costs of equipment, equipment operation, materials, disposal and any contract labor or materials.

HAZARDOUS MATERIALS EMERGENCY: A sudden and unexpected release of any substance that, because of its quantity, concentration or physical, chemical or infectious characteristics, presents a direct and immediate action to mitigate the threat. (Ord. 03-004, 6-24-2003)

2-12-2: RECOVERY OF EXPENSES:

A. Authority: Those persons or entities whose negligent or intentional actions cause or create, in whole or in part, a hazardous materials emergency within the boundaries of the town are liable to the town for all costs and expenses incurred in or arising from response to such hazardous materials emergency by the town and any other political subdivision, agency or cooperative entity. The town shall recover all such costs and expenses, including reasonable attorney fees, litigation expenses and court costs incurred in, related to or arising out of, all cost recovery efforts and enforcement of the terms of this chapter.

B. Rate: All costs and expenses shall be billed at the current rate established and admission of liability or negligence in any legal action for damages. (Ord. 03-004, 6-24-2003)

2-12-3: COST RECOVERY PROCEDURE:

A. Investigation And Notice: The town shall investigate and determine the person or entity responsible for causing or creating the hazardous materials emergency and shall notify the responsible party in writing of said determination of responsibility and the amount of costs and expenses incurred by the town in responding to the hazardous materials emergency.

B. Notice Of Right To Appeal: The notice required by subsection A of this section shall specify that the party determined to be responsible for causing or creating the hazardous materials emergency has the right to appeal the decision determining responsibility to the governing body of the town and shall specify a deadline for filing the notice of appeal and the person or office in which it must be filed. The deadline for filing the notice of appeal shall not be less than fifteen (15) days from the date of the notice.

C. Hearing: In the event a notice of appeal is filed, the hearing before the governing body shall be an informal public hearing, and the parties shall not be required to adhere to the Utah rules of civil procedure or evidence. The appealing party and the town shall each be entitled to present evidence and argument in support of their respective positions, in accordance with procedures established at the hearing by the governing body.

D. Final Decision: The decision of the governing body shall be final. (Ord. 03-004, 6-24-2003)

2-12-4: ACTION TO RECOVER COSTS:

In the event the responsible party fails or refuses to pay all of the costs and expenses determined by the town related to or arising out of the town's response to the hazardous materials emergency within thirty (30) days after assessment or after the governing body's decision on an appeal, the town may initiate a legal action to recover such costs, including reasonable attorney fees and costs. (Ord. 03-004, 6-24-2003)

2-12-5: EXPENSES OF OTHER RESPONDING ENTITIES:

A. Recovery: In the event that personnel and equipment from other political subdivisions, agencies or cooperative entities shall respond to assist with the hazardous materials emergency, then the town shall recover costs and expenses incurred by such other political subdivisions, agencies or cooperative entities as part of the town's cost recovery efforts.

B. Reimbursement: Upon recovery of costs and expenses from the responsible party, the town is authorized to reimburse such other political subdivisions, agencies or cooperative entities for their actual costs incurred in responding to the hazardous materials emergency. (Ord. 03-004, 6-24-2003)

Title 2 – Finance & Taxation

Chapter 13

PARKS AND RECREATION FACILITIES TAX

2-13-1: PARKS AND RECREATION FACILITIES TAX:

2-13-1: PARKS AND RECREATION FACILITIES TAX:

A. Under Utah Code Annotated section 59-12-1402(5)(b), the enactment of the PAR tax shall become effective on the first day of a calendar quarter, and after a ninety (90) day period beginning on the date the tax commission received due notice from the town, namely April 1, 2006; and

B. Distribution of the entire amount of revenues generated by the PAR tax shall be made to the town. (Ord. 06-001, 3-28-2006; amd. 2010 Code)

C. Under Utah Code Annotated section 59-12-1402(4)(b)(ii), the reauthorization of the .1% PAR tax shall continue for additional ten years beginning January 01, 2015 until December 31, 2025 at which time the question will be put to the registered voters of Brian Head town. (amd Ord. 14-009, 11-25, 2014).

Title 2 – Finances & Taxation

Chapter 14

MUNICIPAL TRANSIENT ROOM TAX

2-14-1: TITLE
2-14-2: PURPOSE
2-14-3: EFFECTIVE DATE
2-14-4: DEFINITIONS
2-14-5: TRANSIENT ROOM TAX
2-14-6: GROSS RECEIPTS
2-14-7: EXEMPTIONS TO TRANSIENT ROOM TAX
2-14-8: PAYMENTS
2-14-9: PENALTITIES AND INTEREST

2-14-1: TITLE.

This Chapter shall be known as the TRANSIENT ROOM TAX ORDINANCE of Brian Head Town.

2-14-2: PURPOSE.

The Utah State Legislature has authorized municipalities to enact a Transient Room Tax that may be collected from persons and entities providing public accommodations in the Town. It is the purpose of this Ordinance to provide for the uniform assessment and collection of that tax pursuant to Part 3 of Title 59, Chapter 12, Utah Code (as amended).

2-14-3: EFFECTIVE DATE.

This Chapter shall become effective as of the 1st day of October 2013.

2-14-4: DEFINITIONS:

For the purpose of this chapter, the following terms, phrases and words shall have the following meanings:

PUBLIC ACCOMMODATIONS: shall mean a place providing temporary sleeping accommodations that are regularly rented to the public and includes:

A. A motel

B. A hotel

C. An inn

D. A recreational vehicle park

E. A campground;

F. A bed and breakfast establishment;

G. A condominium; and

H. A resort home.

RENT: shall include:

A. Rents; and

B. Timeshare fees and dues.

TRANSIENT: shall mean the occupation of a public accommodation, by a person, of less than thirty (30) consecutive days.

2-14-5: TRANSIENT ROOM TAX.

There is hereby levied upon the business of every person, company, corporation, or other like and similar persons, groups, or organizations, doing business in the Town as motels, hotels, recreational vehicle parks, inns or like, and similar public accommodations, an annual license tax equal to one percent (1%) of the gross revenue derived from the rent for each and every occupancy of a suite, room, or rooms, for a period of less than thirty (30) days.

2-14-6: GROSS RECEIPTS.

For purposes of this Section, gross receipts shall be computed upon the base room rental rate. There shall be excluded from the gross revenue, by which this tax is measured:

A. The amount of any sales or use tax imposed by the State of Utah or by any other governmental agency upon a retailer or consumer;

B. The amount of any Transient Room Tax levied under authority of Utah Code Annotated Title 17 Chapter 31 (as amended), or its successor;

C. Receipts from the sale or service charge for any food, beverage, or room service charges in conjunction with the occupancy of the suite, room, or rooms, not included in the base room rate; and

D. Charges made for supplying telephone service, gas, or electrical energy service, not included in the base room rate.

2-14-7: EXEMPTIONS TO TRANSIENT ROOM TAX.

No Transient Room Tax shall be imposed under this Chapter upon any person:

A. Engaged in business for solely religious, charitable, eleemosynary, or other types of strictly nonprofit purpose who is tax exempt in such activities under the laws of the United States and the State of Utah; or

B. Engaged in a business specifically exempted from municipal taxation and fees by the laws of the United States or the State of Utah.

2-14-8: PAYMENTS.

On or before the effective date of this Chapter, Brian Head Town shall contract with the State Tax Commission to perform all functions incident to the administration and collection of the Municipal Transient Room Tax, in accordance with the provisions of this Chapter and Utah Code Annotated, Section 59-12-354 (as amended) or its successor. The Mayor is hereby authorized to enter into agreements with the State Tax Commission that may be necessary for the continued administration and operation of the Transient Room Tax enacted by this Chapter.

2-14-9: PENALTIES AND INTEREST.

Penalties and interest equal to those authorized by Utah Code Annotated Sections 59-1-401 and 59-1-402 (as amended), or their successors, shall be imposed on any person who:

A. Is required to pay the tax under this part; and

B. Does not remit the tax to the collecting agent within the time prescribed by law."

Title 2 – Finance & Taxation

CHAPTER 15

BRIAN HEAD TOWN INVESTMENT POLICY

2-15-1: PURPOSE
2-15-2: LEGAL CONSTRAINTS
2-15-3: ROLES AND RESPONSIBILITIES
2-15-4: PRUDENT INVESTOR RULE
2-15-5: RETURN
2-15-6: EFFECTIVE DATE

2-15-1: PURPOSE:

The purpose for Brian Head Town funds to be invested is to provide for daily working cash flow requirements for Brian Head Town and for future capital projects. Brian Head Town will invest public funds in a manner that:

A. Primarily, ensures maximum safety,

B. Secondarily, provides adequate liquidity to meet cash flow requirements, and

C. Lastly, provides a yield on investments consistent with the primary objectives of safety and liquidity.

2-15-2: LEGAL CONSTRAINTS:

It is the policy of Brian Head Town to comply with the Utah Money Management Council with regards to all Town investments. It is Brian Head Town policy to use the "Criteria for Investments," 51-7-17, in the Money Management Act as a rule for all investments. In following those rules, Brian Head Town will invest public funds in a manner that ensures maximum safety as the primary objective, provides adequate liquidity to meet the projected cash flow requirements, and provides a yield on investments consistent with the primary objectives of safety and liquidity. All investments made by the Town shall be judged by these and other criteria in accordance to the Money Management Act and rules set by the Money Management Council.

2-15-3: ROLES AND RESPONSIBILITIES:

The Town Treasurer, under the supervision of the Town Manager, has the authority to invest Town funds and to manage the Town's investments. The Town Treasurer shall assess all investments regularly and report the status of all Town investments to Town management monthly and to the Money Management Council as required by law. In the event the Town Treasurer is unable to perform those duties, the Town Manager is authorized to conduct the Town's investment transactions and reports.

2-15-4: PRUDENT INVESTOR RULE:

Town staff, acting in accordance with this policy and Utah law, acting with all due diligences, shall not be held personally responsible for an investment's market performance, provided that staff take appropriate action to control adverse developments.

2-15-5: RETURN:

The Public Treasurer Investment Fund (PTIF), managed by the Utah State Treasurer, shall be the primary investment vehicle for Brian Head Town. The PTIF shall also be used as the benchmark investment against which all other Town investments will be evaluated, including those that the Town currently has or may consider in the future.

2-15-6: EFFECTIVE DATE:

This chapter shall go into effect as of 12:01 am on April 8, 2014.

Title 3
BUSINESS AND LICENSE REGULATIONS

Chapter 1

DEFINITIONS

3-1-1: DEFINITIONS:

3-1-1: DEFINITIONS:

All words and phrases used in this title shall have the following meanings, unless a different meaning clearly appears from the context:

AGENT: Means any legally authorized entity acting on behalf of a property owner, including but not limited to a rental management company, property manager, an executor of the owner's estate, or other legal fiduciary. (Ord. 19-009, 7-8-2019)

BUSINESS: A distinct and separate "person" or entity "engaging in business", as those terms are defined in this section. A "business" may be distinguished from another business by separate state sales tax numbers, federal tax identification numbers (employer identification number), and/or separate ownership.

BUSINESS AND SPECIAL EVENTS NUISANCE: Any licensed premises where persons are permitted to use profanity, indecent, immoral, loud or boisterous language, or immoral, unruly, disorderly, lewd, obscene conduct is permitted, or carried on; or persons under the age of twenty one (21) are permitted to purchase or drink beer, alcoholic beverages or liquor; or city, county, state or federal laws or ordinances are violated by the licensee or his agents or patrons with the consent or knowledge, actual or constructive, of the licensee which tend to affect the public health, safety, peace or morals; or patrons are throwing litter or other objects within the licensed premises or from the licensed premises in a manner which tends to affect the public safety or health.

CHARITABLE ORGANIZATION: Any organization recognized by the internal revenue service (IRS) as a 501(c)(3) charitable organization, such as, but not limited, to a religious organization, or any social or welfare organization recognized and dedicated to the relief of the poor, care of the sick or elderly, or aid to victims of disaster, catastrophe or personal tragedy.

COMMERCIAL VEHICLES AND TRAILERS: Motor vehicles that are utilized in the normal course of business, including, but not limited to, delivery trucking, commercial hauling, snow removal services, transportation of goods or other cargo rental vehicles, concrete trucks and dump trucks. "Commercial vehicles and trailers" do not include those that transport people to,

from and within Brian Head Town for a fee.

CONDUCTING BUSINESS: Includes the sale or offering for sale of any goods or merchandise, or the offering or performing of any service for valuable consideration of any kind.

CORPORATE SPONSOR: Any business or combination of businesses which provide funding for any special event for a substantial amount of the funds necessary to promote the event or account for substantial amount of the event's operating expenditure budget.

DESIGNEE: A Brian Head Town staff member authorized by the Town Licensing Officer to process liquor related and business license applications and renewals.

ENGAGING IN BUSINESS: Includes all activities engaged in within the corporate limits of Brian Head Town carried on for the purpose of gain or economic profit, except that the acts of employees rendering service to employers shall not be included in the term business unless otherwise specifically prescribed. "Engaging in business" includes, but is not limited to, the sale or rental of tangible personal or real property at retail or wholesale, the manufacturing of goods or property and the rendering of services for others for a consideration, except the rendering of services by an employee to his employer under any contract of employment.

FIREWORKS PERMIT: A permit issued by the Town Fire Marshal for aerial or concession fireworks, pursuant to current fire codes.

FOOD CART: A cart that is not motorized and that a vendor, standing outside the frame of the cart, uses to prepare, sell, or serve food or beverages for immediate human consumption. (22-012, 11-8-22)

FOOD TRUCK: A fully encased food service establishment on a motor vehicle or on a trailer that a motor vehicle pulls to transport, and from which a vendor standing within the frame of the vehicle, prepares, cooks, sells, or serves food or beverages for immediate human consumption; or a food cart, or an ice cream truck. (ord. 22-012, 11-8-22)

FOOD TRUCK BUSINESS: A person who operates a food truck or, under the same businesses, multiple food trucks. (ord. 22-012, 11-8-22)

HEARING OFFICER: The Town Manager of Brian Head Town is designated as the hearing officer for Brian Head Town.

ICE CREAM TRUCK: A fully encased food service establishment:

A. On a motor vehicle or on a trailer that a motor vehicle pulls to transport;

B. From which a vendor, from within the frame of the vehicle, serves ice cream;

C. That attracts patrons by traveling through a residential area and signaling the truck's presence in the area, including by playing music; and

D. That may stop to serve ice cream at the signal of a patron.

(ord. 22-012, 11-8-2023)

LICENSE FEE: Includes the administrative fee as defined by the consolidated fee schedule.

LICENSED PREMISES: Any room, building, structure or place, whether permanent or temporary,

occupied by any person licensed to conduct business within the town boundaries.

LICENSEE: Person to whom a license has been issued pursuant to the provisions of this Title, including individual person, partnership, joint ventures, associations, clubs, trusts, corporations or any other entities qualified by law to carry on any business referred to herein. The term Licensee as used herein shall include all of the above and shall be either the applicant or licensee. (amd. Ord. 19-009, 7-8-2019)

LICENSING OFFICER: The Town Clerk, or his or her designee, responsible for receiving from an applicant the completed application and either granting, suspending, or denying the application.

MOBILE VENDOR: Any business which sells food, flowers, agricultural products, ice cream, candy, popcorn or other goods or merchandise from tents/canopies, push carts, mobile wagons, trailers, or motor vehicles. Includes Food Trucks. (ord. 22-012, 11-8-22)

NIGHTLY RENTAL FACILITY: Also called “short-term rental”. Any place providing temporary sleeping accommodations to the public for a period less than thirty (30) days, including, without limitation, a hotel, motel, lodge, condominium project, single-family residence, bed and breakfast, boarding house, inn, resort, rooming house, recreational lodging unit, private campground, or timeshare project. amd. Ord. 19-009, 7-8-2019

NONPROFIT CORPORATION: A corporation or company which is not conducted or maintained for the purpose of making a profit and/or no part of the income of which is distributable to its members, trustees or officers, or a nonprofit cooperative association.

PERMIT: Permits may be issued by the Licensing Officer, or his or her designee, to any business, individual or special events that are identified in subsection 3-2A-5B of this title, as a permit holder in lieu of a license. Permits are considered temporary in nature unless otherwise identified.

PERSON: Any individual, receiver, assignee, trustee in bankruptcy, trust, estate, firm, partnership, joint venture, club, company, business trust, corporation, association, organization, society, or other group of individuals acting as a unit, whether mutual, cooperative, fraternal, for profit, nonprofit, or otherwise.

PLACE OF BUSINESS: Each separate location maintained or operated by the licensee within Brian Head Town from which business activity is conducted or transacted. A location shall be identified by street address or by building name if a street address has not been assigned. "Place of business" means cafes, restaurants, public dining rooms, cafeterias, taverns, cabarets, and any other place where the general public is invited or admitted for business purposes, including any patios, balconies, decks, or similar areas, and also means private clubs, corporations and associations operating under charter or otherwise wherein only the members, guest members and their visitors are invited. Occupied hotel, motel rooms, condominiums and cabins that are not open to the public shall not be "places of business" as herein defined.

RESTAURANT: A place of business where a variety of food is prepared and/or cooked and complete meals are served to the general public and is engaged primarily in serving meals to the general public.

ROUTE DELIVERY: Any delivery made to customers of a business which makes repeated door

to door deliveries to the same households along designated routes with an established time interval in between delivery visits. The majority of such deliveries must be to fulfill orders previously made by the customer. Such businesses will include, but not be limited to, dairies and sellers of bulk meats or produce.

SALE/SELL OR TO SELL: Any transaction, exchange or barter whereby, for any consideration, or by any means or any pretext promised or obtained, whether done by a person as a principal, proprietor, or as an agent, servant or employee, unless otherwise defined in this title.

SEASONAL BUSINESS: A business engaging in business for more than thirty (30) days in a given year, but not exceeding more than six (6) months in the same year.

SEXUALLY ORIENTED BUSINESS: A "business" as defined in chapter 5 of this title, "Sexually Oriented Businesses".

SOLICITED DELIVERY: A delivery of previously ordered goods or services or the United States mail. "Solicited delivery" includes, but is not limited to, the delivery of newspapers or publications pursuant to a subscription, the United States mail, parcel delivery services, businesses engaging in route delivery or persons delivering previously ordered goods or services on behalf of an established retailer of those goods or services.

SPECIAL EVENT: Any event, public or private, with either public or private venues, requiring town licensing beyond the scope of normal business and/or liquor regulations, as defined by this code; or any event held on public or private property in which the general public is invited, with or without charge, and which creates significant public impacts through any of the following:

A. The attraction of large crowds;

B. Necessity for street closures on any arterial street necessary for the safe and efficient flow of traffic in Brian Head Town;

C. Use of public property;

D. Use of Town transportation services;

E. Use of off-site parking facility;

F. Use of amplified music in or adjacent to a residential neighborhood;

G. Use of Town personnel;

H. Impacts via disturbance to adjacent residents;

I. Disruption of the normal routine of the community or affected neighborhood; or

J. Necessitates special event temporary beer or liquor licensing in conjunction with the public impacts.

SPONSOR: A person, group or business which has contracted to provide financial or logistical support to any special event or festival. Such agreement may provide for advertising rights, product promotion, logo promotion, exclusivity of rights, products, or logos.

STREET CLOSURE: The deliberate blockage of any public street or town owned parking facility to prohibit the flow of traffic or access of vehicles. Any non-construction street closure shall require a special event license.

UNIT: Any separately rented portion of a hotel, motel, condominium, single-family residence, duplex, triplex, or other residential dwelling without limitation.

UNSOLICITED DELIVERY: Delivery that is not a solicited delivery, including the delivery of any unsolicited newspaper or publication, sample product or advertising material. Unsolicited newspapers or publications, sample products or advertising material shall include, but not be limited to, handbills describing or offering goods or services for sale, any goods or products that were not previously ordered by the homeowner or occupant, any newspaper or publication delivered without a subscription by the owner or occupant, and any coupons or rebate offers for goods and services.

VENDOR: Any person, group or business that transacts business within the town limits on a temporary basis, such as special events. (amd. ord. 22-012, 11-8-22)

VENUE: The location or locations upon which a special event or festival is held, as well as the ingress and egress route when included in the special event license. (Ord. 08-017, 8-26-2008)

Title 3 – Business & Licensing Regulations

Chapter 2

ARTICLE A - BUSINESS LICENSING IN GENERAL

3-2A-1: LICENSE REQUIRED:
3-2A-2: EXEMPTIONS:
3-2A-3: TRIPLE FEE FOR FAILURE TO OBTAIN REQUIRED LICENSE:
3-2A-4: APPLICATION FOR LICENSE:
3-2A-5: FEE PROVISIONS:
3-2A-6: INVESTIGATION OF APPLICANT:
3-2A-7: INSPECTIONS FOR CODE COMPLIANCE:
3-2A-8: CONDITIONS FOR DENIAL OF LICENSE:
3-2A-9: NOTIFICATION OF ISSUANCE OR DENIAL; BUSINESS OPERATIONS DURING REVIEW AND INSPECTION:
3-2A-10: APPEALS OF LICENSE DENIAL:
3-2A-11: ISSUANCE OF LICENSE CERTIFICATE:
3-2A-12: RENEWAL OF LICENSE CERTIFICATE:
3-2A-13: UNRELATED BUSINESS ACTIVITIES:
3-2A-14: TERM OF LICENSE:
3-2A-15: DUTY TO DISPLAY LICENSE:
3-2A-16: SEPARATE LICENSE REQUIRED FOR SEPARATE PHYSICAL LOCATIONS:
3-2A-17: SEPARATE BUSINESSES, LICENSED PREMISES:
3-2A-18: MULTIPLE LICENSING:
3-2A-19: USE OF PUBLIC PROPERTY:
3-2A-20: CERTAIN ACTS PROHIBITED:
3-2A-21: CLASSIFICATION STANDARDS OF SPECIFIC BUSINESSES:
3-2A-21-1: CONTRACTORS AND BUILDERS:
3-2A-21-2: MOBILE VENDORS:
3-2A-21-3: NIGHTLY RENTAL FACILITIES:
3-2A-21-4: RESTAURANTS, FOOD SERVICE, TAVERNS, ETC.:
3-2A-21-5: RESIDENTIAL GARAGE SALES:
3-2A-21-6: CHILDCARE SERVICES:
3-2A-21-7: OUTDOOR SALES:

3-2A-1: LICENSE REQUIRED:

Unless exempted by state or federal law, or by this title, it shall be unlawful for any person to engage in business within the town, whether on a temporary or permanent basis, without first procuring the license required by this article. (Ord. 08-017, 8-26-2008)

3-2A-2: EXEMPTIONS:

The licensing provisions of this article shall not apply to the following kinds of activities that would otherwise fall within the purview of this article:

A. Political Actions: No license shall be required to solicit signatures on petitions of a political nature, or to canvass or solicit funds on behalf of candidates for office or ballot issues. Campaign literature may be delivered to homes, subject to the delivery conditions set forth in subsection F of this section.

B. Religious Actions: No license shall be required of persons exercising their right to express their religious views; provided however, that no person shall use this exemption to sell merchandise. Delivery of any publication or material shall be subject to the delivery conditions set forth in subsection E of this section.

C. Civic Groups: No licensing shall be required of local civic organizations, such as Boy Scouts, Girl Scouts, historic preservation groups, schools, museums, and charitable organizations. Delivery of any publication or material shall be subject to the delivery conditions set forth in subsection E of this section.

D. Solicited Deliveries: No special license shall be required of any person making an "unsolicited delivery", other than the license(s) required by this title to engage in business.

E. Unsolicited Deliveries: No special license shall be required of any person making an “unsolicited delivery” other than licenses(s) required by this title to engage in business. However, any person making an unsolicited delivery of any kind shall not cause unsolicited material to be stacked, piled, or accumulated on any driveway, porch, automobile, building, yard, doorway, stairwell, or doorknob, without the prior express consent of the occupant of the premises. It shall be unlawful for any person to deliver any unsolicited material to a residence where that person's previously delivered material remains uncollected. Additionally, any person making such an unsolicited delivery to a residence who finds his or her prior uncollected material there shall properly dispose of that person's uncollected material.

F. State Licensees: Solicitors who hold valid state issued licenses to act as real estate brokers or agents, stockbrokers, or insurance agents or salesmen, need not obtain a separate solicitor's license from the town, but shall conduct their solicitation activities in accordance with the provisions of this code.

G. Delivery Prohibition: It shall be unlawful for any person to deliver any unsolicited material to any person, residence, or premises where the occupant thereof has requested that such delivery cease or where such occupant has posted his/her desire not to receive such unsolicited material. (Ord. 08-017, 8-26-2008)

H. Minors: A license shall not be required for a business that is operated occasionally and by an individual who is under 18 years of age. The Licensing Officer will evaluate the size, frequency, duration, visibility, and seasonality of the proposed business to determine whether the proposed business is considered occasional. (Ord. 17-005, 7-25, 2017)

I. Low Impact Home Occupation: Home occupation businesses which do not have employees or customers coming to the home, but the work of the business is conducting

primarily within the home. Low impact home occupations are those which do not create the following:

1. on or off street parking which generate excessive customer or client traffic that is detrimental to the residential character of surrounding properties of the neighborhood;

2. does not have retail sales at the home site or additional deliveries,

3. does not have storage or inventory or materials,

4. does not create noise vibration, glare, fumes, odors, or electrical or electronic interference detectable by neighbors;

5. does not cause an increase of common expenses or an increase in law enforcement and/or public safety services. (Ord. 17-005, 7-25, 2017).

3-2A-3: TRIPLE FEE FOR FAILURE TO OBTAIN REQUIRED LICENSE:

Unless exempted by state or federal law or by this article, any person who engages in business prior to submitting a completed application and payment of all fees shall pay triple the specified fee for said license. The payment of such triple fee shall not relieve any person from fully complying with all the requirements of this title, nor from any other prescribed penalties. (Ord. 08-017, 8-26-2008)

3-2A-4: APPLICATION FOR LICENSE:

Applications for business licenses shall be made in writing to the Town Licensing Officer or designee. Each application shall state the name of the individual applicant, the name of the business as registered with the state, the local street address of the business' physical location in the town, the business mailing address, if different from the local street address, the type of business entity (corporation, partnership, limited liability company, sole proprietorship, etc.), the license fee to be paid, the name and street address of the business' registered agent who is authorized to receive service of process, a detailed description of all anticipated business operations for which applicant seeks licensure, and any evidence of applicant's license, state sales tax reporting number, if applicant is licensed under another agency regulations, then applicant shall submit a copy of the valid permit/license issued by such agency, and federal employer identification number, and shall contain such additional information as may be needed for the purpose of guidance of the licensing officer in issuing the license. Any change in the above information furnished by the applicant shall be forwarded in writing, within ten (10) days of the change, to the Licensing Officer. License application forms shall be reviewed and kept on file by the Licensing officer, or their designee. (Ord. 08-017, 8-26-2008 amd Ord. 19-009, 7-8-2019)

3-2A-5: FEE PROVISIONS:

A. Fee For License To Accompany Application: Each license application shall be accompanied by the business license fee required to be paid for the issuance of the license desired. The applicable license fees are listed in the Consolidated Fee Schedule.

B. Regulatory Fees Imposed: There is hereby imposed and levied an annual business license or permit fee based on the type of businesses described below. Fees are identified

in the consolidated fee schedule on file with the Town Licensing Officer.

BRIAN HEAD TOWN BUSINESS FEES

Application	Type Of License Issued
New business application	License
Renewal business application	License
Special events coordinator	License
Special event vendor	Permit (per event)
Door to door solicitation employee	Permit (temporary)
Door to door business	License
Sexually oriented business	License
Sexually oriented business employee	Permit per employee
Outdoor sales license	Permit
Street vendor	License

C. Fees Declared Debt; Collection: Any license fee due and unpaid under this title, and all penalties thereon, shall constitute a debt to the Town and may be collected by court proceedings in the same manner as any other debt, or may be turned over to a collection agency, which remedy shall be in addition to all other existing remedies.

D. Fee Payments; Renewal And Penalty:

1. The annual business license fee provided in this section shall be due and payable to the Town on or before October 1 of each year for renewal of licenses for businesses which were licensed for the previous license year. Business licenses for previously unlicensed businesses shall be issued for the unexpired portion of the license year in which issued, upon payment of the annual license fee.

2. If the renewal license fee is not paid on or before October 31 of the year in which the renewal license is due, in addition to the regular renewal fee required, there shall be a business license enforcement fee imposed of twenty five percent (25%) of the license fee imposed by this article, or fifteen dollars ($15.00), whichever is greater.

3.
   a. If the renewal license fee is not paid in full on or before November 30 of the year in which the renewal fee is due, the business license enforcement fee shall be increased to fifty percent (50%) of the license fee imposed by this chapter.

   b. If the renewal license fee is not paid on or before December 15 of the year in which the renewal fee is due, the business license enforcement fee shall be

increased to one hundred percent (100%) of the license fee imposed by this article.

4. Upon a proper showing that the business is of such a seasonal nature that business has not been conducted to date, the Licensing Officer or designee may waive the business license enforcement fee of said renewal.

5. Any previously licensed business cited for engaging in business in violation of this title shall have ten (10) days from the date of citation to come into compliance with this title. Failure of the licensee to reach compliance within ten (10) days of the date of citation will subject the business to closure and the licensee to all applicable civil and criminal penalties.

E. Renewal Billing Procedure: On or before August 1 of each year, the Licensing Officer shall send a license renewal application to each current licensee within the Town at the last known address of the licensee as registered with the Town. (Ord. 08-017, 8-26-2008)

F. License Fee Adjustment To Avoid Burdening Interstate Commerce: The business license fee imposed by this title shall not be applied so as to place an undue burden on interstate commerce. In any case, where the license fee is believed by a licensee or applicant for a license to place an undue burden upon interstate commerce, such licensee or applicant may apply to the licensing officer, or his or her designee, for an adjustment of the fee so as to relieve such burden by submitting other supporting information as the licensing officer, or his or her designee, may deem necessary in order to determine the extent, if any, of such undue burden. The Licensing Officer, or his or her designee, shall then conduct an investigation, comparing the subject business with other businesses of like nature and shall make findings of fact from which he shall determine whether the license fee is discriminatory, unreasonable or unfair as to the licensee or applicant from the standpoint of its impact on interstate commerce, and shall recommend to the Town Manager an appropriate license fee under the circumstances, and the Town Manager shall fix the license fee in such amount. If the regular license fee has already been paid, the town manager shall order a refund of any amount over and above the amount of the license fee fixed, if any. In fixing the fee to be charged, the licensing officer, or his or her designee, may use any method which will assure that the fee assessed shall be uniform with that assessed on business of like nature; provided, however, that the amount assessed shall in no event exceed the regular fee prescribed in this title. (Ord. 08-017, 8-26-2008; amd. 2010 Code)

G. Refund Of Fee: Unless otherwise provided herein, no business license fee is refundable for any reason whatsoever once the license has been issued by the Town, except when the license was issued in error. If a license is denied, applicant shall be entitled to a refund of the amount paid in excess of twenty-five dollars ($25.00). The sum of twenty-five dollars ($25.00) shall be retained to offset application processing costs. (Ord. 08-017, 8-26-2008)

3-2A-6: INVESTIGATION OF APPLICANT:

The Licensing Officer, or designee, may, at any time prior to the issuance of any business license required by this title, investigate any applicant for such license if the Licensing Officer has reasonable cause to believe that the applicant:

A. has filed an application which is incomplete, erroneous or false in any respect;

B. fails in any respect to qualify to do business in the town under any federal, state or Town law, rule or regulation;

C. has committed such act or acts as may be grounds for revocation or denial of a license application under any federal, state or town law, ordinance, rule, or regulation; or

D. investigation is provided for by Town ordinance.

The Licensing Officer, or designee, may compel the production of documents and witnesses in order to conduct such investigation as provided by this section. (Ord. 08-017, 8-26-2008)

3-2A-7: INSPECTIONS FOR CODE COMPLIANCE:

A. Permitted; Fee: Prior to the issuance of a license to engage in a new business not previously licensed at that location or an existing business with a change of location, the applicant shall be required to permit inspections to be made of the prospective place of business of the applicant by the appropriate departments of the Town or other governmental agency to ensure compliance with building, fire, health codes, and Town ordinances that may apply. No license shall be granted unless any required inspection reveals that the prospective place of business in in compliance with the building, fire, and health codes. In addition to the business license fees, the applicant shall pay an inspection fee as set forth in the consolidated fee schedule at the time of application.

B. Periodic Inspections: Existing places of business licensed within the town may be inspected periodically by departments of the town for compliance with building, fire, health, and other Town codes. Written notice shall be given by the Licensing Officer, or their designee, to a licensee upon the finding of any code infractions, which notice shall provide for a reasonable period, not to exceed sixty (60) days, in which to correct such infractions, the failure of which shall result in the revocation of the license by the Licensing Officer or designee. (Ord. 08-017, 8-26-2008)

3-2A-8: CONDITIONS FOR DENIAL OF LICENSE:

A. Specified: The licensing officer or designee may deny a license if the applicant:

1. Has been convicted of a crime involving fraud or dishonesty, or a felony by any state or federal court within the past five (5) years, or now has criminal proceedings pending against him in any state or federal court for a crime involving fraud or dishonesty or a felony;

2. Has obtained a license by fraud or deceit, or given false or misleading information in any application;

3. Has failed to pay required taxes or fees imposed by the Town;

4. Has violated the laws of the state, the United States government, or the ordinances of the town governing operation of the business for which the applicant is applying for license;

5. No longer has a current, valid permit or license from any other federal or state agency necessary for the applicant to engage in the business that is the subject of the application;

6. Has failed to comply with the conditions and requirements of any Town ordinance;

7. Operates an offensive business that has become a "business and special events nuisance", as defined in section 3-1-1 of this title, or as determined by the Town Nuisance ordinance; or

8. Fails to meet the standards for the license classification set forth in section 3-2A-21 of this article.

B. Issuance Inappropriate: Applications may also be denied on the grounds that the general health, welfare, and public safety of the community makes the issuance of such a license inappropriate. (Ord. 08-017, 8-26-2008)

3-2A-9: NOTIFICATION OF ISSUANCE OR DENIAL; BUSINESS OPERATIONS DURING REVIEW AND INSPECTION:

A. Notification: Within a reasonable time, the Licensing Officer or designee shall notify the applicant of:

1. The denial of a license and the reason for such denial; or

2. The issuance of the license.

B. Business Operations: Upon receipt by the Licensing Officer, or designee, of a completed license renewal application and full payment of all fees required hereunder for said application, an applicant for a renewal license may continue its business operations during the review and inspection process. Any applicant for a new license who conducts or engages in business during the review period proceeds at his or her own risk, and no legal or equitable rights exist prior to the issuance of the actual license certificate. (Ord. 08-017, 8-26-2008)

3-2A-10: APPEALS OF LICENSE DENIAL:

A license application denial by the Licensing Officer, or designee, may be appealed to the Hearing Officer by filing a written notice of appeal with the Town Clerk within ten (10) days of denial of the license application. The Hearing Officer shall hear the appeal within thirty (30) days of the filing of the notice of appeal. After the decision of the Hearing Officer, the applicant may request an appeal of the Hearing Officer's decision to the Town Council for a final decision on behalf of the town following the same procedures set forth herein for appeal of the licensing officer's decision. (Ord. 08-017, 8-26-2008)

3-2A-11: ISSUANCE OF LICENSE CERTIFICATE:

All issued license certificates shall be signed by the Licensing Officer or designee, under the seal of the Town, which signature may be placed mechanically, and contain the following information:

A. The name of the person to whom such certificate has been issued;

B. The name of the business, if applicable;

C. The type of license;

D. The term of the license with commencement and expiration date;

E. The purpose for which the licensee is authorized to do business;

F. The local street address;

G. The license or permit number; and

H. A statement that the license is nontransferable. (Ord. 08-017, 8-26-2008)

3-2A-12: RENEWAL OF LICENSE CERTIFICATE:

Upon receipt of the license fee, the town shall issue a license certificate valid through September 30 of the next year. (Ord. 08-017, 8-26-2008)

3-2A-13: UNRELATED BUSINESS ACTIVITIES:

A. Defined: For purposes of this section, "unrelated business activities" shall mean two (2) or more activities in which a licensee engages or conducts business that the licensing officer or designee categorizes under separate use and/or service.

B. Provisions To Do Business Under One Business License: If the purposes for which a licensee is authorized to do business include multiple unrelated business activities, the town shall identify each authorized unrelated business activity on the license. The business shall set forth and limit the unrelated business activity authorized by the business license to the location identified in the business license issued.

C. Modification of Business License: All provision of this title for denial, revocation, suspension or change to the business license shall apply equally to all unrelated business activities identified on the issued license. Where an unrelated business activity is denied, revoked, suspended or voluntary terminated in accordance with this title, the applicant must notify the town business Licensing Officer within ten (10) days to amend the business license, or the Licensing Officer may amend the business license on his/her own initiative. All other business activities authorized by the business license shall remain in effect insofar as they are not affected by the revoked or suspended unrelated business activity. A modified business license will be issued which will identify all of the approved unrelated business activities of the business. A fee shall be retained to offset application processing costs as identified in the consolidated fee schedule. (Ord. 08-017, 8-26-2008)

3-2A-14: TERM OF LICENSE:

The business license period will be from October 1 through September 30 of the following year. Renewed license certificate shall be valid through the next following September 30, unless revoked pursuant to this title. New license certificates issued between August 1 and September 30 shall be valid through September 30 of the following year, unless revoked. (Ord. 08-017, 8-26-2008)

3-2A-15: DUTY TO DISPLAY LICENSE:

Every licensee licensed pursuant to the provisions of this article shall keep the license displayed and exhibited while the same is in force in some conspicuous part of the place of business. Every licensee not having a fixed place of business shall carry such license with them at all times while carrying on the business for which the license is issued and shall produce the license for inspection when requested to do so by any person. (Ord. 08-017, 8-26-2008)

3-2A-16: SEPARATE LICENSE REQUIRED FOR SEPARATE PHYSICAL LOCATIONS:

A separate license must be obtained for separate physical location in which business is engaged within the town, as if such location were engage only in the business licensed thereby at the location or in the manner designated in such license; provided, that nightly rentals units, warehouses and distributing places used in connection with or incident to a business licensed under this article shall not be deemed to be separate places of business. (Ord. 08-017, 8-26-2008 amd. Ord. 19-009, 7-8-2019)

3-2A-17: SEPARATE BUSINESSES, LICENSED PREMISES:

Where two (2) or more persons conduct separate businesses at the same location, each such person shall obtain a separate license for each such business and pay the required license fee for such business. Where a person is a licensee pursuant to provisions in the beer and liquor licensing chapter of this title, that person shall obtain a separate business license for each licensed premises. (Ord. 08-017, 8-26-2008)

3-2A-18: MULTIPLE LICENSING:

Any one person may be issued any of the licenses and/or permits described and created in this title and may simultaneously hold more than one license, and/or a regular town business license. The granting of multiple licenses shall not grant privileges not specifically granted by the licenses issued, nor shall the issuance of multiple licenses extend the time limitations imposed on any of these special licenses that are of a temporary nature. Suspension or revocation of one of the multiple licenses shall not act as a suspension of any other license then in effect, unless the grounds for the suspension of one are also the grounds for suspension of other licenses held by the licensee. (Ord. 08-017, 8-26-2008)

3-2A-19: USE OF PUBLIC PROPERTY:

With the exception of those licenses/permits listed above which specifically grant the right to make use of the Town streets or sidewalks, all commercial activity shall be confined to private property and to fully enclosed buildings on that property, except as provided by this title. (Ord. 08-017, 8-26-2008)

3-2A-20: CERTAIN ACTS PROHIBITED:

It shall be unlawful for any person, business, corporation, partnership, or other entity to attract or attempt to attract people tolling, shouting, hawking, ringing any bells, horn, sounding any siren or other noise making device, or by displaying any light or lantern, or by waving, hailing or otherwise signaling to passersby or by touching or physically detaining them. (Ord. 08-017, 8-26-2008)

3-2A-21: CLASSIFICATION STANDARDS OF SPECIFIC BUSINESSES:

3-2A-21-1: CONTRACTORS AND BUILDERS:

A. Fee Assessed: All general contractors and subcontractors, including, but not limited to, builders, electricians, plumbers, and backflow device technicians, with their principal place of business within the Town, shall be assessed a license fee each year as set forth in the Consolidated Fee Schedule, which shall be paid and a business license issued prior to engaging in any construction within the town, unless exempted from licensure under state law.

B. State Licensing Requirements: No contractor shall be issued a business license under this section unless and until they have provided a copy of a valid state contractor's license which validates that the contractor is currently licensed with the state department of commerce, including the state license number and date of expiration. If said state license expires prior to September 30 of the year, each contractor must provide proof of renewal within ten (10) days of renewal or shall forfeit the town business license for the balance of the year. (Ord. 08-017, 8-26-2008)

3-2A-21-2: MOBILE VENDORS:

It shall be unlawful for Mobile Vendors to operate in Brian Head Town on private or public property, except as authorized and licensed under this article. This section shall in no way govern temporary commercial structures, which are instead regulated under the Land Management Code and the International Building Code. Consistent with Utah Code § 10-1-203(5), a license is not required for a business that is only operated occasionally and operated by an individual under the age of 18 (such as a lemonade stand). (amd. ord. 18-010, 9-10-2018, amd. ord. 22-012, 11-8-22)

A. Business License Required: Mobile vendors shall not operate in Brian Head without an approved business license. Mobile vendors with a current business license in good standing from another political subdivision within the state need not obtain a license from

Brian Head Town. Notwithstanding reciprocity of business licensing, mobile vendors shall comply with the terms and conditions of this section. (ord. 22-012, 11-8-22)

B. Sales Within Public Rights Of Way: Vending within any public right of way is strictly prohibited (except as allowed under the terms of a special event permit). (2010 Code amd. ord. 18-010, 9-10-2018)

C. Special Events: Mobile vendors may operate on private land under a special event permit and with the permission of the property owner according to conditions of the special event permit. If the special event permit allows for the event to operate within a specific public right-of-way, mobile vendors associated with that special event may operate within the public right-of-way according to the conditions of the special event permit. (Ord. 18-010, 9-18-2018)

D. Terms And Conditions: Mobile vendors may obtain a license subject to the following terms and conditions:

1. License Fee: The license fee for a mobile vendor business license shall be as set forth by the consolidated fee schedule.

2. Food Truck Businesses: All food truck businesses shall comply with the following terms:
   a. Health Department Approval: All food trucks must obtain a valid health department food truck permit and display such in each food truck operated by the food truck business. Withdrawal of health department approval for sanitary or health violations is grounds for revocation of the Town license. (ord. 22-012, 11-8-22)

   b. Fire Inspection Approval: All food trucks must pass a fire inspection consistent with §11-56-104(3) of Utah State Code and display evidence of such in each food truck operated by the food truck businesses. (ord. 18-010, 9-10-2018, ord. 22-012, 11-8-22)

3. A mobile vendor shall not operate on private property in a manner which displaces parking required for permanent uses on the property, except as authorized under a special event permit. (ord. 22-012, 11-8-22)

(amd. ord. 22-012, 11-8-22)

3-2A-21-3: NIGHTLY RENTAL FACILITIES:

No person shall operate or engage in any nightly rental activity within the town without first obtaining and maintaining a valid business license as required by this chapter. (amd. Ord. 19-009, 7-8-2019)

A. License Issuance: The business license for nightly lodging facilities will be issued by the Town upon payment of necessary fees and upon a finding by the Licensing Officer or designee that the review criteria established below have been satisfied.

B. Licensee: The applicant and licensee for nightly lodging facilities under this section shall be the owner of the property which will be used as a nightly rental or the operator of the

nightly rental (such as a rental management company) with the written consent of the property owner. (amd. Ord. 19-009, 7-8-2019)

C. Application Procedure: In addition to the information required by section 3-2A-4 of this article, all new and renewal license applications for nightly rental facilities must contain the name of the property owner and the property rental manager, if any, a sales tax collection number, the physical address of each nightly rental unit being operated by the licensee, the address and telephone number of the owner and/or property rental manager who is available by telephone, the number of on-site parking spaces at each nightly rental unit, and all other information requested on the application forms. It is the licensee's duty to promptly supplement all forms as information changes or as units change from one owner or manager to another. (amd. Ord. 19-009, 7-8-2019)

D. Minimum Standards For Licensing: The minimum standards required to obtain and maintain a nightly rental business license with the Town: (amd. Ord. 19-009, 7-8-2019)

1. All nightly rental must meet all applicable building, health, fire codes and town ordinances for the intended use. (Ord. 19-009, 7-8-2019)

2. Maximum occupancy as allowed by fire code shall be posted in plain view near the main entry of all single family residential nightly rentals. (Ord. 19-009, 7-8-2019)

3. Snow Removal For Access: Snow removal during winter months to a level that allows safe access to the nightly rental facility over the normal pedestrian access to the unit. (amd. Ord. 19-009, 7-8-2019)

4. Off Street Parking Maintenance: Snow removal service to and from of off-street parking facilities associated with the nightly rental facility must be maintained so that off street parking is at all times available for use of the occupants. (amd. Ord. 19-009, 7-8-2019)

5. Parking: Parking must be in compliance with the Town parking ordinance including limitation on on-street parking and other state laws and regulations. Nightly rentals shall be limited to a maximum number of vehicles parked on-site based on the total available developed off-street parking spaces on premises. Single family residential nightly rental shall post the maximum on-site parking in plain view near the main entry along with a declaration prohibiting on-street parking between November 1st and April 30th as well as a map of available overflow public parking (amd. Ord. 19-009, 7-8-2019)

6. Structural Maintenance: Structural maintenance to sure building, health, safety, and fire code compliance.

7. Yard Maintenance: Summer yard maintenance, including landscaping, to a level that is consistent with the level of landscaping and maintenance on adjoining and nearby properties.

8. Inspections: Each unit will be inspected for safety issues such as fire extinguisher, smoke detectors, maximum occupancy limits, appropriate egress, etc. Unit will be inspected at the time the license is granted and will be re-inspected at least biennially. Inspection and re-inspections will be at the cost of the licensee. (amd. Ord. 19-009, 7-8-2019).

9. Good Neighbor Policy: Licensees are required to distribute a copy of a town-approved Good Neighbor Policy to all guests/renters at the licensee's expense and to keep a copy of the Good Neighbor Policy in a conspicuous place within the unit. (Ord. 19-009, 7-8-2019)

10. Response to Complaints: Failure of the licensee to respond in a timely manner to Town complaints or concerns may result in a violation and possible fines to the owner and/or rental management company or revocation of the business license. (Ord. 19-009, 7-8-2019).

11. Insurance: Property and casualty insurance must be maintained on the nightly rental facility at all times. Licensee must provide proof of such insurance at the time of application and upon request by the Town. (Ord. 19-009, 7-8-2019)

12. Commercial Uses Prohibited: Nightly rental facilities may not be used for commercial uses not otherwise permitted in the zone. Nightly rental facilities may not be converted to corporate sponsor or business houses which are used primarily to distribute retail products or personal services to invitees for marketing or similar purposes, regardless of whether such products or services are charged for. (amd. Ord. 19-009,7-8-2019)

13. Collection of Applicable Taxes and Fees: Failure of the licensee to collect and deposit sales tax or the Brian Head Enhanced Service Business License Fee is a violation of the license and grounds for revocation. (Ord. 19-009, 7-8-2019)

E. Noise, Nuisance, and Occupancy Control: (amd. Ord. 20-008, 8-11-2020)

1. The licensee of any rental unit located in a single-family residential zone (R-1) is responsible for regulating the occupancy of the unit and noise and nuisance created by the occupants of the unit. Violation of the Town Nuisance Ordinance (§44), violation of maximum occupancies, failure to use designated off-street parking, criminal conduct, or any other abuse which violates any law regarding use or occupancy of the premises, is grounds for revocation under §3-2B-1 of this Title. (Ord. 20-008, 8-11-2020)

2. Licensees of rental units located in multi-family residential zones (R-3) or commercial zones, in concert with any existing owner's association, shall use their best efforts to reduce/limit noise and nuisance created by the occupants of the units. (Ord. 20-008, 8-11-2020)

F. Review Criteria: In determining whether or not a business license for a nightly rental facility shall be issued, the application shall be reviewed to see if, in addition to the minimum standards for nightly rentals set forth in 3-2A-21-3(D) and the standards and conditions applicable to issuance of all business licenses, the following conditions and standards are met: (amd. Ord. 19-009, 7-8-2019)

1. The unit is located within a zone designated as allowing rentals or nightly rental facilities for the period for which the license is applied. (amd. Ord. 19-009, 2019)

2. The Building Department and Public Safety Department has reviewed the business license application for compliance with all building, health, and fire codes. Inspection of the unit shall be required under section 3-2A-7 of this article. The applicant shall bear

the cost of any such inspection and any re-inspection which may be required. The cost shall be determined by the prevailing hourly rate of the building department and/or public safety department. (amd. Ord. 19-009, 7-8-2019)

3. The application must bear a sales tax collection and accounting number for the nightly rental facility. This number may be the sales tax accounting number used by the property management company or owner responsible for that unit, or may be specific to the unit, but no license will be effective until the sales tax number is provided. (Ord. 08-017, 8-26-2008) (amd. Ord. 19-009, 7-8-2019)

3-2A-21-4: RESTAURANTS, FOOD SERVICE, TAVERNS, ETC.:

Restaurants will be required to meet the requirements of the state health department and county health department and will provide a copy of the valid food handlers permit with the submittal of the application. Restaurants and food services must meet the requirements of all local ordinances of the town and the county, and state and federal laws, regulating food services. (Ord. 08-017, 8-26-2008)

3-2A-21-5: RESIDENTIAL GARAGE SALES:

No license shall be required for sales of surplus household goods or furnishings at a private residence in the garage or yard. If a garage sale is held more frequently than three (3) days in any one calendar quarter at the same residence, it shall be deemed to be conducting business on a regular basis and a regular business license for the sale of that kind of that kind of merchandise is required. If the sale is in a zone that does not permit the sale of merchandise as a permitted or conditional use, further sales are unlawful. Sales tax on all sales is required under state law, and this title shall not be construed as attempting to waive the requirement that tax be collected and/or paid to the proper taxing entities. (Ord. 08-017, 8-26-2008)

3-2A-21-6: CHILDCARE SERVICES:

Daycare services will be required to meet the requirements of the state department of health and will provide a copy of the valid permit with the submittal of the application. Daycare services must meet the requirements of all local ordinances of the Town and the County, and State and Federal laws, regulating childcare services. (Ord. 08-017, 8-26-2008)

3-2A-21-7: OUTDOOR SALES:

A licensed business may hold an outdoor sale five (5) times a year for a duration of no longer than five (5) days for each outdoor sale on public sidewalks or streets adjoining the business on the following terms:

A. Promotion By Merchants' Association: An association representing tenants in a shopping center or other merchants' association representing the businesses in a specific area may apply for an outdoor sale permit for the members of that association by providing a list of the merchants participating, and paying a fee which shall be in lieu of and not in addition to the fee assessed against individual businesses.

B. Seasonal Plants: The business licensing officer may issue permits of longer duration to permit the outdoor sale, on a temporary basis, of Christmas trees, landscaping materials, or plants that are of a type and nature that reasonably require the sale to be conducted out of doors. The permit fee for this kind of outdoor sale shall be as set forth in the consolidated fee schedule and no permit shall have duration of more than eight (8) weeks. These permits may be issued to any person or business. Sales shall be confined to commercial zones and to property under the possession and control of the applicant. (Ord. 08-017, 8-26-2008)

Title 3 – Business & Licensing Regulations

Chapter 2

BUSINESS IN GENERAL

ARTICLE B. SUSPENSION AND REVOCATION OF TOWN ISSUED LICENSES

3-2B-1: GROUNDS FOR REVOCATION OR SUSPENSION:
3-2B-2: ACTION OF TOWN MANAGER OR DESIGNEE:
3-2B-3: HEARING ON REVOCATION OR SUSPENSION:
3-2B-4: CRIMINAL PENALTY:

3-2B-1: GROUNDS FOR REVOCATION OR SUSPENSION:

Licenses issued under this title may be suspended or revoked by the Licensing Officer, Hearing Officer or Town Council for the following reasons:

A. Licensee has filed false or fraudulent information on the license application;

B. Licensee has been convicted of or pled guilty to, or paid fines or settlements in criminal or civil actions brought by the state tax commission for the collection of, or arising from the nonpayment of, taxes imposed by or collected by the state;

C. Licensee has permitted its employees, agents or patrons to engage in illegal activities on the licensed premises;

D. The business has been the subject of a sufficient number of consumer complaints that it has the effect of tarnishing the reputation of other businesses within the town; and

E. Any of the grounds for denial of a license application as set forth in section 3-2A-8 of this title. (Ord. 08-017, 8-26-2008)

F. Failure to meet the standards identified in 3-2A-21, Classification Standards of Specific Businesses. (Ord. 19-009, 7-8-2019)

G. For nightly rental business licenses, failure to meet any of the standards identified in 3-2A-21-3 on three or more occasions at a single nightly rental unit may result in revocation or suspension of the ability for that unit to be operated as a nightly rental. A single egregious instance of the minimum standards identified in 3-2A-21-3 (such as violations

of fire codes or building safety issues) will result in suspension of the ability for that unit to be operated as a nightly rental. (Ord. 19-0009, 7-8-2019, amd. Ord. 20-008, 8-11-2020)

1. Violations of 3-2A-21-3(E) in which the licensee or representative of the licensee attempted to resolve the noise, nuisance, or other violation by contacting Brian Head Public Safety will not be considered an instance of violation under §3-2B-1(G). (Ord. 20-008, 8-11-2020)
2. A unit which has been barred from operating as a nightly rental under §3-2B-1(G) may be allowed to operate as a nightly rental after a period of twelve (12) months following the suspension of operations of that unit. (Ord. 20-008, 8-11-2020)

3-2B-2: ACTION OF TOWN MANAGER OR DESIGNEE:

A. Investigation: Upon receiving a written complaint from any person alleging a violation of any provision of this title by the licensee or an agent of the licensee, the Town, or anyone designated by the Town Manager with the assistance of such other departments of the town as the Town Manager may direct, shall conduct an investigation of the allegations of the complaint. The Town will not investigate consumer or product liability complaints. Upon completion of the investigation, the Town Manager may dismiss the matter as being without merit, settle the matter based upon the negotiations the Town Manager or designee may have undertaken with the licensee, or cause an order to show cause to be issued to the licensee requiring the licensee to come forward and answer the allegations of the order to show cause.

B. Order To Show Cause: The order to show cause may be based upon an affidavit filed by the Town Manager, Town Attorney, or anyone else the Town Manager has designated to file such action and said order to show cause shall specifically set forth the ordinance sections alleged to have been violated and generally describe the acts in violation.

C. Hearing; Written Response To Allegations: In the event an order to show cause is issued to the licensee, the Town Manager shall determine whether to refer the matter to the Town Council, or to hear the matter directly himself. The order to show cause shall be issued at least fourteen (14) calendar days prior to the date set for the administrative hearing, but the hearing shall be commenced, in any event, within six (6) months of the service of the order to show cause upon the licensee, unless otherwise agreed by the parties. Within ten (10) days from the date of the service of the order to show cause, the licensee shall file with the Town a written response to the allegations contained therein. For non-egregious infractions of the nightly rental minimum standards contained in 3-2A-21-3(D), the first and second offense at any single unit shall not proceed past the written response. Only after a third offense shall the matter be heard by the Town Manager, following a written response, and all three offenses will be considered simultaneously at a hearing. (amd. Ord. 19-009, 7-8-2019).

D. Hearing By Town Council: If the matter is to be heard by the Town Council, the Town Council may elect one of its members to act as presiding officer for the hearing. The presiding officer shall rule on all matters of controversy which arise during the hearing. The Town Council may designate one or more of its members to act as a hearing panel, in which event the hearing panel shall follow the same procedural requirements as the Town Manager is required by this article to follow. (Ord. 08-017, 8-26-2008)

3-2B-3: HEARING ON REVOCATION OR SUSPENSION:

In all administrative license revocation or suspension proceedings, a hearing shall be conducted as follows:

A. Generally: The Hearing Officer or presiding officer shall regulate the course of the hearing to obtain full disclosure of relevant facts and afford all parties the reasonable opportunity to present their positions. The Hearing Officer or presiding officer may determine the length of the hearing and may prevent the calling of witnesses or admission of documentary evidence where such witnesses or evidence are irrelevant, immaterial, unduly repetitious, or unnecessary due to the receipt of other evidence.

B. Rules Of Evidence: Technical rules of evidence required in court proceedings shall not apply, and the presiding officer or Hearing Officer shall not exclude evidence solely because it is hearsay. The presiding officer or Hearing Officer may afford to all parties the opportunity to present evidence, argue, respond, conduct cross examination, and submit rebuttal evidence within the time frame of the hearing established by said officer.

C. Testimony; Record Maintained: All testimony presented at the hearing shall be given under oath administered by a person duly authorized to administer oaths. The hearing shall be recorded by electronic means or by means of a certified shorthand reporter. The record thus created shall be preserved by the Town Council until such time as it is clear that no court proceedings or further administrative proceedings will be held concerning the matters which are the subject of the hearing, but a minimum of one year. The recording may be transcribed at the request of any party, at the expense of the requesting party.

D. Witnesses; Evidence: The licensee shall have the right to appear at the hearing in person or by counsel, or both. Subpoenas and other orders to secure the attendance of witnesses or the production of evidence shall be issued by the hearing officer when requested by any party or may be issued by the presiding officer or hearing examiner on his or her own motion. The mere issuance of subpoenas shall not operate to require the admissibility of evidence or testimony subpoenaed.

E. Discovery: Upon request, both the Town and the licensee shall be entitled to discovery of the other's list of witnesses to be called at the hearing, including the names and addresses of such witnesses. The parties shall be entitled to have copies of or have access to any documents to be used by either side during the course of the hearing. No other formal discovery shall be required. The standard of proof required for any action adverse to the licensee shall be that of proof by a preponderance of the evidence.

F. Findings: The presiding officer, if the Town Council hears the matter itself, or the Hearing Officer, shall prepare written findings of fact. In the case of the Hearing Officer, the Hearing Officer shall submit said findings to the Town Council. The Town Council shall either accept or reject the findings of fact, or enter its own findings, and shall state the basis from the record upon which the divergence from the Town Manager's recommended findings. The Town Council shall prepare written conclusions of law and an order.

G. Formal Order: The order formally entered by the Town Council may be to:

1. Dismiss the action against the licensee;

2. Suspend the license for a specified period;

3. Place the licensee on probation upon such conditions as the Town Council may order;

4. Permanently revoke the license in question; or

5. Revoke or suspend the licensee's privilege to operate a certain nightly rental unit; or.

6. Any combination of the above.

H. Appeal: Any licensee aggrieved by an order of the Town Council entered pursuant to this section may maintain an action for relief therefrom in any court of competent jurisdiction, where said court deems itself the appropriate forum for the appeal from the Town Council action. The licensee shall be required to follow orders and procedures of the appropriate court with regard to time for filing.

I. Prior Conviction Not Required: Nothing herein shall be construed to require a showing that the licensee shall have been first convicted in a court of laws of any violation of any law, rule, or regulation.

J. Notice Requirements: All notices required by this section may be made by personal service or by certified mail, mailed to the licensee's address as it appears in the business regulation records of the town, postage prepaid, certified, return receipt requested. (Ord. 08-017, 8-26-2008)

3-2B-4: CRIMINAL PENALTY:

Any person who willfully violates any provision of this title shall be guilty of a class B misdemeanor, subject to penalty as provided in section 1-4-1 of this code. Persons conducting business without having first obtained a business license are subject to the business being closed. (Ord. 08-017, 8-26-2008; amd. 2010 Code)

Title 3 – Business & Licensing Regulations

CHAPTER 3

SPECIAL EVENTS

3-3- 1: DEFINITIONS:
3-3- 2: LICENSE REQUIRED:
3-3- 3: RENEWAL OF LICENSES:
3-3- 4: APPLICATION FOR LICENSE:
3-3- 5: CONDITIONS NECESSARY FOR LICENSE APPROVAL:
3-3- 6: CONFLICTING LICENSE APPLICATIONS:
3-3- 7: ADDITIONAL LICENSES NECESSARY:
3-3- 8: FEES ASSESSED:
3-3- 9: FEE WAIVERS:
3-3-10: INSURANCE REQUIREMENTS:
3-3-11: RUNS, WALKS, RACES, FILMMAKING AND PROMOTIONS:
3-3-12: FOOD TRUCK EVENTS
3-3-13: REVOCATION FOR CAUSE; NOTICE TO CURE:
3-3-14: CRIMINAL PENALTY:

3-3-1: DEFINITIONS:

For the purpose of this Chapter, the following terms shall have the meanings herein prescribed:

APPLICANT: The person, or group of people, who is or are the organizer(s) of a special event and with whom the responsibility for conduct of the event lies. The "applicant" signs the special events license application and all other documents relevant to the event. If an organization intends to sponsor a special event, an individual shall represent the organization and act as the "applicant".

CONCESSION: A privilege to sell food, beverages, souvenirs, gifts, artwork or copyrighted or event memorabilia and general merchandise at a licensed event.

FEES: Charges assessed by Brian Head Town for staffing, inspections, public employees, or public equipment assessed to an event and established within the special event licensing process.

FOOD TRUCK EVENT: An event where an individual has ordered or commissioned the operation of a food truck at a private or public gathering. (ord. 22-012, 11-08-2022)

LICENSEE: The "applicant", as defined in this Section, becomes the "licensee" when the special event license is signed and issued by the Licensing Officer, upon meeting all the criteria in this Chapter. As the license holder, the licensee becomes the sole proprietor of the event and inherits the responsibilities connected with all licenses, fee assessments, copyrights and insurance liabilities connected with the licensed event.

VENDOR: Any person, group or business that transacts business within the Town limits on a temporary basis during a special event. (Ord. 08-017, 8-26-2008)

3-3-2: LICENSE REQUIRED:

It is unlawful for any person to conduct a special event with or without charge for admission, on public or private property, without first applying for and being granted a special event license for the specific event and its venue. All licenses issued pursuant to this chapter are nontransferable and expire at the completion of the given event or upon revocation, whichever is earlier. (Ord. 08-017, 8-26-2008)

3-3-3: RENEWAL OF LICENSES:

Licensees under the provisions of this chapter who successfully operate a special event under the provisions of this chapter and who wish to have the event on an annual or periodic basis must renew each special event license as provided herein. Events which occur in series, such as concerts, falling under the criteria established in this chapter, must have a special event license which specifically authorizes each concert in the series, even if the same performer is performing on separate occasions. (Ord. 08-017, 8-26-2008)

3-3-4: APPLICATION FOR LICENSE:

A. Application Submittal: Applications for special events shall be made in writing to the Licensing Officer. Application materials are available at Town offices and must be completed and submitted to the Licensing Officer not less than thirty (30) days prior to the scheduled opening of any event, unless otherwise approved by the Town Manager upon a showing of good cause.

B. Licensing Officer Review:

1. The Licensing Officer shall review and either approve, approve with conditions, or deny the following applications:
   a. Applications for new special events; and
   b. Applications for special events license renewals where material elements of the event have substantially changed from the previous application.

2. As used herein, a “new special event” shall mean any special event being proposed for the first time, or a prior event which was not renewed for a period exceeding one year. The Licensing Officer shall review applications for compliance with the standards for license approval described herein as follows:

C. Staff Review and Recommendation: Upon receipt of a completed special events license application, the Licensing Officer shall review the application for compliance with Section 3-3-5 of this Chapter. The Licensing Officer shall subsequently return a copy of the application to the applicant with a written decision that approves as is, approves with changes and/or conditions, or denies the application and states the cause for denial. Incomplete applications will be returned to the applicant and noted accordingly. Written notice of the Town decision shall be delivered to the applicant within a reasonable time from the date of decision.

D. Appeal: Any applicant whose application has been administratively denied may appeal the decision to the hearing officer by filing a written request to the Town Clerk within ten (10) days of the date of decision. (Ord. 08-017, 8-26-2008)

3-3-5: CONDITIONS NECESSARY FOR LICENSE APPROVAL:

Applications for special events shall be reviewed for compliance with any State, federal and other Town ordinances, and the standards provided herein. The Licensing Officer or Town Manager may prohibit or restrict any special event whenever any of the following conditions is found likely to occur, unless the event is modified to eliminate said condition:

A. The conduct of the event will substantially interrupt or prevent the safe and orderly movement of public transportation or other vehicular and pedestrian traffic in the area of its venue.

B. The conduct of the event will require the diversion of so great a number of police, fire, or other essential public employees from their normal duties as to prevent reasonable police, fire, or other public services protection to the remainder of the Town.

C. The concentration of persons, vehicles or animals will unduly interfere with the movement of police, fire, ambulance, and other emergency vehicles on the streets, or with the provision of other public health or safety services.

D. The event will substantially interfere with any other special event for which a license has already been granted or with the provision of Town services in support of other such events or governmental functions.

E. Where applicable, the applicant fails to provide the following:

1. The services of a sufficient number of traffic controllers, signs or other Town required barriers or traffic devices, along with a traffic control plan submitted for review;

2. Monitors for crowd control and safety;

3. Safety, health or sanitation equipment, and services or facilities reasonably necessary to ensure that the event will be conducted without creating unreasonable negative impacts to the area and with due regard for safety and the environment;

4. Adequate off-street parking, shuttle service, or both, where necessary to minimize substantial adverse impacts on general parking and traffic circulation in the vicinity of the event;

5. Required insurance, cash deposit or other security; or

6. The event created the imminent possibility of violent disorderly conduct likely to endanger public safety or cause significant property damage.

F. The applicant demonstrates an inability or unwillingness to conduct the event pursuant to the requirements of this chapter or has failed to conduct a previously authorized event in accordance with the law or the terms of a license, or both. (amd. ord. 22-012, 11-08-2022)

G. The applicant has not obtained the approval of any other public agencies, including the fire department, within whose jurisdiction the event or a portion thereof will occur. (Ord. 08-017, 8-26-2008)

3-3-6: CONFLICTING LICENSE APPLICATIONS:

A. Criteria: No more than one special event shall be approved for the same date, unless the Licensing Officer or designee finds that the events will not adversely impact one another, and that concurrent scheduling of the events will not adversely impact the public health, safety and welfare of the Town. In making this determination, the Licensing Officer or designee will apply the following criteria:

1. Geographic separation of the events;

2. Proposed time and duration of the events;

3. Anticipated attendance volumes;

4. Necessity for public personnel, equipment and/or transportation services at the events; and

5. Anticipated traffic and parking impacts.

B. Resolution; Order, Priorities: When more than one special event application is received for the same date, and the Licensing Officer finds that the events will adversely impact one another, or concurrent scheduling of the events will adversely impact the public health, safety and welfare, the Licensing Officer shall resolve the conflict as provided herein. The Licensing Officer shall first attempt to reach an agreement among the conflicting applicants to modify the applications in order to resolve the conflicts and accommodate the public interest. If no voluntary agreement is reached, then the Licensing Officer shall resolve the issue based on the following order or priorities:

1. Historic Usage: Special events where the same applicant has been granted a license under this Chapter for use of a particular Town forum at a particular date, time and place prior;

2. Governmental Entities: Events planned, organized, or presented by State, federal or Town governmental entities or their agents shall have priority over conflicting applications if:

   a. The application is timely filed and processed by the Town; and

   b. Said governmental application is made in good faith and not with the effect or purpose of improperly challenging constitutional rights of conflicting applicants.

3. First in Time Application: If neither subsection B1 or B2 of this Section is applicable, or if subsection B1 or B2 of this Section does not resolve the conflict, then the first in time application shall be given priority. The conflicting applicant shall be advised of other open dates on the Town events calendar. (Ord. 08-017, 8-26-2008)

3-3-7: ADDITIONAL LICENSES NECESSARY:

Where applicable, the applicant/licensee shall provide to the Licensing Officer proof of valid temporary sales tax license and special return, special event temporary liquor or beer license, health department permit, fireworks permit and building permit, as applicable The licensee must obtain all other permits required by law for any temporary structure constructed under the provisions of a special event license and must pass all inspections as a condition precedent to a valid special event license. Unless otherwise approved by the Licensing Officer or designee, all concessions require a temporary mobile vendor license. (Ord. 08-017, 8-26-2008, amd. ord. 22-012, 11-8-2022)

3-3-8: FEES ASSESSED:

A. Application Fee: All special event applications, whether a new application or renewal application, shall be assessed a fee according to the Consolidated Fee Schedule. Special event application fees are due and payable upon submission of a completed application. Special event applications shall be considered incomplete unless and until the application fee is paid in full. (amd. ord. 22-012, 11-8-2022)

B. Town Service Fees: Upon receipt of a completed special event application, the Licensing Officer will provide the applicant with an estimate of fees based on estimated costs for Town services arising from the event, including, but not limited to, the use of Town personnel and/or equipment, Town transportation services, inspections, and user fees. A final assessment of Town costs will occur upon completion of the special event. All town service fees will be adjusted to reflect actual cost. Unless waived, all town service fees must be paid in full within thirty (30) days of the final assessment of town costs for the special event.

C. Financial Security: The Licensing Officer is authorized to require an applicant to post a cash deposit or other security accepted by the Town for all estimated contingent costs prior to the issuance of a special event license, as a guarantee against fees, damages, cleanup, or loss of public property. The Town shall submit an estimation based on the special events coordinator requests for Town services to the special events coordinator prior to the special event. Costs that exceed the estimation given by the Town shall be authorized by the special events coordinator for additional costs. (Ord. 08-017, 8-26-2008)

3-3-9: FEE WAIVERS:

A. Eligibility: The Town Manager may waive the following special event licensing and associated fees, upon a finding of eligibility pursuant to the criteria provided herein:
   1. Application fee.

   2. Town shuttle service charges.

   3. Equipment usage above and beyond reasonable use charges.

B. Request Submitted; Criteria: All fee waiver requests should be submitted to the Licensing Officer within ten (10) days of the date of application. Fee waiver requests shall be

reviewed and approved/denied by the Town Manager. Fee waiver determinations made by the Town Manager may be appealed to the Town Council. Eligibility for a full or partial fee waiver shall be determined by the Town Manager pursuant to the following criteria, none of which shall be individually controlling:

1. For profit or nonprofit status of the applicant;

2. Whether the event will charge admission fees;

3. Whether the event is youth oriented;

4. The duration of the event;

5. Whether and to what extent the Town is likely to receive positive tax benefits by virtue of the event;

6. The degree of Town services involved and whether Town costs are likely to be recovered by other revenue opportunities arising from the event;

7. The season of occurrence; and

8. Demonstration of hardship by the applicant.

C. Precedent Not Established: Approval of a fee waiver for any application shall not create a precedent for future requests. (Ord. 08-017, 8-26-2008)

3-3-10: INSURANCE REQUIREMENTS:

In the event that a special event, or any portion thereof, is to take place on any real property owned or leased by the Town, or will use any equipment, supplies or personal property owned or leased by the Town, or will require the use of any Town personnel and employees in their capacity as employees of the Town, including emergency and police personnel, or will in any way result in a disruption of any Town public right of way or traffic flow, applicants shall provide, upon application for a special event license, proof of liability insurance in the amount of one million dollars ($1,000,000.00), or more, as may be required by the Licensing Officer, or their designee, and shall further name the Town municipal corporation as an additional insured. All applicants shall further indemnify and defend the Town from any claim, suit or judgment of liability arising out of injury to person or property occurring at the event, except for any claim, suit or judgment arising out of the sole gross negligence or intentional torts of the Town or its employees. (Ord. 08-017, 8-26-2008)

3-3-11: RUNS, WALKS, RACES, FILMMAKING AND PROMOTIONS:

Runs, walks, races, filmmaking, parades, public demonstrations, and promotions shall be considered special events, unless such event does not create substantial public impact or require Town service. For profit corporations falling under the provisions of this Chapter or who are specifically in filmmaking or promotions on public or private property must, as a provision of their license, provide proof of insurance, shooting schedule or schedule of events, produce written permission of property owners, and provide access to any set or site for purposes of Code enforcement. (Ord. 08-017, 8-26-2008)

3-3-12: FOOD TRUCK EVENTS:

A license for a food truck event where food is being offered for sale to the public may be obtained by a food truck event organizer for an event held at a location approved by the Licensing Officer in accordance with the following provisions:

A. The proposed event is located in a commercial zone.

B. No food trucks will be located within ten feet (10') of the extension of any building entranceway, doorway, or emergency egress.

C. On lots less than one-half (½) acre, no more than one (1) food truck is allowed to operate.

D. Food truck and/or patrons must not impede safe movement of vehicular and pedestrian traffic, snow removal, parking lot circulation or access to any public alley, access easement, or sidewalks and pathways.

E. Signs and lighting shall comply with Title 9 of the Town Code.

F. The Food truck event organizer shall provide trash pickup areas and shall identify the location of restroom facilities.

G. The food truck event organizer shall provide a parking plan which provides for adequate off-street parking, shuttle service, or both, where necessary to minimize substantial adverse impacts on general parking and traffic circulation in the vicinity of the event. Adequate off-street all-weather surface parking is required.

H. Amplified music or noise is not permitted.

I. All food truck event organizers and food truck businesses participating in a food truck event are required to obtain and report sales under a Temporary Sales Tax License and Special Return from the Utah State Tax Commission.

(ord. 22-012, 11-8-2022)

3-3-13: REVOCATION FOR CAUSE; NOTICE TO CURE:

A. Notice to Cure: If the Licensing Officer, or any sworn law enforcement officer, determines that the conditions of any license issued pursuant to this chapter have been or are being violated, then notice shall be given to the licensee, sponsor, or designated organizer's representative of the special event to cure the violation.

B. Failure to Cure: It is unlawful for the licensee, sponsor, or on-site organizer's representative of an authorized special event to fail to take reasonable steps to promptly cure any notice of violation of this chapter. It is also unlawful for any participant or spectator to fail to comply with lawful directions issued by any sworn law enforcement officer or by the licensee, sponsor, or on-site organizer's representative to cure their violation of this chapter.

C. Clear and Present Danger: If a sworn law enforcement officer determines, after consultation with the Public Safety Director or the Public Safety Director's designee, that any failure to cure a violation of this chapter creates a clear and present danger of immediate significant harm to life, public safety or property which cannot be reasonably mitigated by increased public safety enforcement and which, on balance, outweighs the benefits to the organizers or participants of the special event, the licensee, sponsor or on site organizer's representative of the special event shall be promptly notified that the license is revoked and that the special event must immediately cease and desist.

D. Violation of Cease and Desist Order: If a license is revoked as specified in subsection C of this Section, then it shall be unlawful for any person to fail to obey the order to cease and desist from illegal activities. (Ord. 08-017, 8-26-2008)

3-3-14: CRIMINAL PENALTY:

Any person who willfully violates any provision of this Chapter shall be guilty of a class B misdemeanor. Persons conduct special event license are subject to a class B misdemeanor and the event is subject to closure. Violators are subject to penalty as provided in Section 1-4-1 of this Code. (Ord. 08-017, 8-26-2008; amended 2010 Code)

Title 3 – Business & Licensing Regulations

CHAPTER 4

ALCOHOLIC BEVERAGES

3-4- 1: DEFINITIONS:
3-4- 2: STATUTES ADOPTED BY REFERENCE:
3-4- 3: LICENSE REQUIRED:
3-4- 4: APPLICATION FOR LICENSE:
3-4- 5: FEE FOR LICENSE:
3-4- 6: PAYMENT DATES OF LICENSE FEES:
3-4- 7: QUALIFICATIONS OF LICENSEE:
3-4- 8: ALCOHOL TRAINING AND EDUCATION:
3-4- 9: ISSUANCE OF LICENSE:
3-4-10: RENEWAL OF LICENSE:
3-4-11: TERM OF LICENSE:
3-4-12: DISPLAY OF LICENSE REQUIRED:
3-4-13: NONTRANSFERABLE LICENSE:
3-4-14: NUISANCE PROHIBITED:

3-4-1: DEFINITIONS:

As used in this Chapter:

ALCOHOLIC BEVERAGES: Includes "beer" and "liquor", as defined in this Section.

BEER, LIGHT BEER, MALT LIQUOR OR MALTED BEVERAGES: All products that contain sixty three one-hundredths of one percent (0.63%) of alcohol by volume or one-half of one percent (0.5%) of alcohol by weight, but not more than four percent (4%) of alcohol by volume or three and two-tenths percent (3.2%) by weight, and are obtained by fermentation, infusion or decoction of any malted grain. Beer may or may not contain hops or other vegetable products.

A. Beer Retailer: Any business establishment engaged, primarily or incidentally, in the retail sale or distribution of beer to public patrons, whether for consumption on or off the establishment's premises, and that is licensed to sell beer by the Town, by other local authority, or both.

B. On Premises Beer Retailer: Any beer retailer engaged, primarily or incidentally, in the sale or distribution of beer to public patrons for consumption on the beer retailer's premises. It includes taverns.

C. Tavern: Any business establishment engaged primarily in the retail sale or distribution of beer to public patrons for consumption on the establishment's premises, and that is licensed to sell beer under this Chapter. "Tavern" includes beer bars, parlors, lounges, cabarets, and nightclubs where the revenue from the sale of beer exceeds the revenue of the sale of food, although food need not be sold in such establishments.

INTERDICTED PERSON: A person to whom the sale, gift or provision of an alcoholic beverage is prohibited by law or court order.

LICENSED PREMISES: Any room, enclosure, building, structure or place occupied by a person licensed to sell and/or permit the consumption of alcoholic beverages on such premises under this Chapter.

LIQUOR: Alcohol, or any alcoholic, spirituous, vinous, fermented, malt or other liquid, or combination of liquids, a part of which is spirituous, vinous or fermented, and all other drinks, or drinkable liquids that contain more than one-half of one percent (0.5%) of alcohol by volume and is suitable to use for beverage purposes. "Liquor" does not include any beverage defined as a "beer", "malt liquor" or "malted beverage" that has an alcohol content of less than four percent (4%) alcohol by volume.

MINOR: Any person under the age of twenty-one (21) years.

NONPROFIT CLUB: A social, recreational, fraternal, athletic or kindred association incorporated and regulated under the provisions of Utah Code Annotated Title 32A, Chapter 5, as amended.

NONPROFIT CLUB LICENSE: The license provided for in Utah Code Annotated Title 11, Chapter 10, as amended, which entitles the nonprofit club to hold, store, possess or consume alcoholic beverages, subject to applicable provisions of the alcoholic beverage control act. This license shall also constitute consent for the nonprofit club to apply for a State store license to sell liquor; however, before this license is issued, the applicant shall obtain conditional use approval from the planning commission. This license also entitles the licensee to sell beer on the licensed premises of a size not to exceed two (2) liter capacity, for consumption on the licensed premises, and to all of the privileges granted to a holder of a beer license, except such sales shall be limited to members and their guests.

NUISANCE: Any licensed premises where:

A. Alcoholic beverages are sold, kept, bartered, stored, given away or used, contrary to the alcoholic beverage act or this Chapter, or where persons resort for drinking beverages, contrary to the alcoholic beverage control act, or of this Chapter; or

B. Any persons are allowed to perform or simulate sexual intercourse, masturbation, oral copulation, anal copulation, bestiality, flagellation, or any sexual acts prohibited by law; or

C. Any persons are allowed to simulate or actually touch, caress or fondle breasts, buttocks, anus or genitalia; or

D. Any persons are allowed to actually display or simulate the display of pubic hair, buttocks, vulva, anus, genitalia, or female breasts below a point immediately above the top of the areola; or

E. Films, pictures or other visual reproductions are displayed depicting acts which are prohibited in subsections B, C and D of this definition; or

F. Minors are permitted to purchase or drink alcoholic beverages; or

G. Laws or ordinances are violated by the licensee, or the licensee allows patrons to violate such laws or ordinances upon such premises, or, upon leaving such premises, perform acts or omissions which tend to negatively affect or place in jeopardy the public health, peace, morals, welfare, comfort or safety of patrons or citizens of Brian Head Town; or

H. Paid or unpaid dancers, performers or entertainers mingle, perform, dance or provide services in violation of this Title; or

I. Any violation of the terms of this Chapter or breach of the public peace or morals takes place.

PERSON: Any individual, partnership, firm, corporation, association, business trust or other form of business enterprise or entity, including a receiver or trustee, and the plural as well as the singular number, unless the intent to give a more limited meaning is disclosed by the context.

RESTAURANT: Any business establishment where a variety of foods is prepared and complete meals are served to the general public, located on a premises having adequate culinary fixtures for food preparation and dining accommodations, and that is engaged primarily in serving meals to the general public.

SELL, SALE AND TO SELL: Any transaction, exchange or barter whereby, for any consideration, an alcoholic beverage is either directly or indirectly transferred, solicited, ordered, delivered for value or by any means or under any pretext is promised or obtained, whether done by a person as a principal, proprietor or as an agent, servant or employee, unless otherwise defined in this Title or the rules adopted by Brian Head Town. (Ord. 91-003, 4-9-1991)

3-4-2: STATUTES ADOPTED BY REFERENCE:

The Town hereby adopts Utah Code Annotated Section 32A-12-101 et seq., "Criminal Offenses"; Utah Code Annotated Section 32A-13-101 et seq., “Criminal Procedure"; Utah Code Annotated Section 32A-14a-101 et seq., "Alcoholic Beverage Liability"; and Utah Code Annotated Section 32A-14b-101 et seq., "Minor Liability Act". (Ord. 91-005, 4-23-1991; amended 2010 Code)

3-4-3: LICENSE REQUIRED:

It shall be unlawful for any person to sell an alcoholic beverage at retail and/or permit the consumption of an alcoholic be is licensed for such sale and/or consumption. A separate Town alcoholic beverage license shall be required for each State license on each business premises. Each day of noncompliance shall constitute a separate violation. (Ord. 91-003, 4-9-1991)

3-4-4: APPLICATION FOR LICENSE:

The alcohol beverage license application and renewal form shall be in a format and require such information as the Town Manager deems necessary to enforce this Title. The application format may be amended or revised from time to time, as the Town Manager deems necessary. (Ord. 91-003, 4-9-1991)

3-4-5: FEE FOR LICENSE:

A. All alcoholic beverage license fees shall be established by resolution of the Town Council.

B. Alcoholic beverage license fees shall not be prorated and are nonrefundable once the license has been issued. (Ord. 91-003, 4-9-1991)

3-4-6: PAYMENT DATES OF LICENSE FEES:

A. New Licenses: Alcohol beverage license fees for new licenses shall be due and payable upon making application to the business license division. The application shall not be processed until the fee is paid and the application is complete.

B. Renewal: Alcohol beverage license fees for renewal licenses shall be due and payable on or before June 1 of each year. If the fee plus penalty is still not paid prior to July 1, then the business shall be considered to be operating without a license in violation of Section 3-2A-1 of this Title, and subject to prosecution for every day of operation on or after July 1. If a license is not renewed prior to July 1, as set forth in this Section, and the business shall apply for an alcohol license on or after July 1, the application shall be treated as a new license application and applicant shall pay a new license fee. (Ord. 91-003, 4-9-1991)

3-4-7: QUALIFICATIONS OF LICENSEE:

A. Offenses Designated:

1. A license shall not be granted to any business whose proprietor has been convicted or pled nolo contenders to:

   a. A felony under any federal or State law;

   b. Any violation of any federal or State law or local ordinance concerning the sale, manufacture, distribution, warehousing, adulteration, transportation, consumption or possession of alcoholic beverages;

   c. Any crime involving moral turpitude; or

   d. Any gambling or gambling related offense.

2. In the case of a partnership or corporation, the proscription under subsection A1 of this Section applies if any partner, managing agent, officer, director or stockholder who holds at least twenty percent (20%) of the total issue and outstanding stock of an applicant corporation has been convicted of any offense as provided in this subsection.

B. Emergency Revocation:

1. If any employee or proprietor of a licensee is convicted of any offense designated in subsection A1 of this Section, the Town may take emergency action by revoking the license according to the procedures and requirements of Chapter 2, article B of this Title.

2. In the case of a partnership or corporation that has been granted a restaurant liquor license, if any partner, managing agent, officer, director or stockholder who holds at least twenty percent (20%) of the total issued and outstanding stock of a corporation is convicted of any offense designated in subsection A1 of this Section, the Town Manager may take emergency action by immediately revoking the license.

C. Suspension of Operation upon Arrest: Upon the arrest of any licensee on any charge set forth in subsection A1 of this Section, the Town Manager may take emergency action by immediately suspending the operation of the licensee according to the procedures and requirements of Chapter 2, Article B of this Title for the period during which the criminal matter is being adjudicated.

D. Prior Revocations:

1. The Town Manager may not grant and alcoholic beverage license to:

a. any person who has had any type of license, agency or permit issued under this Title or Utah Code Annotated Title 32A, revoked within the last three (3) years;

b. any corporation or partnership applicant if any partner, managing agent, officer, director or stockholder who holds at least twenty percent (20%) of the total issued and outstanding stock of the applicant is or was a partner or managing agent of any partnership, or is or was a managing agent, officer, director or a stockholder who holds or held at least twenty percent (20%) of the total issued and outstanding stock of any corporation that had a liquor license, agency or permit revoked within the last three (3) years.

2. A corporation or partnership applicant may not be granted an alcoholic beverage license if any partner or managing agent of the partnership or any managing agent, officer, director or stockholder who holds at least twenty percent (20%) of the total issued and outstanding stock of the corporate applicant had a license, agency or permit issued pursuant to this Title or Utah Code Annotated Title 32A, revoked while acting in their individual capacity within the last three (3) years.

3. A person acting in an individual capacity may not be granted an alcoholic beverage license if that person was a partner or managing agent of a partnership, or a managing agent, officer, director or stockholder who held at least twenty percent (20%) of the total issued and outstanding stock of a corporation that had a license, agency or permit issued pursuant to this Title or Utah Code Annotated Title 32A, revoked within the last three (3) years.

E. Minors: A minor may not be granted an alcoholic beverage license.

F. Licensee No Longer Qualified: If any person to whom a license has been issued under this Title no longer possesses the qualifications required by this Title for obtaining that license, the Town Manager may suspend or revoke that license. (Ord. 91-003, 4-9-1991)

G. Outstanding Warrants: Even after meeting the requirements provided for in this Chapter, the applicant shall not receive approval if there are any outstanding warrants on the applicant. (Ord. 91-003, 4-9-1991; amended 2010 Code)

3-4-8: ALCOHOL TRAINING AND EDUCATION:

A. Required: No person shall be granted a license to operate or maintain a trade, profession or calling, the transaction or carrying on of which requires a license, within the Town, if such person operates an establishment which as part of its business serves "alcoholic beverages", as defined in Utah Code Annotated Section 32A-1-105, to the public for consumption on the premises, unless that person shall show by certificate granted by the State division of alcoholism and drugs that each employee of the business engaging in the serving, selling or furnishing of such alcohol on the premise has completed the alcohol training and education seminar, as required in Utah Code Annotated Section 62A-15-401. (Ord. 87-009, 9-8-1987; amended 2010 Code)

B. Current, New Employees: Every current business employee and/or new employee hired after the licensee has been licensed in compliance with subsection A of this Section, shall complete the seminar, either: 1) within sixty (60) days of commencing employment; or 2) within sixty (60) days of the effective date hereof, whichever occurs first. An extension of this subsection shall only be tolerated upon a showing that no seminar was scheduled within the allotted time period set for compliance.

C. Revocation: Violation of this subsection will result in revocation of the license granted under subsection A of this Section. (Ord. 87-009, 9-8-1987)

3-4-9: ISSUANCE OF LICENSE:

A. Verification of Application: An applicant for an alcoholic beverage license shall fill out the application in full and sign it and have it notarized as verification under penalty of law that all information contained therein is true.

B. Applicability: All applications for a license defined in this Chapter shall be made pursuant to this Section, regardless of whether the application is for a new license, or there is a change of ownership or a change of lessees of an existing licensed premises, or an existing licensee is moving his business to another location in the Town.

C. Application Fee Submitted: The application shall be returned to the Town offices, along with full payment of the license fees.

D. Content of Certificate: The certificate of license shall be signed by the Town Manager and the Town Treasurer, and shall contain the following information:

1. The name of the person to whom the certificate is issued;

2. The expiration date of the license; and

3. The address of the place of business licensed.

E. New Businesses: All applicants who are beginning a new business shall also comply with all applicable business licensing requirements.

F. Duration, Expiration: The duration and expiration of each alcoholic beverage license under this Chapter, shall coincide with the term and expiration of the underlying Town business license. (Ord. 91-003, 4-9-1991)

3-4-10: RENEWAL OF LICENSE:

A. Application; Fee: Each year, licensees shall renew their alcoholic beverage licenses by completing an application for a license renewal, signed under penalty of law that all information contained therein is true, and returning it along with the proper fees to the Town offices within the time period set forth in subsection 3-4-6B of this Chapter.

B. Review; Issuance: Upon receipt of the application and fees, the Town Manager shall review application under the same criteria as original application and prepare and issue a certificate of license as provided in this Chapter.

3-4-11: TERM OF LICENSE:

All alcoholic beverage licenses, no matter when issued, shall expire on the same date the licensee's underlying Town business license expires. (Ord. 91-003, 4-9-1991)

3-4-12: DISPLAY OF LICENSE REQUIRED:

Every certificate of license issued pursuant to this Chapter shall be posted by the licensee in a conspicuous place upon the wall of the building, room or office of the place of business next to the certificate of business license so that the same may be easily seen. When the certificate of license has expired, it shall be removed and no certificate of license which is not in force and effect shall be permitted to remain posted within the place of business. (Ord. 91-003, 4-9-1991)

3-4-13: NONTRANSFERABLE LICENSE:

Alcoholic beverage licenses are not transferable or assignable to any other person. (Ord. 91-003, 4-9-1991)

3-4-14: NUISANCE PROHIBITED:

It shall be unlawful for any licensee to keep or maintain a "nuisance", as defined under common law or by the alcoholic beverage control act, on the licensed premises. (Ord. 91-003, 4-9-1991)

Title 3 – Business & Licensing Regulations

Chapter 4
ALCOHOLIC BEVERAGES
ARTICLE A. SINGLE EVENT PERMITS

3-4A-1: AUTHORITY TO GRANT PERMITS; LIMITATIONS:
3-4A-2: APPLICATION REQUIREMENTS:
3-4A-3: QUALIFICATIONS:
3-4A-4: TOWN MANAGER'S DUTIES BEFORE GRANTING PERMIT:
3-4A-5: BOND REQUIRED:
3-4A-6: OPERATIONAL RESTRICTIONS:

3-4A-1: AUTHORITY TO GRANT PERMITS; LIMITATIONS:

A. The Town Manager may issue a single event permit to a bona fide association, corporation, church or political organization, or to a recognized subordinate lodge, Chapter or other local unit thereof that is conducting a convention, civic, fundraising or community event.

B. The single event permit shall authorize, for a period not to exceed thirty (30) days, the storage, sale, service and consumption of "beer, light beer, malt liquor or malted beverage", as defined in Section 3-4-1 of this Title, at an event at which the storage, sale, service or consumption of these alcoholic beverages is otherwise prohibited by State and local law. Authorization for the storage, sale, service and consumption of liquor at such event shall be obtained from the State alcoholic beverage control commission and is not governed by this Chapter or.

C. The Town Manager may not issue more than two (2) single event permits in any one calendar year to the same association, corporation, church or political organization, or subordinate lodge, Chapter or other local unit thereof.

D. The six hundred-foot (600') and two hundred-foot (200') proximity limitations to educational, religious, and recreational facilities that are applicable to State stores, package agencies and licensees, do not apply to single event permits. Nothing in this Section, however, prevents the Town Manager from considering the proximity of any educational, religious or recreational facility, or any other relevant factor in deciding whether to grant a single event permit. (Ord. 91-003, 4-9-1991)

3-4A-2: APPLICATION REQUIREMENTS:

A. Filing; Information Required: A qualified applicant for a single event permit shall file a written application at least forty-five (45) days prior to the event date in the Town offices in a form as the Town Manager shall prescribe. The application shall be accompanied by:

1. A bond as specified by Section 3-4A-5 of this article;

2. The times, dates, location, nature and purpose of the event;

3. A description or floor plan designating:

   a. The area in which the applicant proposes that alcoholic beverages be stored;

   b. The site from which the applicant proposed that alcoholic beverages be sold or served; and

   c. The area in which the applicant proposes that alcoholic beverages be allowed to be consumed.

4. A statement of the purpose of the association, corporation, church, or political organization, or its local lodge, Chapter or other local unit;

5. A signed consent form stating that authorized representatives of the Town, or any law enforcement officer, will have unrestricted right to enter the premises during the event;

6. Proper verification evidencing that the person signing the application is authorized to act on behalf of the association, corporation, church or political organization; and

7. Any other information as the Town Manager may direct. (Ord. 91-003, 4-9-1991)

8. False Statements: Any person who makes any false Statement in any application, document or affidavit required by this article is guilty of a class B misdemeanor, subject to penalty as provided in Section 1-4-1 of this Code. (Ord. 91-003, 4-9-1991; amended 2010 Code)

3-4A-3: QUALIFICATIONS:

A. Term of Existence as Organization: In order to qualify for a single event permit, the applicant shall have been in existence as a bona fide organization for at least one year prior to the date of application.

B. Conviction of Criminal Offense:

1. The Town Manager may not grant a single event permit to any person who has been:

   a. Convicted of a felony under any federal or State law;

b. Convicted of any violation of any federal or State law or local ordinance concerning the sale, manufacture, distribution, warehousing, adulteration or transportation of alcoholic beverages; or

c. Convicted of any crime involving moral turpitude.

2. In the case of a partnership or corporation, the prescription under subsection A1 of this Section applies if any partner, managing agent, officer, director, or stockholder who holds at least twenty percent (20%) of the total issued and outstanding stock of an applicant corporation has been convicted of any offense as provided in this subsection.

C. Emergency Revocation: Upon the arrest any single event permittee on any charge set forth in subsection A of this Section, the Town Manager may take emergency action by immediately revoking the permit.

D. Prior Revocations:

1. The Town Manager may not grant a single event permit to any person who has had any type of license, agency or permit issued under Section 3-4-1 of this Code revoked within the last three (3) years.

2. The Town Manager may not grant a single event permit to any corporation or partnership applicant if any partner, managing agent, officer, director or stockholder who holds at least twenty percent (20%) of the total issued and outstanding stock of the applicant is or was a partner or managing agent of any partnership, or is or was a managing agent, officer, director or a stockholder who holds or held at least twenty percent (20%) of the total issued and outstanding stock of any corporation which had a liquor license, agency, or permit revoked within the last three (3) years.

3. A corporation or partnership applicant may not be granted a permit if any partner or managing agent of the partnership or any managing agent, officer, director, or stockholder who holds at least twenty percent (20%) of the total issued and outstanding stock of the corporate applicant had a liquor license, agency, or permit revoked while acting in their individual capacity within the last three (3) years.

E. Minors: A minor may not be granted a single event permit or be employed by a single event permittee to handle alcoholic beverages.

F. Applicant no Longer Qualified: If a person to whom a permit has been issued under this Chapter no longer possesses the qualifications required by this Title for obtaining that permit, the Town Manager may suspend or revoke that permit. (Ord. 91-003, 4-9-1991)

3-4A-4: TOWN MANAGER'S DUTIES BEFORE GRANTING PERMIT:

A. Investigation: Before any single event permit may be granted by the Town Manager, the Town Manager and staff shall conduct an investigation, gather information, as to whether or not a permit should be granted. The information shall be considered by the Town Manager in the determination.

B. Considerations: Before issuing any single event permit, the Manager shall:

1. Determine that the applicant has complied with all basic qualifications and requirements as provided by this article and that the application is complete;

2. Consider the purpose of the organization or its local lodge, Chapter or other local unit;

3. Consider the time, date, location and purpose of the event; and

4. Consider any other factors or circumstances he considers necessary.

C. Information to Other Agencies: Upon approval of any application and upon issuance of a single event permit, the Town Manager shall send copies of the approved application and the permit to State and local law enforcement authorities before the scheduled event. (Ord. 91-003, 4-9-1991)

3-4A-5: BOND REQUIRED:

A. Amount: Any applicant for a single event permit shall post a cash or corporate surety bond in the penal sum of one thousand dollars ($1,000.00), payable to the Town, which the applicant has procured and must maintain for so long as the permit is in effect.

B. Form: The bond shall be in a form approved by the Town Attorney, conditioned upon the permittee’s faithful compliance with this article and other applicable State and local laws and ordinances.

C. Withdrawal; Forfeit: No part of any cash or corporate bond so posted may be withdrawn during the period the permit is in effect. A bond filed by the permittee may be forfeited if the permit is revoked, or as necessary to pay clean up expenses or for damage to public or private property resulting for operation under the special permit. (Ord. 91-003, 4-9-1991)

3-4A-6: OPERATIONAL RESTRICTIONS:

A. Compliance Required: Any organization granted a single event permit and any person involved in the storage, sale or service of beer, light beer, malt liquor or malted beverage at the event for which the permit is issued, shall abide by this Title, all other applicable Town ordinances, and the special conditions and requirements provided in this Chapter. Failure to do so may result in an immediate revocation of the permit, forfeiture of the surety bond, immediate seizure of all alcoholic beverages present at the event, and disqualifies the organization from applying for a single event permit for a period of three (3) years from the date of revocation of the permit. Any alcoholic beverage seized under this subsection shall be returned to the organization after the event if forfeiture proceedings are not instituted under Utah Code Annotated Section 32A-13-103.

B. Conditions, Requirements: Special conditions and requirements for single event permits include, but are not limited to, the following:

1. All persons involved in the storage, sale or service of alcoholic beverages at the event do so under the supervision and direction of the permittee.

2. All alcoholic beverages stored, sold, served and consumed at the event shall be considered under the control of the permittee during the event. Attendees of the event may not bring any alcoholic beverage other than that furnished by the permittee onto the premises of the event.

3. Each permittee shall post in a prominent place in the area in which alcoholic beverages are being sold, served and consumed a copy of the permit, together with a list of the operational restrictions and requirements of single event permits set forth in this Section.

4. Alcoholic beverages purchased for the event may not be stored in any place other than that described in the application and designated on the permit. (Ord. 91-003, 4-9-1991)

Title 3 – Business & Licensing Regulations

Chapter 5

SEXUALLY ORIENTED BUSINESSES

3-5-1: PURPOSE AND FINDINGS:
3-5-2: DEFINITIONS:
3-5-3: APPLICABILITY:
3-5-4: OBSCENITY:
3-5-5: BUSINESS CATEGORIES:
3-5-6: LICENSE REQUIRED:
3-5-7: APPLICATION FOR LICENSE; DISCLOSURE:
3-5-8: FEES FOR APPLICATION:
3-5-9: ISSUANCE OF LICENSE:
3-5-10: CHANGE IN LICENSE INFORMATION:
3-5-11: LOCATION REGULATIONS AND RESTRICTIONS:
3-5-12: EMPLOYEE PERMIT REQUIREMENTS AND REGULATIONS:
3-5-13: FEE PROVISIONS; MAXIMUM:
3-5-14: TERM OF LICENSE:
3-5-15: DISPLAY OF LICENSE:
3-5-16: NONTRANSFERABLE LICENSE:
3-5-17: HOURS OF OPERATION:
3-5-18: EXHIBITION OF SEXUALLY EXPLICIT FILMS OR VIDEOS:
3-5-19: STAGE REQUIREMENTS:
3-5-20: PROHIBITED CONDUCT AND ACTIVITIES:
3-5-21: INJUNCTION:
3-5-22: SUSPENSION:
3-5-23: REVOCATION:
3-5-24: HEARING ON DENIAL, SUSPENSION OR REVOCATION; APPEAL:
3-5-25: REQUIREMENTS TO COME INTO COMPLIANCE:
3-5-26: PENALTY:

3-5-1: PURPOSE AND FINDINGS:

A. It is the objective of this chapter the town establish reasonable and uniform regulations governing the operation of sexually oriented businesses and their employees in the town. This chapter shall be construed by the town to protect the governmental interests recognized by this chapter in a manner consistent with constitutional protection provided by the United States and Utah constitutions. The purpose of these regulations is to provide for the regulation of and licensing of sexually oriented businesses within the town in a manner which will protect the property values of surrounding businesses and neighborhoods, and

residents from the potential adverse secondary effects of sexually oriented businesses, while providing to those who desire to patronize sexually oriented businesses the opportunity to do so. Sexually oriented businesses are frequently used for unlawful sexual activities, including prostitution. Licensing of sexually oriented businesses is a legitimate and reasonable means of ensuring that operators of sexually oriented businesses comply with reasonable regulations and operators do not knowingly allow their businesses to be used for illegal sexual activity or solicitation. There is convincing documented evidence that sexually oriented businesses, because of their nature, have a deleterious effect on both the existing neighboring businesses and surrounding residential areas, causing increased crime and downgrading of property values. The purpose of this chapter is to control the adverse effects of sexually oriented businesses and thereby to protect the health, safety and welfare of the citizens and guests of the town, protect the citizens from increased crime, preserve the quality of life, preserve the property values and character of the surrounding neighborhoods, and deter the spread of urban blight.

B. Based on evidence of the adverse secondary effects of adult uses presented in hearings and in reports made available to the town council, and on findings incorporated in the cases of City of Erie v. Pap's A.M., 529 U.S. 277, 120 S.Ct. 1382, 146 L.Ed.2d 265 (2000);City of Renton v. Playtime Theatres, Inc., 475 U.S. 41, 106 S.Ct. 925, 89 L.Ed.2d 29 (1986); Young v. American Mini Theatres, [Inc.], 427 U.S. 50, 96 S.Ct. 2440, 49 L.Ed.2d 310 (1976); Barnes v. Glen Theatre, Inc., 501 U.S. 560, 111 S.Ct. 2456, 115 L.Ed.2d 504 (1991); California v. La Rue, 409 U.S. 109, 93 S.Ct. 390, 34 L.Ed.2d 342 (1972); O'Connor v. City and County of Denver, 894 F.2d 1210 (10th Cir. 1990); Z.J. Gifts D-2, L.L.C. v. City of Aurora, 136 F.3d 683 (10th Cir. 1998); Dodger's Bar & Grill, Inc. v. Johnson County, 98 F.3d 1262 (10th Cir. 1996); Dodger's Bar & Grill, Inc. v. Johnson County Bd. of County Com'rs, 32 F.3d 1436 (10th Cir. 1994); American Target Advertising, Inc. v. Giani, 199 F.3d 1241 (10th Cir. 2000); MS News Co. v. Casado, 721 F.2d 1281 (10th Cir. 1983); Cortese v. Black, 87 F.3d 1327, (10th Cir. 1996); Heideman v. South Salt Lake City, 348 F.3d 1182 (10th Cir. 2003); Salt Lake City v. Wood, 1999 Utah App. 323, 991 P.2d 595 (Utah Ct. App. 1999); Midvale City Corp. v. Haltom, 73 P.3d 334 (Utah 2003); United States v. Freedberg, 724 F.Supp. 851 (D. Utah 1989); reports of the Iron County sheriff's office; and documents concerning the secondary effects occurring in and around sexually oriented businesses, including, but not limited to, Phoenix, Arizona - 1984; Minneapolis, Minnesota - 1980; Houston, Texas - 1997; Indianapolis, Indiana - 1984; Amarillo, Texas; Garden Grove, California - 1991; Los Angeles, California - 1977; Whittier, California - 1978; Austin, Texas - 1986; Seattle, Washington - 1989; Oklahoma City, Oklahoma - 1986; Cleveland, Ohio; Dallas, Texas - 1997; St. Croix County, Wisconsin - 1993; Bellevue, Washington - 1998; Newport News, Virginia - 1996; New York Times Square study - 1994; Phoenix, Arizona - 1995-98; and also on findings from the paper entitled "Stripclubs According to Strippers: Exposing Workplace Sexual Violence", by Kelly Holsopple, program director, freedom and justice center for prostitution resources, Minneapolis, Minnesota, and from "Sexually Oriented Businesses: An Insider's View", by David Sherman, presented to the Michigan house committee on ethics and constitutional law, January 12, 2000; crime statistics of the city of South Salt Lake for the past seven (7) years; and the report of the attorney general's working group on the regulation of sexually oriented businesses (June 6, 1989, state of Minnesota), the Town Council finds as follows:

1. Sexually oriented businesses lend themselves to ancillary unlawful and unhealthy activities that are presently uncontrolled by the unlicensed operators of the establishments. Further, there is presently no mechanism in this town to make the owners

and operators of these establishments responsible for the activities that occur on their premises.

2. Sexual acts, including masturbation, and oral and anal sex, occur at unregulated sexually oriented businesses, especially those which provide private or semiprivate booths or cubicles for viewing films, videos or live sex shows.

3. Offering and providing such unregulated space encourages such activities, which creates unhealthy conditions.

4. Numerous communicable diseases may be spread by activities occurring in sexually oriented businesses, including, but not limited to, syphilis, gonorrhea, human immunodeficiency virus infection (HIV-AIDS), genital herpes, hepatitis, salmonella, campylobacter and shigella infections, chlamydia, mycoplasma and ureoplasmal infections, trichomoniasis and chancroid.

5. Sanitary conditions in some sexually oriented businesses are unhealthy, in part, because the activities conducted there are unhealthy, and, in part, because of the unregulated nature of the activities, and the failure of the owners and the operators of the facilities to self-regulate those activities and maintain those facilities.

6. The findings noted in subsections B1 through B5 of this section raise substantial governmental concerns.

7. A reasonable licensing procedure is an appropriate mechanism to place the burden of that reasonable regulation on the owners and the operators of the sexually oriented businesses. Further, such a licensing procedure will place a heretofore nonexistent incentive on the operators to see that the sexually oriented business is run in a manner consistent with the health, safety and welfare of its patrons and employees, as well as the citizens of the town. It is appropriate to require reasonable assurances that the licensee is the actual operator of the sexually oriented business, fully in possession and control of the premises and activities occurring therein.

8. The disclosure of certain information by those persons ultimately responsible for the day to day operation and maintenance of the sexually oriented business, where such information is substantially related to the significant governmental interest in the operation of such uses, will aid in preventing the spread of sexually transmitted diseases and will prevent the further secondary effects of dissemination of illegal obscenity, child pornography, and to minors and materials harmful to them.

9. The general welfare, health, morals and safety of the citizens of the town will be promoted by the enactment of this chapter. (Ord. 09-011, 7-28-2009)

3-5-2: DEFINITIONS:

For the purpose of this chapter, the following words shall have the following meanings herein respectively ascribed to them, unless a different meaning is clearly indicated by the context:

ADULT ARCADE: Any place to which the public is permitted or invited wherein coin operated or

slug operated, or electronically, electrically or mechanically controlled still or motion picture machines, projectors or other image producing devices, are regularly maintained to show images to five (5) or fewer persons per machine at any one time, and where the images so displayed are distinguished or characterized by their emphasis upon matter exhibiting or describing "specified sexual activities" or "specified anatomical areas".

ADULT BOOKSTORE, ADULT NOVELTY STORE, ADULT VIDEO STORE: A commercial establishment which has as a significant or substantial portion of its stock in trade, or derives a significant or substantial portion of its revenues, or devotes a significant or substantial portion of its interior business or advertising, or maintains a substantial section of its sales or display space for the sale or rental, for any form of consideration, any one or more of the following:

A. Books, magazines, periodicals or other printed matter, or photographs, films, motion pictures, video cassettes, compact discs, slides or other visual representations which are characterized by their emphasis upon the exhibition or description of "specified sexual activities" or "specified anatomical areas".

B. Instruments, devices or paraphernalia that are designed for use or marketed primarily for stimulation of human genital organs or for sadomasochistic use or abuse of the user or others.

ADULT CABARET: A nightclub, bar, juice bar, restaurant bottle club, or similar commercial establishment, whether or not alcoholic beverages are served, which regularly features:

A. Persons who appear seminude;

B. Live performances which are characterized by the exposure of "specified anatomical areas" or "specified sexual activities"; or

C. Films, motion pictures, video cassettes, slides or other photographic reproductions which are characterized by their emphasis upon the exhibition or description of "specified sexual activities" or "specified anatomical areas".

ADULT MOTEL: A motel, hotel or similar commercial establishment which:

A. Offers public accommodations, for any form of consideration, which regularly provides patrons with closed circuit television transmissions, films, motion pictures, video cassettes, slides or other photographic reproductions which are characterized by their emphasis upon the exhibition or description of "specified sexual activities" or "specified anatomical areas", and which advertises the availability of this sexually oriented type of material by means of a sign visible from the public right of way, or by means of any off premises advertising, including, but not limited to, newspapers, magazines, pamphlets or leaflets, radio or television; and

B. Offers a sleeping room for rent for a period of time less than ten (10) hours; or

C. Allows a tenant or occupant to sub-rent the sleeping room for a time period of less than ten (10) hours.

ADULT MOTION PICTURE THEATER: A commercial establishment where films, motion pictures, video cassettes, slides or similar photographic reproductions which are characterized by

their emphasis upon the exhibition or description of "specified sexual activities" or "specified anatomical areas" are regularly shown for any form of consideration.

ADULT THEATER: A theater, concert hall, auditorium or similar commercial establishment which, for any form of consideration, regularly features persons who appear live in a state of semi nudity, or live performances which are characterized by their emphasis upon the exhibition of "specified anatomical areas" or "specified sexual activities".

BUSINESS LICENSE OFFICIAL: Brian Head Town business License Officer, or his/her designee.

CONTROLLING INTEREST: The power, directly or indirectly, to direct the operation, management or policies of a business or entity, or to vote twenty percent (20%) or more of any class of voting securities of a business. The ownership, control or power to vote twenty percent (20%) or more of any class of voting securities of a business shall be presumed, subject to rebuttal, to be the power to direct the management, operation or policies of the business.

DISTINGUISHED OR CHARACTERIZED BY AN EMPHASIS ON: The dominant or principal theme of the object described by such a phrase. For instance, when the phrase refers to films which are distinguished or characterized by an emphasis upon the exhibition or description of "specified sexual activities" or "specified anatomical areas", the films so described are those whose dominant or principal character and theme is the exhibition or description of "specified anatomical areas" or "specified sexual activities".

EMPLOY, EMPLOYEE AND EMPLOYMENT: Describe and pertain to any person who performs any service on the premises of a sexually oriented business, on a full time, part time or contract basis, whether or not the person is designated an employee, independent contractor, agent or otherwise. "Employee" does not include a person exclusively on the premises for repair or maintenance of the premises, or for the delivery of goods to the premises or similar type of function.

ESTABLISH OR ESTABLISHMENT: Means and includes any of the following:

A. The opening or commencement of any sexually oriented business as a new business;

B. The conversion of any existing business; whether or not a sexually oriented business, to any sexually oriented business;

C. The addition of any sexually oriented business to any other existing sexually oriented business; or

D. The relocation of any sexually oriented business.

HEARING OFFICER: The Town Manager of Brian Head Town, or a designee of the Town Manager.

LICENSEE: A person in whose name a license to operate a sexually oriented business has been issued, as well as the individual or individuals listed as an applicant on the application for a sexually oriented business license. In case of an “employee”, it shall mean the person in whose name the employee license has been issued.

NUDITY OR STATE OF NUDITY: The showing of the human male or female genitals, pubic area, vulva, anus, or anal cleft with less than a fully opaque covering, or the showing of the female breast with less than a fully opaque covering of any part of the nipple.

OPAQUE: Impervious, having capacity to block out or obstruct the visual image of an object.

OPERATE OR CAUSE TO OPERATE: To cause to function or to put or keep in a state of doing business.

OPERATOR: Any person on the premises of a sexually oriented business who is authorized to exercise overall operational control of the business, or who causes to function or who puts or keeps in operation the business. A person may be found to be operating or causing to be operated a sexually oriented business whether or not that person is an owner, part owner or licensee of the business.

PARK: Any public land which has been designated for park or recreational activities, including, but not limited to, a park, playground, trails, reservoir, athletic field, basketball or tennis courts, pedestrian/bicycle paths, open space, wilderness areas, or similar public land within the town which is under the control, operation or management of Brian Head Town.

PECUNIARY COMPENSATION: Any commission, fee, salary, tip, gratuity, profit, reward, or any other form of consideration.

PERSON: An individual, proprietorship, partnership, corporation, association or other legal entity.

PLACE OPEN TO PUBLIC VIEW: An area capable of observance by persons from the general community, where an expectation for privacy is not reasonably justified, and includes a dedicated roadway, sidewalk, a parking lot, any public way, a theater, a restaurant, a movie theater, any room in a hotel or motel other than a guestroom, or any other place where an expectation for privacy is not reasonably justified.

PROTECTED USES: Churches, public libraries, public parks or parkways, public recreation centers, public and private schools, and any residence or residential district.

REGULARLY FEATURED OR REGULARLY SHOWN: A consistent or substantial course of conduct such that the films or performances exhibited constitute a substantial portion of the films or performances offered as a part of the ongoing business of the sexually oriented business.

SEMINUDE MODEL STUDIO:

A. Any place where a person, who regularly appears in a state of semi nudity, is provided for pecuniary consideration, to be observed, sketched, drawn, painted, sculptured, photographed, or similarly depicted by other persons.

B. It is a defense to prosecution for any violation of this chapter that a person appearing in a state of semi nudity did so in a modeling class operated:

    1. By a college, junior college or university supported entirely or partly by taxation;

2. By a private college or university which maintains and operates educational programs in which credits are transferable to college, junior college or university supported entirely or partly by taxation; or

3. In a structure:

   a. Which has no sign visible from the exterior of the structure and no other advertising that indicates a seminude person is available for viewing; and

   b. Where, in order to participate in a class, a student must enroll at least three (3) days in advance of the class.

SEMINUDE OR STATE OF SEMINUDITY: A state of dress in which any opaque clothing covers no more than the genitals, anus, anal cleft or cleavage, pubic area, vulva, and nipple and areola of the female breast, as well as portions of the body covered by supporting straps or devices.

SEXUALLY ORIENTED BUSINESS: An adult arcade, adult bookstore, adult motion picture theater, adult novelty store, adult theater, adult video store, adult cabaret, seminude model studio, or adult motel.

SPECIFIED ANATOMICAL AREAS:

A. Human male genitals in a state of sexual arousal; or

B. Less than completely and opaquely covered buttocks, anus, anal cleft or cleavage, male or female genitals, or a female breast.

SPECIFIED CRIMINAL ACTIVITY:

A. Any of the following offenses as they are defined by applicable Utah state statute: prostitution or promotion of prostitution; dissemination of obscenity or illegal pornographic materials; sale, distribution or display of harmful material to a minor; sexual abuse; sexual abuse of a child; sexual exploitation of children; sexual performance by a child; possession or distribution of child pornography; sexual battery; rape; indecent exposure; indecency with a child; the crimes of criminal pandering, tax violations, embezzlement or racketeering, if such crimes are directly related to the operation of a sexually oriented business; sexual assault; molestation of a child; or distribution of a controlled substance; criminal attempt, conspiracy or solicitation to commit any of the foregoing offenses or offenses involving the same elements from any jurisdiction if the offenses were committed in the state of Utah, regardless of the exact title of the offense, for which:

   1. Less than two (2) years have elapsed since the date of conviction or the date of release from confinement imposed for the conviction, whichever is the later date, if the conviction is of a misdemeanor offense;

   2. Less than five (5) years have elapsed since the date of conviction or the date of release from confinement for the conviction, whichever is the later date, if the conviction is of a felony offense; or

   3. Less than five (5) years have elapsed since the date of the last conviction or the date of release from confinement for the last conviction, whichever is the later date, if the

convictions are of two (2) or more misdemeanor offenses or combination of misdemeanor offenses occurring within any twenty four (24) month period.

B. The fact that a conviction is being appealed shall have no effect on the disqualification of the applicant.

SPECIFIED SEXUAL ACTIVITY: Acts of, or simulating:

A. Masturbation;

B. Sexual intercourse;

C. Sexual copulation with a person or a beast;

D. Fellatio;

E. Cunnilingus;

F. Bestiality;

G. Pederasty;

H. Buggery;

I. Sodomy;

J. Excretory functions as part of or in connection with any of the activities set forth in subsections A through I of this definition.

TRANSFER OF OWNERSHIP OR CONTROL OF A SEXUALLY ORIENTED BUSINESS: Any of the following:

A. The sale, lease or sublease of the business;

B. The transfer of securities which constitutes a controlling interest in the business, whether by sale, exchange or similar means; or

C. The establishment of a trust, gift or other similar legal device which transfers the ownership or control of the business, except for transfer by bequest or other operation of law upon the death of the person possessing the ownership or control.

VIEWING ROOM: A room, booth or area where a patron of a sexually oriented business would ordinarily be positioned while watching a film, video cassette or other video production. (Ord. 09-011, 7-28-2009)

3-5-3: APPLICABILITY:

A. General Applicability: This chapter imposes regulatory standards and license requirements on certain business activities which are characterized as sexually oriented businesses, and

certain employees of those businesses characterized as sexually oriented business employees. Except where the context or specific provisions require, this chapter does not supersede or nullify any other related ordinances.

B. Applicability Of Regulations To Existing Businesses:

1. The provisions of this chapter shall be applicable to all persons and businesses described in this chapter, whether the described business or activities were established or commenced before, on or after the effective date hereof, and regardless of whether such persons and businesses are currently licensed to do business in the town.

2. Upon adoption, the provisions of this chapter shall apply to the activities of all sexually oriented businesses and sexually oriented business employees described herein, whether such businesses or activities were established or commenced before, on, or after the effective date hereof. All existing sexually oriented businesses and sexually oriented business employees are hereby granted a de facto temporary license to continue operation or employment for a period of ninety (90) days following the effective date hereof. Within said ninety (90) days, all sexually oriented businesses and sexually oriented business employees must make application for a license pursuant to this chapter. Within said ninety (90) days, sexually oriented businesses must make any necessary changes to the interior configurations of the regulated business premises to conform to this chapter. (Ord. 09-011, 7-28-2009)

3-5-4: OBSCENITY:

Notwithstanding anything contained in this chapter, nothing in this chapter shall be deemed to permit or allowing the showing or display of any material which is contrary to the provisions of this code, or other applicable federal or state statutes prohibiting obscenity. (Ord. 09-011, 7-28-2009)

3-5-5: BUSINESS CATEGORIES:

The categories of sexually oriented business are:

A. Adult arcade;

B. Adult bookstore, adult novelty store, adult video store;

C. Adult cabaret;

D. Adult motel;

E. Adult motion picture theater;

F. Adult theater; and

G. Seminude model studio. (Ord. 09-011, 7-28-2009)

3-5-6: LICENSE REQUIRED:

It is unlawful:

A. Business License: For any person to operate a sexually oriented business without a valid sexually oriented business license issued by the town pursuant to this chapter. The license shall specify the type of sexually oriented business for which it is obtained.

B. Employee License: For any person who operates a sexually oriented business to employ a person to work for the sexually oriented business who is not licensed as a sexually oriented business employee by the town pursuant to this chapter.

C. Work Permit: For any person to obtain employment with a sexually oriented business without having secured a sexually oriented business work permit pursuant to this chapter. (Ord. 09-011, 7-28-2009)

3-5-7: APPLICATION FOR LICENSE; DISCLOSURE:

A. Signature: If a person who wishes to operate a sexually oriented business is an individual, they shall sign the application for a license as applicant. If a person who wishes to operate a sexually oriented business is other than an individual, the application shall include the full legal name, address and state of incorporation of the business. Each officer, director, general partner, or other person who owns a controlling interest in the business, or who will participate directly in decisions relating to management and control of the business, shall sign the license application as an applicant. Each applicant must be qualified under this chapter and each applicant shall be considered a licensee if a license is granted.

B. Temporary License Issued: Upon filing a completed application for a sexually oriented business license or sexually oriented business work permit, the Business License Official shall issue a temporary license to the applicant, which temporary license shall expire upon the final decision of the town to deny or grant the license.

C. Complete Application; Required Information: An application shall be considered complete when it contains the information required in this subsection as follows:

1. The full legal name and any other names or aliases used by the applicant;

2. The applicant's date and place of birth;

3. Present business address and telephone number;

4. Identification issued by a federal or state governmental agency with the individual's colored photograph, signature and physical description;

5. Fingerprints on a form provided by the public safety department;

6. The identity of each individual authorized by the corporation, partnership or non-corporate entity to receive service of process.

7. If the application is for a sexually oriented business license, the application shall be accompanied by a sketch or diagram showing the interior configuration of the premises, including a statement of total floor space occupied by the business. The sketch or diagram need not be professionally prepared but shall be drawn to a designated scale or drawn with marked dimensions of the interior of the premises to an accuracy of plus or minus six inches (±6").

D. Specified Criminal Activity: Each applicant must provide a statement of whether the applicant has been convicted of, or has pled guilty or nolo contendere to, a "specified criminal activity", as defined in section 3-5-2 of this chapter, and if so, the specified criminal activity involved, and the date, place and jurisdiction of each.

E. Notarized Statement From Property Owner: In the event the applicant is not the owner of record of the real property upon which the sexually oriented business or proposed sexually oriented business is or is to be located, the application must be accompanied by a notarized statement from the legal or equitable owner of the possessory interest in the property specifically acknowledging the type of sexually oriented business for which the applicant seeks a license to operate a sexually oriented business on the property. In addition to furnishing such notarized statement, the applicant shall furnish the name, address and phone number of the owner of record of the property, as well as the copy of the lease or rental agreement pertaining to the premises on which the sexually oriented business is or will be located.

F. License Additional: A license or permit required by this chapter is in addition to any other licenses or permits required by the town, county or state to engage in the business or occupation. Persons engaged in the operation of a sexually oriented business or in employment in a sexually oriented business shall comply with all other applicable local, state and federal laws, ordinances and statutes, including zoning ordinances, as may be required.

G. Confidentiality Of Information: The information provided by an applicant in connection with an application for a license under this chapter shall be maintained by the town on a confidential basis, except that such information may be disclosed only to law enforcement agencies in connection with a law enforcement or public safety function, or as may be required by governing law or court order. The information provided by a sexually oriented business license applicant in connection with the application for a license under this chapter shall be maintained by the town. (Ord. 09-011, 7-28-2009)

3-5-8: FEES FOR APPLICATION:

A. Each applicant for a sexually oriented business license shall be required to pay a regulatory license fee as set forth in the consolidated fee schedule adopted by resolution.

B. This fee shall be in addition to the other licenses and fees required to do business in the town. (Ord. 09-011, 7-28-2009)

3-5-9: ISSUANCE OF LICENSE:

A. Time Limit For Issuance: Under no circumstances shall the total time for the town to issue a license or issue a written intent to deny an application for a license exceed thirty (30) days from the receipt of a completed application.

B. Conditions For Denial: The business license official shall issue a license to the applicant unless the official finds one or more of the following to be true by a preponderance of the evidence:

1. The applicant is under eighteen (18) years of age or any higher age, if the license sought requires a higher age.
2. The applicant is overdue in payment to the town of taxes, fees, fines or penalties assessed against the applicant or imposed on the applicant in relation to a sexually oriented business.

3. The applicant has falsely answered a material question or request for information specifically authorized by this chapter.

4. The license fees required by this chapter have not been paid.

5. All applicable sales and use taxes have not been paid.

6. Each applicant must provide a statement of whether the applicant has been convicted of or has pled guilty or nolo contendere to a "specified criminal activity", as defined in section 3-5-2 of this chapter, and if so, the specified criminal activity involved, the date, place and jurisdiction of each. The fact that a conviction is being appealed shall have no effect on the disqualification pursuant to this section.

C. Content Of License; Display Required: The license, if granted, shall state on its face the name of the person or persons to whom it is granted, the number of the license issued to the licensee, the expiration date, and, if the license is for a sexually oriented business, the address of the sexually oriented business. The sexually oriented business license shall be posted in a conspicuous place at or near the entrance to the sexually oriented business so that it may be easily read at any time. (Ord. 09-011, 7-28-2009)

3-5-10: CHANGE IN LICENSE INFORMATION:

The licensee shall submit, in writing, any change in the information required to be submitted under this chapter for either a sexually oriented business license or sexually oriented business work permit to the business license official within fourteen (14) days after such change. (Ord. 09-011, 7-28-2009)

3-5-11: LOCATION REGULATIONS AND RESTRICTIONS:

A. Zoning: It is unlawful for any sexually oriented business to do business at any location within the town not zoned for such business. Businesses regulated by this chapter shall not be

located closer than six hundred feet (600') to each other and not closer than six hundred feet (600') to protected uses.

B. Additional Location Requirements: It is unlawful for any business licensed as a sexually oriented business to be located within six hundred feet (600') of a business licensed for the sale or consumption of alcohol or liquor.

C. Method Of Measurement: The six hundred foot (‘600) limitation is measured from the nearest property line of the business regulated by the chapter to the nearest property line of the other sexually oriented business or business licensed for the sale or consumption of alcohol, or area of protected use.

D. Single Location And Name:

1. It is unlawful to conduct business under a license issued pursuant to this chapter at any location other than the licensed premises.

2. It is unlawful for any sexually oriented business to do business in the town under any name other than the business name specified in the application.

E. Moving Of Business Location: It is unlawful for any sexually oriented business, as regulated herein, to relocate or otherwise move its location or area of operation. A sexually oriented business wishing to relocate must submit the appropriate application for a license as required under this chapter. Such application shall be reviewed under the terms and conditions of this chapter and applicable town ordinances. (Ord. 09-011, 7-28-2009)

3-5-12: EMPLOYEE PERMIT REQUIREMENTS AND REGULATIONS:

A. Employee Work Permit Required: It is unlawful for any person to act as a sexually oriented business employee, without first obtaining a sexually oriented business work permit, as specified in subsection B of this section.

B. Sexually Oriented Business Employee Work Permits: It is unlawful for any sexually oriented business to employ, or for any individual to be employed as a sexually oriented business employee, unless that employee first obtains a sexually oriented business employee work permit.

C. Application For Permit; Disclosure:

1. Temporary License: Upon the filing of a completed application for a sexually oriented business employee work permit, the Business License Official shall issue a temporary license to the applicant, which temporary license shall expire upon the final decision of the town to deny or grant the work permit.

2. Complete Application; Required Information: An application shall be considered complete when it contains the information required in this subsection as follows.

a. The correct legal name of each applicant;

b. Present business address and telephone number;

c. Identification issued by a federal or state governmental agency with the individual's date of birth, colored photograph, signature and physical description;

d. The individual's fingerprints on a form provided by the public safety department;

e. Each applicant must provide a statement of whether the applicant has been convicted of or has pled guilty or nolo contendere to a "specified criminal activity", as defined in section 3-5-2 of this chapter, and if so, the specified criminal activity involved, the date, place, and jurisdiction of each. The fact that a conviction is being appealed shall have no effect on the disqualification pursuant to this section.

3. License Additional: A license or permit required by this section is in addition to any other licenses or permits required by the town, county or state to engage in the business or occupation. Persons engaged in the operation of a sexually oriented business or in employment in a sexually oriented business shall comply with all other applicable local, state and federal laws, ordinances and statutes, including zoning ordinances, as may be required.

4. Confidentially Of Information: The information provided by an applicant in connection with an application for a license under this chapter shall be maintained by the town on a confidential basis, except that such information may be disclosed only to law enforcement agencies in connection with a law enforcement or public safety function, or as may be required by governing law or court order. The information provide by a sexually oriented business license applicant in connection with the application for a license under this chapter shall be maintained by the business license official.

D. State Licensing Exemption: The provisions of this chapter shall not apply to any sex therapist or similar individual licensed by the state to provide bona fide sexual therapy or counseling, a licensed medical practitioner, licensed nurse, psychiatrist or psychologist while providing professional services for which they are licensed, nor shall it apply to any educator licensed by the state for activities in the classroom.

E. Issuance And Term Of Permit:

1. Within thirty (30) days of the initial filing date of the receipt of a completed application, the business license official shall either issue a license or issue a written notice of intent to deny a license to the applicant. The business license official shall approve the issuance of a license unless one or more of the following is found by a preponderance of evidence to be true:

a. The applicant is less than eighteen (18) years of age.

b. The applicant has failed to provide information as required by subsection C2 of this section for issuance of a license or has falsely answered a question or request for information on the application form.

c. The license application fee required by this section has not been paid.

d. The applicant has been convicted of a "specified criminal activity", as defined in section 3-5-2 of this chapter, or has been shown to have committed two (2) or more violations of subsection 3-5-20A of this chapter within the previous year.

2. Sexually oriented business employee work permits may be obtained at any time throughout the year. All employee work permits will expire on September 30 following issuance.

3. Sexually oriented business licenses and sexually oriented business employee work permits may be renewed only by making application and payment of a fee as provided for in this chapter. Application for renewal should be made at least ninety (90) days before the expiration date of said licenses and work permits, and when made less than ninety (90) days before the expiration date, the expiration of the license or work permit will not be affected.

F. Change In Employee Information: Any change in the information required to be submitted under this chapter for a sexually oriented business work permit will be given, in writing, to the Business License Official within fourteen (14) days after such change.

G. License Fees: Each applicant for a sexually oriented employee work permit shall be required to pay yearly regulatory license fees as set forth in this chapter.

H. License Display: A sexually oriented business employee shall keep the employee's work permit on his or her person or on the premises where the licensee is then working and shall, while working on the sexually oriented business premises, produce such work permit for inspection upon request by a law enforcement officer or other town official performing functions connected with the enforcement of this chapter. (Ord. 09-011, 7-28-2009)

3-5-13: FEE PROVISIONS; MAXIMUM:

The initial license and annual renewal fees for a sexually oriented business license or a sexually oriented business employee license shall be set by the Town Council at an amount determined by the Town Council as sufficient to pay the cost of administering this chapter. In no event shall the fees exceed two hundred dollars ($200.00) for the initial fee of a sexually oriented business and one hundred dollars ($100.00) for annual renewal; and one hundred dollars ($100.00) for the initial sexually oriented business employee license work permit and fifty dollars ($50.00) for annual renewal. These fees shall be in addition to all other licenses and fees required to do business in the town. (Ord. 09-011, 7-28-2009)

3-5-14: TERM OF LICENSE:

A license shall be issued for a period not to exceed twelve (12) months. All sexually oriented business licensees shall expire on September 30 of each year regardless of when issued. The license fees required shall not be prorated for any portion of the year. (Ord. 09-011, 7-28-2009)

3-5-15: DISPLAY OF LICENSE:

Any sexually oriented business located within the boundaries of the Town must display the license granted pursuant to this chapter in a prominent public location within the business premises. (Ord. 09-011, 7-28-2009)

3-5-16: NONTRANSFERABLE LICENSE:

Sexually oriented business licenses granted under this chapter shall not be transferable. (Ord. 09-011, 7-28-2009)

3-5-17: HOURS OF OPERATION:

All premises licensed to operate a sexually oriented business shall only operate between the hours of ten o'clock (10:00) A.M. and two o'clock (2:00) A.M. of the following day. (Ord. 09-011, 7-28-2009)

3-5-18: EXHIBITION OF SEXUALLY EXPLICIT FILMS OR VIDEOS:

A person who operates or causes to be operated a sexually oriented business, other than an adult motel, which exhibits on the premises in a viewing room of less than one hundred fifty (150) square feet of floor space, films, video cassettes/DVDs, or other video reproductions characterized by an emphasis on the display of specified sexual activities or specified anatomical areas, shall comply with the following requirements. It shall be unlawful for a person having a duty under this section to knowingly fail to fulfill that duty.

A. Diagram Of Premises: Each application for a sexually oriented business license shall contain a diagram of the premises showing the location of all manager's stations, viewing rooms, overhead lighting fixtures, video cameras and monitors installed for monitoring purposes, and restrooms, and shall designate all portions of the premises in which patrons will not be permitted. Restrooms shall not contain video reproduction equipment. The diagram shall also designate the place at which the permit will be conspicuously posted, if granted. A professionally prepared diagram in the nature of an engineer's or architect's blueprint shall not be required; however, each diagram shall be oriented to the north or to some designated street or object and shall be drawn to a designated scale or with marked dimensions sufficient to show the various internal dimensions of all areas of the interior of the premises to an accuracy of plus or minus six inches (.6"). The business license official may waive the foregoing diagram for renewal applications if the applicant adopts a diagram that was previously submitted and certifies that the configuration of the premises has not been altered since it was prepared.

B. Sworn Application: The application shall be sworn to be true and correct by the applicant.

C. Alterations To Manager's Station: No alteration in the configuration or location of a manager's station or viewing room may be made without the prior approval of the business license official.

D. Access To Non-permitted Areas: It shall be the duty of the operator, and of any employees present on the premises, to ensure that no patron is permitted access to any area of the premises which has been designated as an area in which patrons will not be permitted in the application filed pursuant to subsection A of this section.

E. Lighting: The interior premises shall be equipped with overhead lighting fixtures of sufficient intensity to illuminate every place to which patrons are permitted access at an illumination of not less than one foot-candle as measured at the floor level. It shall be the duty of the operator, and of any employees present on the premises, to ensure that the illumination described above is maintained at all times that the premises is occupied by patrons or open for business.

F. Sexual Activity: It shall be the duty of the operator, and of any employees present on the premises, to ensure that no sexual activity occurs in or on the licensed premises.

G. Number Present In Viewing Room: It shall be the duty of the operator, and of any employees present on the premises, to ensure that not more than one person is present in a viewing room at any time. No person shall enter a viewing room that is occupied by another person.

H. Openings In Viewing Room: It shall be the duty of the operator, and of any employees present on the premises, to ensure that no opening of any kind exist between viewing rooms. No person shall make an attempt to make an opening of any kind between viewing rooms.

I. Removal Of Violators In Viewing Room: It shall be the duty of the operator, or of any employee who discovers an opening of any kind between viewing rooms, to immediately secure such rooms, and prevent entry into them by any patron until such time as the wall between the rooms has been repaired to remove the opening. Removal and repairing openings between viewing rooms shall be in a manner that is as structurally substantial as the original wall construction.

K. Daily Inspections: It shall be the duty of the operator, at least once each business day, to inspect the walls between viewing rooms for openings of any kind.

L. Signage: It shall be the duty of the operator to post conspicuous signs in well lighted entry areas of the business stating all of the following:

1. That no loitering is permitted in viewing rooms.

2. That the occupancy of viewing rooms is limited to one person.

3. That sexual activity on the premises is prohibited.

4. That the making of openings between viewing rooms is prohibited.

5. That violators will be required to leave the premises.

6. That violations of subsections L2, L3 and L4 of this section are unlawful.

M. Flooring: It shall be the duty of the operator to ensure that floor coverings in viewing rooms are nonporous, easily cleanable surfaces, with no rugs or carpeting.

N. Wall Surfaces: It shall be the duty of the operator to ensure that all wall surfaces and seating surfaces in viewing rooms are constructed of, or permanently covered by, nonporous, easily cleanable material.

O. Sanitation, Cleaning: It shall be the duty of the operator to ensure that premises are clean and sanitary. Such duty shall be fulfilled if the operator complies with the following cleaning procedures:

1. The operator shall maintain a regular cleaning schedule of at least two (2) cleanings per day, documented by appropriate logs.

2. The operator shall provide an employee to check all areas for garbage, trash, bodily fluids and excrement and to remove and clean all areas with a disinfectant. All solid waste generated by the business shall be collected from the premises for disposal at a lawful solid waste disposal facility at least once each week. Prior to collection, solid waste shall be stored in a manner that prevents access by animals or members of the public and which will not facilitate the creation of a health nuisance.

3. Thorough cleaning of the entire interior of any room providing patron privacy shall be done using a disinfectant. Cleaning shall include floors, walls, doors, seating, monitors, video cameras, and windows and other surfaces.

P. Unobstructed View: The interior of the premises shall be configured in such a manner that there is an unobstructed view from a manager's station of every area of the premises in which patrons are permitted, including the interior of each viewing room, but excluding restrooms, to which any patron is permitted access for any purpose. A manager's station shall not exceed forty (40) square feet of floor area. If the premises has two (2) or more manager's stations designated, then the interior of the premises shall be configured in such a manner that there is an unobstructed view of each area of the premises to which any patron is permitted access for any purpose from at least one of the manager's stations. The view required in this subsection must be by direct line of sight from the manager's station. It is the duty of the operator to ensure that at least one employee is on duty and situated in each manager's station at all times that any patron is on the premises. It shall be the duty of the operator, and it shall also be the duty of any employees present on the premises, to ensure that the view area specified in this subsection remains unobstructed by any doors, curtains, walls, merchandise, display racks or other materials or enclosures at all times that any patron is present on the premises. (Ord. 09-011, 7-28-2009)

3-5-19: STAGE REQUIREMENTS:

It shall be a violation of this chapter for an employee to knowingly or intentionally, in a sexually oriented business, appear in a state of semi nudity unless the employee is at least three feet (3') from patrons and customers and on a stage at least two feet (2') from the floor. (Ord. 09-011, 7-28-2009)

3-5-20: PROHIBITED CONDUCT AND ACTIVITIES:

A. Sexually Oriented Business Licensee And Employee Conduct: It is unlawful for any sexually oriented business licensee or sexually oriented business employee to knowingly or intentionally:

1. Allow persons under the age of eighteen (18) years, or the age of twenty-one (21) years if required by any applicable alcohol ordinance, on the business premises;

2. Allow, offer or agree to gambling on the business premises;

3. Allow, offer or agree to the illegal possession, use, sale or distribution of controlled substances on the licensed premises;

4. Permit, commit, offer or agree to commit prostitution, solicitation of prostitution, solicitation of a minor or commit activities harmful to the minor to occur on the licensed premises;

5. Permit, commit, offer or agree to permit any live "specified sexual activity", as defined by town ordinances or state statutes in the presence of any customer or patron;

6. Permit, offer or agree to a patron or customer to masturbate within or upon the premises of a sexually oriented business;

7. Appear in a state of nudity before a patron on the premises of a sexually oriented business;

8. Refuse to permit officers or agents of the town who are performing functions connected with the enforcement of this chapter to inspect the portions of the sexually oriented business premises where patrons are permitted, for the purpose of ensuring compliance with this chapter, at any time the sexually oriented business is occupied by patrons or open for business. A licensee's knowing or intentional refusal to permit such an inspection shall constitute a violation of this subsection. The provisions of this subsection do not apply to areas of an adult motel which are currently being rented by a customer for use as a permanent or temporary habitation.

B. Unlawful Activities Of Patrons: It is unlawful for any patron to knowingly or intentionally:

1. Touch in any manner a sexually oriented business employee while the sexually oriented business employee is seminude;

2. Place any money or object on or within the costume or person of any sexually oriented business employee while the sexually oriented business employee is seminude; or

3. Appear in a state of nudity before another person on the premises of a sexually oriented business. (Ord. 09-011, 7-28-2009)

3-5-21: INJUNCTION:

An entity or individual who, without a valid license, operates or causes to be operated a sexually oriented business, or who employs or is employed as an employee of a sexually oriented business, or who operates such a business or functions as such an employee in violation of the provisions of this chapter, is subject to a suit for injunction in addition to the civil and criminal violations provided in this chapter, and any other remedy available at law or in equity. (Ord. 09-011, 7-28-2009)

3-5-22: SUSPENSION:

The town shall issue a written letter of intent to suspend a sexually oriented business license for a period not to exceed thirty (30) days if it is determined that he sexually oriented business licensee has knowingly violated this chapter or has knowingly allowed an employee to violate this chapter. The town shall issue a written letter of intent to suspend a sexually oriented employee work permit if it is determined that the employee has knowingly violated this chapter. (Ord. 09-011, 7-28-2009)

3-5-23: REVOCATION:

A. The Business License Official shall issue a written intent to revoke a sexually oriented business license or a sexually oriented business employee work permit if a cause of suspension in section 3-5-22 of this chapter occurs and the license has been suspended within the preceding twelve (12) months.

B. The Business License Official shall issue a written intent to revoke a sexually oriented business license or a sexually oriented business employee work permit if the official determines that a licensee or an employee, with the knowledge of the licensee:

1. Knowingly gave false or misleading information in the application or in any document or diagram related to the operation of the sexually oriented business.

2. Knowingly allowed possession, use, or sale of controlled substances on the premises.

3. Knowingly allowed prostitution on the premises.

4. Knowingly operated the sexually oriented business during a period of time when the licensee's license was suspended.

5. A licensee has been convicted, pled guilty or nolo contendere to a "specified criminal activity", as defined in section

C. The fact that any conviction is being appealed shall have no effect on the revocation of the license.

D. For the purposes of this chapter, an act by a sexually oriented business employee that constitutes grounds for revocation of that employee's work permit shall be imputed to the sexually oriented business for purposes of denial, suspension or revocation proceedings

only if the Hearing Officer determines by a preponderance of evidence that an officer, director or general partner, or an employee who managed, supervised or controlled the operation of the business, knowingly allowed such act to occur on the sexually oriented business premises.

E. Nature Of Revocation: When, after the notice and hearing procedure described in this chapter, the Business License Official revokes a license, the revocation shall continue for one year and the licensee shall not be issued a sexually oriented business license for one year from the date revocation becomes effective; provided, that if the conditions of section 3-5-24 of this chapter are met, a provisional license will be granted pursuant to that section. If, subsequent to revocation, the enforcement officer finds that the basis for the revocation found in subsections B1, B4 and B7 of this section have been corrected or abated, the applicant shall be granted a license if at least ninety (90) days have elapsed since the date the revocation became effective. If the license was revoked under subsections B2, B3, B5 and B6 of this section, an applicant may not be granted another license until the appropriate number of years required under this chapter has elapsed. (Ord. 09-011, 7-28-2009)

3-5-24: HEARING ON DENIAL, SUSPENSION OR REVOCATION; APPEAL:

A. Notice Requirements; Hearing Procedure: If the Business License Official determines that facts exist for denial, suspension or revocation of a license under this chapter, the town shall notify the applicant or licensee (respondent) in writing of the town's intent to deny, suspend or revoke the license, including the grounds therefor, by personal delivery, or by certified mail.

1. The notification shall be directed to the most current business address or other mailing address on file with the Business License Official for the respondent. Within ten (10) working days of receipt of such notice, the respondent may provide to the business license official a written response that shall include a statement of reasons why the respondent believes the license should not be denied, suspended or revoked.

2. Within five (5) working days of the receipt of respondent's written response, the business license official shall notify respondent in writing of the hearing date on respondent's denial, suspension or revocation proceeding. Within ten (10) working days of the receipt of respondent's written response, the Hearing Officer shall conduct a hearing at which respondent shall have the opportunity to present all of respondent's arguments and to be represented by counsel, present evidence and witnesses on his or her behalf, and cross examine any of the town witnesses. The hearing shall take no longer than two (2) working days, unless extended to meet the requirements of due process and proper administration of justice. The Hearing Officer shall issue a written opinion within five (5) days after the hearing. If a court action challenging the town decision is initiated, the town shall prepare and transmit to the court a transcript of the hearing within ten (10) working days after the issuance of the Hearing Officer's written opinion.

3. If a written response from the respondent is not received by the Business License Official within the time stated in subsection A1 of this section, or if after a hearing, the Hearing Officer concludes that grounds as specified in this chapter exist for denial, suspension or revocation of the license, then such denial, suspension or revocation shall become final five (5) working days after the hearing officer sends, by certified mail, written notice to the

respondent that the license has been denied, suspended or revoked. Such notice shall include a statement advising the respondent of the right to appeal such decision to a court of competent jurisdiction. If the hearing officer finds that no grounds exist for denial, suspension or revocation of a license, then within five (5) working days after the hearing, the hearing officer shall immediately withdraw the intent to deny, suspend or revoke the license and shall notify the respondent in writing by certified mail of such action. The hearing officer shall contemporaneously therewith issue the license to the applicant.

B. Appeal: An applicant or licensee (aggrieved party) whose application for a license has been denied or whose license has been suspended or revoked shall have the right to appeal such action to a court of competent jurisdiction. Upon the filing of any court action to appeal, challenge, restrain or otherwise enjoin the town enforcement of the denial, suspension or revocation, the town shall immediately issue the aggrieved party a provisional license. The provisional license shall allow the aggrieved party to continue operation of the sexually oriented business or to continue employment as a sexually oriented business employee and will expire upon the court's entry of a judgment on the aggrieved party's appeal or other action to restrain or otherwise enjoin the town enforcement.

C. Application During Temporary Or Provisional License Periods: Sexually oriented businesses or sexually oriented business employees operating or working under temporary licenses, provisional licenses, or de facto temporary licenses shall be subject to the applicable provisions of this chapter. (Ord. 09-011, 7-28-2009)

3-5-25: REQUIREMENTS TO COME INTO COMPLIANCE:

Licenses issued prior to the adoption date hereof to operate a sexually oriented business in which persons appear nude or in a state of nudity within any public or patronized area, shall not be renewed. Such licensees, whether the license is active or expired, may apply for a sexually oriented business license under this chapter; provided, that all other provisions of this chapter are satisfied. Any sexually oriented business licensed under this chapter must comply with the provisions and operational guidelines as set forth in this chapter on or before June 1, 2009, except that all sexually oriented business shall comply with section 3-5-20 of this chapter immediately the effective date hereof. (Ord. 09-011, 7-28-2009)

3-5-26: PENALTY:

In addition to revocation or suspension of a license as provided in this chapter, the violation of any provision of this chapter shall be a class B 1-4-1 of this code. Each day of a violation shall be considered a separate offense. The prosecuting agency shall have the discretion to charge any offense under this chapter as an infraction. (Ord. 09-011, 7-28-2009; amd. 2010 Code)

Title 3 – Business & Licensing Regulations

CHAPTER 6

DOOR TO DOOR SOLICITATION

3-6-1: PURPOSE
3-6-2: NO OTHER TOWN LICENSE OR APPROVAL REQUIRED
3-6-3: DEFINITIONS
3-6-4: EXEMPTIONS FROM THIS CHAPTER
3-6-5: SOLITIATION PROHIBITED
3-6-6: REGISTRATION OF SOLICITORS
3-6-7: APPLICATION FORM
3-6-8: WRITTEN DISCLOSURES
3-6-9: WHEN REGISTRATION BEGIN
3-6-10: ISSUANCE OF CERTIFICATES
3-6-11: FORM OF CERTIFICATE AND IDENTIFICATION BADGE
3-6-12: MAINTENANCE OF REGISTRY
3-6-13: NON-TRANSFERABILITY OF CERTIFICATES
3-6-14: DENIAL, SUSPENSION OR REVOCATION OF CERTIFICATE OF REGISTRATION
3-6-15: APPEAL
3-6-16: DECEPTIVE SOLICITING PRACTICES PROHIBITED
3-6-17: NO SOLICITATION NOTICE
3-6-18: DUTIEIS OF SOLICITORS
3-6-19: TIME OF DAY RESTRICTIONS
3-6-20: BUYER'S RIGHT TO CANCEL
3-6-21: PENALTIY

3-6-1: PURPOSE:

A. Residents of the Town have an inalienable interest in their personal safety, well-being, and privacy in their residences, as well as their ability to provide or receive information regarding matters of personal belief, political or charitable activities, and goods and services lawfully in commerce. The Town has a substantial interest in protecting the well-being, tranquility, personal safety, and privacy of its citizens, which includes the ability to protect citizens from unwanted intrusions upon residential property. The Town also has a substantial interest in protecting citizens from fraud or otherwise unfair consumer sales practices, as well as criminal activity.

B. There must be a balance between these substantial interests of the Town and its citizens, and the effect of the regulations in this Chapter on the rights of those who are regulated. Based on the collective experiences of the Town officials derived from regulating business activity, protecting persons and property from criminal conduct, responding to the inquiries of citizens regarding door to door solicitation, the experience of its law enforcement officers and those affected by door to door canvassing and solicitation, as well as judicial decisions outlining the boundaries of constitutional protections afforded and denied persons seeking to engage in door to door solicitation, the Town adopts this Chapter to promote the Town's substantial interests in:

   1. Respecting citizen's decisions regarding privacy in their residences;

   2. Protecting persons from criminal conduct;

   3. Providing equal opportunity to advocate for and against religious belief, political position or charitable activities; and

   4. Permitting truthful and non-misleading door to door solicitation regarding lawful goods or services in intrastate or interstate commerce.

C. The Town finds that the procedures, rules and regulations set forth in this Chapter are narrowly tailored to preserve and protect the Town interests referred to herein, while at the same time balancing the rights of those regulated. (Ord. 06-006, 12-12-2006)

3-6-2: NO OTHER TOWN LICENSE OR APPROVAL REQUIRED:

A. Registered solicitors and persons exempt from registration need not apply for, nor obtain, any other license, permit or registration from the Town to engage in door to door solicitation.

B. Any business licensed by the Town under another Town ordinance that uses employees, independent contractors, or agents for door to door solicitation in an effort to provide any tangible or intangible benefit to the business, shall be require4d to have such solicitors obtain a certificate, unless otherwise exempt from registration.

C. Those responsible persons or entities associated with registered solicitors need not apply for, nor obtain, any other license, permit or registration from the Town, provided they do not establish a temporary or fixed place of business in the Town.

D. Nothing herein is intended to interfere with or supplant any other requirement of federal, State or other local government law regarding any license, permit or certificate that a registered solicitor is otherwise required to have or maintain. (Ord. 06-006, 12-12-2006)

3-6-3: DEFINITIONS:

For the purposes of this Chapter, the following definitions shall apply:

ADVOCATING: Speech or conduct intended to inform, promote or support religious belief, political position or charitable activities.

APPELLANT: The person or entity appealing the denial or suspension of a certificate, either personally as an applicant or registered solicitor, or on behalf of the applicant or registered solicitor.

APPLICANT: An individual who is at least sixteen (16) years of age and not a corporation, partnership, limited liability company, or other lawful entity who applies for a certificate permitting door to door solicitation.

APPLICATION FORM: A standardized form provided by Brian Head Town to an applicant to be completed and submitted as part of registration.

BCI: An original or copy, dated no older than one hundred eighty (180) days prior to the date of the application, of either: a) a Utah department of public safety bureau of criminal identification verified criminal history report personal to the applicant; or b) verification by the Utah department of public safety bureau of criminal identification that no criminal history rising to the level of a disqualifying status exists for the applicant.

BUSINESS: A commercial enterprise licensed by Brian Head Town as a person or entity under this Title, having a fixed or temporary physical location within Brian Head Town.

CERTIFICATE: A temporary, annual or renewal certificate permitting door to door solicitation in Brian Head Town applied for or issued pursuant to the terms of this Chapter.

CHARITABLE ACTIVITIES: Advocating by persons or entities that either are, or support, a charitable organization.

CHARITABLE ORGANIZATION:

A. Includes any person, joint venture, partnership, limited liability company, corporation, association, group, or other entity:

    1. That is a benevolent, educational, voluntary health, philanthropic, humane, patriotic, religious or eleemosynary, social welfare or advocacy, public health, environmental or conservation, or civic organization:

        a. For the benefit of a public safety, law enforcement or firefighter fraternal association; or

        b. Established for any charitable purpose; and

    2. That is tax exempt under applicable provisions of the internal revenue Code, as amended, and qualified to solicit and receive tax deductible contributions from the public for charitable purposes.

B. "Charitable organization" includes a Chapter, branch, area or office, or similar affiliate, or any person soliciting contributions within the State for a charitable organization that has its principal place of business outside Brian Head Town or the State of Utah.

COMPETENT INDIVIDUAL: A person claiming or appearing to be at least eighteen (18) years of age and of sufficiently sound mind and body to be able to engage in rational thought, conversation and conduct.

COMPLETED APPLICATION: A fully completed application form, a BCI, two (2) copies of the original identification relied on by the applicant to establish proof of identify, and the tendering of fees.

CRIMINALLY CONVICTED: The final entry of a conviction, whether by a plea of no contest, guilty, entry of a judicial or jury finding of guilt, which has not been set aside on appeal or pursuant to a writ of habeas corpus. The criminal conviction that offense of which the applicant or registered solicitor was convicted, without regard to the reduced status of the charge after completion of conditions of probation or parole, and charges dismissed under a plea in abeyance or diversion agreement.

DISQUALIFYING STATUS: Anything specifically defined in this Chapter as requiring the denial or suspension of a certificate, and any of the following:

A. The applicant or registered solicitor has been criminally convicted of: 1) felony homicide; 2) physically abusing, sexually abusing or exploiting a minor; 3) the sale or distribution of controlled substances; or 4) sexual assault of any kind.

B. Criminal charges currently pending against the applicant or registered solicitor for: 1) felony homicide; 2) physically abusing, sexually abusing or exploiting a minor; 3) the sale or distribution of controlled substances; or 4) sexual assault of any kind.

C. The applicant or registered solicitor has been criminally convicted of a felony within the last ten (10) years;

D. The applicant or registered solicitor has been incarcerated in a federal or State prison within the past five (5) years;

E. The applicant or registered solicitor has been criminally convicted of a misdemeanor within the past five (5) years involving a crime of: 1) moral turpitude; or 2) violent or aggravated conduct involving persons or property.

F. A final civil judgment been entered against the applicant or registered solicitor within the last five (5) years indicating that: 1) the applicant or registered solicitor had either engaged in fraud or intentional misrepresentation; or 2) that a debt of the applicant or registered solicitor was non-dischargeable in bankruptcy pursuant to 11 USC Section 523(a)(2), (a)(4), (a)(6), or (a)(19);

G. The applicant or registered solicitor is currently on parole or probation to any court, penal institution or governmental entity, including being under house arrest or subject to a tracking device.

H. The applicant or registered solicitor has an outstanding arrest warrant from any jurisdiction; or

I. The applicant or registered solicitor is currently subject to a protective order based on physical or sexual abuse issued by a court of competent jurisdiction.

DOOR TO DOOR SOLICITATION: The practice of engaging in or attempting to engage in conversation with any person at a residence, whether or not that person is a competent individual, while making or seeking to make or facilitate a home solicitation sale, or attempting to further a sale of goods and or services.

ENTITY: Includes a corporation, partnership, limited liability company, or other lawful entity, organization, society or association.

FEES: The cost charged to the applicant or registered solicitor for the issuance of a certificate and/or identification badge, which shall not exceed the reasonable costs of processing the application and issuing the certificate and/or identification bade.

FINAL CIVIL JUDGMENT: A civil judgment that would be recognized under State law as a judgment to which collateral estoppel would apply.

GOODS: One or more tangible items, wares, objects or merchandise, perishables of any kind, subscriptions, or manufactured products offered, provided, or sold.

HOME SOLICITATION SALE: To make or attempt to make a sale of goods and services by a solicitor at a residence by means of door to door solicitation, regardless of:

A. The means of payment or consideration used for the purchase;

B. The time of delivery of the goods and services; or

C. The previous or present classification of the solicitor as a solicitor, peddler, hawker, itinerant merchant, or similar designation.

LICENSING OFFICER: The Town Clerk, or designee, responsible for receiving from an applicant or registered solicitor the completed application and either granting, suspending or denying the applicant's certificate.

NO SOLICITATION SIGN: A reasonable visible and legible sign that States "No Soliciting", "No Solicitors", "No Salesperson", "No Trespassing", or words of similar import.

POLITICAL POSITION: Any actually held belief, or information for, against or in conjunction with any political, social, environmental or humanitarian belief or practice.

REGISTERED SOLICITOR: Any person who has been issued a current certificate by Brian Head Town.

REGISTRATION: The process used by the Town Licensing Officer to accept a completed application and determine whether or not a certificate will be denied, granted or suspended.

RELIGIOUS BELIEF: Any sincerely held belief, or information for, against or in conjunction with, any theistic, agnostic, or atheistic assumption, presumption or position, or religious doctrine, dogma or practice, regardless of whether or not the belief or information is endorsed by any other person or public or private entity.

RESIDENCE: Any living unit contained within any building or structure that is occupied by any person as a dwelling consistent with the zoning laws of Brian Head Town, together with the lot or other real property on which the living unit is located. This does not include the sidewalk, public street or public right of way.

RESPONSIBLE PERSON OR ENTITY: That person or entity responsible to provide the following to an applicant, registered solicitor, and the competent individual in a residence to whom a sale of goods or services is made or attempted to be made by means of a home solicitation sale:

A. Maintaining a State sales tax number, a special events sales tax number, computing the sales taxes owing from any sale of goods or services, paying the sales taxes, and filing any required returns or reports;

B. Facilitating and responding to requests from consumers who desire to cancel the sale pursuant to the applicable contractual rights or law; and

C. Refunding any monies paid or reversing credit card charges to those persons who timely rescind any sale pursuant to applicable contractual rights or law.

SALE OF GOODS OR SERVICES: The conduct and agreement of a solicitor and the competent individual in a residence regarding a particular goods or service(s) that entitles the consumer to rescind the same within three (3) days under any applicable federal, State or local law.

SERVICES: Those intangible goods or personal benefits offered, provided, or sold to a competent individual of a residence.

SOLICITING, SOLICIT OR SOLICITATION: Any of the following activities:

A. Seeking to obtain sales or orders for the exchange of goods, wares, merchandise or perishables of any kind, for any kind of remuneration or consideration, regardless of whether advance payment is sought;

B. Seeking to obtain prospective customers to apply for or to purchase insurance, subscriptions to publications or publications;

C. Seeking to obtain contributions of money or any other thing of value for the benefit of any person or entity;

D. Seeking to obtain orders or prospective customers for goods or services;

E. Seeking to engage an individual in conversation at a residence for the purpose of promoting or facilitating the receipt of information regarding religious belief, political position, charitable conduct, or a home solicitation sale;

F. Other activities falling within the commonly accepted definition of "soliciting", such as hawking or peddling.

SOLICITOR OR SOLICITORS: A person or persons engaged in door to door solicitation.

SUBMITTED IN WRITING: The information for an appeal of a denial or suspension of a certificate,

submitted in any type of written Statement to the Town offices by certified, registered, priority, overnight or delivery confirmation mail, facsimile or hand delivery.

SUBSTANTIATED REPORT: An oral, written or electronic report:

A. That is submitted to and documented by Brian Head Town:

B. By any of the following:

1. A competent individual who is willing to provide law enforcement or other Town employees with publicly available identification of their name, address, and any other reliable means of contact;

2. A Town law enforcement or Licensing Officer; or

3. Any other regularly established law enforcement agency at any level of government.

C. That provides any of the following information regarding a registered solicitor:

1. Documented verification of a previously undisclosed disqualifying status of a registered solicitor;

2. Probable cause that the registered solicitor has committed a disqualifying status which has not been determined to be a disqualifying status;

3. Documented, eyewitness accounts that the registered solicitor has engaged in repeated patterns of behavior that demonstrate failure by the registered solicitor to adhere to the requirements of this Chapter; or

4. Probable cause that continued licensing of the registered solicitor creates exigent circumstances that threaten the health, safety, or welfare of any individual or entity within Brian Head Town.

TOWN MANAGER: The Town Manager or designee of Brian Head Town responsible for receiving the information from the Town and appellant regarding the denial or suspension of a certificate and issuing a decision as required by this Chapter.`

WAIVER: The written form provided to applicant by the Town wherein applicant agrees that the Town may obtain a name/date of birth, BCI background check on the applicant for licensing purposes under this Chapter, and which contains applicant's notarized signature. (Ord. 06-006, 12-12-2006)

3-6-4: EXEMPTIONS FROM CHAPTER:

A. The following are exempt from registration under this Chapter:

1. Persons specifically invited to a residence by a competent individual prior to the time of the person's arrival at the residence;

2. Persons whose license, permit, certificate or registration with the State permits them to engage in door to door solicitation to offer goods or services to an occupant of the residence;

3. Persons delivering goods to a residence pursuant to a previously made order, or persons providing services at a residence pursuant to a previously made request by a competent individual.

4. Persons advocating or disseminating information for, against, or in conjunction with any religious belief or political position, regardless of whether goods, services, or any other consideration is offered or given, with or without any form of commitment, contribution, donation, pledge or purchase; and

5. Persons representing a charitable organization. The charitable exemption shall apply to students soliciting contributions to finance extracurricular, social, athletic, artistic, scientific or cultural programs; provided, that the solicitation has been approved in writing by the school administration, and that such student solicitors carry current picture student identification from the educational institution for which they are soliciting.

B. Those persons exempt from registration are not exempt from the duties and prohibitions outlined in Sections 3-6-17, 3-6-18 and 3-6-19 of this Chapter while advocating or soliciting. (Ord. 06-006, 12-12-2006)

3-6-5: SOLICITATION PROHIBITED:

Unless otherwise authorized, permitted or exempted pursuant to the terms and provisions of this Chapter, the practice of being in an upon a private residence within the Town by solicitors, for the purpose of home solicitation sales or to provide goods or services, is prohibited and is punishable as set forth in this Chapter. (Ord. 06-006, 12-12-2006)

3-6-6: REGISTRATION OF SOLICITORS:

Unless otherwise exempt under this Chapter, all persons desiring to engage in door to door solicitation within the Town, prior to doing so, shall submit a completed application to the Licensing Officer and obtain a certificate. (Ord. 06-006, 12-12-2006)

3-6-7: APPLICATION FORM:

The Licensing Officer shall provide a standard application form for use for the registration of solicitors. Upon request to the Licensing Officer, or as otherwise provided, any person or entity may obtain in person, by mail, or facsimile, a copy of this application form. Each application form shall require disclosure and reporting by the applicant of the following information, documentation and fee:

A. Review Of Written Disclosures: An affirmation that the applicant has received and reviewed the disclosure information required by this Chapter.

B. Contact Information:

1. Applicant's true, correct and legal name, including any former names or aliases used during the last ten (10) years;

2. Applicant's telephone number, home address and mailing address, if different;

3. If different from the applicant, the name, address and telephone number of the responsible person or entity; and

4. The address by which all notices to the applicant required under this Chapter are to be sent.

C. Proof of Identity: An in-person verification by the Licensing Officer of the applicant's true identity by use of any of the following, which bear a photograph of said applicant:

1. A valid driver’s license issued by any State.

2. A valid passport issued by the United States.

3. A valid identification card issued by any State.

4. A valid identification issued by a branch of the United States military.

Upon verification of identity, the original identification submitted to establish proof of identity shall be returned to the applicant.

D. Proof of Registration with Department of Commerce: The applicant shall provide proof that either the applicant, or the responsible person or entity, has registered with the State department of commerce.

E. Special Events Sales Tax Number: The applicant shall provide a special events sales tax number for either the applicant, or for the responsible person or entity for which the applicant will be soliciting.

F. Marketing Information:

1. The goods or services offered by the applicant, including any commonly known registered or trademarked names.

2. Whether the applicant holds any other licenses, permits, registration, or other qualifications required by federal or State law to promote, provide, or render advice regarding the offered goods or services.

G. BCI Background Check: The applicant shall provide:

1. An original or a copy of a "BCI" background check, as defined in Section 3-6-3 of this Chapter; and

2. A signed copy of a waiver whereby applicant agrees to allow the Town to obtain a name/date of birth BCI background check on applicant for purposes of enforcement of this Chapter.

H. Responses To Questions Regarding "Disqualifying Status": The applicant shall be required to affirm or deny each of the following Statements on the application form:

1. Has the applicant been criminally convicted of: a) felony homicide; b) physically abusing, sexually abusing, or exploiting a minor; c) the sale or distribution of controlled substances; or d) sexual assault of any kind;

2. Are any criminal charges currently pending against the applicant for: a) felony homicide; b) physically abusing, sexually abusing, or exploiting a minor; c) the sale or distribution of controlled substances; or d) sexual assault of any kind;

3. Has the applicant been criminally convicted of a felony within the last ten (10) years;

4. Has the applicant been incarcerated in a federal or State prison within the past five (5) years;

5. Has the applicant been criminally convicted of a misdemeanor within the past five (5) years involving a crime of: a) moral turpitude; or b) violent or aggravated conduct involving persons or property;

6. Has a final civil judgment been entered against the applicant within the last five (5) years indicating that: a) the applicant had either engaged in fraud, or intentional misrepresentation; or b) that a debt of the applicant was non-dischargeable in bankruptcy pursuant to 11 USC Section 523(a)(2), (a)(4), (a)(6) or (a)(19);

7. Is the applicant currently on parole or probation to any court, penal institution or governmental entity, including being under house arrest or subject to a tracking device;

8. Does the applicant have an outstanding arrest warrant from any jurisdiction; or

9. Is the applicant currently subject to a protective order based on physical or sexual abuse issued by a court of competent jurisdiction.

I. Fee: The applicant shall pay such fees as determined applicable by the Town, which shall not exceed the reasonable cost of processing the application and issuing the certificate and/or identification badge.

J. Execution of Application: The applicant shall execute the application form, stating upon oath or affirmation, under penalty or perjury, that based on the present knowledge and belief of the applicant, the information provided is complete, truthful and accurate. (Ord. 06-006, 12-12-2006)

3-6-8: WRITTEN DISCLOSURES:

The application form shall be accompanied by written disclosures notifying the applicant of the following:

A. The applicant's submission of the application authorizes the Town to verify information submitted with the completed application, including:

   1. The applicant's addresses;

   2. The applicant's and/or responsible person or entity's State tax identification and special use tax numbers, if any;

   3. The validity of the applicant's proof of identity;

B. The Town may consult any publicly available sources for information on the applicant, including, but not limited to, databases for any outstanding warrants, protective orders or civil judgments.

C. Establishing proof of identity is required before registration is allowed.

D. Identification of the fee amount that must be submitted by applicant with a completed application.

E. The applicant must submit a BCI background check with completed application.

F. To the extent permitted by the State and/or federal law, the applicant's BCI background check shall remain a confidential, protected, private record not available for public inspection.

G. The Town will maintain copies of the applicant's application form, proof of identity, and identification badge. These copies will become public records available for inspection on demand at the Town offices whether or not a certificate is denied, granted or renewed.

H. The criteria for disqualifying status, denial or suspension of a certificate under the provisions of this Chapter.

I. That a request for a temporary certificate will be granted or denied within two (2) business days that a completed application is submitted. (Ord. 06-006, 12-12-2006)

3-6-9: WHEN REGISTRATION BEGINS:

The Licensing Officer shall not begin the registration process unless the applicant has submitted a completed application. The original identification submitted to establish proof of identity shall be returned after the Licensing Officer verifies the applicant's identity. A copy of the identification may be retained by the Licensing Officer. If an original BCI background check is submitted by the applicant, the Licensing Officer shall make a copy of the BCI and return the original to the applicant. (Ord. 06-006, 12-12-2006)

3-6-10: ISSUANCE OF CERTIFICATES:

The Licensing Officer shall review the completed application submitted by the applicant and issue a certificate in accordance with the following:

A. Temporary Certificate:

1. A temporary certificate shall issue allowing the applicant to immediately begin door to door solicitation upon the following conditions:

a. Applicant's submission of a completed application;

b. Applicant's submission of the required fee;

c. Applicant establishes proof of identity;

d. The applicant's representations on the application form do not affirmatively show a disqualifying status;

e. The BCI does not affirmatively show a disqualifying status; and

f. The applicant has not previously been denied a certificate by the Town, or had a certificate revoked for grounds that still constitute a disqualifying status under this Chapter.

2. A temporary certificate will automatically expire after twenty-five (25) calendar days from issuance, or upon grant or denial of an annual certificate, whichever period is shorter.

B. Annual Certificate: Within twenty-five (25) calendar days of the issuance of a temporary certificate, the Town shall:

1. Take any and all actions it deems appropriate to verify the truthfulness and completeness of the information submitted by the applicant, including, but not limited to, those disclosed with the application form.

2. Issue written notice to the applicant and the responsible person or entity, if any, that the applicant either:

a. Will be issued an annual certificate, eligible for renewal one year from the issuance of the temporary certificate; or

b. Will not be issued an annual certificate for reasons cited in Section 3-6-14 of this Chapter.

C. Renewal Certificate: An annual certificate shall be valid for one year from the date of issuance of the temporary certificate and shall expire at twelve o'clock (12:00) midnight on the anniversary date of issuance. Any annual certificate that is not suspended, revoked or expired may be renewed upon the request of the registered solicitor and the submission of

a new completed application and payment of the fee, unless any of the conditions for the denial in Section 3-6-14 of this Chapter, or a disqualifying status, is present. (Ord. 06-006, 12-12-2006)

3-6-11: FORM OF CERTIFICATE AND IDENTIFICATION BADGE:

A. Certificate Form: Should the Licensing Officer determine that the applicant is entitled to a certificate, the Licensing Officer shall issue a certificate to the applicant. The certificate shall list the name of the registered solicitor and the responsible person or entity, if any, and the date on which the certificate expires. The certificate shall be dated and signed by the Licensing Officer. The certificate shall be carried by the registered solicitor at all times while soliciting within the Town.

B. Identification Badge: With both the temporary and annual certificates, the Town shall issue each registered solicitor an identification badge that shall be worn prominently on his or her person while soliciting in the Town. The identification badge shall bear the name of the Town and shall contain: 1) the name of the registered solicitor; 2) address and phone number of the registered solicitor, or the name, address and phone number of the responsible person or entity if such is provided; 3) a recent photograph of the registered solicitor; and 4) the date on which the certificate expires. (Ord. 06-006, 12-12-2006)

3-6-12: MAINTENANCE OF REGISTRY:

The Licensing Officer shall maintain and make available for public inspection a copy or record of every completed application received and the certificate or written denial issued by the Town. The applicant's BCI background check shall remain a confidential, protected, private record not available for public inspection. The Licensing Officer may furnish to the head of the Town law enforcement agency a listing of all applicants, those denied, and those issued a certificate. (Ord. 06-006, 12-12-2006)

3-6-13: NONTRANSFERABILITY OF CERTIFICATES:

Certificates shall be issued only in the name of the applicant and shall list the responsible party or entity, if any. The certificate shall be nontransferable. A registered solicitor desiring to facilitate or attempt to facilitate home solicitation sales with different: a) goods and services; or b) responsible person or entity, from those designated in the originally submitted completed application, shall submit a written change request to the Licensing Officer. A new certificate based on the amended information shall issue for the balance of time remaining on the solicitor's previous certificate before the amendment was filed. Before the new certificate is given to the registered solicitor, the registered solicitor shall obtain a revised identification badge from the Town, after payment of the fee for the identification badge. (Ord. 06-006, 12-12-2006)

3-6-14: DENIAL, SUSPENSION OR REVOCATION OF CERTIFICATE OF REGISTRATION:

A. Denial: Upon review, the Licensing Officer shall refuse to issue a certificate to an applicant for any of the following reasons:

1. Denial of Temporary Certificate:

    a. The application form is not complete;

    b. The applicant fails to: 1) establish proof of identity; 2) provide a BCI; or 3) pay the fees;

    c. The completed application or BCI indicates that the applicant has a disqualifying status; or

    d. The applicant has previously been denied a certificate by the Town or has had a certificate revoked for grounds that still constitute a disqualifying status under this Chapter.

2. Denial of Annual Certificate:

    a. The information submitted by the applicant at the time of the granting of the annual certificate is found to be incomplete or incorrect;

    b. Since the submission of the completed application, the applicant is subject to a previously undisclosed or unknown disqualifying status;

    c. Failure to complete payment of the fees;

    d. Since the submission of the application, the Town has received a substantiated report regarding the past or present conduct of the applicant;

    e. Since the submission of the application, the Town or other governmental entity has either criminally convicted or obtained a civil injunction against the applicant for violating this Chapter or similar federal, State or municipal laws in a manner rising to the level of a disqualifying status; or

    f. Since the submission of the application, a final civil judgment has been entered against the applicant indicating that: 1) the applicant has either engaged in fraud or intentional misrepresentation; or 2) that a debt of the applicant was non-dischargeable in bankruptcy pursuant to 11 USC Section 523(a)(2), (a)(4), (a)(6), or (a)(19).

3. Denial of Annual Certificate Renewal:

    a. The information submitted by the applicant when seeking renewal of a certificate is found to be incomplete or incorrect;

    b. Since the submission of the renewal application, the applicant is subject to a previously undisclosed or unknown disqualifying status;

    c. Failure to complete payment of the fees;

d. Since the submission of the application or granting of a certificate, the Town has received a substantiated report regarding the past or present conduct of the solicitor;

e. The Town or other governmental entity has either criminally convicted or obtained a civil injunction against the applicant for violating this Chapter or similar federal, State or municipal laws in a manner rising to the level of a disqualifying status; or

f. Since the submission of the application, a final civil judgment has been entered against the applicant indicating that: 1) the applicant had either engaged in fraud or intentional misrepresentation; or 2) that a debt of the applicant was non-dischargeable in bankruptcy pursuant to 11 USC Section 523(a)(2), (a)(4), (a)(6), or (a)(19).

B. Suspension or Revocation: The Town shall either suspend or revoke a certificate when any of the reasons warranting the denial of a certificate occurs.

C. Notice of Denial or Suspension: Upon determination of the Licensing Officer to deny an applicant's completed application or to suspend a registered solicitor's certificate, the Town shall cause written notice to be sent to the applicant or registered solicitor by the method indicated in the completed application. The notice shall specify the grounds for the denial or suspension, the documentation or information the Town relied on to make the decision, the availability of the documentation for review by applicant upon one business day notice to the Town, and the date upon which the denial or suspension of the certificate shall take effect. It shall further State that the applicant or registered solicitor shall have ten (10) business days from the receipt of the notice of denial or suspension to appeal the same. The denial or suspension of the certificate shall be effective no sooner than two (2) calendar days from the date the notice is sent, unless that suspension is because of exigent circumstances outlined in subsection C4 of the definition of "substantiated report" in Section 3-6-3 of this Chapter, in which case, the suspension is effective immediately. The denial or suspension shall remain effective unless and until the order is rescinded, overturned on appeal, or determined by a court to be contrary to equity or law. Failure to appeal the suspension of a certificate automatically results in its revocation. (Ord. 06-006, 12-12-2006)

3-6-15: APPEAL:

An applicant or registered solicitor whose certificate has been denied or suspended shall have the right to appeal to the Town Manager or its designee. Any appeal must be submitted by either the applicant, the responsible person or entity, or legal counsel for either who: a) documents the relationship with the applicant or responsible person or entity; or b) is licensed or authorized by the State to do so, and makes the assertion of an agency relationship. The following procedures and requirements shall apply:

A. Any appeal must be submitted in writing to the Town Clerk within ten (10) business days of the decision from which the appeal is taken. Such appeal shall describe in detail the nature of the appeal, the action complained of and the grounds for appeal.

B. Upon request of the applicant or registered solicitor, within one business day, the Town will make available any information upon which it relied in making the determination to either deny or suspend the certificate.

C. The Town Manager shall review, de novo, all written information submitted by the applicant or registered solicitor to the Licensing Officer, any additional information relied upon by the Licensing Officer as the basis for denial, suspension or revocation, and any additional information supplied by the Town, applicant or registered solicitor. Any additional information submitted by any party to the Town Manager shall be simultaneously submitted to the opposing party. If desired, any party shall have three (3) business days to submit rebuttal documentation to the Town Manager regarding the additional information submitted by the opposing party.

D. The Town Manager will render a decision no later than fifteen (15) calendar days from the date the appeal was taken, unless an extension of time is agreed upon by the parties. In the event that any party to the appeal submits rebuttal information as allowed in subsection C of this Section, the fifteen (15) calendar days shall be extended to include the additional three (3) days for rebuttal.

1. The denial or suspension of the certificate shall be reversed by the Town Manager if, upon review of the written appeal and information submitted, the Town Manager finds that the Licensing Officer made a material mistake of law or fact in denying or suspending the applicant or registered solicitor's certificate.

2. If the written appeal and information submitted indicates that the Licensing Officer properly denied or suspended the certificate of the applicant or registered solicitor, the denial or suspension of the certificate shall be affirmed and constitute a determination that the suspended certificate is revoked.

3. The decision of the Town Manager shall be delivered to the applicant or registered solicitor by the means designated in the completed application, or as otherwise agreed upon when the appeal was filed.

E. After the ruling of the Town Manager, the applicant or solicitor is deemed to have exhausted all administrative remedies with the Town.

F. Nothing herein shall impede or interfere with the applicant's, solicitor's or Town's right to seek relief in a court of competent jurisdiction. (Ord. 06-006, 12-12-2006)

3-6-16: DECE PTIVE SOLICITING PRACTICES PROHIBITED:

A. No solicitor shall intentionally make any materially false or fraudulent Statement in the course of soliciting.

B. A solicitor shall immediately disclose to the consumer during face to face solicitation: 1) the name of the solicitor; 2) the name and address of the entity with whom the solicitor is associated; and 3) the purpose of the solicitor’s contact with the person and/or competent

individual. This requirement may be satisfied through the use of the badge and an informational flyer.

C. No solicitor shall use a fictitious name, an alias, or any name other than his or her true correct name.

D. No solicitor shall represent directly or by implication that the granting of a certificate of registration implies any endorsement by the Town of the solicitor's goods or services, or of the individual solicitor. (Ord. 06-006, 12-12-2006)

3-6-17: NO SOLICITATION NOTICE:

A. Any occupant of a residence may give notice of a desire to refuse solicitors by displaying a "No Solicitors" sign which shall be posted on or near the main entrance door or on or near the property line adjacent to the sidewalk leading to the residence.

B. The display of such sign or placard shall be deemed to constitute notice to any solicitor that the inhabitant of the residence does not desire to receive and/or does not invite solicitors.

C. It shall be the responsibility of the solicitor to check each residence for the presence of any such notice.

D. The provisions of this Section shall apply also to solicitors who are exempt from registration pursuant to the provisions of this Chapter. (Ord. 06-006, 12-12-2006)

3-6-18: DUTIES OF SOLICITORS:

A. Every person soliciting or advocating shall check each residence for any "No Soliciting" sign or placard, or any other notice or sign notifying a solicitor not to solicit on the premises, such as, but not limited to, "No Solicitation" signs. If such sign or placard is posted, such solicitor shall desist from any efforts to solicit at the residence or dwelling and shall immediately depart from such property. Possession of a certificate or registration does not in any way relieve any solicitor of this duty.

B. It is a violation of this Chapter for any person soliciting or advocating to knock on the door, ring the doorbell, or in any other manner attempt to attract the attention of an occupant of residence that bears a “No Solicitation” sign or similar sign or placard for the purpose of engaging in or attempting to engage in advocating a home solicitation sale, door to door soliciting, or soliciting.

C. It is a violation of this Chapter of any solicitor, through ruse, deception or fraudulent concealment of a purpose to solicit, to take action calculated to secure an audience with an occupant at a residence.

D. Any solicitor who is at any time asked by an occupant of a residence or dwelling to leave shall immediately and peacefully depart.

E. The solicitor shall not intentionally or recklessly make any physical contact with or touch another person without the person's consent.

F. The solicitor shall not a follow a person into a residence without their explicit consent.

G. The solicitor shall not continue repeated soliciting after a person and/or competent individual has communicated clearly and unequivocally their lack of interest in the subject, goods or services of the solicitor.

H. The solicitor shall not use obscene language or gestures. (Ord. 06-006, 12-12-2006)

3-6-19: TIME OF DAY RESTRICTIONS:

It shall be unlawful for any person, whether licensed or not, o'clock (9:00) A.M. or after nine o'clock (9:00) P.M. Mountain Standard Time, unless the solicitor has express prior permission from the resident to do so. (Ord. 06-006, 12-12-2006)

3-6-20: BUYER'S RIGHT TO CANCEL:

In any home solicitation sale, unless the buyer requests the solicitor to provide goods or services without delay in an emergency, the seller or solicitor shall present to the buyer and obtain buyer’s signature to a written statement which informs the buyer of the right to cancel within the third business day after signing an agreement to purchase. Such notice of "Buyer's Right to Cancel" shall be in the form required by Utah Code Annotated Section 70C-5-103, or a current version thereof, or any State or federal law modifying or amending such provision. (Ord. 06-006, 12-12-2006)

3-6-21: PENALTY:

Any person who violates any term or provision of this Chapter shall be guilty of a class B misdemeanor and subject to penalty as provided in Section 1-4-1 of this Code. (Ord. 06-006, 12-12-2006; amended 2010 Code)

Title 4 – Health, Sanitation & Environmental Concerns

Chapter 1

GARBAGE AND REFUSE

4-1-1: DEFINITIONS:
4-1-2: SERVICE PROVIDED:
4-1-3: FEES, CHARGES AND DEPOSITS:
4-1-4: USE REQUIRED; EXCEPTIONS:
4-1-5: DISPOSAL WITHIN DESIGNATED SITES:
4-1-6: RULES, REGULATIONS AND UNLAWFUL ACTIVITIES:
4-1-7: BURNING PROHIBITED:
4-1-8: RECEPTACLES REQUIRED:
4-1-9: PENALTY:

4-1-1: DEFINITIONS:

The following words and phrases used in this chapter shall have the following meanings, unless a different meaning clearly appears from the context:

COMPACTABLE TRASH: Items of normal household or commercial use which are easily compactible within a garbage truck. (Ord. 18-001 1-8-2018)

CONSTRUCTION DEBRIS: Refuse to result from the construction, demolition, remodel or repair of a building or other structure including, but not limited to, lumber, siding, roofing material, drywall, flooring, cabinetry, furniture, appliances, or similar materials. (Ord. 18-001, 1-8-2018),

CONTAINER: A type of garbage or trash container of galvanized metal or other approved material that has a lid and is used to contain garbage, waste, or waste matter before placement in the Town Dumpsters. (amd. Ord. 18-001, 1-8-2018).

GARBAGE: Compactable trash that shall include, but not be limited to, kitchen and table refuse, leavings and offal, swill, and also every accumulation of animal and vegetable and other matter that attends the preparation, consumption, decay of, or dealing in or storage of meats, fish, fowl, fruits and vegetables, or any waste that comes from the preparation, handling, storing, cooking or consumption of food and food products. (amd. Ord. 18-001, 1-8-2018)

REFUSE: Shall include all non-compactable waste matter, except garbage, attending or resulting from the occupancy of residences, apartments, hotels, or other places of dwelling and from the operation of a business. "Refuse" shall also be deemed to include industrial waste or waste matter

resulting from the construction, demolition or repair of a building or other structure. (amd. Ord. 18-001, 1-8-2018)

TOWN DUMPSTER: A large receptacle designed to be hoisted into a truck provided by the Town and placed throughout the community as the main depository for garbage, waste, and waste matter (compactable trash). (Ord. 18-001, 1-8-2018)

WASTE AND WASTE MATTER: Shall include, but not be limited to, crockery, bottles, tin cans, metal vessels, trimmings from lawns and gardens, pasteboard boxes, rags, paper, straw, sawdust, ashes, and similar materials. (1984 Code § 3-1-1)

4-1-2: SERVICE PROVIDED:

A. The Town shall provide a disposal service for all garbage, waste, and waste matter from the Town Dumpsters within the town. Such service will be at such intervals and times as the Town Council shall from time to time determine and provide for by appropriate resolutions. (amd. Ord. 18-001, 1-8-2018)

   The Town may contract with any person, partnership or corporation to gather, collect, haul and dispose of refuse. Commercial establishments, public or quasi-public institutions and establishments creating commercial garbage, may remove commercial garbage themselves or may employ the services of authorized contractors to remove commercial garbage for them. Any authorized garbage haulers must apply for and receive permission to do so from the Town Council. Except as otherwise expressly permitted, no garbage or refuse shall be moved or hauled away or transported upon the streets or public ways of the Town except by the Town or its agent, and except by authorized persons hauling commercial garbage or refuse as herein provided. (1984 Code § 3-1-2)

B. Refuse and construction debris will not be collected or disposed of by the Town. (Ord. 18-001, 1-8-2018).

4-1-3: FEES, CHARGES AND DEPOSITS:

A. A fee shall be charged for such service by the Town and the amount shall be set from time to time by the Town Council. The fee shall be billed to residents and business occupants of the Town with the regular billing for water and sewer service. The amount of the fee may be different for different classes of users of the service and may be billed annually rather than monthly. (1984 Code § 3-1-2, amd. Ord. 18-001, 1-8-2018,)

B. The Town Council may, by resolution, require the posting of a deposit in such amount as established in the Consolidated Fee Schedule before restoring utility service to any person, residence or business where utility service was disconnected pursuant to this chapter. Said deposit shall be refunded only upon full payment of all utility and waste disposal service billings for a period of one year after service is reinstated after a discontinuance pursuant to this chapter. (1984 Code § 3-1-3; amd. 2010 Code)

C. All residences and business establishments within the town limits shall pay the Town a garbage service charge as may be set from time to time by resolution of the Town Council. Said charges shall apply to all residences and business establishments regardless of whether or not they have also elected to haul their own garbage or employ the services of authorized garbage haulers. The service charges shall be collected with such frequency and in such a manner as the Town Council shall by resolution provide. (1984 Code § 3-1-4)

4-1-4: USE REQUIRED; EXCEPTIONS:

A. It shall be presumed that the occupants of all premises or dwellings in the Town are utilizing the waste disposal service unless they have made application to and received a permit from the Town Council to remove their own garbage and waste matter. All persons receiving other utility services from the Town shall be billed for the waste disposal service unless they have received such a permit.

B. If any person, residence or business who is presumed to be utilizing the waste disposal service provided by the Town and who has not applied for and received a permit as provided in subsection A of this section, fails or refuses to pay for the waste disposal services, the Town may discontinue all other utility services to said person, resident or business. Said utility service shall, at the discretion of the Town Council, not be restored until the entire amount past due has been paid.

C. These provisions shall not be construed as limiting any other legal remedy which the Town might pursue. (1984 Code § 3-1-3)

4-1-5: DISPOSAL WITHIN DESIGNATED SITES:

No person, firm or corporation shall, for the purpose of final disposal thereof, dump, place or bury, or cause to be dumped, placed or buried, in any lot, street, land, alley, or in any water or waterway within the town, any garbage, waste, waste matter, construction debris or any other refuse or deleterious or offensive substances. All garbage, waste matter and said substances shall be disposed of only in a Town Dumpster designated by the Town Council or, for any refuse or construction debris must be taken to the Iron County Landfill. (1984 Code § 3-1-5, amd. Ord. 18-001, 1-8-2018)

4-1-6: RULES, REGULATIONS AND UNLAWFUL ACTIVITIES:

A. Compactible Trash Permitted: Only compactible trash will be placed in the Town Dumpsters. It is the responsibility of each property owners, HOA, or commercial occupants who create refuse or construction debris to collect, contain, and dispose of any refuse or construction debris consistent with the requirements of this Title and any other applicable laws and statutes. (1984 Code § 3-1-2, amd. Ord. 18-001, 1-8-2018)

B. Garbage Pick Up: All garbage, waste, and waste matter must be placed in the Town Dumpsters by the day of collection, before the hour of collection, (1984 Code § 3-1-6, amd. Ord. 18-001, 1-8-2018)

C. Spilling Garbage Unlawful:

1. It shall be unlawful for any person engaged in hauling garbage, waste matter, manure, rubbish, or other refuse or waste material of any kind, to permit, allow, or cause any of said matter to fall and remain in the streets.

2. It shall be unlawful for any person to suffer, permit or allow any vehicle loaded with garbage, waste matter, manure, construction debris, or other refuse or waste material of any kind, to be or remain standing upon any public street within the town any longer than is necessary for the purpose of loading and transporting the same. (1984 Code § 3-1-7, amd. Ord. 18-001, 1-8-2018)

D. Accumulation Of Garbage And Waste: No person owning or occupying any building, lot or premises in the town shall suffer, allow or permit to collect and remain upon said lot or premises any garbage for a period of more than one week, or any waste matter for a period of more than two (2) weeks, without the express permission from the department of public safety. (amd. Ord. 18-001, 1-8-2018)

E. Liquid Garbage: No liquid garbage shall be deposited with any other garbage or other waste matter. All kitchen garbage shall be drained of all moisture and completely wrapped in paper before being placed in the garbage container. (1984 Code § 3-1-10)

4-1-7: BURNING PROHIBITED:

Any and all burning of said garbage and waste shall be expressly prohibited upon punishment and fine as a misdemeanor as set forth more fully in section 4-1-9 of this chapter. (1984 Code § 3-1-2)

4-1-8: RECEPTACLES REQUIRED:

Every owner, lessee or occupant of any building, residence or business shall contain garbage in a suitable metal or plastic trash container with a secured lid until it is deposited in a town trash receptacle (dumpster). (2010 Code)

4-1-9: PENALTY:

Any person violating any provision of this chapter shall be guilty of a class B misdemeanor and, upon conviction thereof, subject to penalty as provided in section 1-4-1 of this code. (1984 Code § 3-1-13; amd. Ord. 87-008, 8-11-1987; 2010 Code)

Title 4 – Health, Sanitation & Environmental Concerns

Chapter 2

LITTER; HANDBILLS

4-2-1: DEFINITIONS:
4-2-2: LITTERING UNLAWFUL:
4-2-3: COMMERCIAL AND NONCOMMERCIAL HANDBILLS:
4-2-4: HANDBILLS AND POSTERS:
4-2-5: PENALTY:

4-2-1: DEFINITIONS:

The following words and phrases used in this chapter shall have the following meanings, unless a different meaning clearly appears from the context:

AUTHORIZED RECEPTACLES: Public or private litter storage and collection receptacles.

COMMERCIAL HANDBILLS: Any printed or written material, any sample or device, dodger, circular, leaflet, pamphlet, paper, booklet, or any other printed or otherwise reproduced original or copies of any matter or literature which advertises for sale any merchandise, product, commodity or thing, or which directs attention to any business or mercantile or commercial establishment or other activity for the purpose of, directly or indirectly, promoting the interest in sales thereof, or which directs attention to or advertises any meeting, theatrical performance, exhibition or event of any other type for which an admission fee is charged for the purpose of private profit or gain, unless said admission is used to defray expenses resulting from the meeting, theatrical performance, exhibition or event and does not infringe upon the rules of decency, good morals or safety of the public.

LITTER: "Garbage", "refuse" and "rubbish", as defined in this title and chapter, and all other waste material which, if thrown or deposited as prohibited, may create a danger to public health, safety or welfare, or appearance of the town.

NEWSPAPER: Any newspaper of general or local circulation or any periodical or current magazine regularly published with not less than four (4) issues per year and sold to the public.

NONCOMMERCIAL HANDBILL: Any printed or written matter, any sample, or device, dodger, circular, leaflet, pamphlet, newspaper, magazine, paper, booklet, or any other printed or otherwise reproduced original or copies of any matter of literature not included in the definitions of a "commercial handbill" or "newspaper".

REFUSE: All putrescible and non-putrescible solid wastes (but not including bodily wastes) which

include, but may not be limited to, garbage, rubbish, ashes, street cleanings, dead animals and solid market and industrial wastes.

RUBBISH: Non-putrescible solid wastes consisting of both combustible and noncombustible wastes which include, but may not be limited to, combustible and noncombustible wastes such as paper, wrappings, cigarettes, cardboard, tin cans, yard clippings, leaves, wood, glass, bedding, crockery, and similar materials. (1984 Code § 3-2-1)

4-2-2: LITTERING UNLAWFUL:

A. No person shall throw or deposit litter in or on any street, sidewalk or other public place within the town except where authorized receptacles have been provided or where there is an official municipal garbage dump or a collection site for the pickup of garbage as authorized receptacles have been provided or where there is an official municipal garbage dump or a collection site for the pickup of garbage as authorized by the Town Council.

B. No private resident, visitor or owner, or manager of a commercial business, shall place litter in an authorized receptacle in such a manner as it may be carried or deposited by the elements on or in any gutter, street, sidewalk, public place or private property. In a similar manner, no one, while a driver or passenger in a vehicle shall throw, deposit or allow to blow from said vehicle any litter which may land on any street or other public place or on private property. (1984 Code § 3-2-2)

4-2-3: COMMERCIAL AND NONCOMMERCIAL HANDBILLS:

A. Public Places And Vehicles:

1. No person shall throw, place or deposit any commercial or noncommercial handbill in or on any sidewalk, street or other public place. It is unlawful for any person to hand out, distribute or sell any commercial handbill in any public place unless otherwise authorized by the Town Council. It shall not, however, be unlawful for a person to hand out or distribute, without charge to the receiver of the same, any noncommercial handbill as long as the receiver is willing to accept the same.

2. No person shall throw, place or deposit any commercial or non-commercial handbill in or on any vehicle unless otherwise authorized by the Town Council or willingly accepted by the owner or driver of said vehicle. (1984 Code § 3-2-3)

B. Uninhabited And Inhabited Private Premises:

1. No person shall throw, place or deposit any commercial or noncommercial handbills in or on any private premises which is temporarily or continuously uninhabited or vacant.

2. No person shall throw, place, deposit or distribute any commercial or noncommercial handbills in or on private premises which are inhabited, except where the same are directly handed to the owner, occupant or other person then present on such private premises. (1984 Code § 3-2-4)

4-2-4: HANDBILLS AND POSTERS:

A. Prohibited Activity; Exceptions: No person or business shall post, stick, stamp, paint or otherwise fix, or cause the same to be done by any person, any notice, placard, bill, card, poster, advertisement or other paper or device calculated to attract the attention of the public, or upon any sidewalk, curb or any other portion or part of any public way or public place or any lamppost, electric light, telegraph, telephone, or railway structure, hydrant, shade tree or tree box or fixture of the fire alarm or police telegraph system, except such as may be authorized or required by the laws of the United States, the state or the town.

B. Permit Required: It shall be unlawful to distribute indiscriminately to the public by leaving at houses or residences in the town any cards, circulars, handbills, samples or merchandise without first having secured a permit from the town clerk/recorder. Said application to distribute shall contain a statement of the nature of the article, cards or advertisement to be distributed, the name of the applicant, and the name of the manufacturer or distributor of such article or service advertised. (1984 Code § 3-2-5)

4-2-5: PENALTY:

Any person violating any of the provisions of this chapter shall be deemed guilty of a class B misdemeanor and, upon conviction thereof, subject to penalty as provided in section 1-4-1 of this code. Each and every day that a violation continues shall be deemed a separate violation. (1984 Code § 3-2-6; amd. Ord. 87-008, 8-11-1987; 2010 Code)

Title 4 – Health, Sanitation & Environmental Concerns

Chapter 3

NUISANCES

4-3-1: NUISANCE DEFINED:
4-3-2: AUTHOR OF NUISANCE:
4-3-3: DECLARATION OF NUISANCES:
4-3-4: ATTRACTIVE NUISANCES:
4-5-5: EXEMPTIONS
4-3-5: ENFORCEMENT AUTHORITY:
4-3-6: ABATEMENT:
4-3-7: PENALTY:

4-3-1: NUISANCE DEFINED:

A "nuisance" is a crime against the order and economy of the town and consists of unlawfully doing any act or omitting to perform any duty, which act or omission either: a) annoys, injures, or endangers the comfort, repose, health or safety of three (3) or more persons; or b) offends public decency; or c) unlawfully interferes with, obstructs or tends to obstruct, or renders property dangerous for passage or public use. An act which affects three (3) or more persons in any of the ways above specified is not less a nuisance because the extent of the annoyance or damage inflicted on individuals is unequal. (1984 Code § 3-3-1)

4-3-2: AUTHOR OF NUISANCE:

When a nuisance exists upon property, and is the outgrowth of the usual, natural or necessary use of the property, the landlord thereof, or his agent, the tenant, or his agent, and all other persons having control of the property on which such nuisance exists, here such nuisance shall arise from the unusual or unnecessary use to which such property may be put, or from business thereon conducted, then the occupants, and all other persons contributing to the contrivance of such nuisance, shall be deemed the authors thereof. All "authors" of nuisances, as defined in this section, are subject to the penalty provided for in this chapter. (1984 Code § 3-3-2)

4-3-3: DECLARATION OF NUISANCES:

It shall be unlawful to cause, create, maintain or otherwise be the author of a nuisance within the town. Nuisances shall include, but not be limited to:

A. Befouling water in any spring, stream, well or water source supplying water for culinary purposes;

B. Allowing any privy vault or cesspool to become a menace to health;

C. Permitting any garbage box or similar receptacle which has become unclean and offensive to remain on the premises; (1984 Code § 3-3-3)

D. Burning garbage, leaves, grass, or other refuse that emits any noxious odors; (1984 Code § 3-3-3; amd. 2010 Code)

E. Allowing vegetable waste, garbage or refuse of any nature to accumulate;

F. Permitting the accumulation of manure in any stable, stall, corral, or yard;

G. Permitting any waste, damaged merchandise, leaking barrels or boxes to become putrid or to render the atmosphere impure or unwholesome;

H. Discharging or placing any offensive water, liquid, waste or refuse of any kind into any street, sidewalk, gutter, stream, natural watercourse, or vacant lot, which is offensive or likely to become so;

I. Permitting, keeping, or collecting any stale or putrid grease or other offensive matter;

J. Having or permitting any fly or mosquito producing condition;

K. Bathing or washing in or near any public water supply, or to permit any animal to drink therefrom;

L. Throwing or casting, or having thrown or cast, or allowing to remain upon or in any street, road or ditch, gutter, public place, private premises, vacant lot, watercourse, lake, spring or well, any house refuse, offal, garbage, dead animals, decaying vegetable matter, or organic waste substance of any kind;

M. Permitting injurious or noxious weeds to grow on any land;

N. Permitting any lot or excavation to become the repository of stagnant water or decaying substance;

O. Obstructing the street or sidewalk without a proper permit. (1984 Code § 3-3-3)

P. Causing any person to complain that their peace has been disturbed by use of loud music, vehicle noise, loud speech, or other loud or offensive noise occurring after 10:00 pm or before 7:00 am. (Ord. 19-008, 7-8-2019)

1. Vehicle noise emissions, including engine brake noise, may not exceed 99 decibels at a distance of twenty inches (20”). (Ord. 24-002, 3-12-2024)

4-3-4: ATTRACTIVE NUISANCES:

It shall be unlawful to use, create, maintain or otherwise be the author of an attractive nuisance within the town. An "attractive nuisance" is any vacant lot or open area within which any of the following conditions occur and to which the public and particularly children have access:

A. Ponding of water;

B. Open pits, shafts, caves, or dilapidated non-occupied buildings;

C. Trash, debris, or machinery;

D. Large piles of loose sand, soil, or rocks suitable for tunneling or digging by children. (1984 Code § 3-3-4)

4-3-5: EXEMPTIONS:

The following uses and activities shall be exempt from nuisance/noise regulations:

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

B. Noise resulting from any authorized emergency vehicle when responding to an emergency call or in time of an emergency;

C. Noise resulting from lawful emergency work;

D. Noise resulting from lawful fireworks and noisemakers used for celebration of an official holiday;

E. Any noise resulting from activities of temporary nature during periods permitted by law for which a license or permit has been approved by the Town (not including engine brake noise restricted in this Chapter or in Title 6 of the Brian Head Town Code); (amd. Ord. 24-002, 3-16-2024)

F. Any noise resulting from snowmaking and grooming activities at ski areas; and

G. Any noise resulting from snow plowing or removal services. (amd. 2015 Ord. 15-001, 1-13-2015)

4-3-6: ENFORCEMENT AUTHORITY:

It shall be the duty of the Public Safety Department to ascertain and cause all nuisances declared to be such in this chapter and coming within its t shall have authority in the daytime to enter any house, stable, store, or any building, in order to make an inspection; to enter upon all lots and grounds to cause the same to be cleaned or purified; and all noisome substances to be abated or removed. (1984 Code § 3-3-5)

4-3-7: ABATEMENT:

A. Notice To Abate Nuisance: Whenever the Public Safety Department shall determine that any nuisance exists, it shall take the following steps to abate the same:

1. It shall ascertain the names of the owners and occupants and other authors of the nuisance and premises where the same exists.

2. Serve notice in writing upon the owner and occupant and other authors, either personally or by mailing notice, postage prepaid, addressed to them at their last known address, requiring the owner, occupant, or author, or any or all of them, to eradicate or abate the same within such time as the notice shall provide, but in no case less than ten (10) days from the date of service of the notice.

3. Inform the person to whom such notice is given that in the event that the individual disagrees with the determination of a nuisance, that he may request a hearing before the Town Manager. If no such request for hearing is made and the nuisance is not abated within the ten (10) day period, official, legal notice shall be served upon the individual requiring his presence in court at a date and time certain.

4. The Public Safety Department shall make proof of service of such notice under oath and the file the same in the office of the Town Clerk.

5. The hearing before the Town Manager shall be determinative based upon the facts and circumstances of the case. Any appeal made shall be to the district court. (1984 Code § 3-3-6; amd. 2010 Code)

B. Refusal To Abate Nuisance:

1. If any person, ordered by a notice served under subsection A of this section, and/or by a decision of the Town Manager, shall fail to conform to the notice and/or order therefrom, the Public Safety Department shall employ all necessary assistance to cause such materials to be removed, destroyed or the nuisance otherwise abated. The Public Safety Department shall prepare an itemized statement of all expenses incurred in the abatement of the nuisance and shall mail a copy thereof to the persons named in the notice demanding payment within twenty (20) days of the date of mailing. Said notice shall be deemed delivered when mailed by registered mail addressed to the person's last known address.

2. In the event that the person so notified fails to make the payment to the Town Treasurer within the twenty (20) day period, the Town May either cause suit to be brought in the appropriate court for collection of the same or may refer the matter to county authorities for collection by a lien on the property, as provided in Utah Code Annotated title 10, chapter 11, as amended, or both. (1984 Code § 3-3-7; amd. 2010 Code)

4-3-8: PENALTY:

Any author of a nuisance who violates any provision of this chapter shall be guilty of a class B

misdemeanor and, upon conviction in district court, subject to penalty as provided in section 1-4-1 of this code. (1984 Code § 3-3-8; amd. Ord. 87-008, 8-11-1987; 2010 Code)

Title 4 – Health, Sanitation & Environmental Concerns

Chapter 4

PEST CONTROL

4-4-1: RODENTS:
4-4-2: FLIES AND OTHER INSECTS:
4-4-3: PENALTY:

4-4-1: RODENTS:

Every person owning, occupying or controlling any real property in the town shall prevent the ingress of rats or other rodents thereto, and to this end shall use such materials in construction or repair thereof as are ratproof and rodentproof. All foods, provisions, goods, wares and merchandise shall be so located as to prevent rats and other rodents from gaining access thereto or coming in contact therewith. No garbage, waste matter or other refuse shall be allowed to accumulate so that the same shall or may afford food or a harboring or breeding place for rats or other pests. (1984 Code § 3-4-1)

4-4-2: FLIES AND OTHER INSECTS:

It shall be unlawful for any person to suffer or permit to have on his premises, whether owned or occupied by him, one or more of the following unsanitary conditions: a) any privy vault, cesspool, sink, pit or like place which is not securely protected from flies; b) garbage which is not securely n which flies may breed or multiply. Every person owning, occupying or controlling any premises in the town when evidence of fly or other insect infestation or breeding on the premises is discovered, shall at once take any and every action to eradicate such fly or other insect infestation or breeding and shall make such changes in the conditions on the premises as to prevent the recurrence of the fly or other insect infestation or breeding. (1984 Code § 3-4-2)

4-4-3: PENALTY:

Any person who violates any provision of this chapter shall be guilty of a class B misdemeanor and, upon conviction thereof, subject to penalty as provided in section 1-4-1 of this code. (1984 Code § 3-4-3; amd. Ord. 87-008, 8-11-1987; 2010 Code)

Title 4 – Health, Sanitation & Environmental Concerns

Chapter 5

HAZARDOUS VEGETATION REMOVAL

4-5-1: INSPECTION AUTHORITY:
4-5-2: FAILURE TO COMPLY:
4-5-3: ACCOUNTING:

4-5-1: INSPECTION AUTHORITY:

The Fire Chief, or his designee, is authorized to inspect all properties in the town and require any property owner or occupant to clear their property of all hazardous vegetation as set forth in the state adopted fire code. (Ord. 01-004, 7-10-2001; amd. 2010 Code)

4-5-2: FAILURE TO COMPLY:

Any property not brought into compliance shall be brought into compliance shall be brought into compliance by a person hired by the town and the cost of such clearing charged to the owner and put as a lien against the property so cleared, such lien to be paid at the next occurring annual property tax collection date. (Ord. 01-004, 7-10-2001)

4-5-3: ACCOUNTING:

All monies collected as reimbursed expenses are to be put in a separate account to be used for future fire hazard abatement or reforestation only. (Ord. 01-004, 7-10-2001)

Title 4 – Health, Sanitation & Environmental Concerns

Chapter 6

RESIDENTIAL SNOW REMOVAL REGULATIONS

4.6.1: PURPOSE
4.6.2: RESIDENTIAL CLEARNING OF SNOW
4.6.3: PENALTIES

4.6.1: PURPOSE

The purpose of this chapter is to preserve the public peace and good order in the Town, and to contribute to the public welfare, safety and good order of its citizens and guests and to contribute to the save conveyance of its citizens and guests of the streets and access to their property.

4.6.2: RESIDENTIAL CLEARNING OF SNOW

A. Snow from private property may not be deposited, piled or stored on any Town streets/roads, rights-of-way, or utility easement.

B. It shall be unlawful for any person to deposit, pile or store snow on another private property without written permission from that property owner. Written permission must be submitted to the Town in advance.

C. It shall be the responsibility of the property owner to provide sufficient area within their property bounds to store any and all snow which accumulates on their property.

D. Every owner and occupant, jointly, of any lands, premises or buildings fronting upon any street or public place in the Town shall, upon notification of the Code Enforcement Officer, be required to immediately remove any snow placed or piled contrary to this provision or face penalties/fines set forth.

E. It shall be unlawful to deposit, pile or store snow in a manner which buries or renders inaccessible any Town markers within the Town rights-of-way or any fire hydrant or public utilities in or out of a public right of way.

4.6.3: PENALITY

A. Any person who willfully violates any provision of this Chapter shall be subject to administrative fines identified in the Consolidated Fee Schedule.

B. Any person who violates any provision of this Chapter on three separate occasions shall be guilty of a Class B misdemeanor and upon conviction in a court, subject to penalty as provided.

C. Persons operating a business and has accumulated three or more offenses may be subject to the business license being suspended or revoked.

Ord. 19-005, 6-24-2019

Title 5 – Public Safety

Chapter 1

PUBLIC SAFETY DEPARTMENT

5-1-1: ESTABLISHED:
5-1-2: ARRESTS:
5-1-3: REGISTER OF ARREST:
5-1-4: VIOLATIONS OF TOWN ORDINANCES:

5-1-1: ESTABLISHED:

There is hereby established the Brian Head Public Safety Department to be known as the Police Department and the Fire Department which shall consist of a director and other officers as shall be employed by the municipality.

The director of Public Safety (Fire Chief/Police Chief) and all certified officers of the municipality shall have the following powers and duties in addition to those that may be assigned to them:

A. Powers and duties shall be established by state law. UCA § 10-3-919

B. To preserve the public peace, prevent crime, detect and arrest offenders, protect persons and property, remove nuisances existing in the public streets, roads, highways and other public places, enforce every law relating to the suppression of offenses, render such assistance in the collection of licenses as may be required by the license collector and perform all duties enjoined upon them by law and ordinance.

C. Shall enforce all ordinances and regulations of the Town for the preservation of peace, good order and the protection of the rights and property of all citizens.

D. To execute and serve all warrants, processes, commitments, and writs whatsoever issued by any court of competent jurisdiction.

E. The Director of Public Safety shall organize, supervise, and be responsible for all the activities of the Police Department, Fire Department and shall define and assign the duties of the different officers.

F. The Director of Public Safety (Police Chief/Fire Chief) shall, when required, attend meetings of the governing body to consult with and advise them on matters of public safety. He shall execute all lawful orders of the Town Manager regarding laws established by the governing body and see that all orders and judgments of the courts are carried into effect.

G. Compensation for the Director of Public Safety (Police Chief/Fire Chief) shall be established by ordinance by the Town Council.

H. In the event of a vacancy, the Town Manager with consent of the Town Council shall appoint an individual to fill that office until a new, qualified individual has been hired by the Town Manager and ratified by the Town Council. (Ord. 10-005, 6-8-2010)

5-1-2: ARRESTS:

The Director of Public Safety (Police Chief/Fire Chief) or his certified officers may make an arrest in obedience to a warrant, or may, without a warrant, arrest a person under the guidelines set forth by Utah Code Annotated 53-13-102 and 103. (Ord. 10-005, 6-8-2010)

5-1-3: REGISTER OF ARREST:

The Director of Public Safety (Police Chief/Fire Chief) shall provide and cause to be kept a register of arrest. Upon such register shall be entered a statement showing the date of such arrest, the name of the person arrested, the name of the arresting officer, the offense charged, and a description of any property found upon the person arrested. (Ord. 10-005, 6-8-2010)

5-1-4: VIOLATIONS OF TOWN ORDINANCES:

The Director of Public Safety (Police Chief/Fire Chief) and/or his certified officers shall file all cases of alleged violations of the Town in the Iron County Justice Court. (Ord. 10-005, 6-8-2010)

Title 5 – Public Safety

Chapter 2

POLICE DEPARTMENT

(Rep. by Ord. 10-005, 6-8-2010)

Title 5 – Public Safety

Chapter 3

FIRE DEPARTMENT

5-3-1: CREATED:
5-3-2: OFFICERS:
5-3-3: COMPENSATION:
5-3-4: POWERS, DUTIES AND AUTHORITY:

5-3-1: CREATED:

There is hereby created and established a combination Fire Department for the Town to be known as the Brian Head Fire Department. Said department shall be directly responsible to the Director of Public Safety (Police Chief/Fire Chief).

Under the direction of the department's Standard Operating Procedures and Town policies, members of the department may adopt a constitution, bylaws, and such other rules and regulations governing the volunteer members as may be necessary for the effective operations of the department, including requirements for membership therein. Standard operating procedures and other rules and regulations adopted by the department, or as the Director of Public Safety (Police Chief/Fire Chief) deems necessary, may be put in place for the effective operation of the department.

Brian Head Fire Department will maintain a policy and procedures manual for the operations of the Fire Department that shall be known as the standard operating procedures for Brian Head Fire Department. (Ord. 10-005, 6-8-2010)

5-3-2: OFFICERS:

The department shall consist of the Public Safety Director (Police Chief/Fire Chief), Assistant Chief, and other officers. Officers will be appointed following standard operating on certifications, a working knowledge of Brian Head Fire Department and followed by a testing and interview panel. Removal of officers will be based upon attendance, failure to comply with training standards and neglecting their duties as an officer of Brian Head Fire Department. (Ord. 10-005, 6-8-2010)

5-3-3: COMPENSATION:

Compensation for all members of the Fire Department shall be established by ordinance by the Town Council. (Ord. 10-005, 6-8-2010)

5-3-4: POWERS, DUTIES AND AUTHORITY:

A. The Director of Public Safety (Police Chief/Fire Chief) shall have such duties and powers as are set out in state code and the currently adopted fire code. All members of the Fire Department shall be under the direction and supervision of the Director of Public Safety with the express duties of the protection of life and property, as well as any and all duties as may be appropriate at the discretion of the Director of Public Safety.

B. The Director of Public Safety (Police Chief/Fire Chief) shall have the sole and entire command of all officers and members of the department, and in his absence the highest-ranking officer who is present shall have such command (excluding incident command systems incidents).

C. Under the advisement of the Public Safety Department the Town Council may enter into agreements or contracts with nearby communities, the state of Utah, United States government, or governing bodies of other organizations to provide fire protection, or to establish a mutual aid system. (Ord. 10-005, 6-8-2010)

Title 5 – Public Safety

Chapter 4

INTRUSION AND PHYSICAL DURESS ALARM SYSTEMS

5-4-1: PURPOSE AND SCOPE:
5-4-2: DEFINITIONS:
5-4-3: INDIVIDUAL EMPLOYEE REGISTRATION REQUIRED:
5-4-4: USER INSTRUCTION:
5-4-5: FALSE ALARMS:
5-4-6: DELIBERATE FALSE ALARMS:
5-4-7: PENALTY:

5-4-1: PURPOSE AND SCOPE:

A. The purpose of this chapter is to protect the emergency services of the town from misuse.

B. This chapter governs intrusion and physical duress alarm systems, requires permits and registration, establishes fees, provides for the allocation of revenues and deficits, provides for revocation of the permit, provides for punishment of violations and establishes a system of administration. (Ord. 13-006, 9-9-2013)

5-4-2: DEFINITIONS:

The following words and phrases used in this chapter shall have the following meanings, unless a different meaning clearly appears from the context:

ALARM BUSINESS: The business by any individual, partnership, corporation or other entity of selling, leasing, maintaining, servicing, repairing, altering, replacing, moving or installing any alarm system in or on any building, structure or facility.

ALARM SYSTEM: Any assembly of equipment, mechanical or electrical, arranged to signal the occurrence of an illegal entry or other activity requiring urgent attention and to which peace officers are expected to respond.

ALARM USER: The person, firm, partnership, association, corporation, company or organization thereof of any kind in control of any building, structure or facility wherein an alarm system is maintained.

AUTOMATIC DIALING DEVICE: A device which is interconnected to a telephone line and is programmed to select a predetermined telephone number and transmit by voice message or code signal any emergency message indicating a need for emergency response.

BURGLAR ALARM CERTIFICATION ACT: Utah Code Annotated section 13-18-1 et seq. This chapter is promulgated pursuant to Utah Code Annotated section 13-18-18(4), to require users of alarm systems and alarm companies to meet reasonable equipment and performance standards concerning false alarms.

COUNTY 911 AND HIGHWAY PATROL DISPATCH: The governmental facilities used to receive emergency and general information from the public to be dispatched to the Brian Head Town Public Safety office.

FALSE ALARM: An alarm signal eliciting a response by peace officers when a situation requiring a response by them or other emergency response unit in fact does not exist. It includes an alarm signal caused by conditions of nature which are normal for that area and subject to control by the alarm business operator or alarm user. "false alarm" does not include an alarm signal caused by extraordinarily violent conditions of nature not reasonably subject to control.

INTERCONNECT: To connect an alarm system, including an automatic dialing device, to a telephone line, either directly or through a mechanical device that utilizes a telephone, for the purpose of using the telephone line to transmit a message upon the activation of the alarm system.

INTRUSION ALARM SYSTEM: An alarm system signaling an entry or attempted entry into the area protected by the system.

LOCAL ALARM: Any noisemaking alarm device.

MARSHAL: The Brian Head Town Marshal, or his designated representative.

PHYSICAL DURESS SYSTEM: An alarm system signaling a robbery or other physical endangerment.

PRIMARY TRUNK LINE: A telephone line serving the Iron County 911 system or Highway Patrol Dispatch that is designated to receive emergency calls.

PUBLIC SAFETY DEPARTMENT: The Brian Head Town Public Safety Department and staff.

5-4-3: INDIVIDUAL EMPLOYEE REGISTRATION REQUIRED:

It shall be unlawful for any person employed by a person having a valid security certificate under Utah Code Annotated section 13-18-4, to engage directly in the selling, leasing, installing, servicing, maintaining, repairing, moving or removing in or on any building or other property within the town any intrusion, or physical duress alarm system. (Ord. 13-006, 9-9-2013)

5-4-4: USER INSTRUCTION:

Every alarm business selling, leasing or furnishing to any user an alarm system which is installed on premises located in the area subject to this chapter shall furnish the user with written

instructions that provide information to enable the user to operate the alarm system properly. (Ord. 13-006, 9-9-2013)

5-4-5: FALSE ALARMS:

A. Any alarm user which has five (5) or more false alarms within a calendar year period shall be subject to assessments identified in the Consolidated Fee Schedule and/or class C misdemeanor violation, subject to penalty as provided in section 1-4-1 of this code.

B. A fee is hereby imposed for false alarms on a physical duress or intrusion alarm system to which peace officers respond. The fee is assessed on the user of the alarm system after three (3) false alarms in any calendar month period or after five (5) false alarms in any calendar year. The amount of the fee is as established in the Consolidated Fee Schedule.

C. The Public Safety Department shall contact the alarm user following two (2) false alarms in a calendar month or four (4) false alarms in a calendar year to inform the alarm user that a fee will be assessed following three (3) false alarm in a calendar month or five (5) false alarms in a calendar year.

D. For purposes of subsection 5-4-5(A) and 5-4-5(B), multiple false alarms in a single day shall be considered a single false alarm.

E. The Public Safety Department shall continuously track the number of false alarms per alarm user and asses the property owners for false alarms on a monthly basis. (Ord. 13-006, 9-9-2013)

5-4-6: DELIBERATE FALSE ALARMS:

No person shall cause to be transmitted any intrusion or physical duress alarm knowing the same to be false or without basis in fact. Central stations shall not request law enforcement officers to respond to alarm scenes when monitoring equipment indicates an alarm system malfunction signal. (Ord. 13-006, 9-9-2013)

5-4-7: PENALTY:

A. Any person who violates any provision of this chapter shall be guilty of a class C misdemeanor and, upon conviction, be subject to penalty as provided in section 1-4-1 of this code.

B. All service fees assessed under this chapter are due and payable within thirty (30) days after written notice of any fee due is issued by the Town Clerk. A penalty of ten percent (10%) of the fee due shall be assessed upon any person who fails to pay the fee within thirty (30) days. The penalty shall be assessed for each thirty (30) day period, or fraction thereof, that the fee remains unpaid beyond the original payment period.

C. Failure to timely pay any service fees imposed in this chapter may result in the Town Clerk initiating legal action against the homeowner. (Ord. 13-006, 9-9-2013)

Title 5 – Public Safety

Chapter 5

ANIMAL CONTROL

5-5-1: DEFINITIONS:
5-5-2: LICENSING AND VACCINATION OF CATS AND DOGS:
5-5-3: NUISANCES:
5-5-4: NUMEROUS ANIMALS:
5-5-5: CARING FOR ANIMALS:
5-5-6: SANITATION:
5-5-7: CRUELTY TO ANIMALS:
5-5-8: RESTRAINT AND CONFINEMENT; GENERALLY:
5-5-9: VICIOUS AND DANGEROUS ANIMALS:
5-5-10: PROPERTY OWNERS MAY IMPOUND:
5-5-11: RETURN OF ANIMAL TO OWNER:
5-5-12: IMPOUNDMENT:
5-5-13: NOTICE TO OWNER AND REDEMPTION:
5-5-14: ENFORCEMENT:
5-5-15: PENALTY:

5-5-1: DEFINITIONS:

When used in this chapter, the following words, terms and phrases, and their derivations, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

ANIMAL: Any live creature, both domestic and wild, except humans. "Animal" includes fowl, fish and reptiles.

ANIMAL SHELTER: Any facility operated by the Town, County, other municipality, or Humane Society for the temporary care, confinement and detention of animals, and for the humane killing and other disposition of animals. The term shall also include any private facility authorized by the Public Safety Director or designee to impound, confine, detain, care for or destroy any animal.

AT HEEL: A dog that is directly behind or next to a person and obedient to that person's command.

AT LARGE: An animal that is off the premises of the owner, and not on a leash or otherwise under the immediate control of a person physically capable of restraining the animal.

DISPOSITION: Adoption, quarantine, voluntary or involuntary custodianship or placement, or euthanasia humanely administered to an animal. "Disposition" includes placement or sale of an animal to the general public, or removal of an animal from any pet shop to any other location.

DOMESTIC ANIMAL: Includes dogs, cats, domesticated sheep, horses, cattle, goats, swine, fowl, ducks, geese, turkeys, confined domestic hares and rabbits, pheasants, and other birds and animals raised and/or maintained in confinement.

IMPOUNDMENT: The taking into custody of an animal by any police officer, animal control officer, or any authorized representative thereof.

MUZZLE: A device constructed of strong, soft material, or of metal, designed to fasten over the mouth of an animal to prevent the animal from biting any person or other animal.

NUISANCE ANIMAL: Any nuisance arising out of the keeping, maintaining or owning of, or failure to exercise sufficient control of, an animal.

OWNER: Any person having temporary or permanent custody of, sheltering or having charge of, harboring, exercising control over, or having property rights to, any animal covered by this chapter. An animal shall be deemed to be harbored if it is fed or sheltered for three (3) or more consecutive days.

PUBLIC NUISANCE ANIMAL: Any animal that unreasonably annoys humans, endangers the life or health of persons or other animals, or substantially interferes with the rights of citizens, other than their owners, to the enjoyment of life or property. The term "public nuisance animal" shall include, but not be limited to:

A. Any animal that is offensive or dangerous to the public health, safety or welfare by virtue of the number of animals maintained at a single residence or the inadequacy of the facilities;

B. Any animal that is repeatedly found running at large;

C. Any dog or cat in any section of a park or public recreation area, unless the dog or cat is controlled by a leash or similar physical restraint;

D. Any animal that damages, soils, defiles or defecates on any property other than that of its owner;

E. Any animal that makes disturbing noises, including, but not limited to, continued and repeated howling, barking, whining or other utterances causing unreasonable annoyance, disturbance or discomfort to neighbors or others in close proximity to the premises where the animal is kept or harbored;

F. Any animal that causes fouling of the air by noxious or offensive odors and thereby creates unreasonable annoyance or discomfort to neighbors or others in close proximity to the premises where the animal is kept or harbored;

G. Any animal in heat that is not confined so as to prevent attraction or contact with other animals;

H. Any animal, whether or not on the property of its owner, that without provocation, molests, attacks or otherwise interferes with the freedom of movement of persons in a public right of way;

I. Any animal that chases motor vehicles in a public right of way;

J. Any animal that attacks domestic animals; or

K. Any animal that causes unsanitary conditions in enclosures or surroundings where the animal is kept or harbored.

SANITARY: A condition of good order and cleanliness to minimize the possibility of disease transmission.

UNDER RESTRAINT: An animal that is secured by a leash or lead and under the control of a person physically capable of restraining the animal and obedient to that person's commands, or securely enclosed within the real property limits of the owner's premises.

VICIOUS OR DANGEROUS ANIMAL: Any animal that attacks, bites or physically injures human beings, domestic animals or livestock without adequate provocation, or which, because of temperament or training, has a known propensity to attack, bite or physically injure human beings, domestic animals or livestock. Any wild animal, or any animal that without provocation has bitten or attacked a human being or other animal, shall be prima facie presumed vicious or dangerous.

WILD ANIMAL: Any live monkey, nonhuman primate, raccoon, skunk, fox, leopard, panther, tiger, lion, lynx or any other warm blooded animal that can normally be found in the wild state. The term "wild animal" does not include: domestic dogs (excluding hybrids with wolves, coyotes or jackals), domestic cats (excluding hybrids with ocelots or margays), farm animals, rodents, any hybrid animal that is part wild, and captive bred species of common cage birds. (Ord. 02-001, 2-12-2002)

5-5-2: LICENSING AND VACCINATION OF CATS AND DOGS:

A. License And Vaccination Required: All dogs and cats shall be licensed by the Public Safety Department on a yearly basis. Such licensing shall require a proof of vaccination for rabies, distemper and parvo;

B. Citation For Unlicensed Pet: The Public Safety Department shall issue its citation to the owner of any pet that is impounded without the appropriate license and vaccination certification. There will be a ten (10) day grace period in which the cited owner may, upon proof of vaccination, purchase a pet license is purchased during the grace period, there will be no fine levied. If a license for the pet is not purchased within the ten (10) day grace period, the pet owner will be levied a twenty-five dollar ($25.00) fine. Any pet impounded with an outstanding citation unpaid shall be transported to the nearest available animal shelter and the owner shall be assessed the shelter's current fee. (Ord. 86-007, 5-27-1986; amd. 2010 Code)

C. Fees And Procedures Established: The fees and administrative procedures for processing the mandatory license applications shall be established by the Town Council by resolution and amended as necessary from time to time. (Ord. 86-007, 5-27-1986)

5-5-3: NUISANCES:

It shall be unlawful for any person to keep any animal on corporate limits of the town when the keeping of such animal constitutes a public nuisance or menace to public health or safety. (Ord. 02-001, 2-12-2002)

5-5-4: NUMEROUS ANIMALS:

It shall be unlawful for any person to keep more than three (3) dogs, cats or other animals within the town; except that a litter of pumps, kittens or other young animals may be kept for a period of time not exceeding five (5) months from birth. This section shall not apply to any establishment where animals are kept for breeding, sale, sporting purposes or boarding. (Ord. 02-001, 2-12-2002; amd. 2010 Code)

5-5-5: CARING FOR ANIMALS:

A. Humane Care And Treatment Required: It shall be unlawful for the owner or custodian of any animal to refuse or fail to provide such animal with sufficient wholesome and nutritious food, potable water, veterinary care when needed to prevent suffering, humane care and treatment, or to unnecessarily expose any such animal to hot, stormy, cold or inclement weather.

B. Abandonment Prohibited: No owner or custodian of any animal shall willfully abandon such animal on any street, road, highway or public place, or on private property when not in the care of another person. (Ord. 02-001, 2-12-2002)

5-5-6: SANITATION:

A. Removal Of Waste: No owner or custodian of any animal shall cause or allow such animal to soil, defile or defecate on any public property, or upon any street, sidewalk, public way, play area or common ground owned jointly by the members of a homeowners' or condominium association, or upon private property other than that of the owner, unless such owner or custodian immediately removes and disposes of all feces deposited by such animal by the following methods:

1. Collection of the feces by appropriate implement and placement in appropriate implement and placement in a paper or plastic bag or other container; and

2. Removal of such bag or container to the property of the animal owner or custodian and disposition thereafter in a manner as otherwise may be permitted by law.

B. Collection Of Waste: No person owning, harboring or keeping an animal within the town shall permit any waste matter from the animal to collect and remain on the property of the owner or custodian, or on the property of others, so as to cause or create an unhealthy,

unsanitary, dangerous or offensive living condition on the owner's or custodian's property, or to abutting property of others.

C. Inadequate Facilities: No person owning, harboring, keeping or in charge of an animal shall cause unsanitary, dangerous or offensive conditions by virtue of the size or number of animals maintained at a single location or due to the inadequacy of the facilities. (Ord. 02-001, 2-12-2002)

5-5-7: CRUELTY TO ANIMALS:

A. Prohibited: It shall be unlawful for any person to willfully or maliciously strike, beat, abuse or intentionally run down with a vehicle any animal, or otherwise engage in any act to cause or inflict unnecessary pain, injury, suffering or death to such animal; except that reasonable force may be used to drive away vicious or trespassing animals.

B. Poisons; Exception: No person, except a licensed veterinarian for humanitarian purposes, shall administer poison to any animal, or knowingly leave poisonous substance of any kind or ground glass in any place with the intent to injure any animal. The provisions of this subsection are not applicable to licensed exterminators using poisons as part of a pest control program or the use of commercial insecticides and rodent baits used to control insects and wild rodents. (Ord. 02-001, 2-12-2002)

5-5-8: RESTRAINT AND CONFINEMENT; GENERALLY:

A. Restraint Required: It shall be unlawful for the owner of any animal to fail to keep such animal under restraint or to permit such animal to run at large upon the streets and public ways of the town.

B. Leash Or Other Method To Prevent At Large: Any dog, while on a street, sidewalk, public way or in any park, public square or other public space, or upon any private property without the consent of the owner, shall be secured by a leash or chain or sufficient tensile strength to restrain the particular dog, or shall be at heel and securely muzzled.

C. Nuisance Prohibited: No owner or custodian of any animal shall fail to exercise proper care and control of such animal to prevent the same from becoming a public nuisance.

D. Females: Every female dog or cat in heat shall be confined in a building or other enclosure in such a manner that such female dog or cat cannot come into contact with another animal except for planned breeding.

E. Exception: The provisions of this section shall not apply to dogs owned or controlled by government law enforcement agencies. (Ord. 02-001, 2-12-2002)

5-5-9: VICIOUS AND DANGEROUS ANIMALS:

Every vicious animal shall be confined by its owner or authorized agent of its owner within a building or secure enclosure, and whenever off the premises of its owner shall be securely

muzzled and restrained with a chain having a minimum tensile strength of three hundred (300) pounds and not more than three feet (3') in length, or caged. Every person harboring a vicious animal is charged with an affirmative duty to confine the animal in such a way that children do not have access to such animal. (Ord. 02-001, 2-12-2002)

5-5-10: PROPERTY OWNERS MAY IMPOUND:

Any person finding an animal at large upon his property may remove the same to any animal shelter that will take possession of the animal. If no animal in his own possession, and as soon as possible, notify the public safety department. The property owner shall provide a description of the animal and the name of the owner if known. The department shall dispatch an officer to take possession of the animal. (Ord. 02-001, 2-12-2002)

5-5-11: RETURN OF ANIMAL TO OWNER:

If the name of the owner or custodian of an animal found at large is known or can be obtained with reasonable dispatch, the public safety officer shall return the animal to the residential address of the owner. If there is no one present, the officer shall leave written notice of whom the owner must contact to reclaim the animal. The officer shall then remove the animal to the nearest animal hospital or shelter that will accept the animal. (Ord. 02-001, 2-12-2002)

5-5-12: IMPOUNDMENT:

A. Authorized Animals: In addition to any other remedies provided in this chapter, a public safety officer may seize, impound and humanely confine to an animal shelter or hospital any of the following animals:

1. Any dog or cat without a valid license tag;

2. An animal at large;

3. Any animal constituting a public nuisance or considered a danger to the public;

4. Any animal that is in violation of any quarantine or confinement order of the public safety director;

5. Any unattended animal that is ill, injured or otherwise in need of care;

6. Any animal that is reasonably believed to have been abused or neglected;

7. Any animal that is reasonably suspected of having rabies;

8. Any animal that is charged with being potentially dangerous, or dangerous, where an animal control officer or the public safety director determines that there is a threat to public health and safety;

9. Any animal that a court of competent jurisdiction has ordered impounded or destroyed;

10. Any animal that is considered unattended or abandoned, as in situations where the owner is deceased, has been arrested or evicted from his regular place of residence.

B. Notice Of Violation: An animal control officer or police officer may also, in lieu of impoundment, issue to the owner a notice of violation. (Ord. 02-001, 2-12-2002; amd. 2010 Code)

5-5-13: NOTICE TO OWNER AND REDEMPTION:

A. Notice Requirements: Upon impoundment of an animal, the department of animal control shall immediately attempt to notify the owner by telephone or certified mail. If the owner is unknown, the department shall post written notice for three (3) days at three (3) or more conspicuous places in the town describing the animal and the time and place of taking. Any notice to the owner shall also include the location of the shelter or hospital where the animal is confined, hours during which the animal can be reclaimed, and fees to be charged to the owner. The owner shall also be advised that the failure to claim the animal within a specified period of time may result in the disposition of the animal.

B. Disposition Of Unclaimed Animals: Any animal not reclaimed by its owner within ten (10) working days shall become the property of the town and shall be placed for adoption in a suitable home or euthanized in a manner prescribed by the local humane society. (Ord. 02-001, 2-12-2002; amd. 2010 Code)

5-5-14: ENFORCEMENT:

Animal control officers or other designees of the Public Safety Director shall be the enforcement officials for this chapter. These officials, along with police officers, shall have the authority to act on behalf of the Town in investigating complaints, impounding and destroying animals, issuing citations, and taking other lawful actions as required to enforce the provisions of this chapter. It shall be a violation of this chapter to interfere with any animal control officer or other enforcement official in the performance of his duties. (Ord. 02-001, 2-12-2002; amd. 2010 Code)

5-5-15: PENALTY:

It shall be a violation of this chapter to:

A. Fail to comply with any provision of this chapter;

B. Fail to comply with any lawful order of the Public Safety Department, an Animal Control Officer or Police Officer, unless such order is lawfully stayed or reversed. (Ord. 02-001, 2-12-2002; amd. 2010 Code)

Title 5 – Public Safety

Chapter 6

CRIMINAL CODE

5-6-1: CRIMINAL CODE ADOPTED:

5-6-1: CRIMINAL CODE ADOPTED:

Except insofar as the application thereof is clearly impractical or inappropriate, in view of the context of purposes or penalty as provided, all of the definitions, requirements, regulations, prohibitions, penalties, provisions and sections of the Utah Criminal Code, Utah Code Annotated title 76, as amended, with a corresponding penalty of infraction, class C misdemeanor or class B misdemeanor, are hereby adopted by the Town. Where a citation or information is issued under this section, it shall be sufficient to use the section number of Utah Code Annotated to designate the section number of the Town Code which has been violated. Any and all violations thereof shall be considered violations of this section and each such violation shall be subject to the penalties provided in section 1-4-1 of this code. (Ord. 90-001, 2-13-1990; amd. 2010 Code)

Title 6 – Motor Vehicles & Traffic

Chapter 1

TRAFFIC CODE; ENFORCEMENT PROVISIONS

6-1-1: TRAFFIC CODE ADOPTED:
6-1-2: ENFORCEMENT:
6-1-3: UNIFORM FINE/BAIL SCHEDULE:
6-1-4: PENALTY:

6-1-1: TRAFFIC CODE ADOPTED:

The provisions of Utah Code Annotated title 41 (motor vehicle act) are hereby adopted by reference and incorporated into this code that relate to class B misdemeanors, class C misdemeanors or infractions, including all amendments, deletions and additions made thereto as of the effective date hereof. Any provisions of Utah Code Annotated title 41 are excluded to the extent that they would limit the discretion of the Town Attorney to charge an offense as either a misdemeanor or an infraction, as permitted by Utah Code Annotated sections 10-8-84 and 10-3-703. (Ord. 05-002, 4-12-2005)

6-1-2: ENFORCEMENT:

A. The public safety officer, along with any officers and agents under his command, shall enforce all provisions of this title. The public safety officer may, after traffic study, and upon recommendation and approval of the Town Council, post any street, or portion thereof which is not under the control of the state authorities, as having a speed limit different from that provided by state law.

6-1-3: UNIFORM FINE/BAIL SCHEDULE:

The uniform fine/bail schedule, as adopted by the Utah Code of Judicial Administration, as provided under the Utah Code to this code. Such amendments and revisions as shall from time to time be adopted in the Utah Code of Judicial Administration shall likewise be adopted, codified and incorporated into this code by the authority of this section. (Ord. 89-007, 12-12-1989)

6-1-4: PENALTY:

A. A person convicted of an offense under this title, excepting offenses charged under a state traffic code adopted under section 6-1-1 of this chapter, shall be guilty of an infraction and subject to penalty as provided in section 1-4-1 of this code. No term of imprisonment shall be imposed for conviction of an infraction. (Ord. 89-007, 12-12-1989; amd. 2010 Code)

B. Fines and imprisonment may be imposed as provided by Utah Code Annotated for convictions charged under the Utah Traffic Code adopted under section 6-1-1 of this chapter. (Ord. 89-007, 12-12-1989)

Title 6 – Motor Vehicles and Traffic

Chapter 2

TRAFFIC PROVISIONS GENERALLY

6-2-1: PRIMA FACIE SPEED:
6-2-2: LITTER UPON HIGHWAY:
6-2-3: VEHICLES WITHOUT SNOW TIRES OR CHAINS:
6-2-4: TRACKED VEHICLES PROHIBITED; EXCEPTIONS:

6-2-1: PRIMA FACIE SPEED:

Except as otherwise provided herein, the prima facie speed limits applicable to public streets shall be those provided by state law for the particular kind of street and nature of area through which the street runs. The Public Safety officer may, however, pursuant to his authority in section 6-1-2 of this title, post certain streets or portions of streets as having different speed limits, in which case the posted limit shall be the prima facie speed limit for that street or portion of street. Nothing in this section shall be construed to conflict with the power of state authorities to provide for different speed limits on streets and highways which are under their jurisdiction within the town. (1984 Code § 19-2-1)

6-2-2: LITTER UPON HIGHWAY:

No person shall throw, deposit or place in or upon a public street in the town any nails, tacks, crockery, scrap iron, tin wire, bottles, glass, boxes, wood, boards, stone, thorns or thorny clippings, or branches of a tree or bush, or any other article or thing likely to puncture the tire of any vehicle. (1984 Code § 19-2-3)

6-2-3: VEHICLES WITHOUT SNOW TIRES OR CHAINS:

It shall be unlawful for any car, truck, or recreational vehicle to be without snow tires, studs or chains between the period of November 1 to April 30 of any ski season. Any and all vehicles discovered without snow tires or chains shall be ticketed, removed and/or impounded by the Town at the owner's ultimate expense. (Ord. 88-002, 2-23-1988)

6-2-4: TRACKED VEHICLES PROHIBITED; EXCEPTIONS:

No vehicle shall be operated upon any public street within the town unless the same is properly equipped with rubber or rubber and fabric tires. Except as otherwise set forth herein, no tracked vehicles or vehicles which, when operated, create a contact between the road surface and any metal portion of the vehicle, shall be operated for any purpose upon any public street. The provisions of this section shall not apply to or prohibit the operation of lawfully registered and operated snowmobiles, equipment actually engaged in the grooming of snowmobile trails or ski areas and traveling upon public streets only incident to such grooming activities, or any vehicle or equipment operated upon and in connection with the construction, repair, replacement, or maintenance of the portion of the public street upon which they are being operated. (Ord. 04-008, 10-24-2004)

6-2-5: ENGINE BRAKE RESTRICTIONS:

Engine brakes are restricted on State Road 143 in Brian Head Town limits where posted and where such prohibition is allowed by the Utah Department of Transportation (UDOT) safety review. (Ord. 24-002, 3-12-2024).

Title 6 – Motor Vehicles and Traffic Code

Chapter 2
Traffic Provisions Generally

ARTICLE A. PARKING CODE

6-2A-1: TITLE:
6-2A-2: APPLICABILITY:
6-2A-3: DEFINITIONS:
6-2A-4: PRESUMPTION OF IDENTITY:
6-2A-5: STANDARD PARKING REGULATIONS:
6-2A-6: TIME LIMITATION PARKING:
6-2A-7: SEASONAL PARKING REGULATIONS:
6-2A-8: DELIVERIES AND SHORT-TERM USE:
6-2A-9: SIGNAGE:
6-2A-10: REGULATIONS NOT EXCLUSIVE:
6-2A-11: COMPLIANCE REQUIRED; FINES, IMPOUNDMENT, ENFORCEMENT; PENALTY:

6-2A-1: TITLE:

This article shall be referred to as the *BRIAN HEAD TOWN PARKING CODE*. (Ord. 08-018, 10-28-2008)

6-2A-2: APPLICABILITY:

This article is applicable on all streets and public parking facilities within the town corporate limits as now constituted or as subsequently amended by annexation or disconnection. (Ord. 08-018, 10-28-2008)

6-2A-3: DEFINITIONS:

As used in this article, the following terms shall have the meanings stated, unless the context clearly requires some other meaning:

DELIVERY VEHICLES: Includes any motor vehicle being used for the purpose of loading or delivering goods or cargo to businesses or individuals.

DOUBLE PARKING: Parking, standing or stopping a vehicle, whether attended or unattended:

A. At the side of another vehicle which is legally parallel parked; or

B. Behind a parking space which is occupied by a legally parked vehicle.

IMMOBILIZATION: Prohibiting the movement of a vehicle by attaching a "boot" or other device approved by the parking manager to the vehicle. The Town does not guard, assume care or accept liability for any vehicle, its occupants, or its contents, nor does it assume responsibility for damage while the vehicle is immobilized.

NON-MOTORIZED EQUIPMENT: Any equipment that is non-motorized and is so designed as to require a motor vehicle for mobility, including but not limited to, uncoupled trailers, detached snowplows, dumpsters, and other items that are not self-propelled.

PARK OR PARKING: Stopping, standing, or leaving a motor vehicle in a fixed spot or location on a street or public parking facility for any length of time, except when required to stop or stand because of the flow of traffic, or to yield to other traffic, or in compliance with the requirements of traffic control devices or police officers.

PUBLIC PARKING FACILITY: Any public parking lot, area, garage or structure that is owned, operated and/or maintained by Brian Head Town, but not on street parking.

STREET: Every street, alley, roadway, right of way or on street parking space under the control and/or maintenance of Brian Head Town, whether on public or private property, including all streets shown as public streets on the general plan. The term "street" shall not include private driveways, private parking lots or private roadways.

VEHICLE OR MOTOR VEHICLE: Any automobile, truck, motorcycle, trailer, backhoe, loader or other piece of construction machinery, and every other means of conveyance or persons or cargo included within the Utah Motor Vehicle Act. (2010 Code)

6-2A-4: PRESUMPTION OF IDENTITY:

For any vehicle on any street or public parking facility which is parked in violation of the regulations of this article, it shall be irrefutably presumed that the registered owner of the vehicle parked the vehicle in violation of this article or permitted others to park his vehicle in violation of this article, and the registered owner is responsible for the violation and for the fine or civil penalty imposed. (2010 Code)

6-2A-5: STANDARD PARKING REGULATIONS:

A. Parking Prohibited In Certain Places: It shall be unlawful and a violation of this article for any person to park a vehicle, or non-motorized equipment, or permit others to park a vehicle or non-motorized equipment in any of the following places on a street or public parking facility:

1. On or across a sidewalk.

2. In front of, or within five feet (5') of a public or private driveway or alleyway.

3. Within an intersection, or within fifteen feet (15') of an intersection.

4. In front of or within five feet (5') from a fire hydrant.

5. In or on a crosswalk.

6. Within twenty feet (20') of a marked snowmobile or all-terrain vehicle crossing.

7. Within thirty feet (30') from the approach to any flashing beacon or traffic control device, including stop signs controlling traffic on the same roadway as the approach.

8. Within twenty feet (20') of the entrance to a fire station, or, if designated a no parking area by signs, on the street opposite of the entrance to a fire station.

9. Alongside any street excavation or construction fence or barricade if parking in that location would obstruct the free flow of traffic on the street.

10. On a bridge or other elevated portion of a street or under an overpass.

11. At any place marked by signs as a no parking zone.

12. In such a location or manner that the car is parked opposite of the flow of traffic on the street, except as provided in this article.

13. In such a location or manner so as to occupy more than one marked parking space.

14. At any place marked with a red curb.

15. In any parking space designated "handicapped", or otherwise for the mobility disabled under the qualifications of the Americans with disabilities act, when not displaying proper distinguishing license plates or an official state approved placard indicating that the occupant of said vehicle is mobility disabled under the qualifications of the Americans with disabilities act.

B. Parking May Not Obstruct Traffic: No person shall park a vehicle or non-motorized equipment on a street or public parking facility in any manner that obstructs the street, sidewalk or driveways and impedes the free movement of vehicular or pedestrian traffic.

C. Stopping Or Parking On Streets:

1. No person shall park a vehicle, whether attended or not attended on the traveled portion of a street when it is possible under the existing conditions to park the vehicle off the traveled portion of the street. When stopping or parking a vehicle, it must be parked in a manner that leaves an unobstructed width along the vehicle for the passage of other vehicles.

2. This section shall not apply to vehicles which are parked as a result of mechanical failures or otherwise disabled to an extent that the vehicle cannot be moved out of the traffic lane. It is the duty of the owner or operator of the disabled vehicle to activate warning lights on the vehicle, and to open the hood in order to give notice to other vehicles on the street that traffic is blocked by a disabled vehicle. It is also the duty of the owner or operator of a disabled vehicle to obtain assistance as soon as possible under the circumstances to have the disabled vehicle removed from the traffic lane.

D. Parking For Certain Purposes Prohibited: It shall be unlawful to park a vehicle on any street or within any public parking facility for the following purposes:

1. Greasing, servicing, or repairing the vehicle, except to the extent necessary under emergency conditions to move a disabled vehicle.

2. Selling food or other merchandise, or soliciting order for food or merchandise, except when properly licensed by the Town to do so.

E. Condition Of Unattended Vehicles: If shall be unlawful for any person to park a vehicle on a street or public parking facility without stopping the engine, locking the ignition, and removing the key from the ignition, and if the vehicle is parked on a readily perceptible grade, turning the wheels toward the curb or edge of the road and setting the parking break.

F. Double Parking: No vehicle shall be double parked or stopped upon the traveled portion of any street, except when complying with the instructions of a police officer or flagman, allowing an emergency vehicle to pass, avoiding other traffic, or conducting commercial deliveries under the requirements of this article.

G. Parallel Parking: Except where otherwise clearly designated by a sign, it shall be unlawful to park any vehicle in a manner other than parallel with the curb or shoulder of the street, with the front of the vehicle facing the direction of traffic flow, with the right hand/passenger side wheels not more than twelve inches (12"), or as close as practicable to the edge of, the curb, shoulder or snowbank, whichever is nearer to the traffic lane.

H. Angle Parking: Angle parking is permitted only when designated by posted signs or in designated public parking facilities, and then only when conditions are such that angle parking does not result in obstruction of the driving lanes such that traffic has to deviate from its normal course to avoid the parked vehicle. Further, no vehicle in excess of twenty-five feet (25') in length shall park in an angle parking place at any time.

I. Overnight Parking, Camping:

1. It shall be unlawful to park a vehicle (such as a camper van, recreational vehicle, camping trailer, etc.) on a public street, or within a public parking facility, or within public parks, playing fields, or other areas for purposes of overnight camping, sleeping or other habitation without written approval from the Town Manager. The Town Manager may give temporary written approval in conjunction with a special use permit or in times of emergency. (amd. Ord. No. 19-012, 9-23-2019)

2. Vehicles may be parked on private property for purposes of overnight camping sleeping or other habitation under the following conditions:

a) The vehicle is on a property which has an active building permit associated with it and construction activity is active and ongoing. (amd. Ord. 21-003, 3-9-2021)

b) No more than one vehicle per property at any given time is allowed for purposes of overnight camping, sleeping or other habitation. A second inhabited vehicle may be allowed by the Town Manager where no additional ground disturbance is required. (amd. Ord. 21-003, 3-9-21)

c) Generators must comply with the Town's Noise Ordinance. Generator use will be prohibited after 10pm.

d) Vehicles are not allowed to be parked in the public right-of-way.

e) Vehicles must be properly licensed and registered.

f) Vehicles may only be parked for overnight camping, sleeping or other habitation between April 30 and November 1.

(Ord. 19-012, 9-23-2019)

J. Parking On Narrow Streets Prohibited: It shall be unlawful for any person to park a vehicle on any street in a manner that obstructs the flow of traffic on that street by failing to leave an unobstructed lane of at least fourteen feet (14') in width for passing traffic. It shall be unlawful to park opposite another parked vehicle so as to leave less than a fourteen foot (14') wide traffic lane, or in any other manner to obstruct the free movement of traffic through the narrow street.

K. Lighting Requirements: The owner or operator of a vehicle is not required to provide any warning lights on any lawfully parked vehicle. Any vehicle that is parked so as to obstruct the normal flow of traffic, whether illegally parked or disabled in traffic, shall display one or more lights to the front and rear which are visible from a distance of five hundred feet (500'). The light shown to the front of the vehicle shall be white or amber, the light shown to the rear of the vehicle shall be red. If the headlights are left on, they shall be set on the dimmed setting. It shall be the duty of the owner or operator of a vehicle so parked to open the hood as an additional warning to other motorists, and to keep the lights free of snow, mud, or other obstructions so that the lights are clearly displayed.

L. Construction Site Parking:

1. Construction site parking shall comply with all parking requirements of this article.

2. Vehicles loading or unloading construction supplies, materials or equipment may park temporarily on the street, provided they leave an unobstructed lane of at least fourteen feet (14') in width for passing traffic.

3. Overnight parking of construction equipment in any street is prohibited.

4. No person shall park any vehicle or place any object that interferes with the snow plowing or snow removal efforts on any town right of way.

M. Non-motorized Equipment Parking Prohibited: Except for construction equipment and materials allowed under subsection L of this section, no person shall park any non-motorized equipment in any on the street or public parking facility. Such non-motorized equipment must be properly stored in private off-street areas or commercial rental storage units. Non-motorized equipment violating this subsection shall be subject to immediate impoundment.

N. Oversized Vehicles: No person shall park a vehicle that is over eight feet (8') in width in a public parking facility. No person shall park a vehicle that is over twenty-six feet (26') in length or over eight feet (8') in height on town roadways. The following exceptions apply:

1. Vehicles allowed under the construction site subsection and complying with subsection L of this section.

2. Commercial delivery vehicles temporarily while making deliveries.

3. Town, fire and public utility vehicles or equipment engaged in official business.

O. Fire Access ways: It shall be unlawful and a violation of this article for any person to park a vehicle, or to permit others to park a vehicle, in any marked fire lane, emergency access road or vehicle throughway, which is designated and approved for fire access by the town fire marshal, or his/her designee, whether on public or private property. (2010 Code)

6-2A-6: TIME LIMITATION PARKING:

A. Parking For More Than Seventy-Two Consecutive Hours: It shall be unlawful to leave a vehicle parked in any street for more than seventy-two (72) consecutive hours. After seventy-two (72) consecutive hours, the vehicle is subject to impoundment.

B. Parking For More Than Twenty-Four Hours In Public Parking Facilities: It shall be unlawful to leave any vehicle in any public parking facility for more than twenty-four (24) consecutive hours, except where otherwise posted on official signs. Vehicles parked longer than twenty-four hours (24) consecutive hours are subject to impoundment.

C. Time Limited Parking In Commercial Zones: Public streets and public parking facilities within commercial zones may be designated with time limitations. It shall be unlawful to park a vehicle in any area so designated by posted signs for longer than designated time limits. Vehicles parked longer than posted time limits are subject to fine and/or impoundment.

D. Parking Areas And Classifications: The Town Manager, or designee, may establish general classifications of parking areas and the effective periods of time, and shall so designate by posting appropriate signs along the streets, within the facility and/or at the appropriate entry points to the public parking facility. (2010 Code)

6-2A-7: SEASONAL PARKING REGULATIONS:

A. Special Winter Limitations: Notwithstanding the foregoing general parking regulations, there shall be additional regulations which apply during the winter season to facilitate the snow removal and emergency access during the winter months. The winter seasonal regulations shall apply from November 1 to April 30. The special winter regulations are as follows:

1. It shall be unlawful to park any vehicle on any street during the winter season beginning November 1st and running until April 30th. (2010 Code, amd. Ord. 19-005, 6-24-2019)

2. Additional parking limitations may be posted by signs stating the nature and effective period for the additional regulations.

B. Obstructing Snow Removal Prohibited: No person shall park any vehicle or place any object that interferes with the snow plowing or snow removal efforts on any street. (2010 Code)

6-2A-8: DELIVERIES AND SHORT-TERM USE:

A. Space Designated: The Town Manager, or designee, shall designate, where necessary, short term zones.

B. Unlawful Parking In Short Term Zones: In any area designated as a short-term zone, it shall be unlawful for any person to park any vehicle longer than the posted time limit during the hours posted on designated signs.

C. Delivery Vehicles On Town Streets: All delivery vehicles parked on a street shall observe the following restrictions:

1. Delivery vehicles shall utilize the loading zones.

2. No delivery vehicle shall be parked in such a manner to impede the flow of traffic.

3. No delivery vehicle shall be parked with its engine left idling. (2010 Code)

6-2A-9: SIGNAGE:

A. Emergency Temporary Parking Regulations: The Town Manager, or designee, shall have the authority to establish additional parking regulations as necessary to provide for efficient traffic circulation and safe parking areas. All areas that are closed to parking shall be so designated by signs posted in the area, except for those regulations set forth in section 6-2A-5 of this article, which shall not require signs.

B. Type, Location: All signs shall be uniform as to type and location throughout the town. The location, type, and design of all parking control signs shall be as determined by the Town Manager, or designee. All traffic control devices so erected shall be official signs and official traffic control devices. Signs shall be erected in sufficient number to adequately inform the public of the parking regulation.

C. Additional Marking Approved: The Town adopts the marking and sign requirements of the manual of uniform traffic control devices (MUTCD), with the exception that the color red shall be adopted as a supplemental curb marking color to indicate general no parking zones, fire hydrant no parking zones and fire lanes. (Ord. 08-018, 10-28-2008)

6-2A-10: REGULATIONS NOT EXCLUSIVE:

The parking regulations established by this article are not all encompassing, and additional regulations may be established by posting permanent or seasonal signs stating the additional regulation imposed, or by police officers directing traffic during period of heavy traffic volume or during period of emergencies, or during special events as designed by the Town Manager. 2010 Code),

6-2A-11: COMPLIANCE REQUIRED; FINES, IMPOUNDMENT, ENFORCEMENT; PENALTY:

A. Compliance Required: Compliance with this article is required when proper signs are posted, or when the regulation is such that no sign is required under this article. It shall be unlawful to park any vehicle in violation of the regulations established by this article or in violation of regulations contained on posted signs.

B. Authority To Tow Vehicles: Because unlawfully parked vehicles may prevent access to areas by emergency vehicles as well as local residents, the Public Safety Department is authorized to enforce this article by towing or otherwise removing vehicles parked in violation of this article without first having given notice to the owner of the vehicle that it may be towed if not removed.

C. Obligation Of Owner To Move Vehicle: It is the obligation of the owner or operator of a vehicle to remove that vehicle when it is illegally parked. When an officer finds an illegally parked vehicle that is impeding traffic or snow removal, the officer is authorized to move the vehicle to the extent necessary to remove the obstruction, including towing the vehicle to the town impound yard or an impound facility of a private tow company designated by the Town.

D. Nature Of Violation: Violations of this article are infractions, punishable by a fine, fee or civil penalty, including immobilization and/or towing, but not imprisonment.

E. Penalties For Illegal Parking: The owner or operator of a vehicle cited for illegal parking under this article shall be required to pay a fine of forty-five dollars ($45.00) for the violation of the infraction. In addition to the fine imposed for illegal parking, the owner of the vehicle is responsible for paying immobilization, towing and impound fees for the release of the vehicle. Immobilization and towing fees may be levied against the violator or the owner of the vehicle, or both.

F. Enforcement, Payment: The Town may employ private enforcement officers to enforce this article and issue parking citations for violations thereof, including parking illegally in

handicapped spaces. All fees and penalties imposed pursuant to this article shall be paid to the court of jurisdiction in the manner and by the means specified on the parking citation. (Ord. 08-018, 10-28-2008)

Title 6 – Motor Vehicles and Traffic

Chapter 3

OFF-HIGHWAY VEHICLES

6-3-1: POLICY DECLARATION:
6-3-2: DEFINITIONS
6-3-3: TRAIL DESIGNATION:
6-3-4: OPERATION ON STATE ROAD 143; LIMITS:
6-3-5: RESTRICTED AREAS:
6-3-6: HOURS OF OPERATION:
6-3-7: PERSONS UNDER AGE SIXTEEN:
6-3-8: NOISE LEVEL LIMITATIONS:
6-3-9: SPEED LIMIT:
6-3-10: PROVISION FOR USE OF OHV

6-3-1: POLICY DECLARATION:

It is the policy of the town to:

A. Encourage the safe use of off-highway vehicles (OHVs).

B. Construct, sign and maintain an OHV trail through the town to facilitate access for citizens and guests to trails and play areas beyond the town limits.

C. Promote uniformity of laws between the Town, the State, and the code of federal regulations, title 36. (Ord. 99-002, 8-10-1999)

6-3-2: DEFINITIONS

DIRECT SUPERVISION: means oversight at a distance of no more than 300' feet; and within which visual contact is maintained, and advice and assistance can be given and received.

OFF-HIGHWAY VEHICLE (OHV): Any snowmobile or all-terrain type I vehicle or type II vehicle as defined by Utah Code Annotated § 41-22-2(2)(3) or motorcycle, including all electric and motorized vehicles over five (5) horsepower or 1,000 watts.

OPERATE: To ride in or on and control the operation of an off-highway vehicle.

OPERATOR: An individual who operates or is in actual physical control of an off-highway vehicle.

OWNER: A person, other than a lienholder, having the property in or title to an off-highway vehicle and entitled to use its use or possession.

REGISTER: The act of assigning a registration number to an off-highway vehicle in accordance with Utah Code Annotated § 41-22-3.

SNOWMOBILE: Means any motor-driving vehicle designed for travel primarily on snow or ice of a type that utilizes sled-type runners or skis, an endless belt tread, or any combination of these or other similar means of contact with the surface which it is operated.

(Ord. 18-014, 11-13-2018)

6-3-3: TRAIL DESIGNATION:

All town streets, roads, and roadways, together with posted OHV trails (maps attached) are designated as open for limited off-highway vehicle use to gain access to or from a private or public area open for off-highway vehicle use with the following exceptions: (2010 Code, amd. Ord. 21-004, 5-11-21)

A. Upon private property, other than that of the off-highway vehicle owner or operator, without express written permission of the owner, unless such property is a business that is held open to the public. (Ord. 18-014, 11-13-2018)

B. No OHV may be operated on State Road 143 inside the town limits[1]. (2010 Code, amd. Ord. 18-014, 11-13-2018)

Footnote 1: See section 6-3-3 of this chapter for exceptions.

6-3-4: OPERATION ON STATE ROAD 143; LIMITS:

No person may operate an off-highway vehicle upon State Road 143, except as follows:

A. When crossing a street or highway and the operator comes to a complete stop before the crossing, proceeds only after yielding the right of way to oncoming traffic, and crosses at a right angle.

B. When loading or unloading an off-highway vehicle from a vehicle or trailer, which shall be done with due regard for safety, and at the nearest practical point of operation; or

C. When an emergency exists during any period of time and at those locations when the operation of conventional motor vehicles is impractical, as directed by a peace officer or other public authority. (2010 Code)

6-3-5: RESTRICTED AREAS:

A. In conjunction with Utah Code Annotated Title 41, chapter 22, as amended, no unauthorized person may operate an off-highway vehicle upon any ski slope or other restricted area, except when an emergency exists during any period of time and at those locations where the operation of conventional motor vehicles is impractical or when the operation is directed by a peace officer or other public authority. (2010 Code)

B. Restricted areas shall, in addition to all ski slopes, consist of those areas designated by the Town Council within the town whereupon the use of off-highway vehicles is restricted or prohibited. (Ord. 2010 Code)

6-3-6: HOURS OF OPERATION:

In order to preserve the solitude of the community, the operation of OHVs after ten o'clock (10:00) P.M. to eight o'clock (8:00) A.M. shall not be allowed. (2010 code)

6-3-7: PERSONS UNDER AGE SIXTEEN:

No person under the age of sixteen (16) may operate or be in control of any off-highway vehicle unless:

A. All operators 16 years of age or older must possess either a valid operator's license or an OHV Education Certificate as issued by the Utah Division of Parks and Recreation. (Ord. 18-014, 11-13-2018)

B. Unless otherwise provided herein, no person under 8 years of age will be allowed to operate an OHV on a Brian Head road, street or highway designated for OHV use unless exempted under Utah Code Annotated § 41-22-29 (Ord. 18-014, 11-13-2018)

C. No person between the ages of 8 and 16 may operate and no owner may give permission to a person between the ages of 8 and 16 to operate an OHV on designated roads, streets and highway of Brian Head unless such person possess an OHV certificate issued by the Utah Division of Parks and Recreation and is accompanied by another OHV and under the direct supervision of an adult 18 years of age or older hold a valid driver's license. (Ord. 18-014, 11-13-2018)

6-3-8: NOISE LEVEL LIMITATIONS:

OHV's must have a manufacturer-installed or equivalent muffler in good working order and connected to the off-highway vehicle's exhaust system. Muffler must have a federally approved spark arrestor, with the exception of snowmobiles. Overall noise emission may not exceed 99 decibels at a distance of 20 inches. Mufflers may not be altered to increase motor noise, or have a cutout, bypass, or similar device as per Utah Code Annotated § 41-22-10-7 (2010 Code, amd. Ord. 18-014, 11-13-2018)

6-3-9: SPEED LIMIT:

The maximum speed limit for operation of OHV's within the town limits shall be fifteen (15) miles per hour, unless posted otherwise, with the exception of snowmobiles in which snowmobiles may not exceed a maximum speed of twenty-five miles per hour within the town limits. In addition, OHV's shall slow to five (5) miles per hour when approaching and passing non-motorized trail users (2010 Code, amd. Ord. 18-014, 11-13-2018)

6-3-10: PROVISION FOR USE OF OHV

A. Any person operating an OHV is subject to all of the provisions Utah Code Annotated § 41-22.

B. All riders under the age of 18 may not operate or ride an all-terrain type I vehicle on the trails, roads, or highways unless the person is wearing a properly fitted and approved protective headgear designated for motorized uses.

C. Restriction of use of snowmobiles trails: A person may not operate a wheeled vehicle with a gross vehicle weight of 800 pounds or more on any snowmobile trail that has been designated, marked, posted, or maintained as a snowmobile trail.

D. Requiring compliance with traffic laws:

1. Any person operating an off-highway vehicle is subject to the provision of Utah Code Annotated § 41-6(a) Traffic Code unless specifically excluded.

2. An off-highway vehicle accident shall be reported in accordance with the requirements of Utah Code Annotated § 41-6a-402.

(Ord. 18-014, 11-13-2018)

.

Title 7 - Utilities

Chapter 1

WATER USE AND SERVICE

7-1-1: ADMINISTRATION:
7-1-2: DEFINITIONS:
7-1-3: MANDATORY CONNECTION REQUIREMENTS:
7-1-4: CONNECTION TO SYSTEM:
7-1-5: METERS:
7-1-6: ACCESSIBILITY OF METERS:
7-1-7: SERVICE AGREEMENT:
7-1-8: FEES, RATES, CHARGES, BILLINGS:
7-1-9: NONPAYMENT:
7-1-10: REINSTATEMENT FOR PUBLIC HEALTH:
7-1-11: WATER CONNECTION PLAN:
7-1-12: REPAIRS AND MAINTENANCE:
7-1-13: SERVICE CALLS:
7-1-14: WATER CONSERVATION:
7-1-15: WATER EMERGENCIES:
7-1-16: WATER USE DURING PERIODS OF DROUGHT:
7-1-17: FIRE HYDRANTS:
7-1-18: SALE OF WATER OUTSIDE TOWN:
7-1-19: PENALTY:

7-1-1: ADMINISTRATION:

A. Water Department Established: There is hereby established a Town Water Department, which shall operate and maintain the Town water system. The water system constructed or otherwise acquired by the Town to supply town residents with culinary water shall be the property of the Town and shall be under the sole and exclusive control and jurisdiction of the Town. The Town Council may, from time to time, make such rules and regulations as are necessary for the water system's proper operation, which are not in conflict with other rules and/or ordinances.

B. Management Of System: The Town water system shall be managed by the Town Public Works Director pursuant to the provisions of this title and pursuant to consolidated fee schedules, rules and regulations adopted by the Town Council from time to time prescribing his powers and duties.

C. Authority Of Public Works Director: The Public Works Director, or his/her designee, shall have charge of the Town reservoirs, water tanks, water mains, fire hydrants and all equipment and appurtenances of the water system. He shall have direction of the laying of water mains, the putting in of all service lines, and the regulation of the supply of water. He shall be responsible for the proper care and efficient operation of the water system.

D. Sole Authority To Operate Culinary Water System: There shall be only one operating water system within the Town corporate limits. That system shall be solely owned, operated and maintained by the Town. It shall be illegal for any person or entity to develop, form, own, maintain or operate any type of water system within the town limits separate and apart from the town water system.

E. Financially Independent Department: The water department shall operate as a financially independent department of the Town. Its budgeted revenues shall come from gross income and revenues of any kind, from any source whatsoever, derived from the operation of the water system, including, without limitation, all fees, rates, impact fees, connection fees, service fees, assessments, and other charges established by the Consolidated Fee Schedule of the Town Council; the gross revenues of all improvements, additions and extensions of the system hereafter constructed or acquired; and all interest earned by and profits derived from the sale of investments made with the income and revenues. Should other departments of the Town provide services to the water department, the water department shall transfer reasonable amounts to reimburse such other departments for the actual cost of such services. Unexpended funds from any budget year shall remain in the water department. (Ord. 09-012, 7-28-2009)

7-1-2: DEFINITIONS:

When used in this chapter, the following words and phrases shall have the meanings given in this section:

ANIMAL FEEDING OPERATION: A lot or facility where the following conditions are met: a) animals have been or will be stabled or confined and fed or maintained for a total of forty five (45) days or more in any twelve (12) month period; b) and crops, vegetation forage growth, or post-harvest residues are not sustained in the normal growing season over any portion of the lot or facility. Two (2) or more animal feeding operations under common ownership are considered to be a single feeding operation if they adjoin each other, if they use a common area, or if they use a common system for the disposal of wastes.

ANIMAL UNIT: A unit of measurement for any animal feeding operation calculated by adding the following numbers: The number of slaughter and feeder cattle multiplied by 1.0, plus the number of mature dairy cattle multiplied by 1.4, plus the number of swine weighing over fifty five (55) pounds multiplied by 0.04, plus the number of sheep multiplied by 0.1, plus the number of horses multiplied by 2.0.

APPROVED BACKFLOW ASSEMBLY: A backflow assembly accepted by the Utah State Department of Environmental Quality, Division of Drinking Water and the Public Works Director, or his/her designee, as meeting the standards of the currently adopted plumbing code for a specific application.

AUXILIARY WATER SUPPLY: Any water supply on or available to the premises other than the purveyor's public water supply will be considered as an "auxiliary water supply". These auxiliary waters may include water from another purveyor's public potable water supply or any natural source, such as well, spring, river, stream, etc., or used waters. These waters may be contaminated or polluted, or they may be objectionable and constitute an unacceptable water source over which the Public Works Director, or his/her designee, does not have authority for sanitary control.

BACK PRESSURE: Pressure causing the flow of water or other liquids, mixtures or substances from a region of high pressure to a region of low pressure into the water distribution pipes of a potable water supply system from any source, other than the intended source.

BACK SIPHONAGE: The flow of water or other liquids, mixtures or substances under vacuum conditions into the distribution pipes of a potable water supply system from any source, other than the intended source, caused by the reduction of pressure into the potable water system.

BACKFLOW: The reversal of the normal flow of water caused by either back pressure or back siphonage.

BACKFLOW PREVENTION ASSEMBLY: An assembly or means designated to prevent backflow. Specifications for backflow assemblies are contained within the currently adopted plumbing code and in the cross-connection control program for Utah maintained by the Division of Drinking Water.

CONTAMINATION: A degradation of the quality of the potable water supply by sewage, industrial fluids or waste liquids, compounds or other materials that may create a health hazard.

CROSS CONNECTION: Any actual or potential connection between the potable water system and any other source or system through which it is possible to introduce into the public drinking water system any used water, industrial fluid, gas or substance other than the intended potable water. This includes any temporary conditions such as swing connections, removable sections, or other similar plumbing arrangements.

CROSS CONNECTION, CONTAINMENT: The installation of an approved backflow assembly at the water service connection to any customer's premises where it is physically and economically infeasible to find, permanently eliminate or control all actual or potential cross connections within the customer's water distribution system; or, it shall mean the installation of an approved backflow prevention assembly on the service line leading to and supplying a portion of a customer's water system where there are actual or potential cross connections which cannot be effectively eliminated or controlled at the point of the cross connection (isolation).

CROSS CONNECTION, CONTROLLED: A connection between a potable water system and a non-potable water system with an approved backflow prevention assembly properly installed and maintained so that it will continuously afford the protection commensurate with the degree of hazard.

DESIGN STANDARD: A control that is implemented at or by a potential contamination source to prevent discharges to the groundwater. Spill protection is an example of a design standard.

ERC OR EQUIVALENT RESIDENTIAL CONNECTION: A term used to evaluate service connections to consumers other than the typical residential domicile. Public water system

management is expected to review annual metered drinking water volumes delivered to nonresidential connections and estimate the equivalent number of residential connections that these represent based upon the average of annual metered drinking water volumes delivered to true single-family residential connections.

EXCESS WATERING: Watering to the extent that water is allowed to accumulate on the surface of the ground and leave the property entering gutters, storm drains, ditches and other conveyances.

EXTREMELY HAZARDOUS SUBSTANCES: Those substances which are identified in the section 302(EHS) column of the "Title III List Of Lists - Consolidated List Of Chemicals Subject To Reporting Under SARA Title III" (EPA 560/4-91-011).

LAND MANAGEMENT STRATEGIES: Zoning and non-zoning controls which include, but are not limited to, the following: zoning and subdivision ordinance, site plan reviews, design and operating standards, source prohibitions, purchase of property and development rights, public education programs, groundwater monitoring, household hazardous waste collection programs, water conservation programs, memoranda of understanding, written contracts and agreements, and so forth.

PERSON: Any individual, partnership, firm, corporation, limited liability company, or other legal entity.

POLLUTION SOURCE: Point source discharges of contaminants to groundwater or potential discharges of the liquid forms of "extremely hazardous substances" which are stored in containers in excess of "applicable threshold planning quantities" as specified in SARA title III. Examples of possible pollution sources include, but are not limited to, the following: storage facilities that store the liquid forms of extremely hazardous substances, septic tanks, drain fields, class V underground injection wells, landfills, open dumps, landfilling of sludge and seepage, manure piles, salt piles, pit privies, and animal feeding operations with more than ten (10) animal units.

POTENTIAL CONTAMINATION SOURCE: Any facility or site which employs an activity or procedure which may potentially contaminate groundwater. A pollution source is also a "potential contamination source".

PUBLIC WORKS DIRECTOR, OR HIS/HER DESIGNEE: The Public Works Director of Brian Head Town, or his/her designee, is vested with the authority and responsibility for the implementation of an effective cross connection control program and for the enforcement of the provisions of this chapter.

REGULATORY AGENCY: Any governmental agency with jurisdiction over "hazardous waste", as defined.

REPEATED OR FLAGRANT WASTING OF WATER: Those situations where persons who have received informal notice that they are wasting water continue to use water in the same manner. It does not mean those persons who waste water on solitary or isolated occasions.

SANITARY LANDFILL: A disposal site where solid wastes, including putrescible wastes or hazardous wastes, are disposed of on land by placing earth cover thereon.

TOWN WATER: All water that passes through the Town water distribution system, excluding snow making water.

WATERING OR "TO WATER": The act of applying water to the outdoor landscape through means such as moveable sprinklers, installed watering systems, hoses and similar devices.

WELLHEAD: The upper terminal of a well, including adapters, ports, seals, valves and other attachments. (Ord. 09-012, 7-28-2009)

7-1-3: MANDATORY CONNECTION REQUIREMENTS:

A. It shall be mandatory for any property owner constructing a new dwelling unit or facility used for human occupancy and/or constructing or installing any water fixture utilizing culinary water as provided under the provisions of this chapter to apply and pay for the appropriate water connection, and connect to the Town water system whenever that system is within three hundred feet (300') of the furthest point of the adjacent property line where the waterline is installed in a Town street, right of way or Town approved easement. (Ord. 09-12, 7-28-2009 amd. Ord. 20-009, 09-08-2020)

B. It shall be mandatory for any property owner who owns or maintains a building used for human occupancy to connect to the Town water system whenever that system is located adjacent to and extends the length of any property line abutting a Town approve street, right of way or easement in which the system is located within three (3) years of time the system was extended to their location. (Ord. 20-009, 09-8-2020)

C. The system shall be extended to the furthest point of the property line adjacent to the Town approved street, right of way or Town approved easement in which the water system is located. (Ord. 20-009, 09-08-2020)

D. All connections shall be through an approved water meter.

7-1-4: CONNECTION TO SYSTEM:

A. Required: Prior to connection, the owner must sign a service agreement, as set forth in section 7-1-7 of this chapter. Applicants for water service shall include in their system a suitable meter box or vault, and all appurtenances to specifications required by the Public Works Department and approved at the time the building permit is issued. It shall be unlawful for unauthorized individuals to tap or connect to the Town Municipal Water Distribution system without authorization. The owner of the property with an unauthorized connection shall be liable to the Town for all water use resulting from such connection and may be subject to criminal fines and penalties. All connections shall be approved and inspected by the Public Works Director or designee. Upon connection, regular water service fees must be paid.

B. Master Meters; Additional Meters: All buildings with more than one ERC will be serviced by a master meter capable of registering both high and low flows. Commercial buildings with any residential units will be serviced by two (2) separate master meters capable of

registering both high and low flows. The residential portion of the building will be serviced with one meter and the remaining uses will be serviced with one meter. The owner of a building may install at his/her expense separate meters to any portion of his/her building. The owner will be responsible for proper installation, maintenance and reading of such meters. Information gathered from additional meters will be for owner use only. (Ord. 09-012, 7-28-2009)

C. Waive of Water Connection Requirement: In the event that a water connection is required by this chapter, but is not practically feasible due to unusual circumstances, a letter of waiver may be provided by the Public Works Director stating the nature of the unusual circumstances. Unusual circumstances shall be determined by the Public Works Director and may include such things as grade, physical barriers, insufficient capacity of the system, distance of home from the property line, topography, etc. Additionally, the Town shall explain its intent to provide, or not to provide, a future water connection, as well as a statement of acknowledgement of the use of an appropriate on-site water system. (Ord. 20-009, 09-08-2020)

7-1-5: METERS:

A. Metered Service:

1. A base rate will be charged to all water connections according to the size of the meter in use. The base rate for all meter sizes shall be established by the Consolidated Fee Schedule. All water used from the Town water system for household, domestic, irrigation, commercial, industrial, or any other use shall be metered, and water paid for according to the quantity used. (Ord. 09-12, 7-28-2009)

2. All water delivered through each meter shall be used on the premises where the meter is located and charged at the rate established by the Consolidated Fee Schedule. Unoccupied structures will be billed the minimum charge set by the Consolidated Fee Schedule for the meter used in the structure unless a service disconnect request has been received by the water department. A service disconnect request will be charged a reconnect fee established by the Consolidated Fee Schedule to reestablish water service.

3. Except for individual personal use, no water shall be removed from the premises. (Ord. 11-002, 4-26-2011)

B. Meter Reading: Meters may be read monthly but shall be read a minimum of five (5) times per year. In the event that one reading covers consumption for more than one month, consumption shall be prorated equally to each month included in the meter reading. By connecting to the water system, property owners and occupants of the property are deemed to have consented to permit meter readers onto their property to read the meters. In the event that meters were installed within any building on the premises, and there is no remote readout device, the property owner or occupant must permit access for the reading of the meter during normal business hours as a condition of continued water service.

C. Meter Error: In the event that a meter malfunctions so that a reliable reading is not possible, charges shall be estimated based on the average usage of the previous six (6) months.

D. Meter Test: If a water user contests the accuracy of a meter, which when removed and checked, proves to be accurate or under reading, the actual costs of removing, replacing and testing the meter shall be charged to the water user on the next water bill. If the meter is over reading, no charge will be made for the repair, and an adjustment for the error will be estimated, for not more than three (3) months. Meter errors of three percent (3%) or less shall be deemed accurate readings. If upon the second rereading requested by the customer within six (6) months the meter is found to be accurate, a reread charge as established by the Consolidated Fee Schedule will be included in the next billing. The Public Works Director may waive the reread fee if needed. (Ord. 09-012, 7-28-2009)

E. Meter Tampering: It shall be a violation of this chapter to tamper with or bypass any water meter, causing it to produce inaccurate meter readings, or for any other purpose, or to willfully cause damage to any water meter. Willful consumption of water through a meter known to be damaged, bypassed or tampered with, constitutes theft of services and may be punishable as a Class B misdemeanor, subject to penalty as provided in section 1-4-1 of this code. All meters installed throughout the system shall become the property of the Town upon installation. Only meters meeting the Town specifications may be used. (Ord. 09-012, 7-28-2009; amd. 2010 Code)

7-1-6: ACCESSIBILITY OF METERS:

All water meters shall be located in Town rights of way or utility easements with direct and reasonable access for Town water crews on accessible property lines, unless otherwise authorized by the Public Works Director. The areas surrounding the meter box must be kept clear of obstructions and must be accessible at all times. The meter lid must be kept free of weeds, plants, trees, rocks, planters, grass and anything that would impede access to the meter box. (Ord. 09-012, 7-28-2009)

7-1-7: SERVICE AGREEMENT:

The Town shall require all persons desiring water service and the owner of real property to be serviced to sign a service agreement. Said agreement shall be binding upon both the Town and the individual in setting forth terms and conditions of water service and methods of collection of past due amounts owed for water service. When more than one dwelling or unit is served by a single water meter or when there are multiple owners or timeshare interval owners of the property, the service agreement will designate a single responsible party to whom all notices and billings shall be sent. Notice to the responsible party shall have the same force and effect as notice to all owners. (Ord. 09-012, 7-28-2009)

7-1-8: FEES, RATES, CHARGES, BILLINGS:

A. Meter Deposit: All customers requesting new services will be required to pay a deposit as set forth by the Consolidated Fee Schedule. If no outstanding, unpaid balance occurs for twelve (12) consecutive months, the deposit will be applied to the thirteenth month bill. However, if the occupant paying the deposit is a renter, the Town shall retain the deposit

until the renter vacates the unit, at which time the deposit shall be returned to the renter within thirty (30) days. No interest will be paid on the deposit.

B. Billing:

1. The Town shall send a monthly or bimonthly billing for water used in the previous month as shown by the meter readings or as estimated. Payment is due upon issuance of the bill.

2. Late fees shall be assessed against all accounts which are more than thirty (30) days past due as set forth by the Consolidated Fee Schedule. Interest will be charged only against the unpaid balance, and not against any partial payment, or against the current billing cycle charges. All payments on past due accounts shall first be applied to fees accrued, then to the oldest unpaid balance.

3. Unless separate meters are established for every unit, billing for multiple users at a single address or multiple users organized as a Homeowners' Association shall be to a single responsible party who shall be responsible for payment of the entire billing. For such users with more than one meter, the usage from all meters shall be accumulated to determine the total amount of water used. In such cases, the allowances for each residential unit shall be combined and any water used in excess of the total allowance shall be billed at the excess water rate established by the Consolidated Fee Schedule.

4. In the case of mixed use, the residential allowance shall be subtracted from the total water used and any excess shall then be billed at the commercial usage rates established by the Consolidated Fee Schedule. When a residential project includes an office located in the common area of the project, and if a business license is required for the activity of such office, then the project shall be billed for one commercial user in addition to the number of residential users and be treated as a mixed use user.

C. Water Meter Fees: All water meters shall be supplied and installed by the Town or by its authorized representative. For all water lines serving residential and commercial uses, an installation fee shall be paid to the building department at the time the building permit is issued. The meter installation fee shall be established by the Consolidated Fee Schedule.

D. Returned Checks: Any user paying by check will pay an additional fee established by the Consolidated Fee Schedule if the check is returned by the bank for any reason. (Ord. 09-12, 7-28-2009; amd. Ord. 13-001, 4-9-2013)

E. Fee/Rate Relief: Public Works Director shall be authorized to adjust and/or waive excessive use fees if the Public Works Director determines that the excessive use is not due to the actions of the water user (property owner or tenant) but rather due to causes beyond the control of the user and if the water user informs the Town within thirty (30) days of the date of the bill showing the excessive use. (Ord. 15-002, 01-27-2015)

Administrative decisions regarding water fee/rate relief may be appealed by the water user upon written request within thirty (30) days of the administrative decision. The appeal will be heard by a board consisting of the Town Manager and two members of the Town Council. The appeal board will review whether the administrative decision was made consistent with the provisions of this Title. (Ord. 15-002, 01-27-2015)

7-1-9: NONPAYMENT:

A. Notice Of Termination: In the event of nonpayment of any billing for Town service and a sixty (60) day balance exceeding fifty dollars ($50.00), the Town may maintain an action to recover the amount owed, and after giving written notice to the owner of the property and the occupant thereof, may terminate service. Notice of termination of service shall be served upon the occupant of the property in person, or shall be posted on the property, and notice shall be given to the owner of the property by mail to the last known address of the owner. When more than one dwelling or unit is served through a single water meter, or when there are multiple or timeshare owners, notice may be given to the owners' association, management company or representative owner as shown on the Town billing records. The multi-unit, single metered structures shall be posted with notice of termination, but it shall not be necessary to post each unit served. Service shall not be terminated for nonpayment without at least ten (10) days' notice.

B. Reinstatement Of Water Service: Any water customer who has had water shut off for nonpayment of a bill, a request for disconnect from water service, failure to repair leaks, or failure to comply with a requested curtailment during a water emergency, in addition to any other fees, monies owed, deposits or fines, shall pay a reconnection fee as established by the Consolidated Fee Schedule before service is reinstated. (Ord. 09-012, 7-28-2009)

7-1-10: REINSTATEMENT FOR PUBLIC HEALTH:

For reasons of public health, the Town Manager may extend or reinstate water service to indigent individuals regardless of past due amounts owed or ability to pay. A reasonable fee for such services may be established by the Town Manager. (Ord. 09-012, 7-28-2009)

7-1-11: WATER CONNECTION PLAN:

Any applicant for development with a one inch (1") water meter, or larger meter, shall submit to the public works department a water connection plan for approval by the public works department prior to the installation of water service lines and to the issuance of a building permit. The water connection plan shall include the location of meters, service lines and water mains in relation to the property lines, streets, driveways, Town mains and the buildings to be served. (Ord. 09-012, 7-28-2009)

7-1-12: REPAIRS AND MAINTENANCE:

A. Responsibility For Repairs And Maintenance: The Town shall be responsible to maintain and repair Town owned transmission and distribution water mains lying within Town rights of way and utility easements. The property owner shall be responsible for the repair and maintenance of their water service line from the meter to their building. Water meters and Town-maintained water service lines shall be maintained and repaired by the Town so long

as the meter/service line lies within five feet (5') of property line, rights of way, or utility easements and not within or under any building or structure.

B. Leaking Pipes Or Fixtures:

1. If at any time, the Public Works Director or his/her designee shall ascertain that the plumbing fixtures, appliances, sprinkler systems or service lines on any premises are leaking or otherwise wasting water, or intentionally allowing water to run to prevent freezing of pipes, he/she shall immediately give notice to the property owner to repair the same. The Public Works Director or his/her agent may immediately shut off the water from the premises and shall immediately notify the Town Fire Marshal.

2. Notice for the purposes of this subsection shall consist of any of the following:

a. Posting notice on the premises;

b. Leaving notice with any occupant or employee on the premises over the age of eighteen (18) years; or

c. Mailing notice by regular mail, to the owner or responsible party according to the records of the water department. Notice shall be deemed received three (3) days after such mailed notice is sent. (Ord. 09-012, 7-28-2009)

7-1-13: SERVICE CALLS:

When a water customer requests a service call by the Town, and no problem exists on the Town side of the meter, the Town, at the discretion of the Public Works Director, may charge a fee as set forth by the Consolidated Fee Schedule for the second such call for the same complaint made within one year by the same water customer. After the second call, every subsequent call shall also be chargeable at the same rate. If a customer requests a check for a leak and the meter is located inside the unit, customers will be instructed on how to check the meter to see if water is flowing through the meter and subsequent information where a leak might be found. (Ord. 09-12, 7-28-2009)

7-1-14: WATER CONSERVATION:

A. Watering Schedule: In order to conserve water, a limited resource in the state, outside watering of lawns and landscaped areas using town water may be restricted by resolution of the Town Council.

B. Water Waste Prohibited; Notice Of Prohibited Use:

1. The Public Works Director, or designee, shall identify persons who waste water while watering.

2. Whenever the Public Works Director finds that any person wastes water while watering, he or she may give such person verbal or written notice of that fact with

recommendations as to how the wasting of water can be eliminated. Such recommendations might include, but are not limited to, redirection of sprinkler heads, resetting of system timers, addition of devices to prevent water pressure fluctuations, or changes in location of sprinkler systems.

3. Whenever the Public Works Director, or designee, finds that any person repeatedly or flagrantly wastes water while watering, he or she may serve upon such person a written violation notice. Such notice shall be served by personal delivery or by mail, shall identify the location at which water is being wasted while watering, shall identify the manner in which the water is being wasted while watering, and shall specify a time within which the wasting of water while watering shall cease. The notice shall also warn that more severe measures, such as imposition of civil penalties or restriction or termination of water service, may be assessed or brought against the person unless the wasting of water while watering ceases within the time provided. The time given to cease wasting water while watering may range from a requirement for immediate compliance to thirty (30) days, depending upon the facts and circumstances of each case. For instance, if a remedy involves a portable hose or sprinkler, immediate compliance may be appropriate; if a remedy involves repairing or replacing a sprinkler head, several days may be required; or if the remedy involves more extensive or expensive work, up to thirty (30) days may be necessary.

4. Any person who continues to waste water while watering after the period of time specified in the notice for ceasing such activity shall be issued a citation by personal delivery or by mail and shall be subject to the fees established by the Consolidated Fee Schedule. (Ord. 09-012, 7-28-2009)

7-1-15: WATER EMERGENCIES:

The Mayor may declare by executive order, or the Town Council may declare by resolution, a state of water emergency when it appears to the Mayor or the Town Council that the Town water sources are incapable of producing sufficient water to meet all the needs of the Town water users.

A. During a declared water emergency, water service may be interrupted in any or all parts of the town in order to affect repairs, provide water for firefighting, or for any other good cause. Upon the expiration of the emergency, water service shall be restored without charge.

B. Upon such a declaration, and for the duration of the state of water emergency, it shall be unlawful to use the Town municipal water supply for outside irrigation, watering, or sprinkling uses, except as provided in subsection C of this section.

C. The declaration of state of water emergency shall specify outside watering and irrigation schedules and may specify other water conservation measures appropriate to the circumstances of the emergency.

D. The owner or tenant of property cited for illegal watering or irrigation under this section shall be required to pay a penalty in the amount set forth by the Consolidated Fee Schedule and, if the allegations in the citation are not contested, may forfeit the penalty in lieu of trying the charges.

E. Unpaid, uncontested bail forfeitures and fines may be debited against the municipal water account of the cited party and will be subject to collection pursuant to Town water bill collection policies.

F. The provisions of this section shall not apply insofar as the watering restrictions established herein are in conflict with any provision of the Town Land Management Code. (Ord. 09-012, 7-28-2009)

7-1-16: WATER USE DURING PERIODS OF DROUGHT:

In the event of scarcity of water, whenever it shall, in the judgment of the Town Council, be necessary, the Mayor shall, by proclamation, limit the use of water for other than indoor domestic purposes, to such an extent as may be required for the public good. (Ord. 09-012, 7-28-2009)

7-1-17: FIRE HYDRANTS:

No individual may draw water from a fire hydrant without the written permission from the Public Works Director and in compliance with the current adopted fire code. The Fire Department is authorized to draw water from fire hydrants in the case of fire at all times without advance notice. The Fire Department, after notification to the Public Works Director, may utilize the fire hydrants in the course of training or practice exercises. Any unauthorized connection to a fire hydrant is a violation of this chapter. (Ord. 09-012, 7-28-2009)

7-1-18: SALE OF WATER OUTSIDE TOWN:

It is the policy of the Town to provide culinary water within the corporate limits of the Town. Those individuals or entities outside the Town corporate limits desiring connection to the Town water system must petition the Town Council for annexation as a condition of water service. Those individuals and entities outside the corporate limits of the Town currently connected to the water system and receiving water shall agree to abide by the terms and conditions of this chapter and shall pay an additional 1.75 percent of the applicable rate charged for water provided inside the corporate limits of the Town. Upon annexation, they will receive water service at the normal rate. (Ord. 09-012, 7-28-2009)

7-1-19: PENALTY:

All violations of this chapter shall be a class B misdemeanor, subject to penalty as provided in section 1-4-1 of this code. Unauthorized taking of water is theft of services and may be a felony if the taking exceeds a value of one thousand dollars ($1,000.00). (Ord. 09-012, 7-28-2009)

Title 7 – Utilities

Chapter 1

WATER USE & SERVICE
ARTICLE A. DRINKING WATER SOURCE PROTECTION

7-1A-1: ADMINISTRATION:
7-1A-2: ESTABLISHMENT OF PROTECTION ZONES:
7-1A-3: PERMITTED USES:
7-1A-4: PROHIBITED USES:

7-1A-1: ADMINISTRATION:

The policies and procedures for administration of any source protection zone established under this article, including, without limitation, those applicable to nonconforming uses, exception, enforcement and penalties, shall be the same as provided in the existing zoning ordinance for the Town, as the same is presently enacted or may from time to time be amended. (Ord. 09-012, 7-28-2009)

7-1A-2: ESTABLISHMENT OF PROTECTION ZONES:

There are hereby established use districts to be known as zones one, two, three and four of the drinking water source protection area identified and described below:

A. Zone one: The area within a one hundred-foot (100') radius from the wellhead.

B. Zone two: The area within the two hundred fifty (250) day groundwater line of trade, whichever is closer.

C. Zone three; waiver criteria zone: The area within a three (3) years groundwater time of travel to the wellhead or margin of the collection areas, the boundary of the aquifer(s) which supplies water to the groundwater source, or the groundwater divide, whichever is closer.

D. Zone four: The area within a fifteen (15) years groundwater time of travel to the wellhead, the boundary of the aquifer(s) which supplies water to the groundwater source, or the groundwater divide, whichever is closer. (Ord. 09-012, 7-28-2009)

7-1A-3: PERMITTED USES:

The following uses shall be permitted within drinking water source protection zones:

A. Any use permitted within existing agricultural, single-family residential, multi-family residential and commercial districts, so long as the use conforms to the rules and regulations of the regulatory agencies.

B. Any other open land use where any building located on the property is incidental and accessory to the primary open land use. (Ord. 09-12, 7-28-2009)

7-1A-4: PROHIBITED USES:

The following uses or conditions shall be and are hereby prohibited within drinking water source protection zones, whether or not such use or condition may otherwise be permitted under this article:

A. Zone one: The location of "potential contamination sources", as defined in section 7-1-2 of this title, unless they are controlled with design standards.

B. Zone two: The location of "pollution sources", as defined in section 7-1-2 of this title, unless the pollution source implements design standards which prevent contaminated discharges to groundwater.

C. Zones three and four: The location of potential contamination sources unless they are controlled through land management strategies. (Ord. 09-012, 7-28-2009)

Title 7 – Utilities

Chapter 1

WATER USE & SERVICE
ARTICLE B. BACKFLOW AND CROSS CONNECTIONS

7-1B-1: PURPOSE:
7-1B-2: RESPONSIBILITIES:
7-1B-3: REQUIREMENTS:
7-1B-4: RIGHT OF REASONABLE ENTRY:
7-1B-5: APPEALS:
7-1B-6: VIOLATIONS; PENALTY:

7-1B-1: PURPOSE:

The purpose of this article is:

A. To protect the public drinking water supply of the Town from the possibility of contamination or pollution by requiring compliance with the cross connection control program of the Utah Division of Drinking Water, as amended, and the International Plumbing Code, that require cross connection protection of all public drinking water systems in the state. Compliance with these minimum safety codes will be considered reasonable diligence for the prevention of contaminants or pollutants that could backflow into the public drinking water system.

B. To promote the reasonable elimination or control of cross connections in the plumbing fixtures and industrial piping systems of the consumer, as required by the state and plumbing regulations to assure water system safety.

C. To provide for the administration of a continuing program of backflow prevention that will systematically examine risk and effectively prevent the contamination or pollution of the drinking water system. (Ord. 09-12, 7-28-2009)

7-1B-2: RESPONSIBILITIES:

A. Public Works Director Or His/her Designee:

1. Drinking water system surveys/inspections of the consumer water distribution system shall be conducted or caused to be conducted by individuals deemed qualified by the Town and the State. Survey records shall indicate compliance with the state regulations. All such records shall be maintained by the Town.

2. The Town shall schedule and notify in writing all consumers of the need for the periodic system survey to ensure compliance with existing applicable minimum health and safety standards.

3. Selection of an approved backflow prevention assembly for containment control required at the service entrance shall be determined from the results of the system survey.

B. Consumer:

1. It shall be the responsibility of the consumer to comply with this article as a term and condition of water supply, and consumer's acceptance of service is admittance of his or her awareness of his or her responsibilities as a water system user.

2. It shall be the responsibility of the consumer to purchase, install and arrange testing and maintenance of any backflow prevention device/assembly required to comply with this article. Failure to comply with this article shall constitute grounds for discontinuation of service.

3. All buildings will be adequately protected against excessive pressure by using proper pressure reducing mechanisms.

C. Building Official:

1. The Building Official's responsibility to enforce the applicable sections of the international plumbing code begins code currently adopted by the state.

D. Certified Backflow Technician, Repair Person: Whether employed by the consumer or the Town to survey, test, repair or maintain backflow prevention assemblies, the certified Backflow Technician or repair person will have the following responsibilities:

1. Ensure that acceptable testing equipment and procedures are used for testing, repairing or overhauling backflow prevention assemblies.

2. Make reports of such testing and/or repairs to the consumer and the Public Works Director, or his/her designee, on form approved for use by the Public Works Director, or his/her designee, within ten (10) working days of the tests and/or repairs.

3. Include the list of materials or replacement parts being used on the reports.

4. Ensure that replacement parts are equal in quality to parts originally supplied by the manufacturer of the assembly being repaired.

5. Not change the design, material or operational characteristics of the assembly during testing, repair or maintenance.

6. Perform all tests of the mechanical devices/assemblies and shall be responsible for the competence and accuracy of all tests and reports.

7. Ensure that his or her license is current, the testing equipment being used is acceptable to the state and is in proper operating condition.

8. Be equipped with, and competent in the use of, all tools, gauges and other equipment necessary to properly test and maintain backflow prevention assemblies.

E. Test, Install And Repair Of Backflow Assemblies:

1. In the case of a consumer requiring an assembly to be tested, any currently certified Backflow Technician is authorized to make the test and report the results to the consumer and the Public Works Director, or his/her designee.

2. In the case of a consumer requiring an assembly to be installed or repaired, the work must be performed by a tester having class II or III backflow technician certification, and who is also a licensed plumber or agent of the owner. (Ord. 09-012, 7-28-2009)

7-1B-3: REQUIREMENTS:

A. Protection Required:

1. No water service connection to any premises shall be installed or maintained by the Public Works Director, or his/her designee, unless the water supply is protected as required by state laws, the currently adopted plumbing code, and this article. Service of water to a consumer found to be in violation of this article may be discontinued by the Public Works Director, or his/her designee, after due process of written notification of violation and an appropriate time interval for voluntary compliance, if:

a. A backflow prevention assembly required by this article for the control of backflow and cross connections is not installed, tested or maintained; or

b. It is found that a backflow prevention assembly has been removed, bypassed or altered; or

c. An unprotected cross connection exists on the premises; or

d. The periodic system survey and assembly tests have not been conducted.

2. Service will not be restored until such conditions or defects are corrected.

B. Inspections: The customer's water system shall be open for inspection at all reasonable times to authorized representatives of the Public Works Director, or his/her designee, to determine whether cross connections or other structural or sanitary hazards exist, including violation of this article, and to audit the results of the required survey.

C. Backflow Prevention Assembly: Whenever the Public Woks Director, or his/her designee, deems that a service connection water usage contributes to a sufficient hazard to the water supply, an approved backflow prevention assembly shall be installed on the service line of the identified consumer's water system, downstream of the meter, at or near the beginning of service or immediately inside the building being served; but in all cases, before the first branch leading off the service line.

D. Type Of Assembly: The type of protective assembly required under this article shall depend upon the degree of hazard which exists at the point of cross connection, whether direct or indirect, applicable to local and state requirements or resulting from the required survey.

E. Certified Surveys, Inspections: It shall be the responsibility of the consumer at any premises where backflow prevention assemblies are installed to have certified surveys/inspections and operational tests made at least once per year at the consumer's expense. In those instances where the Public Works Director, or his/her designee, deems the hazard to be great, they may require certified surveys/inspections and tests at a more frequent interval. It shall be the duty of the purveyor to see that these tests are made according to the standards set forth by the State Division of Drinking Water.

F. Testing Upon Installation: It shall be the responsibility of the consumer to have all backflow prevention assemblies installed on their water system tested within ten (10) working days of initial installation.

G. Safety Hazards Prohibited: No backflow prevention assemblies shall be installed so as to create a safety hazard, such as over an electrical panel, steam pipes, boilers, or above ceiling level, and shall be easily accessible for testing, maintenance and repair. (Ord. 09-012, 7-28-2009)

7-1B-4: RIGHT OF REASONABLE ENTRY:

A. Authority: Whenever necessary to make an inspection to enforce any of the provisions of any code adopted pursuant to this article, or whenever the Public Works Director, or his/her designee, has reasonable cause to believe that there may exist in any building or upon any premises an unsafe, substandard or dangerous cross connection, as defined in the applicable sections of the currently adopted plumbing code, that presents a danger to the public water system or the building or premises itself, the Public Works Director, or his/her designee, or his or her authorized representative, may enter such building or premises at all reasonable times to inspect the same or proper credentials and demand entry; and

1. If such building or premises be occupied, her or she shall fire present proper credentials and demand entry; and

2. If such building or premises be unoccupied, he or she shall first make a reasonable effort to locate the owner or other persons having charge or control of the building or premises and demand entry. If such entry is refused, the Public Works Director, or his/her designee, or his or her authorized representative, shall have recourse to every remedy provided by law to secure entry.

B. Failure To Permit: No owner or occupant or any other person having charge, care or control of any building or premises shall fail or neglect, after proper demand is made as herein provided, to promptly permit entry therein by the Public Works Director, or his/her designee, or his or her authorized representative, for the purpose of inspection and examination pursuant to any provisions of the currently adopted plumbing code or the provisions of this article. (Ord. 09-012, 7-28-2009)

7-1B-5: APPEALS:

A. Authorized: A customer may appeal the deficiencies noted within the survey or test results which the Public Works Director, or his/her designee, is authorized to make pursuant to this article.

B. Time Limit: Appeals shall be taken within ten (10) days of the Public Works Director or his/her designee's written notification of the deficiencies noted within the survey or test results by filing with the Public Works Director, or his/her designee, a notice of appeal specifying the grounds for the appeal.

C. Hearing Notice: The Public Works Director, or his/her designee, shall fix a time for the hearing of the appeal and give notice to the parties in interest. At the hearing, any party may appear in person or by agent or attorney.

D. Hearing; Further Appeal: The Hearing Officer is authorized to make findings of fact regarding the customer's compliance with the currently adopted plumbing code and the Public Works Director, or his/her designee's decision regarding any deficiencies found in the survey or test results. The decision of the Hearing Officer shall be be final and may be appealed to the fifth district judicial court.

E. Decision Of Hearing Officer: The Hearing Officer may, so long as such action is in conformance with the provisions of this article, reverse or affirm, in whole or part, or may modify the determinations of the Public Works Director, or his/her designee, with respect to the customer's compliance with the currently adopted plumbing code upon a determination that it is proper to do so based on proper safeguarding of the public water system, and may make such order, requirements, decision or determination as ought to be made, and to that end shall have the powers which have been granted to the Public Works Director, or his/her designee, by this article.

F. Policy Review: Where the Hearing Officer determines that there is a flaw in the cross connection control program or that a specific exemption should be awarded on a consistent basis, or that the proper safeguarding of the public water system requires amendment to this article, the Hearing Officer shall advise the Town Attorney as to any question or questions that the Hearing Officer believes should be reviewed and/or amended. (Ord. 09-012, 7-28-2009)

7-1B-6: VIOLATIONS; PENALTY:

If violations of this article exist or if there has not been any corrective action taken by the consumer within ten (10) days of the written notification of the deficiencies noted within the survey or test results, then the consumer shall be charged with a class B misdemeanor, subject to penalty as provided in section 1-4-1 of this code, and the Public Works Director, or his/her designee, may deny or immediately discontinue service to the premises by providing a physical break in the service line until the consumer has corrected the condition in conformance with all state and local regulations and statutes relating to plumbing, safe drinking water supply and this article. (Ord. 09-12, 7-28-2009; amd. 2010 Code)

Title 7 – Utilities

Chapter 1

WATER USE & SERVICE
ARTICLE C. WATER FACILITIES CONSTRUCTION COSTS REIMBURSEMENT GUIDELINES AND PROVISIONS

Title 7, Chapter 2C, Water Facilities Construction Costs Reimbursement Guidelines and Provisions have here by been repealed in its entirety. (Ord. 20-009, 09-08-2020)

Title 7 – Utilities

Chapter 2

SEWER USE AND SERVICE

7-2-1: ADMINISTRATION:
7-2-2: DEFINITIONS:
7-2-3: USE OF PUBLIC SEWER REQUIRED:
7-2-4: SANITARY SEWERS, BUILDING SEWERS AND CONNECTIONS:
7-2-5: RATES FOR USE:
7-2-6: ANNUAL REVIEW OF OPERATIONAL COSTS; REVISION WHERE REQUIRED; DEBT SERVICE:
7-2-7: USE REGULATIONS:
7-2-8: INDUSTRIAL WASTE PROVISIONS:
7-2-9: VANDALISM:
7-2-10: EXTENSION OF SEWER LINES:

7-2-1: ADMINISTRATION:

A. Sewer Department Established:

1. There is hereby established a sewer department, which shall operate and maintain the Town sewage collection and disposal system. The department shall administer, operate, and maintain the sewer system for the Town. The department shall maintain the Town sewer system at the standards which are required by the State Department of Environmental Quality (DEQ) and shall recommend such action as it deems necessary to the Town Council for upgrading and expanding the system.

2. The department shall comprise all of the property, equipment and personnel necessary to the maintenance and operation of the Town sewage collection and disposal system.

B. Public Works Director: The sewer department shall be headed by the Public Works Director, who shall manage, supervise and otherwise direct the Town sewer system pursuant to the direction of the Town Council.

C. Sole Authority To Operate Sewage Disposal System: There shall be only one operating sewage collection and disposal system within the Town corporate limits. That system shall be solely owned, operated and maintained by the Town. It shall be illegal for any person to develop, form, own, maintain and operate any type of sewage collection and disposal system within the Town limits separate and apart from the Town system, except as expressly authorized in this chapter. (Ord. 09-013, 7-28-2009)

7-2-2: DEFINITIONS:

Unless the context specifically indicates otherwise, the meaning of terms used in this chapter shall be as follows:

BIOCHEMICAL OXYGEN DEMAND (BOD): The quantity of oxygen utilized in the biochemical oxidation of organic matter under standard laboratory procedure in five (5) days at twenty degrees (20^{o}) centigrade, expressed in milligrams per liter.

BUILDING DRAIN: That part of the lowest horizontal piping of a drainage system, which receives the discharge from soil, waste and other drainage pipes inside the walls of the building and conveys it to the building sewer, beginning five feet (5') (1.5 meters) outside the inner face of the building wall.

BUILDING SEWER: The sewer extension from the building drain to the public sewer or other place of disposal.

CESSPOOL: An underground reservoir for liquid waste (as household sewage).

DEPARTMENT: The Brian Head Town Department of Public Works.

COMBINED SEWER: A sewer intended to receive both wastewater and stormwater or surface water.

FLOATABLE OIL: Oil, fat or grease in physical state such that it will separate by gravity from wastewater by treatment in an approved pretreatment facility. Wastewater shall be considered free of floatable oil if it is properly pretreated and the wastewater does not interfere with the collection system.

GARBAGE: All waste resulting from residences, commercial trades or businesses and institutions. Commercial and industrial waste shall be distinct from domestic or household sanitary wastes.

GOVERNING BODY: The Brian Head Town Council.

INDUSTRIAL WASTE: The wastewater from industrial processes, trade or business, as distinct from domestic or sanitary wastes.

MAY: Is permissive. See definition of Shall.

NATURAL OUTLET: Any outlet, including storm sewer and combined sewer overflows, into a watercourse, pond, ditch, lake or other body.

PERSON: Any individual, firm, company, association, society, corporation or group.

pH: The logarithm of the reciprocal of the hydrogen concentration. The concentration is the weight of hydrogen, in grams, per liter of solution. Neutral water, for example, has a pH value of 7 and a hydrogen ion concentration of 10^{7}.

PRIVY: A small building having a bench with holes through which the user may defecate or urinate.

PROPERLY SHREDDED GARBAGE: The wastes from the preparation, cooking and dispensing of foods that have been shredded to such a degree that all particles will be carried freely under the flow conditions normally prevailing in public sewers, with no particle greater than two inches (2") (1.27 centimeters) in any dimension.

PUBLIC SEWER: A sewer controlled by the town or part of the system.

RESIDENTIAL EQUIVALENT: A structure, building or unit discharging effluent into the system placing no more burden or discharge than "residential flows", as defined in this section.

RESIDENTIAL FLOWS: The assumed average and/or standard flow expected from a single-family dwelling based on culinary water usage. A residential flow volume strength is two hundred fifty milligrams per liter (250 mg/l) TSS (total suspended solids, see definition of Suspended Solids) and two hundred milligrams per liter (200 mg/l) BOD_5 (biochemical oxygen demand).

SANITARY SEWER: A sewer that carries liquid and water carried wastes from residences, commercial buildings and industrial plants.

SEPTIC SYSTEM: A septic tank, a leach field, and any necessary pumps, pipes and equipment.

SEPTIC TANK: A tank in which the solid matter of continuous flowing sewage is disintegrated by bacteria.

SEWAGE: The spent water of a community. The preferred term is "wastewater", as defined in this section.

SEWER: A pipe or conduit that carries wastewater or drainage water.

SHALL: Is mandatory. See definition of May.

SLUG: Any discharge of water or wastewater which in concentration of any given constituent or in quantity of flow exceeds for any period of duration longer than fifteen (15) minutes more than five (5) times the average twenty four (24) hour concentration of flows during normal operation and adversely affects the collection system and/or performance of the wastewater treatment works.

STORM DRAIN (Sometimes Termed STORM SEWER): A drain or sewer for conveying water, groundwater, subsurface water or unpolluted water from any source other than from inside a building, residence or other enclosed structure connected to a building drain.

SUSPENDED SOLIDS: Total suspended matter that either floats on the surface of, or is in suspension in, water, wastewater or other liquids, and that is removable by laboratory filtering as prescribed in "Standard Methods For The Examination Of Water And Wastewater", and referred to as nonfilterable residue.

SYSTEM: The sanitary sewer, storm sewer, combined sewer, wastewater facilities and wastewater treatment work of the Town.

TOWN: Brian Head Town, Iron County, Utah.

UNPOLLUTED WATER: Water of quality equal to or better than the effluent criteria in effect, or water that would not cause violation of receiving water quality standards and would not be benefited by discharge to the sanitary sewers and wastewater treatment facilities provided.

WASTEWATER: The spent water of a community. From the standpoint of source, it may be a combination of the liquid and water carried wastes from residences, commercial buildings, industrial plants and institutions, together with any groundwater, surface water and storm water that may be present.

WASTEWATER FACILITIES: The structures, equipment, sewers and processes required to collect, carry away and treat wastewater and dispose of the effluent.

WASTEWATER TREATMENT WORKS: An arrangement of devices and structures for treating wastewater, industrial wastes and sludge. Sometimes used as synonymous with "waste treatment plant" or "wastewater treatment plant" or "water pollution control plant".

WATERCOURSE: A natural or artificial channel for the passage of water either continuously or intermittently. (Ord. 09-013, 7-28-2009)

7-2-3: USE OF PUBLIC SEWER REQUIRED:

A. Prohibited Deposits, Discharges:

1. It shall be unlawful for any person to place, deposit or permit to be deposited on public or private property within the Town, or in any area under the jurisdiction of said Town, any human excrement, garbage or other objectionable waste.

2. It shall be unlawful to discharge to any natural outlet within the Town, or in any area under the jurisdiction of said Town, any sewage or other polluted waters except where suitable treatment has been provided in accordance with subsequent provisions of this chapter.

3. Except as hereinafter provided, it shall be unlawful to construct or maintain any privy, privy vault, septic system, cesspool or other facility intended or used for the disposal of wastewater.

B. Connection Required: Pursuant to §10-8-28 of Utah State Code, any owner of property located within the Town shall connect (hook up) to the Town system when a sewer mainline is within three hundred feet (300') and is installed in a Town street, right of way or Town approved easement of any portion of the property boundary as follows: (amd. Ord. 20-009, 09-08-2020)

1. New Construction: Connection to a public sewer is required where a new dwelling unit or facility used for human occupancy is being proposed, built, reconstructed or altered, and where a building permit is required.

2. Existing Dwelling Or Facility:

a. Failed System: Connection to a public sewer is required when the existing septic system has failed and needs repairs to the leach field or septic tank (treatment outside the building in the septic tank or absorption system).
b. Unpermitted System: Connection to a public sewer is required within one year of a notice to comply issued by Southwest Utah public health department, when the owner of property is unable to provide information and materials that a septic system permit has been issued by Southwest Utah Public Health Department.

c. Change Of Ownership: Connection to a public sewer is required when the ownership of property changes to another owner.

d. New Sewer Service Availability: Connection to a public sewer is required within three (3) years of a new public sewer mainline becoming available to an existing dwelling or facility.

C. Special Funding: The Town acknowledges the possibility of utilizing special funding tools (i.e., special improvement districts, special service districts, etc., or other legally recognized methods) when collective connections to the public sewer may be required by this chapter.

D. Evaluation, Approval Authority: The Southwest Utah Public Health Department and the State Department of Environmental Quality shall be considered the Town experts in evaluating and approving and permitting sewage treatment systems.

E. Waiver Of Sewer Connection Requirement: In the event that a sewer connection is required by this chapter, but is not practically feasible due to unusual circumstances, a letter of waiver may be provided by the Public Works Director stating the nature of the unusual circumstances. Unusual circumstances shall be determined by the Public Works Director, and may include such things as grade, physical barriers, insufficient capacity of system, distance of home from property line, topography, etc. Additionally, the Town shall explain its intent to provide, or not to provide, for a future sewer connection, as well as a statement of acknowledgment for the use of an appropriate on-site wastewater system.

F. Connections Outside Distance Requirement: Nothing in this chapter shall prohibit the connection to a public sewer as described in this chapter when a property is beyond the three hundred foot (300') connection requirement, if desired by the property owner and for which provisions are made in an appropriate agreement. The Town encourages connection to a public sewer whenever and wherever possible in order to preserve and protect groundwater quality in the county.

G. Penalty: To evidence compliance with the requirements of this section, the Town adopts the penalty and compensatory sanctions, the violation of which shall constitute a class B misdemeanor: The Town hereby exercises jurisdiction to protect its culinary water system and sources from exposure to underground percolation from any ecological injury, pollution or contamination of the watershed or exposure to the system and water polluting underground percolation influencing the culinary waterworks sources. The failure of a person to comply with this section shall constitute a public offense and is punishable by law as a class B misdemeanor. Such person shall pay a fine of not less than fifty dollars ($50.00) for each day of violation and each day of failure to connect shall be deemed a separate offense. (Ord. 09-013, 7-28-2009)

7-2-4: SANITARY SEWERS, BUILDING SEWERS AND CONNECTIONS:

A. Permit Required: No unauthorized person shall uncover, make any connections into, use, alter or disturb any public sewer or appurtenance thereof without first obtaining a written permit from the Town.

B. Classification; Application: There shall be one class of sewer connection, to be known as "residential" or "residential equivalent". In every case, the owner or agent shall make application on a form obtained from the Town. The permit application shall be supplemented by any plans, specifications or other information considered pertinent in the judgment of the Public Works Director. A fee for sewer connection permits and inspections shall be assessed and collected at the time of application to the Town.

C. Separate Sewer Required; Exception: A separate and independent building sewer shall be provided for every building; except, where one building stands at the rear of another on an interior lot having no street frontage and no private sewer is available or can be constructed to the rear building through an adjoining alley, court, yard or driveway, the building sewer from the front building may be extended to the rear building and the whole system will be considered as one building sewer. The Town does not and will not assume any obligation or responsibility for damage caused by or resulting from any such single connection aforementioned.

D. Use Of Old Building Sewers: Old building sewers may be used in connection with new buildings only when they are examined and tested by the department, at the owner's sole cost, and found to meet all requirements of this chapter.

E. Construction Methods: The size, slope, alignment, materials or construction of all sanitary sewers, including building sewers, and the methods to be used in excavating, placing of the pipe, jointing, testing and backfilling the trench, shall all conform to the requirements of the building and plumbing codes, or other applicable rules and regulations of the code provisions, or in amplification thereof. The materials and procedures set forth in appropriate specifications of the ASTM and WPCF manual of practice no. 9 shall apply.

F. Elevation: Whenever possible, the building sewer shall be brought from the building at an elevation below the basement floor. In all buildings in which any building drain is too low to permit gravity flow to the public sewer, sanitary sewage carried by such building drain shall be lifted by an approved means and discharged to the building sewer. Where such means are necessary, the owner shall be responsible for all installations, maintenance and operating costs of their operation.

G. Polluted Surface Drainage: No person shall make connection of roof downspouts, foundation drains, areaway drains or other sources of surface runoff or groundwater to a building sewer or building drain which in turn is connected directly or indirectly to a public sanitary sewer, unless such connection is approved by the Public Works Director and the State Department of Environmental Quality for purposes of disposal of polluted surface drainage.

H. Grease Interceptors: All new and existing buildings and facilities are required to have in place and operational grease interceptors and/or separators as set forth by the International Plumbing Code section 1003.

I. Code Compliance; Standards: The connection of the building sewer into the public sewer shall conform to the requirements of the building and plumbing codes or other applicable rules and regulations of the Town and the State, or the procedures set forth in appropriate specifications of nationally recognized publications of what are known as the ASTM and the WPCF Manual of Practice No. 9, and/or the Town Public Works Standards. All such connections shall be made gastight and watertight. Any deviation from the prescribed procedures and materials must be approved by the Public Works Director before installation.

J. Excavations: All excavations for building sewer installation shall be adequately guarded with barricades and lights so as to protect the public from hazard. A person must first obtain a permit from the Public Works Director prior to doing any excavation in a public right of way. streets, sidewalks, parkways and other public property disturbed in the course of the work shall be restored in a manner satisfactory to the Town. (Ord. 09-013, 7-28-2009)

7-2-5: RATES FOR USE:

A. Established: The rates for connecting to and use on monthly or any other basis may be fixed and amended by resolution or amending ordinance. The governing body will, to promote equity in distribution of operation and maintenance costs, and for no other purpose, establish rates based entirely upon metered water usage, effluent strength by or solely upon the basis as defined hereinabove, or upon an equitable combination of any of those so that the costs of operation and maintenance reflected in rates will be equitably distributed among those based upon their usage of and benefit received from the system.

B. Costs And Expenses Borne By Owner: All costs and expenses incidental to the installation, connection and maintenance of each building sewer to the public sewer shall be borne by the owner. The owner shall indemnify the Town from any loss or damage that may directly or indirectly be occasioned by the installation, connection or maintenance activities of the building sewer.

C. Liability For Charges: Irrespective of the occupant, user, tenant, cotenant, permissive user, or any other person, firm, partnership, corporation or entity being in possession of the premises to which a connection is supplied or service made available, the owner of the premises according to the records of the County Recorder shall be legally responsible for the payment of all charges, fees, assessments and any other obligation or liability of user.

D. Delinquency: If any delinquent sewer connection, sewer user charge, repairs, maintenance or any other obligation is imposed against any premises, property, buildings or structures, the obligation shall be deemed by the Town as an obligation of the owner of the real property on which any use is made from a sewer connection. Water service to delinquent property shall be turned off by the Town for failure to pay any and all sewage and wastewater fees, assessments, charges or liability, and will not be turned on again to those premises where a delinquency occurs unless and until all liabilities to the Town for sewer service are paid in full. All payments for utilities, whether "water" or "sewer", shall be credited first to sewer assessments, fees or charges.

E. Interest Charge On Delinquent Or Past Due Connection Fees: The Town Council may, at their discretion and in circumstances that are equitable, impose interest at the highest legal

rate on all past due accounts, either for connection fees, user charges, assessments, maintenance, repair or any other charge which is provided for, imposed or authorized by this chapter.

F. Notification: Each user will be notified, at least annually, in conjunction with a regular bill, of the rate and that portion of the user charges, which are attributable to wastewater treatment services (O&M) vs. debt service. (Ord. 09-013, 7-28-2009)

G. Fee/Rate Relief: Public Works Director shall be authorized to adjust and/or waive sewer fees resulting from excessive use of water if the Public Works Director determines that the excessive use is not due to the actions of the utility user (property owner or tenant) but rather due to causes beyond the control of the user and if the utility user informs the Town within thirty (30) days of the date of the bill showing the excessive use. (Ord. 15-002, 01-27-2015)

Administrative decisions regarding water fee/rate relief may be appealed by the water user upon written request within thirty (30) days of the administrative decision. The appeal will be heard by a board consisting of the Town Manager and two members of the Town Council. The appeal board will review whether the administrative decision was made consistent with the provisions of this Title. (Ord. 15-002, 01-27-2015)

7-2-6: ANNUAL REVIEW OF OPERATIONAL COSTS; REVISION WHERE REQUIRED; DEBT SERVICE:

A. The Town shall review the total annual cost of operation and maintenance, long term debt service relating to the wastewater treatment works, as well as each user's wastewater contribution percentage not less often than every year, and will revise the user charge system as necessary to assure equity of the system established herein, and to assure that sufficient funds are obtained from the town user charge system to:

1. Consistently operate and maintain the wastewater treatment works; and

2. Cover said debt service.

B. The Town will apply excess revenues collected from users to the costs of operation and maintenance for the next year and adjust this rate accordingly. The addendum attached to ordinance 09-013, entitled "Brian Head Town Consolidated Fee Schedule" shall be used for calculating rates. The addendum shall be used as a formula for calculating rates, fees and charges for connection, use and access to the system. The addendum is adopted and made a part of this chapter. (Ord. 09-013, 7-28-2009)

7-2-7: USE REGULATIONS:

A. Unpolluted Waters: No person shall discharge or cause to be discharged any unpolluted waters, such as storm water, surface water, groundwater, roof runoff, subsurface drainage or cooling water to any sanitary sewer.

B. Storm water: Storm water shall be discharged to such sewers as are specifically designated as storm sewers, or to a natural outlet approved by the State Department of Environmental Quality and other regulatory agencies.

C. Prohibited Discharges: No person shall discharge or cause to be discharged any of the following described waters or wastes to any public sewers:

1. Any gasoline, benzene, naphtha, fuel oil or other flammable or explosive liquid, solid or gas.

2. Any waters containing toxic or poisonous solids, liquids or gases in sufficient quantity, either singly or by interaction with other wastes, to contaminate the sludge of the Town system, to injure or interfere with any sewage treatment process, constitute a hazard to humans or animals, create a public nuisance, or create any hazard in the receiving waters of the wastewater treatment plant.

3. Any waters or wastes having a pH lower than 5.5 or having any other corrosive property capable of causing damage or hazard to structures, equipment and personnel of the wastewater treatment works.

4. Solid or viscous substances in quantities or of such size capable of causing obstruction to the flow in sewers, or the interference with the proper operation of the wastewater facilities, such as, but not limited to, ashes, cinders, sand, mud, straw, shavings, metal, glass, rags, feathers, tar, plastics, wood, unground garbage, whole blood, paunch manure, hair and fleshings, entrails and paper dishes, cups and milk containers, etc., either whole or ground by garbage grinders. Each user which discharges any toxic pollutants which cause damage to the Town wastewater facilities shall be liable to the Town for such damage and for all expenses incurred by the Town in repairing or replacing those wastewater facilities.

D. Limited Discharges: The following described substances, materials, waters or waste shall be limited in discharges to the Town system to concentrations or quantities which will not harm either the sewers, wastewater treatment process or equipment, will not have an adverse effect on the receiving stream, or will not otherwise endanger lives, limb, public property, or constitute a nuisance. The Public Works Director may set limitations lower than the limitations established in the regulations below if, in his opinion, such more severe limitations are necessary to meet the above objectives. In forming his opinion as to the acceptability, the Public Works Director shall consider such factors as the quantity of subject waste in relation to flows and velocities in the sewers, materials of construction of the sewers, the wastewater treatment process employed, capacity of the wastewater treatment plant, degree of treatability of the waste in the wastewater treatment plant, and other pertinent factors. The limitations or restrictions on materials or characteristics of waste or wastewaters discharged to the sanitary sewer which shall not be violated without approval of the Public Works Director are as follows:

1. Wastewater having a temperature higher than one hundred fifty degrees Fahrenheit (150^{o}F) (65 degrees centigrade).

2. Wastewater containing more than twenty-five (25) milligrams per liter of petroleum oil, non-biodegradable cutting oils or product of mineral oil origin.

3. Wastewater from industrial plants containing floatable oils, fat or grease.

4. Any garbage that has not been properly shredded (see definition of "properly shredded garbage", as defined in section 7-2-2 of this chapter). Garbage grinders may be connected to sanitary sewers from homes, hotels, institutions, restaurants, hospitals, catering establishments or similar places where garbage originates from the preparation of food in kitchens for the purpose of consumption on the premises or when served by caterers. Grinders for commercial establishments may be inspected by Town personnel at any reasonable time.

5. Any waters or wastes containing iron, chromium, copper, zinc and similar objectionable or toxic substances to such degree that any such material received in the wastewater treatment works exceeds the limits established by DEQ for such materials.

6. Any waters or wastes containing odor producing substances in an amount exceeding limits established by DEQ for such substances.

7. Any radioactive wastes or isotopes of such half-life or concentration as may exceed limits established by the Public Works Director in compliance with the applicable state or federal regulations.

8. Quantities of flow, concentrations, or both, which constitute a "slug", as defined in section 7-2-2 of this chapter.

9. Waters or wastes containing substances which are not amenable to treatment or reduction by the wastewater treatment processes employed, or are amenable to treatment only to such degree that the wastewater treatment plant effluent cannot meet the requirements of other agencies having jurisdiction over discharge to the receiving waters.

10. Any waters or wastes which, by interaction with other waters or wastes in the public sewer system, release obnoxious gases, form suspended solids which interfere with the collection system, or create a condition deleterious to structures and treatment processes.

E. Authority Regarding Prohibited Discharges: If any waters or wastes are discharged, or are proposed to be discharged to the public sewers, which water contains the substances or possesses the characteristics enumerated in subsection D of this section, and which, in the judgment of the Public Works Director, may have a deleterious effect upon the wastewater facilities, wastewater treatment processing equipment or receiving waters, or which otherwise create a hazard to life or constitute a public nuisance, the Public Works Director may:

1. Reject the wastes;

2. Require pretreatment to an acceptable condition before discharge to the public sewers;

3. Require control over the quantities and rates of discharge; and/or

4. Require payment to cover the added cost of handling and treating the wastes not covered by existing taxes or sewer charges under the provisions of section 7-2-5 of this

chapter. When considering the above alternatives, the Public Works Director shall give consideration to the economic impact of each alternative on the discharger. If the Public Works Director permits the pretreatment or equalization of waste flows, the design and installation of the plants and equipment shall be subject to the review and approval of the Public Works Director.

F. Interceptors: Grease, oil and sand interceptors shall be provided when required by the International Plumbing Code section 1003. Interceptors shall not be required for private living quarters or dwelling units. All interceptors shall be of a type and capacity approved by the Public Works Director and shall be located as to be readily and easily accessible for cleaning and inspection. In the maintaining of these interceptors, the owner shall be responsible for the proper removal and disposal by appropriate means of the captivated material and shall maintain records of the dates and means of disposal, which shall be subject to review by the Public Works Director. Any removal and hauling of the collected materials not performed by owner's personnel must be performed by currently licensed waste disposal firms.

G. Maintenance Of Facilities: Where pretreatment or flow equalizing facilities are provided or required for any waters or wastes, they shall be maintained continuously in satisfactory and effective operation by the owner at his expense.

H. Observation Structure: When required by the Public Works Director, the owner of any property serviced by a building sewer carrying industrial wastes shall install a suitable structure, together with such necessary meters and other appurtenances in the building sewer, to facilitate observation, sampling and measurement of the wastes. Such structures, when required, shall be accessible and safely located, and shall be constructed in accordance with plans approved by the Public Works Director. The structure shall be installed by the owner at his expense and shall be maintained by him so as to be safe and accessible at all times.

I. Information Determining Compliance Required: The Public Works Director may require a user of sewer services to provide information needed to determine compliance with these rules. Such information may include:

1. Wastewaters discharge peak rate and volume over a specified time period.

2. Chemical analysis of wastewaters.

3. Information on raw materials, processes and products affecting wastewater volume and quality.

4. Quantity and disposition of specific liquid, sludge, oil, solvent or other materials important to sewer use control.

5. A map or plat of the user's property showing any pretreatment facility location.

6. Details of wastewater pretreatment facilities.

7. Details of systems to prevent and control the losses of materials through spills to the public sewer.

J. Measurements, Tests And Analyses: All measurements, tests and analyses of the characteristics of water and wastes to which reference is made in these rules shall be determined in accordance with the latest edition of "Standard Methods For The Examination Of Water And Wastewater", published by the American Public Health Association. Sampling methods, location, times, durations and frequencies are to be determined on an individual basis subject to approval by the Public Works Director.

K. Special Agreements: No statement contained in this section shall be construed as preventing any special agreement or arrangement between the Town and any industrial concern whereby an industrial waste or unusual strength or character may be accepted by the Town for treatment. (Ord. 09-013, 7-28-2009)

7-2-8: INDUSTRIAL WASTE PROVISIONS:

The developers of all commercial/industrial projects shall provide the Town with detailed information concerning the projects' expected wastewater quality and quantity. The Town will review this information and determine which of the following facilities are required:

A. Building sewer sampler.

B. Wastewater flow monitoring station.

C. Gravity separator.

D. Industrial waste clarifier.

E. Pretreatment facilities.

F. Under certain circumstances, the Town may require special pipe installation procedures or types of pipe, including special protective coating for pipe and fittings.

G. All industrial truck/car washes will be a recirculating non-discharge type. (Ord. 09-013, 07-28-2009)

7-2-9: VANDALISM:

No persons shall maliciously, willfully, or negligently break, damage, destroy, uncover, deface or tamper with any structure, appurtenances or equipment that is a part of the wastewater facilities. Any persons violating this provision may be subject to immediate arrest. (Ord. 09-013, 7-28-2009)

7-2-10: EXTENSION OF SEWER LINES:

Any and all line extensions from any Town sewer main line, not otherwise a part of a Town Public Works project, shall be at the owner's expense, subject to the terms of a sewer line extension

agreement provided by the Town, and required as a condition precedent to any sewer line extension. The property owner shall extend such sewer line to the furthest point on the owner's lot property line which is fronting a Town street. The expenses of installing sewer lines shall be at the sole expense of the owner, and in accordance with Town specifications and State DEQ; and, under this section, shall be deemed the property of the Town upon inspection and acceptance of the sewer line by the Town. (Ord. 09-013, 7-28-2009)

Title 7 – Utilities

Chapter 2

SEWER USE & SERVICE
ARTICLE A. SEWER FACILITIES CONSTRUCTION COSTS REIMBURSEMENT GUIDELINES AND PROVISIONS

Title 7 Chapter 2 A, Sewer Facilities Construction costs Reimbursement Guidelines and Provisions are hereby repealed in its entirety. (Ord. 20-009, 09-08-2020).

Title 8 – Building & Development Regulations

Chapter 1

BUILDING AND RELATED CODES; REGULATIONS

8-1-1: PURPOSE AND INTENT:
8-1-2: CODES ADOPTED:
8-1-3: SUCCESSOR CODES:
8-1-4: RESIDENTIAL AUTOMATIC FIRE SPRINKLER REQUIREMENT:

8-1-1: PURPOSE AND INTENT:

It is the purpose and intent of this chapter to establish the regulatory codes and guidelines to govern construction within the town in a thorough and concise manner while also providing for the adoption of changes to the codes and guidelines without the necessity of adopting new ordinances for each change or amendment to said codes and guidelines. (2010 Code)

8-1-2: CODES ADOPTED:

A. Building Code: The International Building Code (IBC), as adopted by the state, is hereby adopted as the Official Building Code for the town, subject to section 8-1-3 of this chapter.

B. Fire Code: The International Fire Code (IFC), as adopted by the state, is hereby adopted as the official fire code for the town, subject to section 8-1-3 of this chapter.

C. Other Codes As Approved: All other building, plumbing, electrical, mechanical, energy and/or natural gas codes established and adopted as standard by the state, including amendments thereto, shall hereby become established as the adopted codes of the town, subject to section 8-1-3 of this chapter. (2010 Code)

8-1-3: SUCCESSOR CODES:

The adoption of any and all codes, as established herein, as the adopted codes of the town, shall also adopt any replacement or successor codes as they become adopted by the state and shall become effective by the town immediately upon passage by the state. (2010 Code)

8-1-4: RESIDENTIAL AUTOMATIC FIRE SPRINKLER REQUIREMENT:

(Repealed by Ordinance No. 19-006, 6-24-2019, Portions re-instated with Ord. No. 19-011, 8-26-2019)

A. The Town requires automatic fire sprinklers which shall be installed in any new one and two-family and townhouse buildings that are unsafe to access by public safety personnel and apparatus, as determined by the Public Safety Director, in accordance with section 903.3.1 of the International Building Code currently adopted by the State Code Commission. (Ord. 19-011, 8-26-2019)

B. Safety of access to buildings will be determined by the Public Safety Director according to the following standards:

1. Proximity of public water system.

2. Slope and/or condition of access road.

3. Slope, length and/or condition of private driveway access.

4. Size of the structure (over 10,000 square feet).

5. Any combination of the above factors that result in a determination by the Public Safety Director that fire suppression activities would result in unusually high danger for public safety personnel.

(Ord. 19-011, 8-26-2019)

Title 8 – Building & Development Regulations

Chapter 2

PUBLIC WORKS CONSTRUCTION SPECIFICATIONS

8-2-1: STANDARD PLANS AND SPECIFICATIONS ADOPTED:

8-2-1: STANDARD PLANS AND SPECIFICATIONS ADOPTED:

The Town Manual of Standard Specifications for Public Works Construction, dated August 2007, attached to ordinance 07-011 and amended on October 22, 2018, ordinance 18-013 and on file in the office of the Town Clerk, is hereby adopted by reference as plans and standards applicable to construction and improvements within the town. All construction and improvements within the town shall comply with such plans. 2010 Code, amd Ord. 08-013, 10-22-2018

Title 8 – Building & Development Regulations

Chapter 3

EXCAVATIONS, ENCROACHMENTS AND STRUCTURES WITHIN RIGHTS OF WAY

8-3-1: COMPLIANCE, PERMIT REQUIRED:
8-3-2: EXCEPTION FOR EMERGENCY CONDITIONS:
8-3-3: WINTER SEASON:
8-3-4: APPLICATION FOR PERMIT:
8-3-5: TERM OF PERMIT:
8-3-6: FEES:
8-3-7: COMPLETION BOND:
8-3-8: ENGINEERING STANDARDS AND REQUIREMENTS:
8-3-9: SUPERVISION AND INSPECTION:
8-3-10: FAILURE TO COMPLY:
8-3-11: PENALTY:

8-3-1: COMPLIANCE, PERMIT REQUIRED:

A. It shall be unlawful for any person, firm, public utility or corporation to place, make, enlarge or change any excavation, driveway, encroachment or structure within the right of way of any town road without complying with the provisions of these regulations and obtaining a permit as provided for herein.

B. It shall be unlawful, and punishable as provided for herein, to make any excavation or to place any encroachment or structure in any town right of way not described in the approved permit application or which exceeds in size the dimensions, or which does not conform to the conditions described in said application. (Ord. 07-014, 11-13-2007)

8-3-2: EXCEPTION FOR EMERGENCY CONDITIONS:

Emergency excavations and encroachments may be commenced without prior permit if the reason for the excavation or encroachment is to prevent loss of life or damage to property which appears to be imminent if the action is delayed by waiting to secure said permits. In such emergency situations, those making the excavation or encroachment must contact the Public Works Director's office and/or the town engineer's office at the earliest possible time, but in no case later than the first working day following the emergency work in order to secure a formal

permit. None of the provisions of these specifications are waived for emergency situations except for the prior permit requirement. (Ord. 07-014, 11-13-2007)

8-3-3: WINTER SEASON:

No permits for road excavations or other excavations within ten feet (10') of the edge of a Town rights-of-way shall be issued during the winter season, except in emergency situations. For the purposes of this section, "winter season" begins October 15 each year and ends May 15 of the succeeding year, except in the following situations: (Ord. 07-014, 11-13-2007 amd. Ord. 20-012, 12-8-2020)

A. The Public Works Director or his/her designee has issued an extension for work to continue beyond October 15. Extension will need to show a plan of work and a completion date. (Ord. 20-012, 12-8-2020)

B. All permits (normal and extension) can be revoked if deemed necessary by the Public Works Director or his/her designee within a 24-hour notice to the contractor. (Ord. 20-012, 12-8-2020)

8-3-4: APPLICATION FOR PERMIT:

Applications for all permits shall be made by the person, firm, public utility or corporation actually doing the work. Applications for all permits shall be made to the Public Works Director's office as provided, and shall describe the excavation, encroachment, structure or driveway, and shall have a drawing of the location of the intended excavation, encroachment, structure or driveway, the pertinent dimensions thereof, the purpose therefor, the person, firm, public utility or corporation doing the actual work, and the name of the person, firm, public utility or corporation for whom or by which the work is being done, and shall contain an agreement that the applicant will comply with all ordinances and laws of the town and the state relating to the work to be done. A traffic control plan, conforming to the manual of uniform traffic control devices (MUTCD), shall be submitted with all applications which involve excavations within a town road right of way. The application shall also provide for an agreement that the applicant shall indemnify the town for any loss, liability or damage that may result from or because of the making, placement, existence or manner of guarding or constructing any such excavation, encroachment, structure or driveway. (Ord. 07-014, 11-13-2007)

8-3-5: TERM OF PERMIT:

All permits issued pursuant to these regulations shall be valid for a period of sixty (60) days from issuance, except that no permit shall extend into the winter season as outlined in section 8-3-3 of this chapter. A copy of the permit issued shall be made available by the applicant at all times when work is under way. (Ord. 07-014, 11-13-2007)

8-3-6: FEES:

A review fee, in the current amount as identified in the consolidated fee schedule, shall accompany each application for a permit, unless other fee payment arrangements have been approved by the Town. (Ord. 07-014, 11-13-2007)

8-3-7: COMPLETION BOND:

A. Required: Applicants shall provide a completion bond to the town in the amount as identified in the consolidated fee schedule at the time the permit is approved. This may be cash, a letter of credit from an FDIC insured financial institution, or a corporate surety bond. The bond shall be valid for a period of two (2) years from the date of the construction inspection to guarantee that the condition of any permit, together with any restorative works, is completed properly (the "guarantee period"). The bond will be released upon recommendation of the town engineer and/or the Public Works Director.

B. Continual Annual Bond: Applicants for permits may secure a continual annual bond in lieu of separate bonds for each excavation. Applications for continual bonds shall be made before December 31 of each year and shall be valid for the next calendar year and be valid for a period of two (2) years.

C. Exception: Those public entities which are regulated by the state public service commission are exempt from the bonding requirements of this section but shall still be required to obtain a permit prior to making any excavation. (Ord. 07-014, 11-13-2007)

8-3-8: ENGINEERING STANDARDS AND REQUIREMENTS:

Specific engineering standards and requirements for the enforcement of these regulations are attached to ordinance 07-014 and on file in the town office. (Ord. 07-014, 11-13-2007; amd. 2010 Code)

8-3-9: SUPERVISION AND INSPECTION:

A. Required: The Public Works Director, or his designee, shall from time to time inspect, or cause to be inspected, all work done pursuant to permits to ensure compliance with the provisions of these regulations. Notification shall be given to the Public Works Director, or his designee, at least twenty-four (24) hours prior to the commencement of any work. The completion bond shall not be released until an inspection shows compliance with all applicable provisions of these regulations.

B. Driveway Encroachments: Driveway encroachments require the following inspections to ensure compliance with the standards set out in these regulations:

1. Staking Inspection: A stake or marker shall be placed at each corner of the encroachment as it intersects the road or street, and at each intersection of the driveway as it crosses the right of way or easement line. The front property corners shall also be set and marked with survey markers. This inspection is required prior to

the encroachment permit being approved. The Public Works Director's office must receive at least twenty-four (24) hours' notice prior to requested inspection.

2. Rough Grade Inspection: An inspection of the rough grade driveway is required prior to receiving a footing inspection by the building department. The driveway must be graded to a point that the inspector can determine compliance with these regulations and the land management code. The footing elevation/garage floor elevation must be established prior to requesting an inspection. The Public Works Director's office must receive at least twenty-four (24) hours' notice prior to requested inspections.

3. Pre-surfacing Inspection: An inspection of the driveway is required prior to surfacing (soft or hard) the driveway to determine compliance with these regulations and the land management code. In no case can a certificate of occupancy be issued without the pre-surfacing inspection, and the driveway being in compliance with this chapter and the land management code. (Ord. 07-014, 11-13-2007)

8-3-10: FAILURE TO COMPLY:

In the event of failure on the part of any person, firm, public utility or corporation to comply fully with the provisions of these regulations, law enforcement authorities and/or the Public Works Director are authorized to:

A. Initiate action by citation or information under section 8-3-11 of this chapter and/or proceed to forfeit the bond; or

B. Remove such encroachment, driveway or structure from the right of way or require such person, firm or corporation to remove the same; or

C. Give written notice to such person, firm, public utility or corporation to remove such encroachment, driveway or structure from the right of way. Such notice may be served either by personal service or by mailing the notice to the person, firm, public utility or corporation by registered mail and posting a copy thereof on such encroachment, driveway or structure for a period of ten (10) days. If such encroachment, driveway or structure is not removed within ten (10) days after the notice is complete, said authorities may remove the same at the expense of the person, firm or corporation and recover costs and expenses, and also the sum of one hundred dollars ($100.00) for each day the same remained within the right of way after notice was complete, in an action for that purpose; or

D. If such person, firm, public utility or corporation disputes or denies the existence of such encroachment, driveway or structure, or refuses to remove or permit its removal, said authorities may bring an action to abate the same as a nuisance, and if judgment is recovered by said authorities, there shall also be recovered, in addition to having the same abated, the costs of action and the sum of one hundred dollars ($100.00) for every day such nuisance remained within the right of way after notice was given for its removal in the manner provided in subsection B of this Section; or

E. Revoke, suspend, terminate, impose conditions on, or modify, in whole or in part, any permit issued to such person, firm, public utility or corporation. (Ord. 07-014, 11-13-2007

8-3-11: PENALTY:

Any person who violates the provisions of this chapter is guilty of a class C misdemeanor and a one hundred dollar ($100.00) fine per day. Each day of a continuing violation shall be deemed a separate offense. (Ord. 07-014, 11-13-2007)

Title 9 – Land Management Code

Chapter 1

GENERAL PROVISIONS

9-1-1: OVERVIEW:
9-1-2: SHORT TITLE:
9-1-3: STATEMENT OF PURPOSE:
9-1-4: INTERPRETATION:
9-1-5: COORDINATION WITH OTHER LAND USE DOCUMENTS:
9-1-6: APPROVALS CONSISTENT WITH THIS TITLE:
9-1-7: AMENDMENTS:
9-1-8: NOTICES:

9-1-1: OVERVIEW:

A. There are a number of activities related to the use, sale and development of land that have been determined by federal and state law to be in the public interest for local government to oversee and regulate in order to bring about the safe, orderly creation (and maintenance) of communities. These include such activities as subdividing land into lots for sale, building structures, constructing roads, installing utilities, etc.

B. In order to effectively regulate these activities, communities are empowered to establish review and permitting processes. This title contains the review and permitting processes related to land development activities in the Town. (amd. ord. 21-005, 5-11-2021)

C. Chapters 6 and 7 of this title constitute the zoning ordinance as contemplated in Utah Code Annotated § 10-9a-501

9-1-2: SHORT TITLE:

This title shall be known as the *BRIAN HEAD TOWN LAND MANAGEMENT CODE*, also known as Title 9 of the Brian Head Town Code.

9-1-3: STATEMENT OF PURPOSE:

A. The purposes of this title, and any rules, regulations and specifications hereafter adopted are to promote the public health, safety and general welfare through provisions designed

B. To preserve the natural beauty and topography of the town and to preserve the outstanding natural, cultural, or historical features, to ensure appropriate development with regard to these features and to assure the proper use and management of the natural beauty and resources of the Town.

C. To guide future growth, provide for the harmonious and coordinated development of the Town (in conjunction with the Town General Plan), and to protect and conserve the value of land throughout the town and the value of buildings and improvements upon the land.

D. To minimize the conflicts among the uses of land and buildings, and to prevent overcrowding of the land and undue congestion of population.

E. To provide for efficient layout and use of building lots, roads and public services and utilities, recreational opportunities, and open space.

F. To provide for adequate light, air, view corridors and privacy, to secure safety from fire, flood, landslides and other geologic hazards, and other dangers.

G. To prevent the pollution or degradation of air, streams, and ponds; to ensure the adequacy of drainage facilities; to safeguard the water table; to minimize site disturbance, removal of native vegetation and soil erosions; and to encourage and promote the conservation, wise use, and management of natural resources throughout the Town in order to preserve the integrity, stability and beauty of the community and value of the land.

H. To avoid scattered and premature subdivisions which would cause insufficient public services and facilities or necessitate an excessive expenditure of public funds for the supply of such services and facilities.

I. To inform the public of the requirements and conditions necessary to obtain approvals and permits to

1. Change or create property boundaries (subdivide land).
2. Construct or modify buildings, signs, structures, or utilities.
3. Alter the land or landscape.
4. Create or modify zoning classifications for a property.

5. Modify the General Plan.

9-1-4: INTERPRETATION:

A. **Greater Restrictions Prevail:** In their interpretation and application, the provisions of this title shall be considered as minimum requirements. Where the provisions of this title impose greater restrictions than any statute, other regulation, ordinance or covenant, the provisions of this title shall prevail. Where the provisions of any statute, other regulation, ordinance, or covenant impose greater restrictions than the provisions of this title, the provisions of such statute, other regulation, ordinance, or covenant shall prevail.

B. **Definitions**: Whenever any word or phrase used in this title is not defined herein but is defined in related sections of Utah Code Annotated or this code, such definition is incorporated herein and shall apply as though set forth herein in full, unless the context clearly indicates a contrary intention. Unless a contrary intention clearly appears, words used in the present tense include the future, the singular includes the plural, the term "shall" is always mandatory and the term "may" is permissive. (ord. 15-004, 4-28-2015)

C. **Additional Conditions May Be Imposed:** Any development or construction activities shall require applications, fees, approvals, permits and compliance pursuant to this title. To this end, all requirements, where possible, are expressly delineated in this title or other applicable ordinances. However, since it is impossible to cover every possibility and there are some aspects which do not lend themselves to being easily articulated, this title allows the Appeal Authority to impose reasonable conditions upon a developer in addition to those expressly set forth herein, so long as such conditions do not conflict with any requirements set forth in this title or other applicable law. (2010 Code, amd. ord. 21-005, 05-11-2021)

9-1-5: COORDINATION WITH OTHER LAND USE DOCUMENTS:

This title, together with the Town General Plan, shall guide the use of all land within the corporate boundaries of the town. The size and design of lots, the nature of utilities, the design and improvement of streets, the type and intensity of land use, and the provisions for any special facilities shall conform to the land uses shown in the Town General Plan and the standards established in this title. (2010 Code, amd. ord. 15-004, 4-28-2015 amd ord. 15-003, 02-10-2015, amd. ord. 21-005, 05-11-2021)

9-1-6: APPROVALS CONSISTENT WITH THIS TITLE:

All departments, officials and public employees of the Town who are vested with the duty or authority to issue permits or licenses shall do so in conformance with the provisions of this title and shall issue no permit or license for uses, buildings or purposes where the same would be in conflict with the provisions of this title. Any such permit or license, if issued in conflict with the provisions of this title, is void.

9-1-7: AMENDMENTS:

The Town Council may, from time to time, in a manner consistent with the Town General Plan, amend any provision of the Land Management Code. However, amendments to this title shall not be approved or final action taken until after the giving of public notice and the holding of public hearings, as may be required by state law and this title.

9-1-8: NOTICES:

Whenever notice to adjoining property owners or the public is required by any section of this title, the notice shall be given in the following manner:

A. **Public Notice:** Public notice of all public hearings and public meetings required to be noticed shall be given in accordance with Utah Code Annotated §10-9a-201 as amended, as applicable.

B. **Notice to Adjoining Property Owners:**

1. Where the provisions of Utah Code Annotated § 10-9a-201 et seq. as amended, require notice of public hearings to be given to adjoining property owners, the applicant shall give such notice to those owners whose property is located entirely or partly within three hundred feet (300') from any boundary of the property subject to the application. Notice shall be mailed at least fourteen (14) calendar days prior to the public hearing to the address appearing on the last completed real property assessment rolls in the office of the County Recorder. The notice shall include a map showing the land included in the application and a letter stating that the application has been filed, the nature of the application, the time, place, and date of the public hearing on the application, and that more complete information is available at the Town offices. (ord. 15-004, 4-28-2015)
2. The applicant will provide a referral packet as defined in Chapter 4 of this title. The Planning and Zoning Department will prepare and mail the notice to adjacent landowners, as well as appropriate agencies. The mailing will be paid for by the applicant. The notice shall be mailed at least fourteen (14) days prior to the public hearing. (ord. 15-004, 4-28-2015, amd. 21-005, 05-11-2021)

C. **Notice to Condominiums:** In addition to the notice required under subsection B of this section, for condominium projects within the three hundred-foot (300') radius from the applicant's property, notice shall also be given to the registered agent of the condominium Homeowners Association on file with the State Homeowners Association Registry. (amd. ord. 21-005, 05-11-2021)

D. **Defects in Notice:** The notices to affected property owners are given as a convenience to them. Minor defects in mailing, or incomplete mailing shall not be grounds for invalidating

any permit or application, or for the delay of any public hearing, unless the Planning Commission or Town Council shall find the defects in notice are such that the ability of interested persons to make a meaningful presentation of their concerns at the public hearing has been significantly impaired. The approval authority for the land use action at hand shall hear any objections raised relating to notice and rule on whether notice was adequate before proceeding to hear the merits of the application. (ord. 15-004, 4-28-2015, amd. ord. 21-005, 05-11-2021)

Title 9 – Land Management Code

Chapter 2
DEFINITIONS

9-2-1: DEFINITIONS:

Unless the context requires otherwise, the following definitions shall be used in the interpretation and construction of this title. Words used in the present tense include the future; the singular includes the plural; the word "build" used in its verb form shall include the words arrange, design, construct, alter, convert; the word "shall" is mandatory and not directory; 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 title, but not defined herein, shall have the meaning first as defined in any other ordinance adopted by the Town, and then its common, ordinary meaning.

ACCESSORY USE: A use on the same lot with, and customarily incidental and subordinate to, the principal use. (ord. 15-004, 4-28-2015)

ACCESSORY STRUCTURE: A structure that is customarily incidental and subordinate to the principal building on the property and is physically detached from the principal building. (ord. 15-004, 4-28-2015, amd. Ord. 24-014, 10-8-2024)

AFFORDABLE HOUSING: Housing occupied or reserved for occupancy by households with a gross household income equal to or less than eighty percent (80%) of the median gross income for households of the same size in Iron County.

AGENT: Any person who can show written proof that they are acting for the property owner and with the property owner's knowledge and permission. (amd. Ord. 24-014, 10-8-2024)

ALL WEATHER SURFACE: A durable vehicular driving surface, including compacted road base/gravel, concrete, asphalt, or other similar material.

ALLEY: A public or private right of way primarily designed to serve as secondary access to the side or rear of properties.

ALTERATIONS: Any change, addition, or modification in the supporting members of a building, such as bearing walls, columns, beams, or girders, or electrical, plumbing or mechanical system alterations.

APPEAL AUTHORITY: The appointed person, board, commission, agency, or other body designated by ordinance to decide an appeal or a decision of a land use application or a request for variance. For the purposes of this title, the Appeal Authority shall hear and decide appeals from decisions applying the Land Management Code. (ord. 15-004, 4-28-2015, amd. ord. 24-014, 10-8-2024)

AREA OF INSTABILITY: An area where there is a foreseeable risk of soil or rock movement as established by a soil report.

AS BUILT DRAWINGS: See the definition of Drawings, As Built.

ATTACHED BUILDING: Units connected on at least one side to an adjacent unit by a common party wall or other connecting structure with separate exterior entrances.

ATTRACTIVE NUISANCE: Physical conditions of a property that would entice or attract entrance to the property which could result in damage to the property or injury or death to the individual.

BALCONY: A floor projecting from and supported by a structure without additional independent supports. (ord. 15-004, 4-28-2015)

BANNER: See chapter 14 of this title.

BED AND BREAKFAST: A dwelling where a combination of breakfast and overnight lodging is furnished for pay.

BEGINNING OF CONSTRUCTION: Any alteration of a site (such as grading, boring holes, pouring concrete or removal of earth, foliage, trees, or underbrush) or alteration of offsite conditions related to construction.

BUILDABLE AREA: The portion of any site, lot, or parcel within setbacks and which does not contain designated floodplain, watershed, wetlands or avalanche areas, and conforms to all minimum criteria required for the placement of a structure in accordance with this code.

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

BUILDING AREA: The area encompassed by the outside measurement of the building, also referred to as the "building footprint".

BUILDING COVERAGE:

A. The following categories shall be included in building coverage calculations:

1. The ground level (footprint) of any building.

2. The area covered by outdoor structures, such as carports, gazebos, etc.

B. "Building coverage" includes only those areas with a roofed structure.

BUILDING ELEVATION: The entire side of a building, from ground level to the roofline, as viewed perpendicular to the walls on that side of the building.

BUILDING HEIGHT: The vertical distance, above the reference point, measured to the highest point of the structure directly above the reference point. The reference point shall be the elevation of the natural grade directly below the high point of the structure. The natural grade elevation shall be determined by topographic elevations surveyed before construction and submitted with the building permit application. In the absence of preconstruction elevations, the natural grade shall be reconstructed by connecting the contour lines (on a drawing) through the building, from a distance of five feet (5') outside the building wall. The maximum building height in each zone shall be as an imaginary net that is suspended at the specified distance above and

parallel to the natural grade. Chimneys, however, may extend five feet (5') above this imaginary net.

BUILDING OFFICIAL: The person designated as the Building Inspector of Brian Head Town by the Town Manager.

BUILDING, PUBLIC: A building owned and/or operated by a public agency of the United States of America or of the State of Utah or any of its subdivisions, including Brian Head Town.

CARPORT: A covered structure not completely enclosed by walls or doors that is intended for parking of vehicles. For the purposes of this title, a carport shall be subject to all regulations prescribed for a private garage.

CARWASH: A building containing equipment meant for facilitating the washing or detailing of motor vehicles either automatically or manually. This does not include temporary car wash events, traveling car detailing services, or other such activities that don't involve fixed specialized car washing bays or equipment. (ord. 17-004, 7-11-2017)

CHILDCARE CENTER: An establishment for the care and/or the instruction of five (5) or more children for compensation, other than for members of the family residing on the premises, but not including a public school.

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

CONCEPT PLAN: A sketch or rough drawing that may be submitted to the Town for informal review prior to the submission of a preliminary plan/plat. The purpose of the concept plan is to enable an applicant to discuss with relevant Town Staff the form of the subdivision plat/plans and the objectives of applicable regulations and requirements for subdivision approvals within the Town. (amd. Ord. 24-014, 10-8-2024)

CONDOMINIUM: A form of real property ownership in which the purchaser of each unit air space of an apartment building or in a complex of multi-unit dwellings acquires full title to the unit and an undivided interest in the common elements (the land, roof, elevator, hallways, etc.). (ord. 15-004, 4-28-2015)

CONSOLIDATED FEE SCHEDULE: The schedule of fees, established by resolution by the Town Council, to cover administrative costs associated with various land use applications and other town services (ord. 15-004, 4-28-2015)

CONTAINER: Any object used for holding other objects on property. The typical usage is as storage containers used for shipping cargo on trains or boats. It is usually metal but can be made of other materials. (ord. 22-002, 5-10-2022)

COURTYARD: An outdoor yard enclosed on more than fifty percent (50%) of its perimeter by building walls.

COUNTY: Means Iron County, Utah. (amd. Ord. 24-014, 10-8-2024)

COVENANTS, CONDITIONS AND RESTRICTIONS (CC&Rs): A document of restrictive provisions for a particular plat, parcel or property recorded in the office of the Iron County Recorder. CC&Rs are sometimes required for planned unit developments or other subdivisions and condominium plats. (ord. 15-004, 4-28-2015)

DECK: An exterior floor supported by an adjacent structure and/or posts, piers, or other independent supports. (ord. 15-004, 4-28-2015)

DENSITY: The number of nonresidential and residential uses expressed in terms of unit equivalents per acre or lot or units per acre. "Density" is a function of both the number and type of dwelling units and/or nonresidential units and the land area. (ord. 15-004, 4-28-2015)

DESIGN GUIDELINES: The document adopted by the Brian Head Town Council to direct and guide the aesthetics of development in Brian Head Town.

DEVELOPMENT AGREEMENT: A written agreement or amendment to a written agreement between the Town and one (1) or more parties that regulates or controls the use or development of a specific area of land. Development agreement does not include an improvement completion assurance. (ord. 24-014, 10-8-2024)

DRAINAGEWAY: Channeled depression in the earth's surfaces such as swales, ravines, draws and hollows in which surface waters collect or are channeled as a result of rain or melting snow. (ord. 15-004, 4-28-2015, amd. Ord. 24-014, 10-8-2024)

DRAWINGS, AS BUILT: Construction drawings of a building or other improvements modified or edited (showing changes) that is a true representation of building or project dimensions, materials and details as actually constructed. (ord. 15-004, 4-28-2015)

DRIVEWAY: A private driving access from any public right of way or private street to a parking space or entrance of a parking garage, the use of which is limited to no more than four (4) residences.

DWELLING, MULTI-FAMILY: A building arranged or designed to be occupied by two (2) or more families and having more than one (1) dwelling unit. (amd. Ord. 24-014, 10-8-2024)

DWELLING, SINGLE-FAMILY (RESIDENCE): A building arranged or designed to be occupied by one (1) family. (amd. Ord. 24-014, 10-8-2024)

DWELLING UNIT: Any building or portion thereof, designed and used for the sleeping place of one (1) or more persons or a family, but not including a tent or recreational vehicle, that meets Utah State health and safety requirements. (ord. 15-004, 4-28-2015, amd. Ord. 24-014, 10-8-2024)

EASEMENT: That portion of a property reserved for present or future use by a person or agency, other than the legal owners of the property. The easement may be for use under, on or above said property.

FAMILY: A single individual, doing their own cooking and living on the premises as a separate housekeeping unit, or a collective body of persons doing their own cooking and living together on the premises as a separate housekeeping unit in a domestic relationship based upon birth, marriage or other domestic bond, or no more than four (4) unrelated persons, as distinguished from a group occupying a boarding house, lodging house, club, fraternity or hotel.

FILL: Any rock, soil, gravel, sand, or other similar approved materials. (ord. 15-004, 4-28-2015)

FIRE PROTECTION: Water supply, water lines, fire hydrants and other devices as may be required in accordance with this title and other applicable ordinances for the protection of structures, furnishings, and inhabitants from fire.

FLOOD HAZARD: A hazard to land or improvements due to the potential inundation or overflow of water having sufficient velocity to transport or deposit debris, scour the surface soil, dislodge, or damage buildings, or erode the banks of watercourses. (ord. 15-004, 4-28-2015)

FLOODPLAIN: Areas adjoining a watercourse, lake or other body of water that have been or may be covered by floodwaters.

FLOOR AREA: Area included within surrounding interior walls of a building, or portion thereof, exclusive of vents, shafts, and courtyards.

FRONTAGE, LOT, OR PROPERTY: The length of the property line bordering any public street (also see definition of Lot Line, Front).

GARAGE: An accessory building designed or used for the storage of private motor vehicles owned by the occupants of the building. A garage shall be considered part of the dwelling if the garage and dwelling have a roof or wall in common.

GAS STATION: A building, or portion thereof, designed or used for selling gasoline and/or diesel fuel for cars and trucks, and/or for servicing or repairing motor driven vehicles for pay. (ord. 15-004, 4-28-2015)

GENERAL PLAN: A document prepared and adopted by the Town Council pursuant to Utah Code Annotated section §10-9a-401 et seq., containing long range growth policies and general guidelines for proposed future growth and development of the land within Brian Head Town.

GEOLOGICAL HAZARD: A hazard due to the movement, failure or shifting of the earth which is dangerous or potentially dangerous to life, property, or improvements, as established by a soils report.

GRADE, DRIVEWAY/ROAD/STREET: Slope measured at any point along a driveway, road, or street over a distance of twenty feet (20') running parallel with the direction of travel (see definition of Slope).

GRADING: Cutting through or otherwise disturbing the layers of the soil mantle so as to permanently change the existing landform.

HABITABLE SPACE: A space in a building for living, sleeping, eating, cooking, and including bathrooms or toilet rooms. Closets, halls, storage or utility spaces and similar areas are not considered habitable spaces. (ord. 15-004, 4-28-2015)

HARD SURFACE: A durable vehicular driving surface material such as concrete, asphalt pavement or brick pavers (not including road base or gravel).

HEAVY EQUIPMENT: Pieces of machinery or vehicles primarily employed for industrial uses such as construction, excavation, demolition, earthwork, snow removal, etc. Examples include excavators, loaders, dozers, graders, backhoes, cranes, forklifts, man lifts, dump trucks, water trucks, snowcats, concrete mixers, and the like. Vehicles and equipment intended primarily for recreational use such as recreational vehicles, camping trailers, boats, ATV's, horse trailers, etc. are not considered heavy equipment.

Heavy equipment attachments or implements are removable and complementary equipment to one piece of heavy equipment. Examples include a loader bucket, excavator shear, snowplow blade, loader forks, etc.

Heavy equipment trailers are non-self-propelled vehicles employed primarily to transport heavy equipment or otherwise facilitate the aforementioned industrial uses. Trailers intended primarily for transportation of recreational vehicles or other non-industrial uses are not considered heavy equipment trailers. (ord. 16-007, 11-08-2016)

HOME OCCUPATION: Any income producing activity conducted primarily within a dwelling and carried on by persons residing in the dwelling unit, which use is clearly incidental and secondary to the use of the home for dwelling purposes. (ord. 15-004, 4-28-2015)

HOTEL: A building containing sleeping rooms for the occupancy of guests for compensation on a nightly basis, and accessory facilities such as a lobby, meeting rooms, recreation facilities, group dining facilities and/or other facilities or activities customarily associated with hotels, such

as daily maid service. These terms do not include lockout units or bed and breakfast inns. (ord. 15-004, 4-28-2015)

IMPROVEMENT(S): Objects, devices, facilities, or utilities required to be constructed or installed. Such improvements may include, but are not limited to, street construction. (ord. 15-004, 4-28-2015)

IMPROVEMENT PLAN(S): An applicant's plans to complete all required improvements as a condition of subdivision approval, and for which the applicant may be required to post a completion assurance. Improvement plans may include studies, reports, and engineering drawings, as applicable. (ord. 24-014, 10-8-2024)

KENNEL: Any premises where animals are kept for compensation. (ord. 15-004, 4-28-2015)

LAND USE APPLICANT: A property owner, or the property owner's designee, who submits a land use application regarding the property owner's land. (ord. 24-014, 10-8-2024)

LAND USE APPLICATION: An application that is required by the Town and submitted by a land use applicant to obtain a land use decision. Land use application does not mean an application to enact, amend, or repeal a land use regulation. (ord. 24-014, 10-8-2024)

LAND USE AUTHORITY: A person, board, commission, agency, or body, including the Town Council, designated by the Town Council to act upon a land use application or if the Town Council has not designated a person, board, commission, agency, or body, the Town Council. (ord. 24-014, 10-8-2024)

LAND USE DECISION: An administrative decision of a land use authority or appeal authority regarding a land use permit or a land use application. (ord. 24-014, 10-8-2024)

LAND USE PERMIT: A permit issued by a land use authority. (ord. 24-014, 10-8-2024)

LAND USE REGULATION: A legislative decision enacted by ordinance, law, code, map, resolution, specification, fee, or rule that governs the use or development of land. A land use regulation includes the adoption of amendment of a zoning map or the text of this title. A land use regulation does not include a land use decision of the Town Council acting as the land use authority, even if the decision is expressed in a resolution or ordinance; or a temporary revision to an engineering specification that does not materially increase a land use applicant's cost of development compared to the existing specification or impact a land use applicant's use of land. (ord. 24-014, 10-8-2024)

LANDSCAPING: Improvements made to the appearance of an area of land, including trees, shrubs, flowers, and grass that is harmonious with surrounding area and structure. Landscaping may include natural vegetation which is undisturbed trails and unpaved walking areas. "Landscaping" may not be counted toward the minimum landscape requirements unless it is a minimum two feet (2') in the narrowest dimension. (ord. 15-004, 4-28-2015)

LIGHT MANUFACTURING: Fabrication operations in which all processing, curing, compounding, packaging, treatment, assembly, or disassembly of items takes place wholly within an enclosed building and generates little to no external noise, smoke, fumes, or odors. (ord. 17-004, 7-11-2017)

LOT: A unit of land described in a recorded subdivision plat. (ord. 15-004, 4-28-2015)

MASTER PLANNED DEVELOPMENT: Flexible planning approach as defined in Chapter 11, Flexible Approaches, of this title. (ord. 15-004, 4-28-2015)

MODERATE INCOME HOUSING: Housing occupied or served for occupancy by households with a gross household income equal to or less than eighty percent (80%) of the medium gross income for households with the same size in Iron County. (ord. 24-014, 10-8-2024)

MOTEL: A building or group of buildings containing individual sleeping or living units which is designed and used primarily for the accommodation of transient automobile travelers and having automobile parking immediately adjacent. (ord. 15-004, 4-28-2015)

NATURAL WATERWAYS: Those areas varying in width along streams, creeks, springs, gullies, or washes which are natural drainage channels.

NONCONFORMING BUILDING OR STRUCTURE: A structure that legal existed before the structure's land use designation and because of one (1) or more subsequent land use ordinance changes, does not conform to the setback, height restrictions, or other regulations, excluding those regulations, which govern the use of the land. (ord. 24-014, 10-8-2024)

NONCONFORMING STREET: A road or street, or portion thereof, lawfully existing at the time this title governing streets, or subsequent changes, became effective which does not now conform to the width, slope, surface, or other standards required by this title.

NONCONFORMING USE: A use of land that legally existed before its current land use designation, has been maintained continuously since the time the provisions of this title governing the land changed, and because of one or more subsequent changes to this title, does not now conform to the regulations that now govern the use of the land.

OFF SITE IMPROVEMENTS: Improvements to be constructed outside the property boundaries.

OFF STREET PARKING SPACE: The space required to park one passenger vehicle, which space shall meet the requirements of this title and other applicable ordinances.

ON SITE IMPROVEMENTS: Construction or placement of improvements within the property to which they pertain.

OUTDOOR DISPLAY: An outdoor arrangement of objects, items, products, or other materials, not in a fixed position and capable of rearrangement, designed and used for the purpose of advertising or identifying a service or product for sale.

OUTDOOR RETAIL SALES: An establishment or premises where business is conducted outdoors or within a temporary structure, from covered or open-air areas on a temporary or seasonal basis, for the purpose of retail sales of goods or services such as landscaping or nursery products, trees for decoration or ornamentation, food, and recreational products to the general public.

OWNER: The holder of the fee title to land or buildings or to property, whether a person, partnership, corporation, or other entity recognized by law, and his or its assignees or successors in interest. (ord. 15-004, 4-28-2015)

PARCEL: Any real property that is not a lot. (ord. 24-014, 10-8-2024)

PARCEL BOUNDARY ADJUSTMENT: A recorded agreement between owners of adjoining parcels adjusting the mutual boundary, either by deed or by boundary line agreement in accordance with Utah Code Annotated §10-9a-524 et. Seq. if no additional parcel is created and none of the property identified in the agreement is a lot, or the adjustment is to the boundaries of a single person's parcels. Parcel boundary adjustment does not mean an adjustment of a parcel boundary line that creates an additional parcel or constitutes a subdivision. Parcel boundary adjustment does not include a boundary line adjustment made by the Utah Department of Transportation. (ord. 24-014, 10-8-2024)

PARKING, COVERED: If required, all parking will be identified within the footprint of the building structure. (ord. 15-004, 4-28-2015)

PARKING LOT: An area, other than a street, including ramps and driveways, used for the temporary parking of more than four (4) automobiles.

PARKING SPACE: Space within a building, lot or parking lot, for the parking or storage of one motor vehicle. (ord. 24-014, 10-8-2024)

PEDESTRIANWAY: A right of way designed for use by pedestrians and not intended for use by motor vehicles of any kind; a pedestrian way may be located within a street right of way and/or separated from vehicular traffic. (ord. 15-004, 4-28-2015)

PERMANENT MONUMENT: Any structure of concrete, masonry and/or metal permanently placed on or in the ground for surveying reference.

PERMITS: A document issued by the appropriate agency, authorizing a particular activity.

PERSON: An individual, corporation, partnership, organization, association, trust, governmental agency, or any other legal entity. (ord. 24-014, 10-8-2024)

PLANNING COMMISSION: The Brian Head Town Planning Commission, established pursuant to authority granted by Utah Code Annotated § 10-9a-301.

PLAT: An instrument subdividing property into lots as depicted on a map or other graphical representation of lands that a licensed professional land surveyor makes and prepares in accordance with Utah Code Annotated §10-9a-603 or §57-8-13 et. seq.

A. PLAT, PRELIMINARY: Includes the preliminary plat and associated drawings which are prepared by an applicant to illustrate the proposed layout and intended construction of a subdivision resolving most technical details for the purpose of determining compliance with federal, state, and local regulations.

B. PLAT, FINAL: A final subdivision map or condominium map prepared in accordance with the provisions of this title, other applicable ordinances, and laws, on which the applicant's plan of a subdivision is presented to the Land Use Authority for approval, and which, if approved shall be placed on record in the Iron County Recorder's Office.

C. PLAT, MAJOR: A plat describing any subdivision that is not a minor plat subdivision. A major plat may also be either a preliminary or final plat.

D. PLAT, MINOR: A plat describing a subdivision creating ten (10) or fewer parcels and that requires no public improvements. A minor plat may also be either a preliminary or final plat.

POTENTIAL GEOLOGIC HAZARD AREA: An area that is designated by a Utah Geological Survey map, county geologist map, or other relevant map or report as needing further study to determine the area's potential for geologic hazard; or has not been studied by the Utah Geological Survey or a county geologist but presents the potential of geologic hazard because the area has characteristics similar to those of a designated geologic hazard area. May also be referred to in this title as "sensitive lands." (ord. 24-014, 110-8-2024)

PRIVATE ROAD: See definition of Street, Private.

PROJECT: A building or improvements to buildings constructed on a lot or parcel that is "platted" and recorded on a separate plat with the Iron County Recorder's office and representing to the public a single identity for commercial and/or residential purposes. (ord. 15-004, 4-28-2015)

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

PUBLIC AGENCY: The federal government, the state of Utah, a county, municipality, school district, special district, special service district, other political subdivision of the State, or a charter school. (ord. 24-014, 10-8-2024)

PUBLIC HEARING: A hearing at which members of the public are provided a reasonable opportunity to comment on the subject of the hearing. (ord. 24-014, 10-8-2024)

PUBLIC MEETING: A meeting that is required to be open to the public under Utah Code Annotated §52-4 et. seq. (ord. 24-014, 10-8-2024, amd. Ord. 24-014, 10-8-2024)

PUBLIC UTILITIES: Includes every common carrier, pipeline corporation, gas corporation, electric corporation, telecommunication corporation, water corporation, etc., where the service is performed for the commodity delivered to the public, or any portion thereof.

RECORD OF SURVEY MAP: A map of a survey of land prepared in accordance with Utah Code Annotated §10-9a-603, §17-23-17, or §57-8-13 et. seq. (ord. 24-014, 10-8-2024)

RECORDER'S OFFICE: The office of the Iron County Recorder, Utah.

RESIDENCE: See definition of Dwelling.

RESIDENT: Any person who resides in Brian Head Town, considering it as their primary residence. Evidence of primary residence may be a voter registration card, driver's license or state issued identification card with a Brian Head Town address.

RESIDENTIAL PLANNED DEVELOPMENT (RPD): Flexible planning approach as defined under Chapter 11 of this title. (ord. 15-004, 4-28-2015)

RETAINING WALL: A wall designed to resist the lateral displacement of soil or other materials. (ord. 15-004, 4-28-2015)

REVIEW CYCLE: The occurrence of the applicant's submittal of a complete subdivision application; the Town's review of, and response to that subdivision application in accordance with Utah Code Annotated §10-9a-604.2 et. seq.; and the applicant's reply to the Town's response that addresses each of the Town's required modifications or requests for additional information. (ord. 24-014, 10-8-2024)

ROOFLINE: The top edge of a peaked roof or, in the case of an extended facade or parapet, the uppermost point of said facade or parapet.

SCHEMATIC SUBDIVISION PLAT: An abbreviated subdivision plat submitted to determine the basic feasibility of a subdivision (see requirements in table 3, chapter 4) of this title.

SENSITIVE LANDS: Means the same as "Geologic Hazards" and "Potential Geological Hazard Areas" definitions. (ord. 24-014, 10-8-2024)

SETBACK: Minimum distance between the property line and any buildings on the property.

SIGN: See chapter 14 of this title**.**

SLOPE: An expression of the steepness of rise or fall in elevation measured along a line perpendicular to the contours of the land. A vertical rise of ten feet (10') between two (2) points

one hundred feet (100') apart, measured on a horizontal plane, is a ten percent (10%) slope (5.7 degrees).

SPA: A commercial establishment providing services, typically including massage, body or facial treatments, makeup consultation and application, manicures, pedicures, and similar services, but excluding beauty and barber shops. (ord. 15-004, 4-28-2015)

STABLE, PRIVATE: A detached accessory building for the keeping of equine owned by the occupants of the premises and not kept for hire, compensation, or sale.

STABLE, PUBLIC: Any stable where equine is boarded and/or kept for hire.

STATE: Includes any department, division or agency of the State of Utah. (ord. 24-014, 10-8-2024)

STORAGE CONTAINER: Any object used for storage on a property. Typical storage containers are metal and rectangular but do not have to be. (ord. 22-002, 5-10-22)

STORY: The space within a building included between the surface of any floor and the surface of the next floor or the roof of the building.

STREET SYSTEMS:

A. **Street, Collector**: A street, existing or proposed, which is the main means of access to the major street system.

B. **Street, Cul-De-Sac**: A minor terminal street provided with a turnaround.

C. **Street, Major:** 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.

D. **Street, Minor**: A street, existing or proposed, which is supplementary to a collector street, and which serves or is intended to serve the local needs of a neighborhood.

E. **Street, Private:** A thoroughfare within a subdivision, condominium project or MPD/RPD which has been reserved by dedication unto the sub divider or lot owners to be used as private access to serve the lots or condominiums platted within the subdivision and complying with the adopted street cross section standards of this town and maintained by the sub divider or other private agency.

F. **Street, Public:** A thoroughfare which has been dedicated to Brian Head Town and accepted by the Brian Head Town Council, which the Town has acquired by prescriptive right or which the Town owns or offered for dedication on an approved final plat or made public by right of use and which affords access to abutting property, including highways, roads, lanes, avenues, and boulevards.

STRUCTURE: Any structure utilized or intended for supporting or sheltering any occupancy. This includes buildings, non-building structures, and accessory structures like towers, barns, and retaining walls. (ord. 24-014, 10-8-2024)

SUBDIVISION: Any land that is divided, re-subdivided, or proposed to be divided into two (2) or more lots or other division of land for the purpose, whether immediate or future, for offer , sale, lease, or development either on the installment plan or upon any and all other plans, terms, and conditions:

A. Subdivision includes the division or development of land, whether by deed, metes and bounds description, devise and testacy, map, plat, or other recorded instrument, regardless of whether the division includes all or a portion of a parcel or lot; and except as provided herein, divisions of land for residential and nonresidential uses, including land used or to be used for commercial, agricultural, and industrial purposes. (amd ord. 24-014, 10-8-2024)

B. Subdivision does not include:

1. a bona fide division or partition of agricultural land for the purpose of joining one (1) of the resulting separate parcels to a contiguous parcel of unsubdivided agricultural land, if neither the resulting combined parcel nor the parcel remaining from the division or partition violates an applicable land use ordinance
2. a boundary line agreement recorded with the Iron County Recorder's Office between owners of adjoining parcels adjusting the mutual boundary in accordance with Utah Code Annotated §10-9a-524 et. seq. if no new parcel is created;
3. a recorded document, executed by the owner of record revising the legal descriptions of multiple parcels into one (1) legal description encompassing all such parcels, or joining a lot to a parcel;
4. a boundary line agreement between owners of adjoining subdivided properties adjusting the mutual lot line boundary in accordance with Utah Code Annotated §10-9a-524 and §10-9a-608 et. seq., if no new dwelling lot or housing unit will result from the adjustment and the adjustment will not violate any applicable land use ordinance;
5. a parcel boundary adjustment;
6. a lot line adjustment;
7. a road, street, or highway dedication plat;
8. a deed or easement for a road, street, or highway purpose; or
9. any other division of land authorized by law.

(amd. Ord. 24-014, 10-8-2024)

SUBDIVISION AMENDMENT: An amendment to a recorded subdivision in accordance with Utah Code Annotated §10-9a-608 et. seq. that vacates all or a portion of the subdivision, alters the outside boundary of the subdivision, changes the number of lots within the subdivision, alters a public right-of-way, a public easement, or public infrastructure within the subdivision, or alters a common area or other common amenity within the subdivision. Subdivision amendment does not include a lot line adjustment, between a single lot and an adjoining lot or parcel, that alters the outside boundary of the subdivision.

SUBDIVISION APPLICATION: A land use application for the subdivision of land. (ord. 24-014, 108-2024)

SUBDIVISION IMPROVEMENT PLANS: The civil engineering plans associated with required infrastructure improvements and Town controlled utilities required for a subdivision. (ord. 24-014, 10-8-2024)

SUBDIVISION ORDINANCE REVIEW: The review by the Town to verify that a subdivision application meets the criteria of the Town's ordinances. (ord. 24-014, 108-2024)

SUBDIVISION IMPROVEMENT PLAN REVIEW: A review of the applicant's subdivision improvement plans and other aspects of the subdivision application verify that the application

complies with the Town's ordinances and applicable installation standards and inspection specifications for infrastructure improvements. (ord. 24-014, 108-2024)

TEMPORARY STRUCTURES: A structure built and maintained during construction of a development, activity or special event and then removed prior to the release of the performance guarantee; not including entertainment structures (i.e., bouncy houses, carnival rides, tent or canopy less than two-hundred square feet (200 sq. ft) in area, etc.) used for less than two (2) calendar days before and two (2) calendar days after the event in any calendar year unless modified by a conditional use permit. Structures erected by public and private utilities for not more than ninety (90) calendar days in any calendar year, or emergency response structures erected during the duration of the event. (ord. 15-004, 4-28-2015)

TOWN MANAGER: The Chief Executive Officer of the Town of Brian Head, Utah. (ord. 15-004, 4-28-2015)

TOWN COUNCIL: The legislative body of Brian Head Town.

TOWN STAFF: The administrative employees of Brian Head Town.

TOWNHOUSE OR TOWNHOME: One of a group of several dwellings with common architectural treatment, having one or more common walls where the owner owns the land under, in front, in back, and perhaps on one side of the residential building.

UNDISTURBED LOT AREA: Land that is left in its native state and is not interrupted for clearing, grading, filling, used for storage of soil or construction materials, or otherwise affected for land use development. It specifically does not preclude the removal of dead trees, thinning undergrowth or similar conservation practices, or the creation and maintenance of unpaved trails as part of the town trail system. (ord. 15-004, 4-28-2015)

WATERCOURSE: A running stream of water; a natural stream, including rivers, creeks, irrigation ditches, etc. It may sometimes be dry but must flow in a defined channel.

ZONE DISTRICT: A portion of the territory of the Town established under this title within which certain uniform regulations and requirements or various combinations thereof apply under the provisions of this title. Also includes "zone" and "zoning district". (2010 Code amd. ord. 15-004, 4-28-2015)

ZONING ADMINISTRATOR: The person designated for the administration of zoning in Brian Head Town by the Town Manager.

ZONING MAP: A map, adopted as part of a land use ordinance, that depicts land use zones, overlays, or districts within the Town. (ord. 24-014, 108-2024)

Title 9 – Land Management Code

Chapter 3

ADMINISTRATIVE AND DECISION-MAKING BODIES

9-3-1: PLANNING COMMISSION:
9-3-2: APPEAL AUTHORITY:
9-3-3: BUILDING DEPARTMENT

9-3-1: PLANNING COMMISSION:

A. **Membership And Quorum:** The Planning Commission shall consist of five (5) members and one alternate member. An alternate member shall serve in the absence of a regular member. Members shall be appointed by the Town Manager with the advice and consent of the Town Council. Members shall be residents of the town, or annexation boundary area; own a business located in town or work full time in the town. Three (3) members of the five (5) shall be sufficient to constitute a quorum. A majority vote of its convened members is required to establish an action of the Commission. (amd. Ord. 21-005, 05-11-2021)

B. **Length Of Term**: Each member shall be appointed for a term of five (5) years. The terms of the members of the Commission shall be staggered such that the term of only one member shall expire in any calendar year. Terms shall expire on December 31. Any vacancy occurring on the Commission, for whatever reason, shall be filled by appointment by the Town Manager, with the advice and consent of the Town Council, for the unexpired term of such member.

C. **Absence And Removal:** Any Planning Commission member (including an alternate member) who is absent from two (2) consecutive regularly scheduled commission meetings, without good cause and without prior notice to the chairperson of the Planning Commission, Town Manager or Commission Secretary, shall be removed as provided for herein. The Town Manager, with the advice and consent of the Town Council, may remove a member of the Planning Commission for cause after filing written charges against the member. (2010 Code, amd. Ord. 15-004, 4-28-2015)

D. **Powers And Duties**: The Planning Commission shall have all necessary powers and shall undertake all duties as set forth in Utah Code Annotated §10-9a-301

E. **Chairperson And Vice Chairperson:** A Chairperson and Vice Chairperson shall be elected by the Planning Commission annually at the first meeting of each calendar year and shall be full voting members of the body.

F. **Staff:** To assist the Planning Commission in carrying out its duties, the Planning Commission Chairperson may request the assistance of other employees or agents of the Town through an appropriate request made to the Town Manager. The Town Manager shall appoint a qualified staff member to serve as secretary to the Commission (Commission Secretary).

G. **Meetings**: All meetings of the Commission shall be in conformance with the Utah Open Meetings law. The Commission shall keep an electronic recording of its proceedings showing the vote of each member upon each question, members absent, and members failing to vote. The Commission shall keep minutes of all meetings and proceedings. Minutes shall be filed with the Town Clerk by the Commission Secretary upon adoption by the Commission and shall then be made available to the public.

H. **Policies And Procedures:** The Planning Commission may adopt rules of policy and procedure consistent with this chapter and state law.

9-3-2: APPEAL AUTHORITY:

A. **Organization**: The Town hereby establishes an Appeal Authority pursuant to Utah Code Annotated section10-9a-701 et seq.

B. **Length Of Term:** The Appeal Authority shall be appointed for a term of five (5) years. An Appeal Authority's term expires on December 31. Upon the expiration of an Appeal Authority's term, a new Appeal Authority shall be filled by appointment by the Town Manager, with the advice and consent of the Council. (2010 Code, amd. ord. 15-004, 4-28-2015)

C. **Absence And Removal**: The Appeal Authority may be removed by the Town Manager, with the advice and consent of the Town Council.

D. **Meetings**: All meetings conducted by the Appeal Authority shall be in conformance with the Utah Open Meetings Act. The Appeal Authority shall keep an electronic recording of its appeals and its proceedings showing its decisions on each question, and a record of the Appeal Authority's examination of evidence and other official actions. The Appeal Authority shall keep minutes of all meetings and proceedings. Minutes shall be filed with the Town Clerk upon adoption by the Appeal Authority, and then shall be made available to the public. The Town Manager must be present for any action to be taken by the Appeal Authority. (2010 Code, amd. ord. 15-004, 4-28-2015, amd. ord. 21-005, 05-11-2021)

E. **Policies And Procedures**: The Appeal Authority may adopt rules of policy and procedure consistent with this chapter and state law. The rules shall be submitted to the Town Council for approval and may be altered, amended, or changed in the same manner.

F. **Powers And Duties**: The Appeal Authority shall call meetings as needed and may administer oaths and compel the attendance of witnesses. The Appeal Authority shall hear and decide appeals from final land use decisions applying this title. (2010 Code, amd. ord.15-004, 4-28-2015)

G. **Appeals**: Any person aggrieved by a final decision of the Zoning Administrator, Town Manager, Planning Commission, or any decision applying this title, may make an appeal to the Appeal Authority. All appeals shall be made according to the following procedures:

1. The appeals shall be made within ten (10) days of the action or decision being appealed by filing a written notice of appeal with the Town Clerk.

2. The notice of appeal shall specify all grounds for the appeal and circumstances related thereto. Such notice shall set forth in detail the action and grounds upon which the applicant or other interested parties deem themselves aggrieved. A notice failing to specify grounds for appeal may be summarily dismissed by the Appeal Authority without prejudice.

3. The Appeal Authority or Town Clerk shall set the date for the appeal hearing to be held within a reasonable time from the day the appeal is received. Written notice of the date set for hearing the appeal shall be mailed to the applicant at least ten (10) days before the appeal hearing date.

4. The filing of an appeal shall stay all proceedings and actions in furtherance of the matter appealed, pending the decision of the Appeal Authority. The stay shall exist unless the appeal authority finds after the notice of appeal has been filed, that the stay would cause imminent peril to life or property. In such case, proceedings shall not be stayed, other than by an appropriate order issued by a court having jurisdiction.

(amd. ord. 21-005, 05-11-2021)

H. **Scope Of Review:**

1. The Appeal Authority shall limit its review on appeal to the record upon which the original action was based, including, but not limited to, the original application, written recommendations from the Town staff, adopted minutes, letters, petitions, reports, or other technical data submitted by the applicant in furtherance of the application. The Appeal Authority's scope of review shall be limited to a determination as to whether the decision being appealed has a reasonable, factual basis apparent in the record. (amd. ord. 21-005, 05-11-2021)

2. The Appeal Authority shall allow the appealing party or designated representative and the decision maker or representative the opportunity to present appropriate oral argument with regard to the issue appealed. Such oral argument may be limited as

appropriate by the Appeal Authority. The Appeal Authority shall not receive or consider any new evidence in the form of exhibits, affidavits, or testimony, other than the oral argument provided under this section.

I. **Action Taken:** After hearing the appeal, the Appeal Authority may reverse or affirm, wholly or partly, or may modify the order, requirement, decision, or determination appealed from, and may make such order, requirement, decision or determination as ought to be made, and to that end shall have all the powers of the officer or body from which the appeal is made. The Appeal Authority shall issue its decision in writing.

J. **Judicial Review Of Decision;** Time Limitation: Any person aggrieved by any decision by the Appeal Authority may file an action for relief therefrom in any court of competent jurisdiction within thirty (30) days after the filing of the decision of the Appeal Authority with the Town Clerk.

9-3-3: PLANNING AND ZONING DEPARTMENT:

A. **Authority And Responsibility**: The Planning and Zoning department shall have the authority to enforce, interpret and administer this title.

B. **Organization**: The Town Manager shall act as the Planning and Zoning Administrator for the Town. The Town Manager may delegate some or all administrative responsibilities of the Planning and Zoning Administrator to other administrative staff. The Planning and Zoning Administrator may be assisted, when appropriate, by other staff as required. Only the Planning and Zoning Administrator shall have the authority to bind the Town in those areas where the Planning and Zoning Department has the responsibility to interpret this title (subject to the limitations set forth in §9-1-6 of this title). (amd. ord. 21-005, 05-11-2021)

C. **Planning Commission Staff:** The Planning and Zoning Administrator shall support and assist the Planning Commission in carrying out their duties under this title. (ord. 08-016, 8-12-2008)

(amd. Ord. 21-005, 05-11-2021)

Title 9 – Land Management Code

Chapter 4

SUBMITTAL REQUIREMENTS

9-4-1: SUBMITTAL REQUIREMENTS:
9-4-2: SUBMITTAL DESCRIPTIONS:

9-4-1: SUBMITTAL REQUIREMENTS

A. The following lists put forth the information required to be submitted for each of the various land use permits and approvals required in this title. The Planning and Zoning Administrator may modify the submittal requirements (requiring additional or fewer submittal requirements) for individual applications as necessary to properly evaluate whether the proposed land use action meets the Standards For Review. One (1) physical and one (1) electronic copy of all required submittals shall be provided to the Planning and Zoning Department by the applicant. (amd. Ord. 24-014, 10-8-24)

B. Land Use Application Type and Requirements:

1. General Plan Amendment
    a. Land Use Authority: Town Council
    b. Submittal Requirements:
        i. Application Form & Fees

2. Zone Amendment
    a. Land Use Authority: Town Council
    b. Submittal Requirements:
        i. Application Form & Fees
        ii. Referral Packet

3. Conditional Use Permit
    a. Land Use Authority: Planning Commission
    b. Submittal Requirements:
        i. Application Form & Fees
        ii. Existing Conditions Map
        iii. Development Report
        iv. Referral Packet
        v. Site Plan

4. Horse Boarding Permit

a. Land Use Authority: Planning and Zoning Department
b. Submittal Requirements:
    i. Application Form & Fees
    ii. Animal Information for Public Safety

C. Altering Lots/Parcels/Plats

1. Property Boundary Adjustment / Lot Line Adjustment / Boundary Line Agreements
    a. Land Use Authority: Planning and Zoning Administrator
    b. Submittal Requirements:
        i. Application Form & Fees
        ii. Title Report
        iii. Surveyors Certificate & Legal Description

2. Minor Plat Amendment and Subdivision by Metes and Bounds
    a. Land Use Authority: Planning Commission
    b. Submittal Requirements:
        i. Application Form & Fees
        ii. Title Report
        iii. Amended Plat (for Plat Amendment)
        iv. Survey & Legal Description (for Metes & Bounds Subdivision)
        v. Existing Conditions Map
        vi. Development Report
        vii. Referral Packet (for Plat Amendment)
        viii. Covenants, Conditions & Restrictions

3. Subdivision Approval and Major Plat Amendment
    a. Land Use Authority Preliminary Plat: Planning Commission
    b. Land Use Authority Final Plat: Planning and Zoning Administrator
    c. Submittal Requirements:
        i. Concept Plan Review (unless exempted)
            I. Application Form & Fees
            II. Title Report
            III. Existing Conditions Map
            IV. Development Report
            V. Schematic Subdivision Plat
        ii. Preliminary Plat Review
            I. Application Form & Fees
            II. Preliminary Subdivision Plat
            III. Referral Packet (Plat Amendments only)
            IV. Development Agreement
            V. Soils & Geology Report
        iii. Final Plat Review
            I. Application Form & Fees
            II. Final Subdivision Plat
            III. Subdivision Improvement Plans
            IV. Development Agreement
            V. Covenants, Conditions & Restrictions
            VI. Security Agreement

4. Residential Planned Development
    a. Land Use Authority: Planning Commission
    b. Submittal Requirements:

i. Application Form & Fees

D. Non-Structure Improvements

1. Grading & Excavating Permit
   a. Land Use Authority: Planning and Zoning Department
   b. Submittal Requirements:
      i. Application Form & Fees
      ii. Written Description of Grading & Excavating Activity
      iii. Engineered Grading Plans
      iv. Site Restoration & Landscape Plan
      v. Soil/Geology Report.
      vi. Security Agreement (if bond or security is required pursuant to Chapter 13 of this Title)
      vii. Insurance Information (if work is to be undertaken in the public right of way)

2. Tree Removal Permit
   a. Land Use Authority: Planning and Zoning Department
   b. Submittal Requirements:
      i. Application Form & Fees
      ii. Tree Removal Site Plan
      iii. Security Agreement

3. Retaining Wall Approval
   a. Land Use Authority: Planning and Zoning Department
   b. Submittal Requirements:
      i. See Grading & Excavating Permit requirements

4. Landscape Approval
   a. Land Use Authority: Planning and Zoning Department
   b. Submittal Requirements:
      i. Site Restoration & Landscaping Plan

5. Sign Permit
   a. Land Use Authority: Planning and Zoning Department
   b. Submittal Requirements:
      i. Application Form & Fees
      ii. Signage Conceptual Design
      iii. Construction Documents (if required by International Building Code)

E. New Structure Construction

1. Single Family Residential Building Permit
   a. Land Use Authority: Planning and Zoning Department
   b. Submittal Requirements:
      i. Application Form & Fees
      ii. Site Plan
      iii. Design Elevations
      iv. Written Description of Grading & Excavating Activity
      v. Engineered Grading Plans
      vi. Site Restoration & Landscape Plan

vii. Soil/Geology Report
viii. Security Agreement (if bond or security is required pursuant to Chapter 13 of this Title)
ix. Insurance Information (if work is to be undertaken in the public right of way)

2. Building Permits in All Other Zones
    a. Land Use Authority: Planning Commission
    b. Submittal Requirements:
        i. Application Form & Fees
        ii. Site Plan
        iii. Design Elevations
        iv. Written Description of Grading & Excavating Activity
        v. Engineered Grading Plans
        vi. Site Restoration & Landscape Plan
        vii. Soil/Geology Report
        viii. Security Agreement (if bond or security is required pursuant to Chapter 13 of this Title)
        ix. Insurance Information (if work is to be undertaken in the public right

3. Accessory Structure Building Permit
    a. Land Use Authority: Planning & Zoning Department (single-family residential), Planning Commission (all other zones)
    b. Submittal Requirements:
        i. Application Form & Fees
        ii. Engineered Grading Plan (if structure is being placed on a permanent foundation or if the graded area extends beyond the footprint of the structure)
        iii. Site Plan
        iv. Design Elevations
        v. Restoration & Landscape Plan (if graded area extends beyond the footprint of the structure)

4. Temporary Structure & Tent Permit
    a. Land Use Authority: Planning & Zoning Department
    b. Submittal Requirements:
        i. Application Form & Fees
        ii. Use & General Description
        iii. Site Plan
        iv. Structural Information and Calculations
        v. Building Permit
        vi. Special Event Permits (if applicable)
        vii. Duration

F. Modifying Existing Structures

1. Minor Structure Alteration: Exterior alterations of buildings and premises which do not require a building permit (such as re-siding, painting, replacing roofing). Single-family residential structures are not required to obtain a permit:
    a. Land Use Authority: Planning and Zoning Department
    b. Submittal Requirements:
        i. Application Form & Fees
        ii. Written Description of Proposed Activity

iii. Design Elevations
iv. Site Restoration & Landscape Plan

2. Major Structure Alteration
    a. For additions which expand the footprint or structural, mechanical, electrical, and/or plumbing alterations to a single-family residential building see Single Family Residential Building Permit submittal requirements.
    b. For additions which expand the footprint or structural, mechanical, electrical, and/or plumbing alterations to a structure other than a single-family residential building see submittal requirements for Building Permits in All Other Zones

G. Appeals

1. Variance
    a. Land Use Authority: Appeal Authority
    b. Submittal Requirements:
        i. Application Form & Fees
        ii. Referral Packet
        iii. Written description showing that the variance request meets all of the conditions justifying a variance stipulated in 9-11-1(C) of this Title and any applicable state statute.

2. Land Use Decision Appeal
    a. Land Use Authority: Appeal Authority
    b. Submittal Requirements:
        i. Written Notice of Appeal (must be submitted to Town Clerk within ten (10) days of the action or decision being appealed)

H. Other Permits & Approvals

1. Burn Permit
    a. Land Use Authority: Public Safety
    b. Submittal Requirements:
        i. Application form

2. Wireless Telecommunications Approval
    a. Land Use Authority: Planning Commission
    b. Submittal Requirements:
        i. Application & Fees
        ii. Master Plan
        iii. Building Permit

3. Development Agreement (incl: Master Planned Development Agreement)
    a. Land Use Authority: Town Council
    b. Submittal Requirements:
        i. Application Form & Fees
        ii. Acknowledgement Letter of Authorization from Owners
        iii. Narrative Describing Compliance with Applicable Criteria
        iv. Description of Specific Commitments proposed by the Applicant.
        v. Draft of Proposed Development Agreement
        vi. Other Information as Requested by the Town Manager

4. Temporary Concrete Batching / Rock Crushing
    a. Land Use Authority: Town Manager or Designee
    b. Submittal Requirements:
        i. Application Form & Fees
        ii. Site Plan
        iii. Agent authorization
        iv. List & Quantity of Materials to be Stored
        v. List of Equipment
        vi. Written Explanation of Mitigation for Noise, Dust, Smell, Safety, and other Nuisances
        vii. Source of Water Location
        viii. Restroom Facilities
        ix. Insurance & Bond Information
        x. Town Indemnification Agreement
        xi. Storm Drain & Erosion Control Plan
        xii. Site Restoration Plan
        xiii. Other Information as Requested by the Town Manager

Ord. 22-010, 9-27-22, amd. ord. 24-014, 10-8-24)

9-4-2: SUBMITTAL DESCRIPTIONS:

A. Application Form And Fees:

1. The application form and associated instructions for each specific action may be obtained from the Planning and Zoning Department. (ord. 15-004, 4-28-2015, amd ord. 22-010 9-27-22)

2. Each application shall be accompanied by the applicable fee payment as outlined in the Town's Consolidated Fee Schedule. (amd. ord. 15-004, 4-28-2015, amd. ord. 22-010, 9-27-22, amd. ord. 24-014, 10-8-24)

3. Each application must be submitted to the Planning and Zoning Department by one o'clock (1:00) P.M., two (2) weeks (14 days) prior to the meeting of the Appeal Authority, Planning Commission or Town Council at which action is requested. Whenever notice to adjoining property owners or the public is required (as set forth in 9-1-8 of this title) applications shall be submitted by one o'clock (1:00) P.M. three (3) weeks (21) days prior to the meeting at which the action will be reviewed. (ord. 08-016, 8-12-2008; amd. ord. 22-010, 9-27-22).

4. The Planning and Zoning Department will review the application packet prior to the meeting and determine if all information is complete and accurate. If the application is incomplete, the Planning and Zoning Department shall inform the applicant of the deficiencies and shall determine if the application shall be removed from the meeting agenda or forwarded to the recommending body or Land Use Authority with an explanation of the deficiencies. Items removed from the meeting agenda shall remain

tabled until all required information is submitted by the applicant. (amd. ord. 24-014, 10-8-24).

5. The Planning and Zoning Department may modify the application form and associated instructions as needed to clarify the approval process as long as it does not violate the provisions of this title.

B. **Covenants, Conditions And Restrictions**: Covenants, conditions and restrictions (CC&Rs) shall be required for all subdivisions where common elements are shared by two (2) or more owners of the subdivision. CC&Rs shall include by reference the landscaping requirements outlined in this title and the minimum design guidelines and standards as adopted by the Town Council by ordinance in addition to other conditions or restrictions as determined by the applicant. (amd. ord. 22-010, 9-27-22, amd. ord. 24-014, 10-8-24).

C. **Design Elevations:** The applicant will provide clear and precise plans that display the applicant's name, property address, and phone number as well as the preparer's company name, address, and phone number. A north arrow scale in addition to the following information shall be illustrated on the plans:

1. Illustrations of exterior structure designs

2. Building heights and roof pitches

3. Architectural styling details
    a. Samples or pictures of proposed exterior materials, including roof materials, shall be provided, including types and colors.
    b. A manufacturer's light reflective value (LRV) for metal roofs shall be provided.
    c. Height of exposed foundations, and
    d. Type of windows
    e. Type and style of exterior lighting

(ord. 22-010, 9-27-22, amd. ord. 24-014, 10-8-24)

D. **Development Agreement**: When applicable, the applicant shall provide a document signed by the applicant prior to the approval of the final plat or building permit that memorializes the obligations, commitments, and representations made by the proponent in review meetings, as well as any conditions of approval. All minutes of public review sessions are incorporated into the development agreement by reference. (amd. ord. 22-010, 9-27-22, amd. ord. 24-014, 10-8-24)

E. **Development Report; Statement Of Interest:** A development report shall be provided by the applicant that includes:

1. An explanation of the purpose of the proposed action and proposed land use, including building descriptions, variations in building setbacks, parking, height, or other requirements that are being sought.

2. A development schedule indicating the approximate date of the development or stages of the development with expected completion dates.

3. Assessment of the availability and capacity of public infrastructure (utilities, roads) to serve the proposed use.

4. Any special agreements, conveyances, restrictions, or covenants, (CC&R) which will govern the use, maintenance, and continued protection of the development and any of its common areas.

(amd. ord. 22-010, 9-27-22)

F. **Engineered Grading Plans**: The applicant will provide professionally designed and stamped plans by a licensed professional qualified to perform such work in the state of Utah that illustrates the following:

1. Existing conditions of the site, including:
    a. Topography and vegetation
    b. Previously disturbed areas
    c. Areas showing signs of, or which have a history of landslide or erosion

2. Proposed areas of disturbance

3. Existing and proposed surface drainage flow patterns

4. Location of existing and proposed utilities

5. Proposed cuts with slope measurements and heights

6. Proposed retaining walls with heights and lengths
    a. Plans shall clearly show any tiering of walls with heights of each tier; and
    b. Notes describing materials to be used for retaining walls.

7. Proposed storm drainage infrastructure
8. The engineered grading plans will display the applicant's name, property address, phone number as well as the preparer's company name, address, and phone number. A north arrow, and scale shall be included.

(ord. 22-010, 9-27-22, amd. ord. 24-014, 10-8-24)

G. **Existing Conditions Map**: The applicant will provide a map which displays the applicant's name, property address, phone number as well as the preparer's company name, address, and phone number. A north arrow scale in addition to the following information shall be provided:

1. Site boundaries with dimensions

2. Protection area boundaries (wetlands, spring/well protection, flood plains, etc.)

3. Existing topography, with slopes over ten percent (10%), twenty-five percent (25%) and forty percent (40%) identified.

4. Existing vegetation, trees, or groupings of trees

5. Existing roads and rights-of-way, including names, grades, and travel lane widths.

6. Existing utilities by type, including location and dimension of easement(s).

7. Existing emergency access, fire lanes and fire hydrants

8. Footprint of existing structures with their uses indicated, and

9. Existing drainage systems (natural or improved)

(ord. 22-010, 9-27-22, amd. ord. 24-014, 10-8-24)

H. **Final Subdivision Plat or Final Amended Subdivision Pla**t: The applicant will provide a plat which displays the applicant's name, property address, phone number as well as the preparer's company name, address, and phone number. A north arrow scale in addition to the following information shall be provided:

1. Site boundaries with dimensions

2. Protection area boundaries (i.e. wetlands, spring/well protection, flood plains, etc.)

3. Proposed topography, with slopes over ten percent (10%), twenty-five (25%) and forty percent (40%) identified

4. Proposed roads and rights-of-way, including names, grades, and travel lane widths

5. Proposed utilities by type, including location and dimension of easement(s)

6. Proposed cut/fills

7. Proposed drainage system including location and dimensions of easement(s)

8. Proposed emergency access, fire lanes, and hydrants

9. Typical cross-sections of roads, curbs, gutters, and sidewalks

10. Layout of lots with lot sizes, setbacks, buildable areas, and lot numbers shown with phases identified.

11. Subdivision improvements plans and elevations with general dimensions

12. Designation of snow storage areas

13. Final plat data to include:
    a. Calculation and traverse sheets giving bearings, distances, and coordinates of the boundary of the subdivision and blocks and lots as shown on the final plat.
    b. Design data, assumptions, and computation in accordance with sound engineering practice, along with a plan, section, and profile sheets for all public improvements
    c. Details of exterior masonry or concrete walls, to demonstrate compliance with design standards, including elevations, and material samples showing textures and color.
    d. The words “Street”, “Avenue”, “Road”, “Drive”, “Court”, or other designation of any street shall be spelled out in full on the plat and shall be subject to approval by the Land Use Authority.

14. Waterway or floodplain setbacks

(ord. 22-010, 9-27-22, amd. ord. 24-014, 10-8-24)

I. **Improvement Plan (Subdivisions):** The applicant will provide plans to complete all required improvements as a condition of subdivision approval. The applicant may also be required to post a completion assurance. Improvement plans may include studies, reports, and engineering drawings, as applicable. (ord. 24-014, 10-8-24)

J. **Insurance Information**: For any work undertaken by a private contractor in a Town right-of-way or involving connection to the Town’s sewer or water systems, a copy of the contractor’s insurance policy showing the following will be provided.

1. $1,000,000 minimum coverage, and

2. Brian Head Town named as additional insured.

(ord. 22-010, 9-27-22, amd. ord. 24-014, 10-8-24)

K. **Preliminary Subdivision Plat**: The applicant will provide a schematic plat that displays the applicant’s name, property address, and phone number as well as the preparer’s company name, address, and phone number. A north arrow scale in addition to the following information shall be included:

1. Site boundaries with dimensions

2. Protection area boundaries (i.e. wetlands, spring/well protection, flood plains, etc.)

3. Existing and proposed topography, with slopes over ten percent (10%), twenty-five percent (25%) and forty percent (40%) identified.

4. Existing and proposed roads and rights-of-way, including names, grades, and travel lane widths.

5. Existing and proposed utilities by type, including location and dimensions of easement(s).

6. Proposed cut/fills.

7. Proposed drainage system(s) including location and dimensions of easements

8. Proposed emergency access, fire lanes, and hydrants.

9. Typical cross-sections of roads, curbs, gutters, and sidewalks

10. Layout of lots with lot sizes, setbacks, buildable areas, and lot numbers shown with phases identified.

11. Preliminary construction plans and elevations with general dimensions

12. Designation of snow storage areas, and

13. Waterway or floodplain setbacks.

(ord. 22-010, 9-27-22, amd. ord. 24-014, 10-8-24)

L. **Referral Packet:** A packet containing mailing labels addressed to and a map identifying the owners, (including condominium owners), of abutting properties located partly or entirely within three hundred feet (300') of any boundary of the property subject to the application. Mailing labels will be prepared using current mailing addresses available at the County Recorder's office. (amd. ord. 22-010, 9-27-22).

M. **Schematic (Concept) Subdivision Plat:** The applicant will provide a schematic (concept) plat which displays the applicant's name, property address, phone number as well as the preparer's company name, address, and phone number. A north arrow scale in addition to the following information shall be provided:

1. Site boundaries with dimensions

2. Protection area boundaries (i.e. wetlands, spring/well protection, flood plains, etc.)

3. Existing roads and rights-of-way, including names, grades, and travel lane widths

4. Simplified layout of proposed lots or units with approximate dimensions

5. Approximate location and dimensions of proposed utility easements (with type indicated) and proposed roads or rights-of-way, and

6. Approximate location of primary and secondary emergency access and fire lanes.

N. **Security Agreement**: As required under Chapter 13 of this title, the applicant shall enter into a security agreement that memorializes the terms and type of security (such as a bond, letter of credit, or escrow account) to guarantee the timely completion of site improvements that are the obligation of the applicant. (amd. ord. 22-010, 9-27-22, amd. ord. 24-014, 10-8-24)

O. **Signage Conceptual Design:** The applicant will provide a plan illustrating the following:

1. Location, type, and purpose of each proposed sign.
2. Dimensions, materials, and colors of each proposed sign
3. Proposed lighting for the sign
4. Distance from property lines to proposed signs; and
5. If the sign is to be permanent or temporary in nature, and if temporary, indicate the dates the signage will be employed.

(ord. 22-010, 9-27-22, amd. ord. 24-014, 10-8-24)

P. **Site Plan:** The applicant will provide clear and precise site plan(s) that display the applicant's name, property address, and phone number as well as the preparer's company name, address, and phone number. A north arrow scale in addition to the following information shall be provided:

1. Lot boundaries with dimensions and lot size.
2. Adjacent roads, including names and rights-of-way.
3. Existing vegetation, trees, or grouping of trees.
4. Existing utilities and proposed utilities
5. Existing drainage and proposed drainage.
6. Footprint of existing structures, with their uses indicated.
7. Footprint and square footage of proposed structures, with their proposed uses indicated.
8. Setbacks
9. Percentage of building footprint coverage
10. Percentage of lot which will be undisturbed.
11. Designation of snow storage areas
12. Driveway width and slope; and

13. Number of parking spaces

(ord. 22-010, 9-27-22, amd. ord. 24-014, 10-8-24)

Q. **Site Restoration and Landscaping Plan**: The applicant will provide a site restoration and landscaping plan illustrating the following:

1. All disturbed, undisturbed, and landscaped areas.

2. Locations of walls, walkways, patios, fences, trees, and other vegetation including:
   a. Descriptions of materials proposed to be used; and
   b. Specification of species, variety, number and size of trees and shrubs

3. Description of restoration measures for remaining disturbed areas, including xeriscape and reseeding

(ord. 22-010, 9-27-22 amd. ord. 24-014, 10-8-24)

R. **Soil/Geology Report:** The applicant shall provide:

1. A report of subsurface investigation based upon adequate test borings, excavations and geologic evaluations prepared by a geological/engineering firm specializing in soil mechanics and registered to perform such work by the state. Excavations and/or borings shall be located on the proposed building pad. Reduced cost shall not be justification for more distant convenient locations. (amd ord. 22-010, 9-27-22)

2. Additional soil/geologic investigations may be required if the report indicates the presence of conditions that, if not corrected or adequately addressed through design, could lead to structural damage or premature deterioration of the building or damage to surrounding improvements, whether public or private, or damage to surrounding lots. Such conditions may include, but not be limited to: (amd. ord. 15-004, 4-28-2015)

   a. Expansive soils;

   b. High water table;

   c. Soluble mineral veins;

   d. Slope instability;

   e. Buried slides;

   f. Buried stream channels;

   g. Fault zones; or

   h. Sand.

3. The investigation shall include visual appraisal of adjacent lots for surface geologic/topographic conditions which could threaten the proposed building site.

4. The soil/geologic report shall also:

   a. Recommend corrective action or building design specifications intended to prevent potential dangers found in the investigation.

b. State whether the site is buildable or unbuildable because of any potentially threatening conditions which are not economically or technically correctable or avoidable by currently known building practices and codes. (e.g., existence of an active or inactive deeply buried landslide, etc.).

(amd. ord. 24-014, 10-8-24)

S. **Surveyors Certificate & Legal Description**:

1. A Surveyors Certificate is prepared by a registered surveyor licensed to perform such work in the State and should be in a form substantially similar to the following:
   a. SURVEYOR'S CERTIFICATE:
      i. (NAME OF PROFESSIONAL LAND SURVEYOR) do hereby certify that I am a Professional Land Surveyor, and that I hold License No. (INSERT LICENSE NUMBER) in accordance with Title 58, Chapter 22, of the Professional Engineers and Land Surveyors Act. I further certify that by authority of the owners I have completed a survey of the property described on this subdivision plat in accordance with Section 17-23-17, have verified all measurements, and have subdivided said tract of land into lots and streets, together with easements, hereafter to be know as (INSERT NAME OF SUBDIVISION, INCLUDING PHASE NUMBER, IF APPLICABLE). And that the same has been correctly surveyed and monumented on the ground as shown on this plat.
2. Legal descriptions prepared by the registered surveyor shall depict the locations and dimensions of improvements, structures and buildings on the lands, including encroachments, registered charges, and other property information typical of survey certificates.

(ord. 22-010, 9-27-22, amd. ord. 24-014, 10-8-24)

T. **Title Report:** A title report must be prepared by a title company or other entity bonded to ensure the accuracy of the title information for all associated parcels or lots within the proposed subdivision boundary. Title reports must be dated no more than thirty (30) days prior to its submission to the Town and shall indicate all easements, restrictions, covenants and reservations of record. (amd. ord. 15-004, 4-28-2015, amd. ord. 22-010, 9-27-22, amd. ord. 24-014, 10-8-24)

U. **Tree Removal Site Plan:** The application will provide a site plan illustrating the following:

1. Specific location of all trees to be removed.

2. Plan for tree removal and disposal from the property.

(ord. 22-010, 9-27-22)

V. **Written Description of the Proposed Grading Activity:** The applicant will provide a clear written description of the following:

1. The grading, excavating, trenching, and clearing being proposed.

2. Time frame in which the work will be completed.

3. Equipment that will be used to conduct the operation.

4. Quantities to be removed from or brought to the site.

5. Plan for storage and disposal of materials.

6. Measures the applicant will take to mitigate erosion, noise, dust, smell, safety concerns and other potential nuisances during construction.

(ord. 22-010, 9-27-22)

W. **Written Notice of Appeal**: See 9-3-2(G) of this title for a description.

(ord. 22-020, 9-27-22)

Title 9 – Land Management Code

Chapter 5

TOWN GENERAL PLAN

9-5-1: PURPOSE:
9-5-2: CONSISTENCY POLICY:
9-5-3: AMENDMENTS:

9-5-1: PURPOSE:

The Town General Plan is a plan for the community, a general guide for making land use decisions. It describes the community's physical development goals and where various land uses are desired. The General Plan is published as a separate document from the Land Management Code and may be obtained from the Town Clerk.

9-5-2: CONSISTENCY POLICY:

In accordance with Utah Code Annotated §10-9a-401

9-5-3: AMENDMENTS:

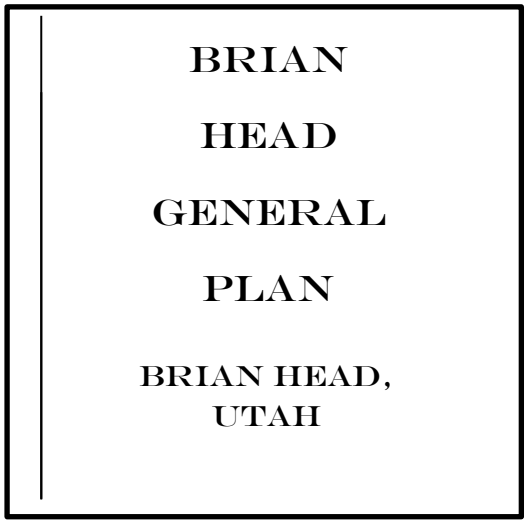
The General Plan may be amended. Amendments can be initiated by the Planning Commission, Town Council, or by any interested party by the following procedure:

A. **Review Process:**

1. Application And Fees: Amendments proposed by the interested party shall be submitted to the Planning Commission with appropriate fee as indicated on the Consolidated Fee Schedule.
2. Planning Commission Review: After appropriate public notice consistent with section 9-1-8 of this title, the Planning Commission shall hold a public hearing and shall make a recommendation on the proposed amendment to the Town Council.
3. Town Council Review: After public notice consistent with section 9-1-8.

B. **Standards For Review:** The Planning Commission and Town Council shall consider whether the proposed amendment meets the following standards and conditions:

1. Meets a recognized and demonstrated need in the community;
2. Will be compatible with the character of the neighborhood and surrounding structures in use, scale, mass and circulation;
3. Will not result in an over intensive use of the land or excessive depletion of natural resources;
4. Will not have a material adverse effect on community capital improvement programs;
5. Will not require a level of community facilities and services greater than that which is available, or will become available;
6. Will not result in undue traffic congestion and traffic hazards;
7. Will not cause significant air, odor, water, light or noise pollution;
8. Will not otherwise be detrimental to the health, safety or welfare of the present or future inhabitants of the town.



(ord. 08-016, 8-12-2008)

Title 9 – Land Management Code

Chapter 6

ZONING

9-6-1: ZONE DISTRICTS AND ZONE DISTRICT MAP:
9-6-2: LAND USE MUST BE CONSISTENT WITH ZONING TITLE:
9-6-3: AMENDMENTS TO ZONE DISTRICT MAP:
9-6-4: NONCONFORMING BUILDINGS AND USES:

9-6-1: ZONE DISTRICTS AND ZONE DISTRICT MAP:

A. In order to carry out the purposes of this title, zone districts have been established as described in chapter 7 of this title.

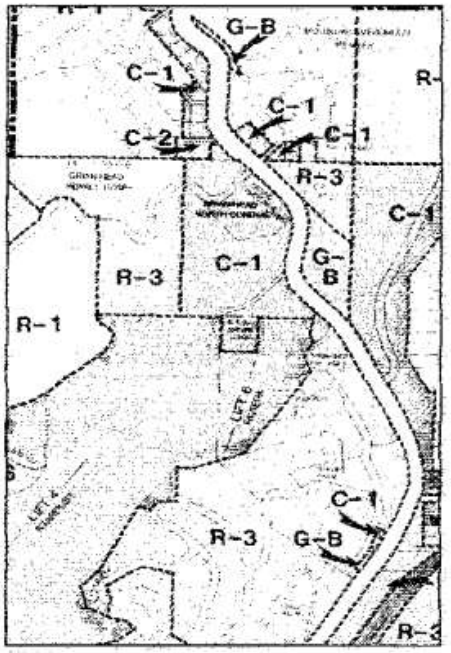


Figure 5.1: Example of a District Map Zone.

B. **Each zone district description** in chapter 7

1. Purpose;

2. Permitted uses;

3. Conditional uses;

4. Physical requirements. (Ord. 08-016, 8-12-2008)

9-6-2: LAND USE MUST BE CONSISTENT WITH ZONING TITLE:

A. Any building or structure erected, constructed, altered, enlarged, converted, moved, or maintained contrary to provisions of this title; and any use of land, building or premise established, conducted or maintained contrary to provisions of this title shall be, and the same hereby is, declared to be unlawful and a public nuisance. The Town Attorney, upon request of the Town Manager or Town Council, shall take such steps as necessary to cause removal of such structures and/or uses.

B. The remedies provided for herein shall be cumulative and not exclusive, meaning that, if it is not explicitly permitted, it is prohibited. (ord. 08-016, 8-12-2008)

9-6-3: AMENDMENTS TO ZONE DISTRICT MAP:

The Zone District Map may be amended as provided in this section. The required fee for zone change applications to cover the cost of processing and review is indicated in the Consolidated Fee Schedule that is available by request at Town hall or on the Town website.

A. **Review Process:**

1. Planning Commission: The proposed amendment shall be submitted to the Planning Commission with documentation as prescribed in chapter 4 of this title, "Submittal Requirements". Within a reasonable time after receiving the proposed amendment, the Planning Commission shall hold a public hearing on the proposed amendment, and shall forward a recommendation to the Town Council for approval, modification and approval, or denial of the proposed zone amendment by following the procedures described by Utah Code Annotated § 10-9a-502 and § 10-9a-503.

2. Town Council: Following the Planning Commission public hearing, the Town Council shall also convene a public hearing to receive public comment regarding the proposed amendment. Once a recommendation is forwarded from the Planning Commission to the Town Council, the Council shall reject, or adopt the proposed amendment either as

proposed by the Planning Commission or after making any revision that the Town Council considers appropriate.

B. **Standards For Review**: The Planning Commission and Town Council shall consider whether the proposed amendment meets the following standards and conditions:

1. Addresses a recognized and demonstrated need in the community;
2. Will be compatible with the character of the neighborhood and surrounding structures in use, scale, mass and circulation;
3. Will not result in an over intensive use of the land or excessive depletion of natural resources;
4. Will not have a material adverse effect on community capital improvement programs;
5. Will not require a level of community facilities and services greater than that which is available; or will be made available;
6. Will not result in undue traffic congestion and traffic hazards;
7. Will not cause significant air, odor, water, light or noise pollution;
8. Will not otherwise be detrimental to the health, safety or welfare of the present or future inhabitants of the Town.

9-6-4: NONCONFORMING BUILDINGS AND USES:

A. **Maintenance Permitted:** A nonconforming building or structure may be maintained.

B. **Continuance Of Nonconforming Use Of Buildings, Structures And Land**: Except as otherwise provided in this title, a nonconforming use of land or a structure may be continued:

1. Determination Of Nonconforming Buildings And Uses: Except as provided for in this subsection, all matters regarding the nonconforming use of structures and land shall be determined by the Appeal Authority. Upon application, after public hearing on the matter, the Appeal Authority shall determine if the use or structure is nonconforming with respect to the current provisions of this chapter. The Zoning Administrator may verify and determine routine and uncontested requests to verify nonconforming uses as provided in this section and the rules adopted by the Appeal Authority.

2. Alterations Or Modifications To Nonconforming Buildings And Structures: Nonconforming buildings and structures with respect to setbacks or height may be continued. Additions, enlargements or structural alterations may be made to the extent that they comply with all requirements of this code.

3. Nonconforming Use Of Land: Except as otherwise provided by law, including statutory and case law, nonconforming use of land lawfully existing on the effective date of the ordinance rendering it nonconforming may be continued and maintained, provided such nonconforming use shall not be expanded or extended into any other open land, except as otherwise provided in this chapter. If the nonconforming use is discontinued for a

continuous period of more than one year, it shall constitute an abandonment of the use, and any future use of such land shall conform to the provisions of the zone in which it is located.

4. Nonconforming Use Of Buildings And Structures: The nonconforming use of a building or structure lawfully existing on the effective date of the ordinance rendering it nonconforming may be continued and the building or structure maintained, and the use may be expanded or extended throughout such building or structure, provided no structural alterations, except those permitted by law, are proposed or made for the purpose of extension or expansion. (The addition of a solar energy device to a building shall not be considered a structural alteration.) If such nonconforming use is discontinued for a continuous period of more than one year, it shall constitute an abandonment of the use, and any future use of the building or structure shall conform to the provisions of the zone in which it is located.

5. Change In Status Of Nonconforming Use: If a nonconforming use is discontinued, it may be succeeded, upon approval of the Zoning Administrator, as provided in this section, by an equally intensive or less intensive nonconforming use, provided such change is effected within one year from the first day of discontinuance. After a change to a less intensive use occurs, the use may not change back to a more intensive use.

6. Alterations Or Modifications To Nonconforming Use: A use which has been declared nonconforming shall not be enlarged or moved, except as provided in this section.

7. Reconstruction Of Nonconforming Building Or Structure Partially Destroyed: A nonconforming building or structure occupied by a nonconforming use which is damaged or is destroyed by fire, flood, wind, earthquake or other calamity or act of God, or the public enemy, or is removed due to dilapidation, may be restored and the occupancy or use of such building, structure, or part thereof, which existed at the time of such damage or destruction, may be continued or resumed; provided, that such restoration is started within a period of one year and is diligently prosecuted to completion as evidenced by an active building permit. If any such restoration is not commenced within one year, the structure shall be deemed to be abandoned, and every future building or structure occupying the portion of the land on which the building or structure was located shall conform to the current provisions of this title.

8. Amortization Of Nonconforming Uses: Except as otherwise provided by Utah Code Annotated, the Appeal Authority, under authorization of Utah Code Annotated, may provide for the timely modification or removal of a nonconforming structure or use of land. After appropriate financial studies to determine a valid amortization schedule, the Appeal Authority may establish a reasonable time period during which the owner may recover or amortize the amount of investment in the nonconforming use, and after which the nonconforming use shall be modified or removed in order to comply with the General Plan and this title. (ord. 08-016, 8-12-2008)

Title 9 – Land Management Code

Chapter 7

ZONE DISTRICT REGULATIONS

9-7-1: R-1 SINGLE-FAMILY RESIDENTIAL:
9-7-2: R-2 MEDIUM DENSITY RESIDENTIAL:
9-7-3: R-3 MULTI-FAMILY RESIDENTIAL:
9-7-4: GC GENERAL COMMERCIAL:
9-7-5: VC VILLAGE COMMERCIAL:
9-7-6: L-1 LIGHT INDUSTRIAL:
9-7-7: ROS RECREATION OPEN SPACE:
9-7-8: COS CONSERVATION OPEN SPACE:
9-7-9: C CIVIC:
9-7-10: AT ANNEXED TRANSITION
9-7-11: BUILDING BONUSES:
9-7-12: CCOD COMMERCIAL CORE OVERLAY DISTRICT
9-7-13: ASPEN MEADOWS MOUNTAIN ZONING OVERLAY DISTRICT (MZOD)

9-7-1: R-1 SINGLE-FAMILY RESIDENTIAL:

A. **Purpose:** The R-1 district is intended to provide sites for low density single-family residential uses, together with such public facilities as may appropriately be located in the same district. The R-1 district regulations are intended to ensure adequate light, air, open space for each dwelling, commensurate with single-family occupancy, and, along with the Town Design Standards, to maintain the desirable residential qualities of such sites by establishing appropriate site development standards. Certain nonresidential uses may be permitted as conditional uses, and where approved, are intended to blend harmoniously with the residential character of the district.

B. **Permitted Uses**: Only the following uses are permitted in the R-1 zone:

Boarding of horses for non-commercial use, subject to a horse boarding permit.

Commercial rentals of single-family residences, subject to a business license.

Home occupations identified in subsection 9-10-5 of this title.

Single-unit dwellings.

Other uses customarily incidental and accessory to single-family residential uses, and necessary for the operation thereof (garages or carports, play equipment, or other approved single-family use).

C. **Conditional Uses:** The following uses are conditional and require a conditional use permit:

Bed and breakfast rentals.

Churches.

Home occupations identified in subsection 9-10-5C of this title.

One accessory dwelling unit (ADU) on an R-1 lot will be allowed per lot. Accessory Dwelling Units (ADUs) are defined as a secondary living space on a property that shares a lot and ownership with the primary residential structure. ADUs can be a basement apartment, a garage conversion, or an addition to the house (internal ADU). They can also be stand-alone structures on the lot (detached ADU). The following requirements/restrictions apply to this type of dwelling:

1. The purpose of allowing this type of use on an R-1 lot is to create more affordable housing. ADUs will not be permitted as Short-Term Rentals (STR).
2. The ADU is a secondary use to the primary residential structure on the lot and therefore one master water meter and one sewer hookup per lot shall be installed for utilities on the lot.
3. Detached ADUs will meet all the requirements of Accessory Structures in §9-12-7(I).
4. Off-street parking requirements will remain per the parking ordinance for the main residence. If the new construction for the ADU diminishes the number of parking spaces for the main residence, then new parking will be installed to bring the main residence in compliance with the LMC. For new ADU's off-street parking requirements of 1 per bedroom in the ADU, not to exceed 2 new spaces will be added to the lot (whether the ADU is detached or internal).
5. All detached accessory dwelling units must follow the Design Standards and Guidelines as outlined in §9-12-7 and should substantially match the primary residential structure in design features.
6. ADUs are subject to the building codes (IRC), and Design Standards in place at the time of the application.
7. Occupancy shall comply with the same definition for a single-family unit as it pertains to the number of unrelated occupants allowed to dwell in the unit (see definition for "Family").

(ord. 25-003, 5-13-25)

Public or private schools.

Public parks.

Public utility uses.

D. **Physical Restrictions:**

1. One (1) acre or forty-three thousand five hundred sixty (43,560) square feet. Lots as small as fourteen thousand five hundred twenty (14,520) square feet or one-third (1/3) acre may be allowed more where the provisions of §9-9-7 are met. (ord. 23-007, 8-8-2023)

2. Minimum frontage width: Forty-five feet (45'). (amd. ord. 22-002, 5-10-22)

3. Minimum setbacks:
   a. Front: Twenty-five feet (25'). An administrative exception may be granted for the garage only when all of the following apply:
      i. Front yard setback exceeds twenty percent (20%) slope (11.3 degrees).
      ii. No habitable space within the setback area.
      iii. Required off street parking is satisfied and maintained in the garage or on the lot.
      iv. The roof sheds snow away from the public right of way.
      v. Adequate snow storage on the lot.

      Under no circumstances will the setback be less than five feet (5'). (ord. 17-004, 7-11-2017)

   b. Side: Twenty feet (20').
   c. Rear: Twenty feet (20').
   d. Minimum distance between buildings: Ten feet (10'). (ord. 23-008, 8-8-2023)

4. Setback exception: The following shall be allowed to encroach within the required setback, subject to compliance with the provisions of this section:
   a. Driveway and walkways.
   b. Roof eaves provided they encroach no more than five feet (5') into the required setback.
   c. Pop out windows, provided the bottom of the pop out structure is no less than four (4') feet above grade, measured at the pop out structure, the total width of the pop out structure does not exceed twelve feet (12') measured at the point where the pop out structure attaches to the residential structure, the pop out structure is under and completely covered by a roof overhang or eaves, and the completely covered by a roof overhang or eaves, and the pop out structure encroaches no more than three and one-half feet (3 ½') into the required setback; and, (2010 Code, amd. ord. 15-004, 4-28-2015)
   d. Decks and exterior staircases attached to the residential structure may be permitted on a case-by-case basis after written approval of the Zoning Administrator, following review. The deck or exterior staircase may encroach no more than four feet (4') into the required setback. Uncovered decks or walkways less than 30" above grade may stand within the innermost one-third (1/3) of the setback. (amd. ord. 15-004, 04-28-2015, amd. Ord. 24-011, 8-27-24).

5. Maximum Building Height: Twenty-five feet (25'). (2010 Code, amd. ord. 22-002, 5-10-22)

6. Maximum building coverage:

a. One thousand square feet (1,000 sq. ft) footprint including garages, patios, and decks for a primary habitable structure. No more than 40% for all structures combined. (amd. ord. 15-004, 04-28-2015, amd. ord. 22-002, 5-10-22)
b. Minimum building coverage: 400 square feet for a primary habitable structure footprint (not including unenclosed decks and porches) and 160 square feet for a secondary habitable structure. (ord. 20-006, 7-14-20)
c. A property owner wishing to build larger than what is allowed in this code may refer to the Building Bonus section in 9-7-10. (ord. 22-002, 5-10-2022)

7. Minimum landscaping: Twenty-five percent (25%) of the lot shall be landscaped per section 9-12-5 of this title, with every effort to preserve vegetation. (2010 Code, amd. ord. 15-004-2015).

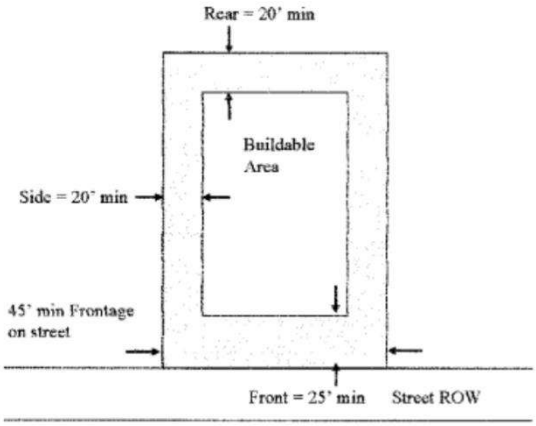
8. Parking: In accordance with section 9-12-15 of this title.

9. Undisturbed lot area: Fifteen (15%) of the lot shall not be disturbed during development. (2010 Code, amd. ord. 15-004, 04-28-2015)

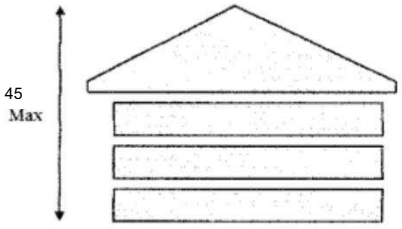
10. Remaining undeveloped lot: The remaining area shall be landscaped as per section 9-12-5 of this title. (2010 Code, amd. ord. 15-004, 04-28-2015)

11. One piece of heavy equipment along with two heavy equipment attachments may be kept on premises for non-commercial use, such as private snow removal or light excavation. The equipment shall be parked in a place and manner so as to be reasonably screened from view from the public right of way. Additional equipment used for construction may be parked at the site when authorized by a current building permit or otherwise authorized by the Town. (ord. 16-007, 11-08-2016)

12. Storage Containers: Storage or cargo containers are not allowed to be used as dwelling units in R-1 zones. (ord. 22-002, 5-10-22)



R-1 Site Restrictions



R-1 Height

9-7-2: R-2 MEDIUM DENSITY RESIDENTIAL:

A. **Purpose:** The R-2 district is intended to provide sites for medium density single- and multi- family residential use at a maximum density of eight (8) dwelling units per acre, together with such public facilities as may appropriately be located in the same district. The R-2 district regulations are intended to ensure adequate light, air, open space for each dwelling, commensurate with medium density multi-family occupancy, and along with the Town Design Guidelines, to maintain the desirable residential qualities of such sites by establishing appropriate site development standards. Certain nonresidential uses may be permitted as conditional uses, and where approved, are intended to blend harmoniously with the residential character of the district.

B. **Permitted Uses:** Only the following uses are permitted in the R-2 zone:

Food and beverage services (restaurant, cafe, etc.).

Home occupations identified in subsection 9-10-5 of this title.

Multi-family dwellings (2 or more dwelling units per structure, including townhomes).

Nightly rental of dwelling units, subject to a business license.

Property management.

Public parks and open spaces.

Single-unit dwellings.

Spa.

Other uses customarily incidental and accessory to medium density family residential uses, and necessary for the operation thereof (garages or carports, play equipment, etc.)

C. **Conditional Uses:** The following uses are conditional and require a conditional use permit:

Bed and breakfast rentals.

Churches.

Home occupations identified in subsection 9-10-5 C of this title.

Public facilities.

Public or private schools. Public utility uses.

D. **Physical Restrictions:**

1. Minimum lot area: Twenty-one thousand seven hundred eighty (21,780) square feet ($^1/_2$ acre).

2. Minimum frontage: Forty-five feet (45').

3. Minimum setbacks:
   a. Front: Twenty-five feet (25'). An administrative exception may be granted for the garage only when all of the following apply:

i. Front yard setback exceeds twenty percent (20%) slope (11.3 degrees);
ii. No habitable space within the setback area;
iii. Required off street parking is satisfied and maintained in the garage or on the lot;
iv. The roof sheds snow away from the public right of way; and
v. Adequate snow storage on the lot.

Under no circumstances will the setback be less than five feet (5').

(ord. 17-004, 7-11-2017)

b. Side: Twenty feet (20');
c. Rear: Twenty feet (20'). (amd. ord. 22-002, 5-10-22)
d. Minimum distance between buildings:
   i. Under twenty feet (20') in height: Ten feet (10')
   ii. Over twenty feet (20') and under thirty feet (30') in height: Fifteen feet (15')
   iii. Over thirty feet (30') in height: Twenty feet (20').

   (ord. 23-008, 8-8-2023)

4. Setback exception: The following shall be allowed to encroach within the required setback, subject to compliance with the provisions of this section:
   a. Driveways and walkways;
   b. Roof eaves, provided they encroach no more than five feet (5') into the required setback;
   c. Pop out windows, provided the bottom of the pop out structure is no less than four feet (4') above grade measured at the pop out structure, the total width of the pop out structure does not exceed twelve feet (12') measured at the point where the pop out structure attaches to the residential structure, the pop out structure is under and completely covered by a roof overhang or eaves, and the pop out structure encroaches no more than three and one-half feet ($3^1/_2$') into the required setback; and
   d. Decks and exterior staircases attached to the residential structure may be permitted on a case-by-case basis after written approval of the Zoning Administrator, or designee, following review. The deck or exterior staircase may encroach no more than four feet (4') into the required setback. Uncovered decks or walkways less than 30" above grade may stand within the innermost one-third (1/3) of the setback. (amd. ord. 15-004, 04-28-2015, amd. Ord. 24-011, 8-27-24)

5. Maximum height: Twenty-five feet (25'). (amd. ord. 22-002, 5-10-2022)

6. Maximum building coverage: One thousand five hundred square feet (1,500 sq. ft.) footprint including garages, patios, and decks. (amd. ord. 22-002, 5-10-2022)

7. A property owner wishing to build larger than what is allowed in this code may refer to the Bonus Section in 9-7-10 of this title.

8. Maximum density: Four (4) units per acre (or a fraction thereof) for multi-family dwellings, including constraints of this title relating to height, setback, landscaping,

lot disturbance, parking, etc. Up to ten (10) units per acre may be allowed where the provisions of §9-9-7 are met. (amd. ord 23-007, 8-8-2023)

9. Minimum landscaping: Twenty-five percent (25%) of the lot shall be landscaped per § 9-12-5 of this title, with every effort to preserve vegetation. (2010 Code, amd. ord. 15-004, 04-28-2015).

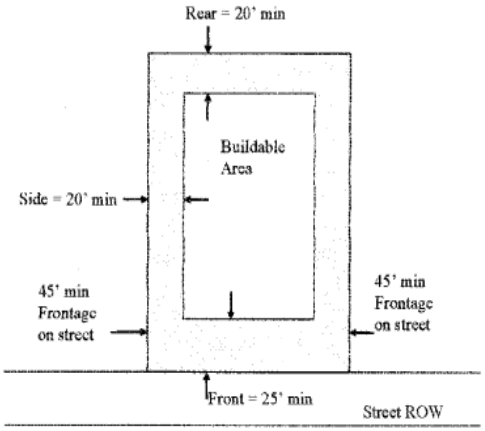
10. Parking: In accordance with section 9-12-15

11. Undisturbed lot area: Remaining undeveloped area shall be landscaped as per section 9-12-5 of this title. (2010 Code, amd. ord.15-004, 04-28-2015)

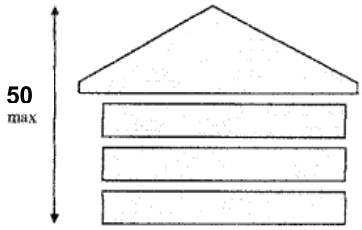
12. Remaining undeveloped area shall be landscaped as per section 9-12-5 of this title. (amd. 2015 ord. 15-004, 04-28-2015)

13. One piece of heavy equipment along with two heavy equipment attachments may be kept on premises for uses such as snow removal or light excavation. The equipment shall be parked in a place and manner so as to be reasonably screened from the view of the public right of way. Additional equipment used for construction may be parked at the site when authorized by a current building permit or otherwise authorized by the Town. (ord. 17-001, 4-11-2017)

14. Storage containers: Storage or cargo containers are not allowed to be used as a dwelling unit in R-2 zones. (ord. 22-002, 5-10-2022).



R-2 Site Restrictions



R-2 Height

(2010 Code, amd. ord. 15-004, 4-28-2015)

9-7-3: R-3 MULTI-FAMILY RESIDENTIAL:

A. **Purpose:** The R-3 district is intended to provide sites for multiple-family dwellings at densities restricted by constraints of this title relating to height, setback, landscaping, lot disturbance, parking, etc., together with such commercial and public facilities as may appropriately be located in the same district. The R-3 district regulations are intended to ensure adequate light, air, open space, and other amenities commensurate with multiple -family occupancy, and, with the Town Design Standards, to maintain the desirable residential qualities of the district by establishing appropriate site development standards. Certain nonresidential uses may be permitted as conditional uses and, where approved, are intended to blend harmoniously with the residential character of the district.

B. **Permitted Uses:** Only the following uses are permitted in the R-3 zone:

Bed and breakfast establishments.

Home occupations identified in subsection 9-10-5 of this title.

Multi-family dwellings (2 or more dwelling units per structure, including townhomes).

Nightly rentals of dwelling units, subject to a business license.

Property management.

Public open spaces (parks and trails for hiking, non-motorized biking, and Nordic skiing etc.).

Single-unit dwellings.

Other uses customarily incidental and accessory to permitted uses and necessary for the operation and maintenance thereof, such as garages, carports, play equipment and accessory structure.

C. **Conditional Uses:** The following uses are conditional and require a conditional use permit:

Churches.

Convention facilities.

Food and beverage services (restaurant, cafe, etc.).

Home occupations identified in subsection 9-10-5C of this title.

Limited retail, food and beverage service and personal services in conjunction with lodging facilities (barber/beauty, travel, childcare, etc.) for the use of building residents (area of accessory uses may not exceed 40 square feet per residential unit).

Public institutions.

Public parking lots.

Real estate sales offices operated in conjunction with condominium rental offices when the office space is constructed as part of the project or when approved by the homeowners' association and in conformance with the projects CC&Rs.

Recreational trails and use of open space for motorized vehicles.

Schools.

Spa.

D. Physical Restrictions:

1. Minimum lot area: Twenty-one thousand seven hundred eighty (21,780) square feet ($^1/_2$ acre).

2. Minimum frontage: Forty-five feet (45').

3. Minimum setbacks**:**
   a. Front: Twenty-five feet (25'). An administrative exception may be granted for the garage only when all of the following apply:
      i. Front yard setback exceeds twenty percent (20%) slope (11.3 degrees);
      ii. No habitable space within the setback area
      iii. Required off-street parking is satisfied and maintained in the garage or on the lot
      iv. The roof sheds snow away from the public right of way
      v. Adequate snow storage on the lot
      vi. Development does not exceed R-2 density. (Ord. 20-006, 7-14-20)

      Under no circumstances will the setback be less than five feet (5').

   b. Side: Twenty feet (20'.
   c. Rear: Twenty feet (20').
   d. For buildings over thirty-five feet (35') in height
      i. Side: Thirty feet (30');
      ii. Rear: Thirty feet (30');
      iii. Front: Twenty-five feet (25').
   e. Minimum distance between buildings:
      i. Under twenty feet (20') in height: Ten feet (10')
      ii. Over twenty feet (20') and under thirty feet (30') in height: Fifteen feet (15')
      iii. Over thirty feet (30') in height: Twenty feet (20')

      (ordinance 23-008, 8-8-2023)

4. Setback exceptions: The following may be permitted to encroach within the required setback, subject to compliance with the provisions of this section, on a case-by-case basis after written approval of the Town Manager, or designee, following review:

   a. Driveways and walkways running parallel to a property line shall not occupy more than seventy five percent (75%) of the required setback area while retaining at least twenty five percent (25%) of the required area as a landscape buffer.

   b. Roof eaves, provided they encroach no more than five feet (5') into the required setback.
   c. Pop out windows, provided the bottom of the pop out structure is no less than four feet (4') above grade measured at the pop out structure, the total width of the pop out structure does not exceed twelve feet (12') measured at the point

where the pop out structure attaches to the residential structure, the pop out structure is under and completely covered by a roof overhang or eaves, and the pop out structure encroaches no more than three and one-half feet ($3^1/_2$') into the required setback; and (2010 Code amd ord. 15-004, 04-28-2015)

d. Decks and exterior staircases attached to the residential structure on a case-by-case basis after written approval of the Zoning Administrator, following review. The deck or exterior staircase may encroach no more than four feet (4') into the required setback. Uncovered decks or walkways less than 30' above grade may stand within the innermost one-third (1/3) of the setback. (amd ord. 15-004, 04-28-2015, amd. Ord. 24-015, 10-8-24)

5. Maximum density: Eight (8) units per acre (or a fraction thereof) for multi-family dwellings, including constraints of this title relating to height, setback, landscaping, lot disturbance, parking, etc. Up to twenty-five (25) units per acre may be allowed where the provisions of §9-9-7 are met. (amd. ord. 23-007, 8-8-2023)

6. Maximum height: Sixty feet (60') for peaked roof, forty feet (40') for flat roof; (2010 Code. amd ord. 15-004, 04-28-2015)

7. Maximum building coverage: Forty percent (40%) of the lot area. Fifty percent (50%) is permitted if all of the required parking is within the footprint of the building. (2010 Code. amd ord. 15-004, 04-28-2015)

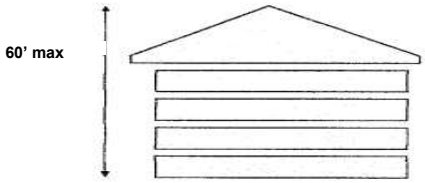
8. Minimum landscaping: Forty percent (40%) or all disturbed portions of the property, whichever is greater, shall be landscaped per section 9-12-5 of this title, with every effort to preserve existing vegetation. If the building footprint is at 50% and required covered parking is within the footprint of the building, then the landscaping minimum will be 30%. Vegetated undisturbed areas may be counted towards landscaping requirements. (2010 Code. amd ord. 15-004, 04-28-2015, amd. ord. 24-011, 10-8-24, amd. ord. 24-015, 10-8-24))

9. Parking: In accordance with section 9-12-15 of this title

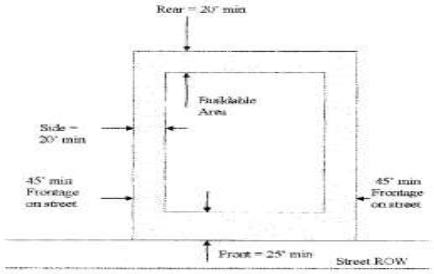
10. Undisturbed lot area: Twenty percent (20%) of the parcel shall not be disturbed during development. All area within minimum setbacks of the development shall remain undisturbed except for space directly adjacent to buildings which is required to be cleared by wildland urban interface code, utility location, and space used for driveways and walkways. All reasonable efforts shall be made to avoid removing mature trees. (ord. 24-015, 10-8-24)

11. Remaining undeveloped area shall be landscaped as per section 9-12-5 of this title. (2010 Code. amd Ord. 15-004, 04-28-2015)

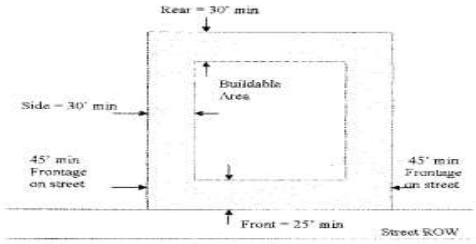
12. One piece of heavy equipment along with two heavy equipment attachments may be kept on premises for uses such as snow removal or light excavation. The equipment shall be parked in a place and manner so as to be reasonably screened from view from the public right of way. Additional equipment used for construction may be parked at the site when authorized by a current building permit or otherwise authorized by the Town. (ord. 17-001, 4-11-2017)



R-3 Height



R-3 Site Restrictions (35 ft or less)



R-3 Site Restrictions (over 35 ft)

(2010 Code, amd. ord. 15-004, 04-28-2015)

9-7-4: GC GENERAL COMMERCIAL:

A. **Purpose:** The general commercial (GC) district is intended to provide sites outside of the village commercial zone, with a mixture of lodges and commercial establishments in an auto oriented setting. The GC district regulations are intended to ensure light, air, open space, and other amenities appropriate to the permitted types of buildings and uses. The GC district regulations, in conjunction with this title, prescribe site development standards that are intended to maintain the unique character and relationship of the town commercial areas and to ensure an attractive, functional commercial setting.

B. **Permitted Uses**: Only the following uses are permitted in the GC zone:

Banks.

Childcare centers.

Churches.

Food and beverage service establishments.

Home occupations identified in subsection 9-10-5 (D) of this title. (amd. ord. 21-006, 5-25-21)

Indoor entertainment (Theater, arcade, bowling alley, etc). (ord. 15-004, 04-28-2015, amd. ord. 21-006, 5-25-21)

Other uses customarily incidental and necessary to permitted uses and necessary for the operation thereof.

Light hardware (no outside storage or sales of goods).

Lodging and nightly rentals (including hotels and motels).

Mortuary (ord. 17-004, 7-11-2017)

Personal services (barber/beauty, spa, self-service laundry, etc.).

Places for retailing of goods such as necessities, sundries, groceries, and convenience items), including outdoor display. (amd. ord. 21-006, 5-25-21)

Professional offices (real estate, finance, insurance, medical and dental, etc.).

Public and private educational institutions.

Public institutions and government buildings, e.g., town hall, library, senior center, etc.

Public open spaces (parks, etc.).

Public parking lots.

Public recreation areas.

Residential dwellings in conjunction with commercial space. It is required that at least seventy-five percent (75%) of the entire main floor, facing the public street or thoroughfares, be dedicated to commercial business residential units to be located in the rear or sides of the building to maximize the commercial business exposure. On multi-building projects, the commercial space may be cumulatively oriented toward the vehicle and pedestrian corridors rather than locations typically not accessible or visible to the general public. (amd. ord. 21-006, 5-25-21)

Retail, guest services, non-motorized equipment rental (e.g., skis, bicycles, etc.) oriented to tourists and mountain outdoor recreation (including outdoor display).

Schools.

C. **Conditional Uses:** The following uses are conditional and require a conditional use permit:

Building Material Sales (no outdoor storage or display). (ord. 17-004, 7-11-2017, amd. ord. 21-006, 5-25-21)

Car Wash (ord. 17-004, 7-11-2017)

Fuel service stations.

Home occupations identified in subsection 9-10-5(E) of this title.

Public and private utility structures. (2010 Code, amd. ord. 15-004, 04-28-2015)

Recreational vehicle rental, sales, and service.

Rental of horses.

Outdoor entertainment. (amd. ord. 21-006, 5-25-21)

(amd. Ord. 21-006, 5-25-21)

D. **Physical Restrictions:**

1. Minimum lot area: Twenty-one thousand seven hundred eighty (21,780) square feet (1/2 acre).

2. Minimum frontage: Forty-five feet (45').

3. Minimum setbacks:
   a. Front: Twenty-five feet (25');
   b. Side and rear: Twenty feet (20') up to thirty-five feet (35') height.
   c. For buildings over thirty-five feet (35') in height:
      i. Front: Twenty-five feet (25');
      ii. Side and rear: Thirty feet (30').

4. Setback exceptions: The following shall be allowed to encroach within the required setback, subject to compliance with the provisions of this section.

   a. Driveways and walkways.
   b. Roof eaves provided they encroach no more than five feet (5') into the required setback.
   c. Pop out windows, provided the bottom of the pop out structure is no less than four feet (4') above grade measured at the pop out structure, the total width of the pop out structure does not exceed twelve feet (12') measured at the point where the pop out structure attaches to the residential structure, the pop out structure is under and completely covered by a roof overhang or eaves, and the pop out structure encroaches no more than three and one-half feet ($3^1/_2$') into the required setback; (2010 Code, amd. ord. 15-004, 04-28-2015)
   d. Decks and exterior staircases attached to the residential structure may be permitted on a case-by-case basis after written approval of the Town Manager, or designee, following review. The deck or exterior staircase may encroach no more than four feet (4') into the required setback. Uncovered decks or sidewalks less than 30" above grade may stand within the innermost one-third (1/3) of the setback. (amd. ord. 15-004, 04-28-2015, amd. Ord. 24-011, 8-27-24)
   e. Portico or secondary egress stairways (when required on a second story above grade plan and higher by section 1006 in IBC) may extend into the innermost half of the setback when approved by the Planning Commission. (amd. ord. 22-004, 5-24-22)

5. Maximum height: Sixty feet (60') for peak roof, fifty feet (50') for flat roof.

6. Maximum density: Restricted by constraints of this title relating to height, setback, landscaping, lot disturbance, parking, etc.

7. Maximum building coverage: Forty percent (40%) of the lot area.

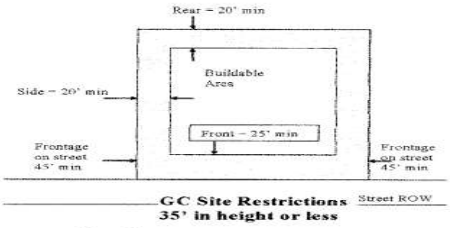
8. Minimum landscaping: Forty percent (40%) of the lot shall be landscaped per section 9-12-5 of this title, with every effort to preserve existing vegetation.

9. Parking and loading: In accordance with section 9-12-15 of this title. Onsite parking should be provided in the rear of the building or underground. Parking may be provided off site by participating in a parking district, or by providing parking lots jointly with other specific establishments with the approval of the Planning Commission. (2010 Code, amd. ord. 15-004, 04-28-2015)

10. Remaining undeveloped area shall be landscaped as per section 12-9-5 of this title. (2010 Code, amd. ord. 15-004, 04-28-2015)

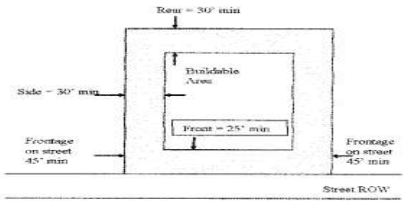
11. One piece of heavy equipment along with two heavy equipment attachments may be kept on premises for uses such as snow removal or light excavation. The equipment shall be parked in a place and manner so as to be reasonably screened from view from the public right of way. Additional equipment used for construction may be parked at the site when authorized by a current building permit or otherwise authorized by the Town. (ord. 20-011, 12-08-2020)

12. Storage containers: Storage containers or cargo containers are not allowed to be used as a building in General Commercial zones unless the applicant follows the Building Bonus process listed in 9-7-10 of this title. (ord. 22-004, 5-10-2022)

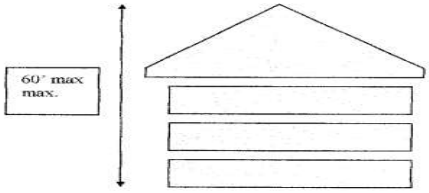


GC Site Restrictions 35' in height or less

Figure 1



GC Site Restrictions over 35 ft in height



GC Height

(2010 Code, amd. ord. 15-004, 04-28-2015)

9 -7-5: VC VILLAGE COMMERCIAL:

A. **Purpose**: The village commercial VC district is intended to provide for village core area with a mixture of lodges, business, and commercial establishments in a predominantly pedestrian setting. The VC district regulations are intended to ensure light, air, open space, and other amenities appropriate to the permitted types of buildings and uses. The district regulations, in conjunction with the town design guidelines, prescribe site development standards that are intended to maintain the unique character of the Town commercial areas and to ensure an attractive, functional village resort setting. It is encouraged that development in the village core would be by development agreement. (2010 Code, amd. ord. 15-004, 04-28-2015)

B. **Permitted Uses**: Only the following uses are permitted in the VC zone:

Banks.

Entertainment establishments (not including sexually oriented business establishments).

Food and beverage establishments.

Guest services

Non-motorized recreation equipment rental.

Home occupations identified in subsection 9-10-5 of this title.

Multi-family housing: Hotel type lodging in conjunction with commercial space. It is required that at least seventy five percent (75%) of the entire main floor, facing the public street or thoroughfares, be dedicated to commercial business with provisions for ADA compliant residential units to be located in the rear or sides of the building to maximize the commercial business exposure. On multi-building projects, the commercial space may be cumulatively oriented toward the vehicle and pedestrian corridors rather than locations typically not accessible or visible to the general public.

Pedestrian oriented retail stores (including outdoor display).

Professional and personal services (beauty shops, travel agencies, real estate, law, medicine),

Professional offices.

Spas.

Other uses customarily incidental and necessary to permitted uses and necessary for the operation thereof.

C. **Conditional Uses:** The following uses are conditional and require a conditional use permit:

Home occupations as identified in subsection 9-10-5C of this title.

Recreational activities and supporting appurtenances. (ord. 15-004, 4-28-2015)

OHV rental offices for which rental vehicles are stored and displayed outside of the village core zone. The conditional use permit will be no longer than a five-year period. (ord. 15-004, 4-28-2015, amd. ord. 20-002 4-28-2020)

D. Physical Restrictions:

1. Minimum lot area: Three thousand (3,000) square feet.

2. Minimum frontage: Thirty feet (30').

3. Setbacks:
   a. Minimum: Rear, twenty feet (20'), side and front, zero feet (0');
   b. Maximum: Front, ten feet (10'), i.e., the front line of the building shall be located no further than ten feet (10') from the front lot line.

4. Rear setback exceptions: The following shall be allowed to encroach within the required setback, subject to compliance with the provisions of this section: (amd. ord. 17-004, 7-11-2017)
   a. Driveways and walkways.
   b. Roof eaves provided they encroach no more than five feet (5') into the required setback.
   c. Pop out windows, provided the bottom of the pop out structure is no less than four feet (4') above grade measured at the pop out structure, the total width of the pop out structure does not exceed twelve feet (12') measured at the point where the pop out structure attaches to the residential structure, the pop out structure is under and completely covered by a roof overhang or eaves, and the pop out structure encroaches no more than three and one-half feet ($3^1/_2$') into the required setback; and (2010 Code, amd. ord. 15-004, 04-28-2015).
   d. Decks and exterior staircases attached to the residential structure may be permitted on a case-by-case basis after written approval of the Town Manager, or designee, following review. The deck or exterior staircase must be uncovered other than by a permitted roof overhang or eaves of the residential structure, and the deck or exterior staircase may encroach no more than four feet (4') into the required setback. Decks or sidewalks less than 30" above grade may stand within the innermost 1/3 of the setback. (2010 Code, amd. ord. 15-004, 04-28-2015)

5. Maximum height: Sixty feet (60') for peaked roof, fifty feet (50') for flat roof.

6. Density: Restricted by constraints of this title relating to height, setback, landscaping, lot disturbance, parking, etc.

7. Maximum building coverage: Eighty percent (80%) of the lot area. Commercial structures which existed prior to the year 2000 in the Village Commercial zone district may expand the building coverage up to 90% of the lot area. (ord. 23-001, 1-10-23)

8. Landscaping: No minimum requirement. Planters, decorative paving, and trees in tree grates are appropriate in conformance with section 9-12-5 of this title, with every effort to preserve existing vegetation.

9. Parking and loading:
   a. Surface level parking areas are limited to 30% of the building footprint.
      i. Location of surface parking must be approved by the Planning Commission to ensure the purpose of the Village Core is met.
      ii. Surface level parking may not be located between pedestrian walkways and entrances to the commercial building.
   b. Required residential parking must be placed onsite.
   c. Required employee parking must be onsite or adjacent to the property.
   d. Patron parking may be located off-site, as agreed upon through a Development Agreement with the Town or in accordance with a shared parking agreement approved by the Planning Commission following review of a parking demand study of the uses in question.
      i. Shared parking agreements must designate an off-site parking facility that is within 500 feet of a Town transit stop.
      ii. The primary uses of the designated shared off-site parking facility must have clearly distinct hours of peak parking demand from the proposed uses.
      iii. Any development permitted with a shared parking agreement shall be required to develop additional parking, if and when the use changes in the future rendering the shared parking agreement deficient.
   e. All parking must be in accordance section 9-12-15 with the following exceptions:
      i. Required number of parking spaces:
         1) Patron Parking: 30% less than the requirements in section 9-12-15 of this title.
         2) Each underground parking space will satisfy 1.5 spaces against the requirement of section 9-12-15 of this title.

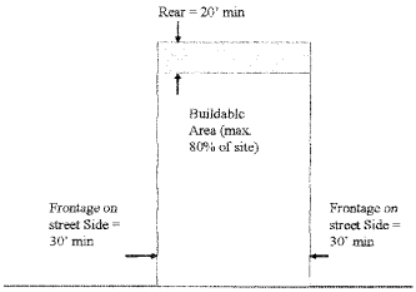
      (Ord. 22-008, 7-26-2022)

   f. Commercial structures which existed prior to the year 2000 in the Village Commercial zone district may expand the footprint of the building by up to 25% without additional parking requirements. (ord. 23-001, 1-10-23)

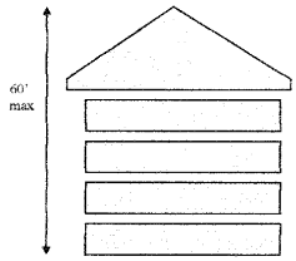
10. Pedestrian Traffic: Provisions for pedestrian traffic, integrated with neighboring walkways, must be provided. (2010 Code)

11. Remaining undeveloped area shall be landscaped as per section 12-9-5 of this title. (ord. 17-004, 7-11-2017)

12. Storage containers: Storage or cargo containers are not allowed to be used as a building in Village Commercial unless the applicant abides by the Building Bonus process in 9-7-10 of this title. (ord. 22-004, 5-10-2022)



VC Site Restrictions



VC Height Typical

9-7-6: L-1 LIGHT INDUSTRIAL:

A. **Purpose:** To provide sites for light industrial uses which are not appropriate in other commercial districts. Because of the varied nature and potential impacts of the uses, all permitted uses are subject to the restrictions below and the Town Design Guidelines as a condition of approval. The physical restrictions set out below shall be considered minimum, and more restrictive standards may be prescribed as conditions of a permit for any use.

B. **Permitted Uses:** Only the following uses are permitted in the L-1 zone:

Firewood preparation, storage, and sales.

Fuel and oil storage, sales, or distribution.

Recreational vehicle rental, sales, and service (e.g., snowmobiles, ATVs, etc.).

Residential dwellings in conjunction with industrial space (owner/employee housing). (ord. 15-004, 04-28-2015)

Storage and/or sales of construction/building materials.

Utility substations.

Vehicle and equipment storage yards (including recreational vehicles).

Vehicle service yards and service garages (including recreational vehicles).

Warehouses or storage unit rental facilities.

Other similar uses.

C. **Conditional Uses:** The following uses are conditional and require a conditional use permit: (2010 Code, amd. ord. 15-004, 4-28-2015)

Light Manufacturing (amd. ord. 17-004, 7-11-2017)

Car Wash (ord. 17-004, 7-11-2017)

Rental of horses.

Sexually oriented businesses (SOB).

D. **Physical Restrictions:** The restrictions below shall be considered minimum, and more restrictive standards may be prescribed as conditions of a conditional use permit for any use:

1. Minimum lot area: Twenty-one thousand seven hundred eighty (21,780) square feet (1/2 acre).

2. Minimum frontage: Forty-five feet (45').

3. Minimum setbacks:
   a. Front: twenty-five feet (25');
   b. Side and rear: twenty feet (20') (from residential property);
   c. Side and rear: ten feet (10') (from adjoining L-1 property).

4. Maximum height: Fifty feet (50') maximum structure height.

5. Density**:** Not applicable.

6. Maximum building coverage: Fifty percent (50%) of lot area.

7. Minimum landscaping: Twenty five percent (25%) of the lot area shall be landscaped per section 9-12-5 of this title, with every effort to preserve existing vegetation.

8. Parking and loading: In accordance with section 9-12-15 of this title.

9. Screening**:** All outdoor storage, including vehicles, machinery, and equipment, shall be screened from the public view as seen from any public roadway or from adjacent residential lots. Landscaping, fencing, and building orientation are acceptable methods to minimize the adverse visual impacts. (2010 Code amd. ord.16-007, 11-8-2016)

10. Noise: No use shall be permitted or conducted which creates noise, objectionable by reason of volume, pitch, intermittent, or frequency, which is audible at the boundaries of the site.

11. Other restrictions: Design should provide for all servicing of vehicles and equipment to be within structures, except for delivery of gas and other fluids.

12. Storage containers: Storage or cargo containers are not allowed to be used as a building in Light Industrial zones unless the applicant abides by the Building Bonus process in 9-7-10 of this title. (ord. 22-002, 5-10-2022)

9-7-7: ROS RECREATION OPEN SPACE:

A. **Purpose:** To preserve areas for land uses requiring substantial areas of open land and substantially free from structures, roads, and parking lots, while permitting recreational pursuits such as ski runs, parks, golf courses and trails. Public or private recreational facilities are suitable uses in this district; provided that such uses maintain the open, undeveloped character of the land.

B. **Permitted Uses**: Only the following uses are permitted in the ROS zone:

Multi-use roads and trails for OHVs, biking, hiking, and equestrian use (motorized and non-motorized roads and trails).

Outdoor recreation, including golf courses, swimming facilities, riding or bridle paths, related facilities and uses, picnic areas, tennis courts.

Parks, playgrounds, and other open recreational facilities.

Ski runs and ski lifts, tubing parks, mountain bike parks and non-motorized trails.

Unpaved maintenance roads. (2010 Code, amd. ord. 15-004, 04-28-2015)

C. **Conditional Uses:** The following uses are conditional and require a conditional use permit:

Buildings and parking related to permitted uses, such as stalls, shelters, ticket booth, pavilion, clubhouse, or warming hut, with maximum building area of one thousand five hundred (1,500) square feet.

Recreational vehicle parking and campground facilities (ord. 21-006, 05-25-21)

Rental of horses with horse boarding permit. (2010 Code, amd. ord. 15-004, 04-28-2015)

D. **Physical Restrictions:** The restrictions below shall be considered minimum, and more restrictive standards may be prescribed as conditions of a conditional use permit for any use:

1. Minimum lot area: Twenty-one thousand seven hundred eighty (21,780) square feet (1/2 acre).
2. Minimum frontage: Fifty feet (50').
3. Minimum setbacks: Front, twenty-five feet (25'), side and rear, twenty feet (20').
4. Maximum height: Thirty-five feet (35') for peaked roof, twenty-five feet (25') for flat roof.
5. Density: Not applicable.
6. Maximum building coverage: Ten percent (10%) of lot area.
7. Minimum Undisturbed Area: Fifty percent (50%) of lot area, unless an alternate plan is approved by the Planning Commission which satisfies the intent of 9-12-3(J). (ord. 21-006, 05-25-21)

8. Minimum landscaping: Seventy five percent (75%) of the lot area shall be landscaped per section 9-12-5 of this title, with every effort to preserve existing vegetation (undisturbed area counts toward landscaping requirement). (amd. ord. 21-006, 05-25-21).

9. Parking and loading: In accordance with section 9-12-15 of this title. (ord. 08-016, 8-12-2008)

9-7-8: COS CONSERVATION OPEN SPACE:

A. **Purpose:** To identify and preserve land that is, by virtue of ownership or easement, precluded from development, and to preserve the historic and natural beauty of those areas. Qualifying land includes property owned by a governmental entity, or parcels for which a scenic or conservation easement has been granted to a governmental entity, land trust or conservation organization.

B. **Permitted Uses**: Only the following uses are permitted in the COS zone:

Conservation areas.

Recreational trails.

Ski lifts (limited to towers and terminals)

Waterways, streams, lakes, water features.

C. **Conditional Uses:** The following uses are conditional and require a conditional use permit:

Bridges over natural vegetation and water features to preserve open space.

Public Restrooms.

D. **Restrictions:** All lands are to remain free of structures other than those specifically mentioned above.

9-7-9: C CIVIC:

A. **Purpose:** The Civic zone C is intended to provide areas for the location and establishment of facilities which are maintained in public and quasi-public ownership. This zone is intended to provide immediate recognition of such areas on the official Zoning Map of the Town, and to reduce the affect which the location of these facilities may have upon neighborhoods in residential, commercial, or industrial areas. Typical uses permitted in the C zone are public schools, public parks, hospitals, airports, public utilities, public equipment storage areas, municipal offices and meeting halls, and public

shop areas. Though some of these uses will be allowed in other zones to initially accommodate public facilities in appropriate areas without undue difficulty, it is intended that the C zone would then be applied to all such facilities for ease of recognition and minimizing impacts. (amd. ord. 22-008, 7-26-22)

B. Permitted Uses: Only the following uses are permitted in the C zone:

Cultural activities and nature exhibits (public only).

Forest reserves (public only).

Governmental services.

Public school facilities.

Recreational activities (public only).

Public Parking lots. (ord. 22-008, 7-26-22)

C. Permitted Accessory Uses: Accessory uses, and structures are permitted in the C zone, provided they are incidental to, and do not substantially alter the character of the permitted use or structure, including, but not limited to, the following:

Accessory buildings such as garages, carports, bath houses, green houses, gardening sheds, recreation rooms, and similar structures which are customarily used in conjunction with and incidental to a principal use or structure.

Detached single-family residence used only for the use of a caretaker, watchman or similar employee of a permitted use, when located upon the same site as said permitted use, i.e., RV park camp host.

Fishing activities.

Swimming pool.

Nothing herein shall be construed to permit the open storage of materials or equipment used in conjunction with permitted uses. All such materials or equipment shall be screened from view from public or private streets.

D. Conditional Uses: The following businesses are conditional uses and require a conditional use permit:

Airports, Heliports, and general aircraft flying fields.

Ambulance services.

Cemetery.

Combination utilities company storage yards and equipment storage.

Communications.

Golf courses.

Group or organized camps.

Hospitals.

Parks.

Religious activities.

Public Utilities and Supporting Facilities

(2010 Code, amd. ord. 15-004, 04-28-2015)

E. Physical Restrictions:

1. Minimum lot area: Ten thousand eight hundred ninety (10,890) square feet (¼ acre).
2. Minimum frontage: Fifty feet (50').
3. Minimum setbacks:
   a. Front: twenty-five feet (25');
   b. Side and rear: ten feet (10') (adjoining L-1 property); or twenty feet (20') when adjoining property in all other zones.
4. Maximum height: forty feet (40') for peaked roof, thirty feet (30') for flat roof. (ord. 11-007, 6-28-2011)
5. Maximum building coverage: fifty percent (50%) of lot area.
6. Minimum landscaping: Twenty percent (20%) of lot area shall be landscaped per section 9-12-5 of this title, with every effort to preserve existing vegetation. (amd. ord. 22-008, 7-26-22)
7. Screening: All outdoor storage, including vehicles, machinery, and equipment, shall be screened from the public view as seen from any public roadway. Landscaping, fencing, and building orientation are acceptable methods to minimize the adverse visual impacts.
8. Parking and loading: In accordance with section 9-12-15 of this title.
9. Noise: No use shall be permitted or conducted which creates noise objectionable by reason of volume, pitch, intermittence, or frequency which is audible at the boundaries of the site.
10. Other restrictions: No service facilities may be located within setbacks. Design should provide for all servicing of vehicles to be within structures, except for delivery of gas and other fluids. (amd. ord. 21-006, 05-25-21).

9-7-10: ANNEXED TRANSITION:

A. Purpose: The AT(Annexed Transition) zone is intended as a holding zone for newly annexed areas where the future land use is not determined at the time of annexation. It is further

intended to retain and protect properties for future development which are undeveloped or underdeveloped and do not have adequate facilities developed, such as sanitary sewer, water, drainage, and streets. The zone allows for the continuation of legally established (pre-existing non-conforming) uses and the establishment of uses compatible with the General Plan designation and zone criteria.

B. Permitted Uses: The following uses, when developed under the applicable development standards in this zoning ordinance, are permitted in the AT zone:

Lawful uses existing on a property at the time of the effective date of this zone.

Animal grazing, limited to horses, cattle, sheep, and goats and including their supplementary feeding, providing such grazing is not a part of, nor conducted in conjunction with any dairy, livestock feed yard, livestock sales yard or commercial riding academy located on the premises.

Single-family dwellings on tracts of land which contain five acres or more. No more than one such dwelling shall be permitted on one lot regardless of the size of the lot.

C. Physical Restrictions:

1. Lot Area Requirements: Property in this zone shall remain the same size or lot area as it existed at the time of annexation. There is no minimum or maximum lot size for this zone. Pre-existing legally created lots of record that exist at the time of annexation will be recognized by the Town for purposes of sale. Subdivision of property is not permitted in this zone. The property must be re-zoned to allow further subdivision.

2. All other physical restrictions are the same as R-1 Single Family Residential.

Ord. 24-006, 5-24-24

9-7-11: BUILDING BONUSES:

A. Except as provided under paragraph B below, single family and two-family structures as permitted in sections 9-7-1 and 9-7-2 of this title are not required to follow section 9-12-5 (as it relates to backyard landscaping plans so long as the landscaping remains “affordable”, remains water efficient, and attempts to keep as many trees on the property as possible to conform with the spirit of living in a rustic alpine resort town) 9-12-7-B, or 9-12-7-F of this title.

1. An owner who wishes to build a dwelling unit larger than what is allowed in Section 9-7-1 and 9-7-2, or an owner who wishes to build a container dwelling unit, may submit a Bonus Request to do so, provided that the Owner requests the Town to apply Sections 9-12-5, 9-12-7B (Exterior Walls) and 9-12-7F (Windows) of this title to their

property for larger residential homes. For container dwelling units, an owner must request Section 9-7-10C(3) of this title.

a. In doing so, Brian Head Town will require a signed and notarized Bonus Request Statement between the Town and the legal property owner agreeing that the Town will grant a larger home so long as the property owner agrees to abide by the Design and Building Standards listed in this code. The Town has a notary onsite and will provide a standard request form for owners to help with the process.
b. The Town will require proof of ownership or title to the property.

c. Upon the Town's receipt of the requested Bonus Statement listed in (a) above, all Design Standards listed in Section 9-12 of this title will apply to the selected property. If the Requested Bonus Statement is incomplete, altered, or has any other defect not listed here, it will be deemed invalid, and the request will not be granted.

d. After receipt of the signed and notarized Bonus Request Statement, the Town will record the statement with Iron County Recorder's office. Failure to record a requested statement has no effect on the Town's authority to enforce regulations against a property owner for which a Bond Request has been received.

e. If the property owner is found to have violated the signed Bonus Request Statement, the Certificate of Occupancy may be withheld until all provisions are in compliance with the Town's standards and regulations.

B. **The following bonuses shall be granted** if Section A above is appropriately complied with:

1. For Single-Family Residential Zones (R-1) as referred to in 9-7-1 of this title:
   a. Building Height: Increased up to forty-five feet (45').
   b. Building coverage including garages, patios: Increased up to 40% of the lot area.

2. For Medium-Family Residential Zones (R-2) as referred to in 9-7-2 of this title:
   a. Building Height: Increased up to fifty feet (50') for peaked roofs and thirty five feet (35') for flat roofs.
   b. Building coverage including garages and patios increased up to forty percent (40% of the lot area.

3. For container dwelling units in R-1 and R-2 zones only:

   a. No more than 25% of the overall structure shows the metal walls of the storage container:
      i. The metal of the storage container that is visible must be painted with premium, exterior, rust-resistant paint, and color matched to soil or vegetation on the property which the container will sit on. The paint color

shall strive to make the storage container blend into the surroundings and maintain the rustic feel of Brian Head.

b. A minimum of 75% of the dwelling unit (not including windows) must be made of cladding requirements in section 9-12-7F (Exterior Walls) of this title.

c. Windows and Doors: Windows and doors should be trimmed or framed by wood, timber, wood shutters, stone or wood lintels and sills that are of a scale, color and mass that reflect styles of a mountain resort community. Windows shall comply with section 9-12-7B (Windows) of this title. Doors: Container doors must be covered to camouflage the raw storage container door made of metal and roads. All door designs are subject to the Zoning Administrator's approval.

d. Roof Pitch: The roof pitch should be a 2-12 to 12-12. The Mountain Modern style may be allowed. An entirely flat roof with no pitch shall not be allowed.

e.

f. Roof Colors: The roof color must have a LRV of less than 30 and must complement the rest of the dwelling unit.

g. Landscaping: Landscaping requirements remain the same as identified in chapter 7 of this title.

4. Container Buildings in Village Commercial (VC), General Commercial (GC) and Light Industrial (IL) zones only.

   a. No more than 25% of the overall structure shows metal walls of the storage container.
      i. The metal of the dwelling unit that is visible must be painted with premium, exterior, rust-resistant paint and the color matched to soils or vegetation on the property which the dwelling unit will be located. The paint color shall strive to make the dwelling unit blend into the surroundings and maintain the rustic feel of Brian Head Town.

   b. A minimum of 75% of the dwelling unit (not including windows) must be made of cladding requirements found in section 9-12-7B (Exterior Walls) of this title.

   c. Windows and Doors: Windows and doors should be trimmed or framed by wood, timber, wood shutters, stone or wood lintels and sills that are of a scale, color and mass that reflect styles of a mountain resort community. Windows shall comply with section 9-12-7B (Windows) of this title. Doors: The storage container door is prohibited and must be changed or shielded to reflect the style of a mountain resort community.

   d. Roof Pitch: The roof pitch should be 2:12 to 12-12. The Mountain Modern style may be allowed. An entirely flat roof with no pitch shall not be allowed.

e. Roof Colors: The roof color must have an LRV of less than 30 and must complement the rest of the dwelling.

f. Landscaping: Landscaping requirements remain the same as listed in Chapter 7 of this title.

(ord. 22-004, 5-10-2022)

9-7-12: CCOD COMMERCIAL CORE OVERLAY DISTRICT

A. Purpose Statement: The purpose of the Commercial Core Overlay District is to guide development in the commercial core in a manner that achieves the aesthetics desired in a mountain resort community and improves the first impression of the town. This overlay district employs stricter design standards in order to achieve the Town's goals in return for relaxing other standards that may not be as critical to the Town's goals specifically in the commercial core.

B. District Locational Criteria: The Commercial Core Overlay District will be identified on the Zone District map as prescribed in Chapter 6 of this title. Areas covered by the district are characterized by the following:

1. Uses compatible with mountain resort-complimentary commercial and residential activity.
2. Located adjacent to transportation corridors; and
3. Frequented by guests and visitors to the Town.

C. Permitted Uses: The uses specified as permitted uses set forth in this chapter for the underlying zone shall be permitted uses and no other.

D. Eligibility for District: Applicants proposing a project under the allowances and requirements of the Commercial Core Overlay District should make application according to the requirements outlined in Chapter 4 of this Title and state on their application that they intend to develop under the requirements of the overlay district rather than the underlying zone. The designated review authority shall determine eligibility of the application to be considered under the overlay district regulations according to the following standards:

1. The proposed use and development is consistent with the Town General Plan
2. The proposed use and development enhances the character of the overlay district, as set forth in the purpose of the overlay district, in a manner which could not be reasonably achieved under the regulations and standards of the underlying zone

3. The proposed use and development strictly adheres to or exceeds the enhanced design standards set forth in this section

E. **Conditional Uses:** The uses specified as conditional uses set forth in this chapter for the underlying zone shall be conditional uses and no other.

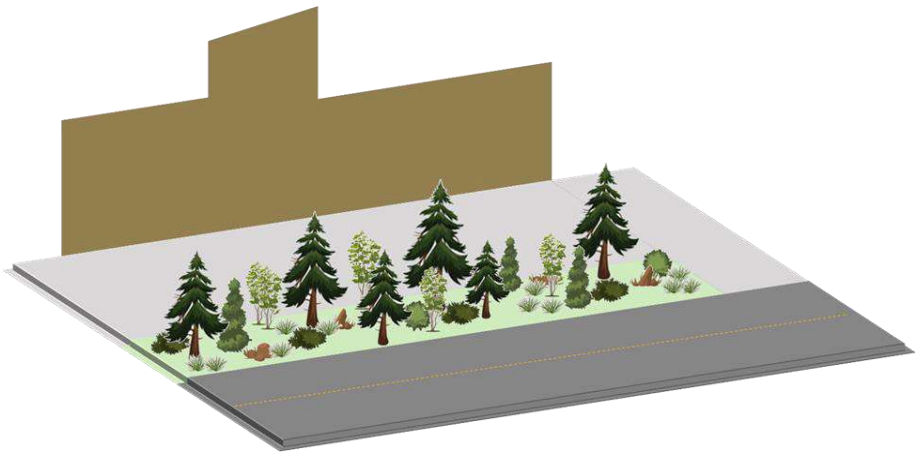
F. **Physical Restrictions:** The physical restrictions specified as set forth in this chapter for the underlying zone shall be applied unaltered in this overlay district with the following exceptions:

1. Minimum Landscaping: Minimum requirement may be reduced to 20% in L-1, R-1 and R-2 underlying zones and may be reduced to 25% in R-3 and GC underlying zones. Minimum requirement remains unaltered in all other zones.

G. **Design Standards:** The Design Standards specified as set forth in chapter 12 of this title shall be applied unaltered in this overlay district with the following exceptions:

1. Landscaping: Landscaping shall be incorporated along frontages between any buildings, structures or parking area and the public right-of-way to achieve enhanced screening. Landscaping used for screening shall consist of mature trees and shrubs, varied in height but a minimum of six (6) feet in height and four (4) inches in trunk diameter for trees. While landscaping intended for screening does not need to completely block buildings and parking area from sight, it shall be of sufficient density to render any structures significantly less imposing on views from the right-of-way. Evergreen trees shall be used predominantly to ensure that screening is effective year-round. Spacing between the foliage of mature trees shall be no greater than four (4) feet with shrubs interspersed in the spaces between and beneath tree foliage, except where driveways and walkways intersect the frontage. Placement of trees and shrubs shall be staggered and varied to avoid unnaturally linear appearance of vegetation. Enhanced landscaped areas shall not be designated for snow storage. Landscape screening shall not impede visibility for drivers entering and exiting driveways.

2. Landscape Maintenance. The developer or applicant shall maintain the landscaping plan as originally approved and may be required to provide a financial guarantee for replacement of plant materials that have died, for a period of two (2) years from the issuance of a certificate of occupancy or certificate of completion.



Example of Enhanced Landscaping Requirement required by 9-7-11(G)(1)

(ord. 22-004, 5-24-22)

9-7-13: ASPEN MEADOWS MOUNTAIN ZONING OVERLAY DISTRICT (MZOD)

A. Purpose Statement: The purpose of the Mountain Zoning Overlay District is to guide development in the Aspen Meadows area consistent with the master plan contemplated in the Aspen Meadows Annexation & Development Agreement. This overlay district allows certain deviation from standards in underlying zones in exchange for guarantees to the Town included in the annexation and development agreement.

B. District Locational Criteria: The Aspen Meadows Mountain Zoning Overlay District will be identified on the Zone District Map as prescribed in Chapter 6 of this title.

C. Eligibility for District: All applicants proposing development of properties located entirely within the Aspen Meadows Mountain Zoning Overlay District boundary are eligible for allowances under this section.

D. In addition to the allowances in the underlying zones, the following allowances and restrictions are made:

1. Single Family Residential Zone

    a. Conditional Uses – Mother-in-law/guest house accessory use are not to exceed 2,500 square feet.

    b. Physical Restrictions
        I. Maximum Height: Thirty-five (35') with town requirement, acknowledge, and notary of a required Bonus Request Statement.
        II. Maximum Building Coverage: Each individual building lot in Aspen Meadows is made up of three (3) zones; the development envelope zone, the driveway corridor zone, and the natural open space zone.

Building coverage is measured by total site coverage which cannot exceed 20% of the total individual lot size measured in square feet and as identified within the Aspen Meadows development envelope zone only per individual lot.

III. Driveways: Minimum five-foot (5') setback from the side corners at road frontage or all driveway edging, pavement, or other surface materials. Minimum with allowed twelve feet (12').

2. Village Commercial Zone

   a. Physical Restrictions
      I. Maximum Height: Additional heights may be applied for taking into account, design, uses, massing, stepping, commercial and residential mix and ceiling heights such as found within an anchor hotel. This condition applies to only one of the two envisioned Villages, being the Art Village for Aspen Meadows.

3. Recreation Open Space Zone

   a. Uses
      I. Outfitter Cabins, Ski Lodges and other resort-planned support buildings may exceed 1,500 SF in size, per Development Agreement.
      II. Horse boarding is allowed.
      III. Permitted accessory uses: Detached or attached single-family residence used only for the use of ranch / outfitter caretaker, watchman or similar employee of a permitted use, when located upon the same site as said permitted use.

4. Design Standards

   a. Use of storage or metal cargo containers for either permanent or temporary residential use is not allowed within Aspen Meadows. Tents, yurts, temporary structures, or storage needs allowed for use only by the declarant for planned resort amenity site specific uses and development purposes such as planned events, on-hill skier-hubs, field office use or stage of materials on site.

   b. Perimeter fencing allowed throughout Aspen Meadows development and its boundaries for purposes of providing security, controlled access points and ongoing monitoring and prevention of unauthorized access onto property. All public access points to be controlled, marked, and designated for hiking and mountain bike access only into and out of property together with controlled main public road access points. For fencing standards allowed within Aspen Medows, refer to the Aspen Meadows Design and Development Guidelines.

Ord. 24-006, 5/28/2024

Title 9 – Land Management Code

Chapter 8

BUILDING PERMITS

9-8-1: PURPOSE;
9-8-2: BUILDING PERMIT AND CONFORMANCE WITH TERMS REQUIRED;
9-8-3: DESIGN REVIEW;
9-8-4: FINAL REVIEW;
9-8-5: ACCEPTANCE OF IMPROVEMENTS AND OCCUPANCY;

9-8-1: PURPOSE:

The purpose and intent of the building permit review process is to secure the general purposes and objectives of this title to ensure that the general appearance and public safety of buildings, structures and development are harmonious with and complement the neighborhood. Projects are evaluated to ensure that they are consistent with this title, the Town General Plan, Zoning Map and General Design Standards (chapter 12) of this Title and meeting applicable health, safety and public welfare standards. (ord. 08-016, 8-12-2008)

9-8-2: BUILDING PERMIT AND CONFORMANCE WITH TERMS REQUIRED

A. **Construction, alteration, or removal of any building or structure**, or any part thereof, as provided for or restricted in this title and the uniform codes, shall not be commenced without a valid building permit and other permits as required. (2010 Code, amd. ord. 15-004, 4-28-2015)

B. **Land, buildings, or premises in any zoning district** shall be used only for the purposes permitted in such district and in accordance with an occupancy permit issued under section 9-8-5 of this title. The use, building, or premises must conform to the provisions of the occupancy permit and all related ordinances, regulations, resolutions, and requirements of this title. A new occupancy permit must be obtained prior to a change in use or character of any building. (amd. ord. 21-005, 05-11-2021)

C. **A building permit shall only be issued after a design review process**. Single family dwellings, accessory structures, and commercial remodels that do not change the footprint that are permitted uses and that are in compliance with the LMC may be reviewed and approved by the Planning and Zoning Department. All other types of building projects shall follow a two-step process: Project Design Review by the Planning Commission and building permit final review by the Planning and Zoning Department. (amd. ord. 15-004, 4-28-2015, amd. ord. 21-005, 05-11-2021)

D. **Any construction, alteration of any building or structure**, or any part thereof, requiring a building permit, shall require the submission of engineered building plans if required by applicable law. (2010 Code, amd. Ord. 15-004, 4-28-2015)

9-8-3: DESIGN REVIEW:

A. **Purpose:** The design review is intended to be an abbreviated submittal, to provide an opportunity to verify the project is consistent with applicable regulations and requirements, to obtain general feedback from the Planning and Zoning Department and the Planning Commission, to ascertain special requirements and make changes in design (if necessary) before incurring the time and expense of preparing a complete (final) building permit submittal. (amd. ord. 21-005, 05-11-2021)

B. **Review And Process:**

1. Application: An applicant shall submit a complete design review application, signed by an owner or legal representatives of the subject property, to the Planning and Zoning Department. If the subject property is a condominium project or is owned by a corporation, the signature of an officer of the entity with authority to bind the entity shall be sufficient. The Planning and Zoning Administrator may waive application requirements that are not applicable to the project. (ord. 15-004, 4-28-2015, amd. ord. 21-005, 05-11-2021)

2. Planning and Zoning Review

   a. After a complete design review application has been received by the Planning and Zoning Department, the Planning and Zoning Administrator, or designee, will determine if the project, as submitted, is consistent with the requirements of this title. The developer will be notified, in writing, of deficiencies and inconsistencies. (amd. ord. 21-005, 05-11-2021)

   b. The applicant will then be given the opportunity to make the necessary corrections, revisions, or redesign of the project so as to conform to the requirements of this title. If, in the judgment of the Planning and Zoning Administrator, or designee, a variance is required, the Planning and Zoning Department shall notify the applicant. The applicant may either apply for a variance pursuant to section 9-11-1 of this title or redesign the project to avoid

the variance requirement. After a complete, conforming application has been received, the Planning and Zoning Department shall make a final review of the Design Review application and shall forward a written recommendation to the Planning Commission.

c. The Planning and Zoning Administrator, or designee, shall recommend to the Planning Commission, in writing, any conditions the Planning and Zoning Department deems reasonable and necessary under the circumstances to carry out the intent of this chapter and title. (amd. ord. 21-0005, 05-11-2021)

3. Planning Commission Review**:** Within a reasonable time after a complete submittal, the Planning and Zoning Administrator, or designee, shall present the design review application to the Planning Commission. The Planning Commission shall review the application and approve the project as presented, approve the project with conditions and/or modifications, or deny the application with the specified deficiencies of this code that when corrected may be brought before the Planning Commission for review. (amd. ord. 21-005, 05-11-2021)

C. **Standards For Review:**

1. The proposed uses, structure and site improvements shall conform to the following:
   a. Town General Plan.

   b. Zoning regulations and other relevant sections of this title.

   c. Applicable building codes as adopted by the state.

   d. General design standards of chapter 12 of this title, and;

   e. Other applicable laws.

2. The design shall be sensitive to the constraints of topography, soil types, geologic hazards, watercourses and floodplains, visual impacts, and preservation of views.

3. Utilities and services shall be available and adequate to meet the needs of the proposed structure and uses. (2010 Code, amd. ord. 15-004, 4-28-2015)

D. **Modifications:**

1. When a project contemplates a modification to the plan and it is deemed by the Planning and Zoning Administrator to be minor in scope (such as unseen structural modifications, interior floor layout not resulting in increased density, facade repairs, landscaping, etc.), the project may be approved by the Planning and Zoning Administrator or designee. Modifications deemed "significant" in nature by the Planning and Zoning Administrator, or designee, shall be submitted to and reviewed

by the Planning and Zoning Administrator, which shall then forward its recommendation to the Planning Commission for review. (amd. ord. 21-005, 05-11-2021)

2. If, following the Planning and Zoning Department review, and before being presented to the Planning Commission for consideration, the project is significantly modified, the Planning and Zoning Department must again review the modification before it is presented to the Planning Commission. Significant modifications may include, but are not limited to, a change of configuration of buildings on the lot, lot layout or configuration, a change in the number of units, or other change that raises significant new issues, questions, or problems as to the project's conformity to the General Plan or this title. (amd. ord. 21-005, 05-11-2021)

E. **Plan Modification Fee**: A fee as indicated on the Consolidated Fee Schedule for modification of plans or permits shall be paid when a design modification is requested, prior to any review of modifications, to cover the cost of processing and review.

F. **Expiration:** A design review approval expires after one year from the date of the Planning Commission approval if a building permit has not been issued. (ord. 08-016, 8-12-2008)

9 -8-4: FINAL REVIEW:

A. Review Process:

1. Application: Following design review by the Planning Commission, if required, application shall be made to the Planning and Zoning Department for final review. (amd. ord. 21-005, 05-11-2021)

2. Planning and Zoning Review: The Planning and Zoning Department upon receipt of a completed application and all fees, shall review the application and shall approve, approve with conditions, or deny the final building permit application. (amd. ord. 21-005, 05-11-2021)

B. Standards For Review:

1. The proposed uses, structure and site improvements shall be consistent with the following: (amd. ord. 21-005, 05-11-2021)

   a. Town General Plan.

   b. Zoning regulations, Town Design Standards, and other relevant sections of this title.

   c. International Building Code (IBC) and all current applicable codes as currently adopted by the state.

d. The plans approved during the Design Review process. (ord. 21-005, 05-11-2021)

2. The design shall be sensitive to the constraints of topography, soil types, geologic hazards, watercourses and floodplains, visual impacts, and preservation of views.

3. Utilities and services shall be available and adequate to meet the needs of the proposed structure and uses, including, but not limited to, roads, gas, electric, storm drainage, telecommunications, public safety, schools and recreation, or bonding provided for subject to sections 9-13-5 and 9-13-7 of this title.

C. **Plan Revisions:** After a building permit is granted, a project may not be altered without the approval of the Planning and Zoning Administrator or designee. In order to ensure that the proposed modification is consistent with this title, and that the redesign is still in conformity with design and final review, the Planning and Zoning Administrator, or designee, may then require any documents deemed reasonably necessary to evaluate the modification. For violations of this requirement, the Planning and Zoning Administrator, or designee, may suspend the building permit and construction on the project. (amd. ord. 21-005, 05-11-2021)

D. **Expiration:**

1. Every permit issued shall expire if the building or work authorized by such permit is not commenced within one hundred eighty (180) calendar days from the date of issuance of such permit.

2. Once a building permit is granted and construction commenced, the approval shall continue for a period of twenty-four (24) months, unless otherwise revoked or extended. The building permit shall expire upon a permanent occupancy permit being issued. (ord.08-016, 8-12-2008)

9-8-5: ACCEPTANCE OF IMPROVEMENTS AND OCCUPANCY:

A. **Occupancy Permit:** An occupancy permit shall be issued only for a single building (a single permit may not be issued for multiple buildings) upon compliance with the following conditions:

1. A notice of completion has been issued by the Planning and Zoning Department verifying that the building project is completed and in compliance with all applicable codes for occupancy, including all on-site and off-site improvement work, landscaping, site restoration and cleanup. (amd. ord. 21-005, 05-11-2021).

2. A set of "as built drawings", as defined in section 9-2 of this title and has been filed with the Planning and Zoning Department. (amd. ord. 21-005, 05-11-2021).

B. **Inspection**: The Planning and Zoning Administrator or other designated official shall, upon presentation of evidence of authority, have the right of access to any premises at any reasonable hour for the purpose of inspecting all buildings, structures, and other construction projects during the course of their construction, modification, or repair, and to inspect land uses to determine compliance with the provisions of this title. (amd. ord. 21-005, 05-11-2021)

C. **Acceptance Of Improvements:** On or off-site improvements shall be deemed accepted by the Town only after complete inspection by the Planning and Zoning Administrator for buildings and structures, the issuance of an occupancy permit; and for on or off site public improvements, upon the issuance of a certificate of acceptance by the Planning and Zoning Administrator, or designee. (2010 Code, amd. ord. 21-005, 05-11-2021)

Title 9 – Land Management Code

Chapter 9

SUBDIVISIONS

9-9-1: PURPOSE:
9-9-2: SUBDIVISION REVIEW CYCLES:
9-9-3: SUBDIVISION PROCESS:
9-9-4: PLAT AMENDMENTS:
9-9-5: SUBDIVISION BY METES AND BOUNDS:
9-9-6: CONVERTIBLE OR EXPANDABLE AREA FOR CONDOMINIUMS:
9-9-7: WATER RIGHTS ACQUISITION AND CONDITIONS:
9-9-8: INCENTIVIZED INCLUSIONARY HOUSING:

9-9-1: PURPOSE:

It is the Town's intent to promote the orderly growth and development of the Town and to ensure that all subdivisions within meet local and state codes, and to ensure that the growth conforms to the Town's General Plan, this title and associated design standards. (amd. ord. 21-005, 05-11-2021, amd. ord. 24-014, 10-8-24)

9-9-2: SUBDIVISION REVIEW CYCLES:

A. For each complete subdivision application, the Town shall review the submitted plat, plans and other application materials through the review cycles established by this section and Utah Code Annotated §10-9a-604.2 et. Seq. to ensure compliance with all requirements of this title, and all other governing laws including, but not limited to, land use regulations, applicable land use decisions, ordinances and standards.

B. A review cycle shall begin with the Town's receipt of either a complete application for a new subdivision or a complete review response submitted as part of a prior review cycle.

C. The Town may issue review comments with each review cycle to correct any deficiencies on the submitted plat, subdivision improvement plans and related information, documents, and materials.

D. The Town shall complete its review and shall issue review comments within the following timeframes:

   a. Residential Single Family, Two-Family, or Townhome Subdivision Applications:

      i. Preliminary Plat Reivew

         1. The Town shall have a reasonable timeframe to complete its review and to issue review comments on preliminary subdivision plats and other application materials.

ii. Final Plat, Subdivision Improvement Plan Review:

1. Except for properties containing sensitive lands, the Town shall have forty (40) business days after the receipt of a complete application to complete the initial subdivision improvement lan review and issue review comments to the applicant.
2. The Town shall not require more than four (4) subdivision improvement plan cycles.
3. The Town may require additional information relating to an applicant's plans to ensure compliance with Town ordinances and approved standards and specifications for construction of public improvements and/or modification to plans that do not meet current ordinances, applicable standards or specifications, or which contain incomplete information. The Town's request for additional information or modification to plans shall be specific and shall include citations to ordinances, standards, or specifications that require the modifications to the proposed improvement plans, which shall be logged in an index of required modification or additions.
4. In addition to revised improvement plans, an applicant shall provide a written explanation in response to the Town's review comments identifying and explaining the applicant's revisions including any reasons for declining to make revisions, if any. The applicant's written explanation shall be comprehensive and specific, including citations to applicable standards and ordinances for the design, and an index of required revisions or additions for each required correction. If an applicant fails to address a review comment in their response, the review cycle shall not be considered complete and a subsequent review cycle may not begin until all comments are addressed.
5. If an applicant makes a material change to a subdivision improvement plan the Town shall have the discretion to restate the review process at the first review of the subdivision improvement plan review, but only with respect to the portion of the subdivision improvement plan that the material change substantially affects. Unless a change or correction is necessitated by the applicant's adjustment to a subdivision improvement plan or an update to a phasing plan that adjusts the infrastructure needed for the specific development, a change or correction not addressed or referenced in the Town's subdivision improvement plan review is waived, unless a modification or correction is necessary to protect the public health and safety or to enforce state or federal law.
6. If an applicant does not submit a revised subdivision improvement plan within forty (40) business days after the Town requires a modification or correction to the subdivision improvement plan, the Town shall have an additional twenty (20) business days to respond to a revised subdivision improvement plan.

7. After the applicant has responded to the final review cycle and the applicant has complied with each modification requested in the Town's previous review cycle, the Town may not require additional revisions if the applicant has not materially changed the subdivision improvement plan, other than changes that were in response to requested modifications or corrections.
8. If, on the fourth or final review, the Town fails to respond within twenty (20) business days, the Town shall upon the request of the applicant, and within ten (10) business days after the day on which the request is received, assemble an appeal panel in accordance with Utah Code Annotated §10-9a-508(5)(d) et. Seq. to review and approve or deny the final revised set of subdivision improvement plans.

iii. Final Plat; Subdivision Ordinance Review:

1. Except for properties containing sensitive lands, the Town shall have thirty (30) business days after the receipt of a complete subdivision application to complete the initial subdivision ordinance review and issue review comments to the applicant.
2. If, on the final review, the Town fails to respond within twenty (20) business days, the Town shall, upon request of the applicant, and within ten (10) business days after the day on which the request is received, advise the applicant in writing, of the deficiency in the application and of the right to appeal in the determination to the Town's Appeal Authority.

b. All other Plats And Subdivision Improvement Plans:

i. For all other plats and subdivision improvement plans, the Town shall have a reasonable timeframe to complete its review and to issue review comments.

(ord. 24-014, 10-8-24)

9-9-3: SUBDIVISION PROCESS:

Subdivision of land shall comply with the provisions of this chapter and Utah Code Annotated §10-9a-601 et seq. Until a final plat is recorded according to these provisions, the following may not occur; lots transferred; sold or offered for sale; contracted for sale; deeded or conveyed; building permit issued on said lots; terrain altered; any vegetation removed from the proposed subdivision site; or engaging in any site development. The steps of the subdivision process are as follows: (amd. ord. 21-005, 05-11-2021, amd. ord. 24-014, 10-8-24)

A. **Pre-application Conference:** Prior to submission of formal materials for a proposed subdivision, an applicant shall participate in a pre-application conference with the Planning and Zoning Department. (Note that this conference is not mandatory for applications for subdivision applicants for single-family, two-family, or townhouse developments). This will

provide the applicant an opportunity to consult with and receive assistance from the Town regarding the regulations and design requirements applicable to the subdivision of the property prior to a significant investment in technical/engineering and legal work. (amd. ord. 21-005, 05-11-2021, amd. ord. 24-014, 10-8-24)

1. Single Family, Two Family, Townhome Exception: If the proposed subdivision application is for a residential single family, two-family, or townhome development, an applicant shall not be required to attend a pre-application conference. However, an applicant may request a pre-application conference to be conducted by the Town pursuant to Utah Code Annotated §10-9a-604.1 et. Seq. The applicant's request shall be submitted to the Planning and Building Department along with any applicable applications or materials that are ordinarily required by this code including any applicable fees as outlined in the Town's Consolidated Fee Schedule. (ord. 24-014, 10-8-24)

B. Concept Plan Review:

1. Purpose: The concept plan is intended to be an informal and abbreviated submittal, to allow the applicant and Town Staff to determine the basic feasibility of the proposal before the applicant's incurring time and expenses of a formal subdivision application (i.e., preliminary and final plats). Recommendations, suggestions and interpretations supplied to the applicant during the concept plan review are advisory and shall not be considered binding on the Town.

2. Review Process:

a. **Submittal Requirements**: See chapter 4.

b. After determining a complete application has been received, the Planning and Zoning Department shall distribute copies of the submitted application to other necessary Town Departments and may include affected entities who may contribute comments or suggestions on the proposed subdivision which are deemed to be in the best interest of the public. Town staff shall review the documents submitted to determine if they meet the standards for review outlined in this section. The application and staff comments are then forwarded to the Planning Commission if requested by the applicant.

c. **Optional Planning Commission Review**: Within a reasonable time after the Planning and Zoning Department review, the concept plan may be presented to the Planning Commission at a regular meeting. During this review, the Planning Commission may provide additional comments and input as they pertain to this title to assist the applicant in preparing the preliminary plat application.

3. **Standards For Review**: The applicant shall demonstrate that:

a. The proposed subdivision conforms to the Town's General Plan and other applicable master plans adopted by the Town; this title including the Design Standards found in chapter 12; Public Works Standards, and other relevant sections of the Town's Code.

b. **Appropriate Use**: The proposed uses for the property are appropriate to the zone district and the layout/design is responsive to the constraints of topography, soil types, geologic hazards, watercourses and floodplains, and visual impacts.

c. **Public Services:** Adequate public services are available to meet the needs of the proposed subdivision, including roads, water, sewer, storm water, gas, electric, telecommunications, trails, transit, snow storage areas, police and fire protection, and recreation. If adequate services do not exist at the time of application, provisions must be made for the expansion of services concurrent to the subdivision development at the expense of the applicant.

i. **Water**: The proposed water source supplying the subdivision is connected to the Town's water distribution system and has adequate supply, capacity, and method of distribution. (amd. ord. 15-004, 4-28-2015, amd. ord. 24-014, 10-8-24)

ii. **Sewer:** The proposed sewage system servicing the subdivision is connected to the Town's sewer system and will be designed to meet the standards and regulations set forth by the Town and State. (amd. ord. 15-004, 4-8-2015, amd. ord. 24-014, 10-8-24)

iii. **Fire Protection**: The proposed method for fire protection complies with this title and other regulations as applicable.

(amd. ord. 24-014, 10-8-24)

4. **Vested Rights:** Submission of a concept plan does not constitute the beginning of any vested rights for the applicant. Vested rights shall accrue only upon the filing of a complete preliminary plat application with all required information and fees. However, if there is a compelling, countervailing public interest or the Town has initiated proceedings to amend this title or other applicable ordinances at the time of the preliminary plat application, then there shall be no vesting as it pertains to the compelling, countervailing public interest or pending ordinance change. (amd. Ord. 21-005, 05-11,2021, amd. ord. 24-014, 10-8-24)

5. The Planning and Zoning Administrator shall notify the applicant in writing of review findings, including any design or engineering feasibility issues, inadequacy of submittals, noncompliance with local regulations, and/or the need for other information which may assist the Town during subsequent evaluations. Review findings shall not constitute an approval or disapproval of the proposed subdivision, but rather shall operate in such a manner as to give the applicant guidance as to the requirements and constraints for the applicant's proposed subdivision. (ord. 24-014, 10-8-24)

6. Once concept plan recommendations have been received from the Town, the applicant may apply for preliminary plat approval consistent with the concept plan. (ord. 24-014, 10-8-24)

7. A concept plan application and Town approval is recommended but shall not be required for subdivision applications intended for single-family, two-family, or townhome development. (ord. 24-014, 10-8-24)

8. If the applicant does not proceed with the preliminary plat review application within six (6) months of completing the concept plan review, the applicant shall resubmit the proposed concept plan and the Planning and Zoning Administrator shall determine whether the concept plan review process shall be repeated. One (1) extension not to exceed six (6) months may be granted by the Planning and Zoning Administrator if the Town's ordinances regulating subdivisions have not changed, and if the applicant requests the extension in writing prior to the expiration of the initial approval. (ord. 21-005, 05-11-2021, amd. ord. 24-014, 10-8-24)

C. Preliminary Plat:

1. **Purpose**: The purpose of the preliminary plat is to review in greater detail the proposed subdivision's design in order to minimize changes and revisions which might otherwise be necessary on the final plat and associated subdivision improvement plans. The preliminary plat, and all information and procedures relating thereto, shall in all respects be in compliance with the provisions of this title and any other applicable ordinances. (amd. ord. 24-014, 10-8-24)

2. **Standards For Review**: The applicant shall demonstrate that:
   a. Compliance with the Town's General Plan and Ordinances. The proposed subdivision conforms to the Town's General Plan and other applicable master plans adopted by the Town; this title including the Design Standards found in chapter 12; Public Works Standards; and other relevant sections of the Town's Code.

   b. Appropriate Use: The proposed uses for the property are appropriate to the zone district and the layout/design is responsive to the constraints of topography, soil types, geologic hazards, watercourses and floodplains, and visual impacts.

   c. Public Services: Adequate public services are available to meet the needs of the proposed subdivision, including roads, water, sewer, storm water, gas, sanitation, electric, telecommunications, transit, snow storage area, police and fire protection, and recreation. If adequate services do not exist at the time of application, provisions or plans for expansion of services concurrent to the subdivision development.

      i. Water: The proposed water source supplying the subdivision will be connected to the Town's water distribution system and has adequate supply, capacity, and the method of distribution will be designed to meet the requirements of the Town; (amd. ord. 15-004, 4-28-2015, , amd. ord. 24-014, 10-8-24)
      ii. Sewer and Sewer Treatment: Provisions has been made for a public sewer collection system that is connected to the Town's sewer system and meets Town requirements, including sufficient capacity for sewer treatment. (amd. ord.15-004, 4-28-2015, , amd. ord. 24-014, 10-8-24)

d. Fire Protection: The proposed method for fire protection complies with this title and other regulations as applicable. (ord. 24-014, 10-8-24)

3. **Review Process**:

a. **Application**: The subdivider shall file an application for preliminary plat approval. See Chapter 4 of this title for the information required to be included on or with the preliminary plat.

The applicant shall provide the Town with sufficient information so that it can provide notice by transmittal letter to such affected entities (i.e., public agencies and utilities) as deemed appropriate by the Planning and Zoning Administrator or designee. In the transmittal letter, the Town shall request that each of the affected entities, as set forth in Utah Code Annotated §10-9a-103(3), as amended, forward a report of its findings and recommendations to the Planning and Zoning Department a minimum of three (3) business days prior to the date of the public hearing set for the preliminary plat approval for the review and consideration of the Land Use Authority. The developer shall pay for all costs incurred. (amd. ord. 24-014, 10-8-24)

b. Town Staff Review:

i. Within a reasonable time, the Planning and Zoning Administrator and/or other relevant Town Staff shall review the preliminary plat application for general compliance with these regulations including the Town's Public Works Standards, Design Standards and other ordinances, when applicable. If the preliminary plat is not complete or not in general compliance, the Planning and Zoning Administrator shall notify the subdivider in writing and specify the respects in which it is deficient. When the submission is complete the Planning and Zoning Administrator, or designee, shall forward the preliminary plat to the Land Use Authority. (amd. ord. 24-014, 10-8-24)

ii. The Public Works Department and Town Engineer shall review submittals, plans and plats as to engineering requirements for street widths, grades, alignments, snow removal and storage, surface water flow and flood control, and for consistency of the proposed public improvements with this title and other applicable ordinances. (2010 Code, amd. ord. 15-004, 4-28-2015)

c. **Land Use Authority Review**: The Planning Commission shall hold a public hearing to review and act thereon. If the Planning Commission finds that the proposed preliminary plat complies with the Standards for Review, as well as, all other requirements of this title, it shall approve, or approve with conditions, the preliminary plat. If the Planning Commission finds that the proposed plat does not meet the requirements of this title or other applicable ordinances, it shall deny the proposed preliminary plat. (amd. ord. 24-014, 10-8-24)

4. **Effect Of Approval Of Preliminary Plat**: Approval of the preliminary plat shall in no way relieve the applicant of responsibility to comply with all ordinances, all issues

identified during the review by the Town (unless formally waived by the Land Use Authority), and to provide all improvements and easements necessary to meet Town standards and specifications. (amd. ord. 24-014, 10-8-24)

5. **Expiration Of Preliminary Plat Approval:** Application for final plat approval shall be made within twelve (12) months after approval or conditional approval of the preliminary plat by the Land Use Authority. This time period may be extended for no more than one (1) additional six (6) month period of time by the Planning and Zoning Administrator for good cause shown if the subdivider petitions for an extension prior to the end of the original six (6) month period. Only one (1) extension may be granted. Failure to submit the application for final plat within the allotted time period shall cause the previous approvals to be null and void. Fees previously paid by the applicant shall not be refunded. (ord. 08-016, 8-12-2008, amd. ord. 21-005, 05-11-2021, , amd. ord. 24-014, 10-8-24)

D. Final Plat:

1. **Purpose:** The purpose of the final plat review is to obtain formal Land Use Authority approval of the detailed engineering and legal requirements of the final plat prior to recording the subdivision plat pursuant to UCA §10-9a-604(b)(i) as amended. The final plat and all information and procedures relating thereto shall be in compliance with the provisions of this title. The final plat and subdivision improvement plans submitted shall conform in all respects to those regulations and requirements specified during preliminary plat review. (amd. ord. 21-005, 05-11-2021, amd. ord. 24-014, 10-8-24)

2. **Standards For Review:** The applicant shall:
   a. Comply with all conditions of preliminary plat approval. (amd. ord. 24-014, 10-8-24

   b. Include acceptable subdivision improvement plans for the water distribution system, final agreements from the water provider, and provisions for perpetual maintenance for the water system. (amd. ord. 24-014, 10-8-24)

   c. Meet all planning, engineering, and surveying requirements of the Town for maps, data, surveys, analyses, studies, reports, plans, designs, documents, wetlands designations, and other supporting materials.

   d. Provide evidence to show that there is no encumbrance, lien or conveyance restricting the intended use of the lot.

   e. Provide evidence from the County Treasurer that all ad valorem taxes applicable to the property have been paid.

   f. Include all dedications for streets, roadways, easements, trails and/or rights of way, as necessary.

   g. Provide signature blocks on the plat signed by a representative of public utilities which identify their approval.

3. **Review Process**:

a. **Application:** The applicant shall file an application for final plat approval with the Planning and Zoning Department in such form and quantities as prescribed by Chapter 4 of this title. (amd. ord. 21-005, 05-11-2021)

b. Planning and Zoning Department Review**:** The Planning and Zoning Administrator shall ensure that the final plat and associated documents have been checked by the applicable Town Departments (Public Works, Public Safety), Town Engineer and Town Attorney for completeness and general compliance with this title and for incorporation of any changes required during the preliminary plat procedure, and that other applicable approval agencies have granted approval. Such review shall be conducted consistent with section 9-9-2 of this chapter. If the submission is not complete, not in general compliance with, or does not incorporate conditions of previous approvals, the Planning and Zoning Administrator shall notify the applicant in writing and specify the respects in which it is deficient. (amd. ord. 21-005, 05-2021, amd. ord. 24-014, 10-8-24)

c. Land Use Authority Review: Upon receipt of the final plat and Town Staff's recommendation, the Planning and Zoning Administrator shall:
   i. Approve the final plat as presented;
   ii. Disapprove the final plat and advise the applicant in writing of the changes or additions that must be made for approval; or
   iii. Continue the application to allow the applicant to make revisions. The applicant shall be responsible for notifying the Town that the final plat has been revised and is ready for recommendation. (amd. ord. 21-005, 05-11-2021, amd. ord. 24-014, 10-8-24)

4. **Expiration Of Final Plat Approval**: If the final plat is not recorded or the requirements set forth as a condition of final approval are not met by the applicant within twelve (12) months from the date of final plat approval, such approval shall be null and void. This time period may be extended for good cause shown, for one (1) additional six (6) month time period by the Planning and Zoning Administrator. The applicant must petition for an extension prior to the expiration of the original twelve (12) months, or an extension previously granted. Up to two (2) extensions may be granted if each extension will not be detrimental to the Town. If any of the fees charged as a condition of subdivision approval, including, but not limited to, inspection fees, park fees, flood control fees, as well as the amounts the Town uses to estimate bonds to ensure completion of improvements, have increased, the Town may require the applicant pay such increases as a condition of granting the extension. (amd. ord. 21-005, 05-11-2021, amd. ord. 24-014, 10-8-24)

E. **Security Agreement:** Prior to recording a final plat, the applicant shall provide sufficient financial guarantee consistent with chapter 13 of this title. The accompanying agreement may contain such provisions as approved by the Town Attorney and Town Engineer. (amd. ord. 21-005, 05-11-2021, amd. ord. 24-014, 10-8-24)

F. **Plat Recorded:** After final approval, filing of security agreements and signing of the plat by the Town Manager, Mayor, Town Engineer, Town Attorney, utility companies and other required entities, the plat and covenants, conditions, and restrictions (CC&Rs) shall be recorded in the office of the County Recorder by the Town Clerk, with all recording costs paid by the applicant. (amd. ord. 15-004, 4-28-2015, amd. ord. 24-014, 10-8-24)

G. Acceptance of Subdivision Improvements:

1. Subdivision improvement or such conditions imposed under this title shall be deemed accepted by the Town only upon complete final inspection by the appropriate Town Departments or officials and the issuance of a Certificate of Acceptance by the Town Manager or designee.

2. **Conditions for Acceptance**: In order for the subdivision public improvements such as streets, sewer, and water to be accepted, the following shall occur:
   a. Upon substantial completion of the subdivision improvements, the subdivider shall submit a written request for the Town to conduct a substantial completion inspection.

   b. Within a reasonable time of the request, and weather permitting, the Town shall conduct an inspection of the improvements to ensure that they have been installed per the letter to the subdivider identifying required corrections to be completed prior to the one (1)-year warranty period beginning. At the beginning of the warranty period, the Town shall release all funds, except for a retention bond as allowed per Utah Code Annotated §10-9a-et.seq. During the one (1)-year warranty period, the Town may provide services to the subdivision such as water, sewer, snow removal and garbage collection.

   c. At the end of the one (1) -year warranty period, the applicant may submit a written request to the Town for a final acceptance inspection of the subdivision improvements. Upon completion of any required corrections or repairs, the Town shall issue a letter of final acceptance and release any retention due to the applicant. (2010 Code, amd. ord. 24-014, 10-8-24)

9-9-4: SUBDIVISION PLAT AMENDMENTS:

A. **Subdivision Amendments; Vacation of Public Streets:** Any landowner whose land has been platted as provided in this title may, upon application to the Town, have such plat, or portion thereof, or any street or alley therein contained , altered, amended, or vacated in compliance with the provisions of this section and Utah Code Annotated §10-9a-608, §10-9a-609, and §10-9a-609.5 et seq. (amd. ord. 21-005, 05-11-2021, amd. ord. 24-014, 10-8-24)

B. **Property Boundary Adjustments; Lot Line Adjustments; Boundary Line Agreements:** Property boundary adjustments including parcel boundary adjustments, lot line adjustments, and boundary line agreements shall follow the process identified in Utah Code Annotated §10-9a-523 and §10-9a-524 et. seq. When subject to review by the Town, applicant(s) shall submit a complete application including the fee as required in the Town's Consolidated Fee Schedule to the Planning and Zoning Department for review. The Planning and Zoning Administrator or designee may approve an application based upon consistency with the provisions of this title. (ord. 21-005, 05-11-2021, amd. ord. 24-014, 10-8-24)

C. **Minor Plat Amendments:**

1. As provided for in UCA §10-9a-608(2), any plat amendment which meets the following criteria qualifies for the streamlined plat amendment process described in this section:
   a. Does not increase the number of lots in the subdivision by more than ten (10) lots;

   b. Does not reduce the number of lots in the subdivision by more than ten (10) lots;

   c. Does not alter the plat in a manner that changes existing boundaries of other attributes of lots within the subdivision that are not owned by the petitioner or designated as common area;

   d. Does not require additional public utilities or infrastructure to provide adequate public service to the newly divided lots; and

   e. Does not create a lot that is smaller than the smallest lot within the existing subdivision plat.

   (ord. 21-005, 05-11-2021)

2. **Standards for Review**:
   a. The proposed subdivision and use conform to the Town General Plan, Zoning Regulations, Public Works Standards, Design Standards chapter 12 of this title, and other relevant sections of this title.

   b. The proposed method for fire protection complies with this title, and other regulations as applicable.

   c. The layout/design is responsive to the constraints of topography, soil types, geologic hazards, watercourses and floodplains, and visual impacts. (amd. ord. 24-014, 10-8-24)

   d. Adequate public services are available to meet the needs of the proposed subdivision, including roads, water, sewer, storm water, gas, electric, telecommunications, trails, transit, snow storage areas, police and fire protection, and recreation.

e. Provide evidence to show that there is no encumbrance, lien or conveyance restricting the intended use of the lot.

f. Provide evidence from the County Treasurer that all ad valorem taxes applicable to the property have been paid.

g. Provide signature blocks on the plat signed by a representative of public utilities which identify their approval.

(ord. 21-005, 05-11-2021)

3. **Review Process**:

a. Planning and Zoning Review: The Planning and Zoning Department and other necessary Town staff shall review the documents submitted for concept plan review to determine if they are complete as required in chapter 4 of this title and meets the Standards For Review. (amd. ord. 24-014, 10-8-24)

b. Public Notice: Notice for at least one public meeting at which the Planning Commission will consider the amended plat shall be given to adjoining property consistent with UCA §10-9a-207.

c. Planning Commission Review: Upon receipt of the amended plat, the Planning Commission shall examine the plat to determine whether the plat conforms to all applicable Town ordinances and codes and the Standards For Review, and with all requirements imposed as conditions of previous acceptances. The Planning Commission may:

i. Approve the amended plat as presented.
ii. Disapprove the amended plat and advise the applicant in writing of the changes or additions that must be made for approval; or
iii. Table or continue the application to allow the applicant to make revisions. The applicant is responsible for notifying the Town that the amended plat has been revised and is ready for reconsideration.

d. Plat Recorded: After final approval and signing of the amended plat by the Town Manager, Mayor, Town Engineer, Town Attorney, utility companies and other required entities, the approved amended plat shall be recorded in the office of the County Recorder by the Town Clerk, with all recording costs paid by the subdivider.

4. Expiration of Amended Plat Approval: If the amended plat is not recorded or the requirements set forth as a condition of final approval are not met by the subdivider within six (6) months from the date of amended plat approval, such approval shall be null and void.

D. **Major Plat Amendments:** All plat amendments which do not qualify under subsection (B) or (C) shall be considered major plat amendments and will be considered under the

process described in 9-9-2 of this title and consistent with Utah Code Annotated §10-9a-608 and §10-9a-609.

1. At the applicant's request, the Planning and Zoning Administrator may choose to waive the Concept Plan Review process required by section 9-9-2 of this title if it is determined following the pre-application conference that the proposed plat amendments substantially meet the standards for review and that additional conditions are not likely to result from the Concept Plan Review. The applicant will still be responsible for any costs associated with adjustments to the preliminary plat which result from the Preliminary Plat Review.

2. Public Notice Requirements: In addition to the requirements of 9-9-2, notice for the public hearing during the Preliminary Plat Review shall be given to adjoining property owners consistent with 9-1-8 of this title and UCA §10-9a-207.

(ord. 21-005, 05-11-2021)

9-9-5: SUBDIVISION BY METES AND BOUNDS:

A. **Purpose:** The intent of subdivision by metes and bounds is to streamline the subdivision review and approval process for previously unsubdivided parcels in coordination with the existing utilities and public infrastructure where no more than ten (10) residential parcels or no more than two (2) commercial parcels will result from the subdivision. (2010 Code, amd. ord. 21-005, 05-11-2021)

B. **Standards for Review:** When the applicant is prepared to record or sell specific parcels of property not previously subdivided, they must demonstrate to the satisfaction of the Town the following:

1. The proposed parcels conform to the previously approved General Plan and this title;

2. No additional public utilities or infrastructure are required to provide adequate public service to the newly divided lots; (ord. 21-005, 05-11-2021)

3. The utility and/or vehicular access to remaining undeveloped property will not be impaired;

4. The proposed parcels will have access to existing necessary utilities;

5. That remnant parcels which did not previously exist are not created which, due to size, configuration, or location, do not meet current zoning requirements and/or are not able to be developed; and

6. The proposed subdivision meets the criteria for exemption from the plat requirement set forth by the Utah Code Annotated §10-9a-605 et. seq. (amd. ord. 24-014, 10-8-24)

C. **Review Process**: Subdivisions which qualify under this section shall be considered under the Minor Plat Amendment process described in § 9-9-3 (C) of this title.

9-9-6: CONVERTIBLE OR EXPANDABLE AREA FOR CONDOMINIUMS:

Land use approvals depicted with convertible or expandable space shall comply with the requirements of Utah Code Annotated, §57-8 et. seq. and the declaration associated with the project. Conversions and expansions of units shall go through a plat amendment process unless the original plat approval specifically identifies the proposed conversions and expansions of the project, and the amended plat and declaration are in harmony and conformance with the original project approval. In such cases, the amendment documents may be recorded when they have been reviewed, signed, and approved for recordation by the appropriate Land Use Authority. (2010 Code, amd. ord. 15-004, 4-28-2015, amd. ord. 24-014, 10-8-24)

9-9-7: WATER RIGHTS ACQUISITION AND CONDITIONS

A. **Purpose and Findings:**

1. The Town's primary purpose for establishing this ordinance is to acquire the water rights necessary to serve its expanding population. (ord. 2-009, 9-13-2022, amd. ord. 24-014, 10-8-24)

2. The Town supports the 2022 Workforce Housing Plan's recommendations and the associated incentivized inclusionary housing ordinance in 9-9-7 of this title and therefore will consider the award of water rights to projects that include affordable/workforce housing units. (ord. 23-007, 8-8-2023)

3. Based on studies done by the Town, the Town likely has enough water rights to provide water to all existing parcels (as of August 11, 2022). The Town does not have many extra water rights to provide water for the potentially hundreds of new parcels that can be created when the Town expands. (ord. 22-009, 9-13-2022, amd. ord. 24-014, 10-8-24)

B. **Time and Conditions for the Town to award Water Rights:**

1. One hundred (100)-acre feet of water rights (the "Pool") will be reserved for certain subdivisions on a first come, first served basis. (ord. 22-009, 9-13-2022, amd. ord. 23-007, 8-8-2023, amd. ord. 24-014, 10-8-24)
    a. Sixty (60) acre feet of the Pool will be reserved for commercial subdivisions.

b. Thirty-seven (37) acre feet of water will be reserved for R1, R2, and R3 subdivisions of more than two (2) lots. For R3 subdivisions, the acre feet may only be accessed through a development agreement with the Town.
c. Three (3) acre feet of water will be reserved for single-family lot splits (an individual who wishes to divide their parcel into two (2) lots only).
d. Once the Pool has been allocated, any applicant wishing to subdivide must follow all the regulations below in this section. (amd. ord. 24-014, 10-8-24)

2. All property that has not previously dedicated water rights shall be required to dedicate water rights at the time of annexation, or if already in Town limits, at the time the property subdivides. (ord. 22-009, 9-13-2022)

3. Subdivisions or developments requesting water rights from the Town shall provide deed-restricted affordable housing units on site in compliance with all provisions of 9-9-7 except 9-9-7.B.2.a which is replaced with the following percentages of the total development units and income restrictions:

   a. Rental Units:
      i. For subdivisions or condominium projects of ten (10) lots/units or more, five percent (5%) of the total dwelling units for rent must be affordable to households earning thirty percent (30%) or less of Iron County's Median Family Income based on housing size and determined by the US Department of Housing and Urban Development (HUD); or
      ii. For subdivisions or condominium projects of ten (10) lots/units or more, ten percent (10%) of the total dwelling units for rent must be affordable to households earning sixty percent (60%) or less of Iron County's Median Family Income based on housing size and determined by the US Department of Housing and Urban Development (HUD);

   b. Ownership or 'For Sale' Units:
      i. For subdivisions or condominium projects of ten (10) lots/units or more, five percent (5%) of the total dwelling units for sale must be affordable to households earning eighty percent (80%) or less of Iron County's Family Income based on housing size and determined by the US Department of Housing and Urban Development (HUD); or
      ii. For subdivisions or condominium projects of ten (10) lots/units or more, ten percent (10%) of the total dwelling units for sale must be affordable to households earning one hundred percent (100%) or less of Iron County's Median Family income based on housing size and determined by the US Department of Housing and Urban Development (HUD); or
      iii. For subdivisions or condominium projects of ten (10) lots/units or more, fifteen percent (15%) of the total dwelling units for sale must be affordable to households earning one hundred and twenty percent (120%) or less of Iron County's Median Family Income based on housing size and determined by the U.S. Department of Housing and Urban Development (HUD).

(ord. 23-007, 8-8-2023, amd. ord. 24-014, 10-8-24)

C. **Amount of Water Rights:**

1. Prior to final approval or recordation of the final subdivision plat or other development activity requiring culinary water service from the Town, the applicant shall transfer and dedicate to the Town, the unencumbered, clear title to a sufficient quantity of water rights and/or sources necessary to provide and deliver culinary water to each lot, dwelling unit and/or other use within the new development.

2. **Sufficient Quantity of Water Defined**: A "sufficient quantity of water" shall be decided as a result of the applicant's produced water study. The water study shall include open space and all other real property included in the proposed subdivision and/or development. The Land Use Authority, with the recommendation of Town Staff shall review and approve the proposed amount of water based on the buildout study provided by the Town. The Land Use Authority, with the recommendation of Town Staff, may reasonably adjust this amount depending on the type of subdivision and development requested and the water requirements thereof. The Land Use Authority, with the recommendation of Town Staff, may elect to waive the water study requirement and instead require three tenths (0.3) acre feet per residential unit and one and one half (1.5) acre feet per commercial unit.

D. **Acquisition of Excess Water Rights:** If at any time an owner is required to deed water rights to the Town, and if that owner owns more water rights which have been used on the property relating to the land use application than the owner is required to deed to the Town, then the Town shall request that the owner either sell the excess rights to the Town or enter into an agreement with the Town, giving the Town the first right of refusal should the owner decide to sell said water rights in the future.

E. **Type of Water Rights:** Water rights shall be subsurface water rights that have a priority date prior to January 1, 1934, and be available for use in Water Right Area 75.

F. **Transferring Water Rights:** The applicant shall submit a title report showing the type of water right, ownership of the right, and any liens or encumbrances. The applicant shall also provide a title insurance policy in such a sum that is adequate to cover the appraised value of the water rights the policy is covering.

1. A change application with the State of Utah shall be completed at the expense of the party developing the land. Information to be included in the change application will be provided by the Town, including the points of diversion. The change application must be approved by the State Engineer prior to transferring water rights to the Town on the books of the State of Utah Division of Water Rights. This transfer may also be conditioned on approval of the land use application pending before the Town that caused the transfer of water rights.

2. A deed transferring the water rights to the Town shall be completed and held prior to the land use application approval. The deed transferring ownership may be held either by the Town or in an escrow account paid for by the applicant. Once the land use application and change application receive approval from the State, the deed will be recorded.

3. If the Division of Water Rights has not made a final decision on the change application prior to the land use approval, then the land use application will be tabled until a final decision is made.

4. If at any point in this process, the change application is denied by the Division of Water Rights then the request will be denied, and the land use application shall be denied.

G. **Exceptions:**

1. Public Lands Exception: If at the time of annexation, the annexed property is owned by the Bureau of Land Management (BLM) or the US Forest Service (USFS), that acreage shall not be subject to the requirements of this ordinance that mandate the deeding of water rights. This exception only applies to annexation and not when the property is platted as a residential subdivision or receives a building permit.

2. Brian Head Town Exception: Nothing in this ordinance shall require the Town to deed water or pay a fee if the Town develops land.

3. Lot Line Vacation Exception: For purposes of this chapter, lot line vacations shall be considered as “putting water back into the pool”. For example, if two (2) lots vacate one line and become one property, then the equal amount of water rights for one (1) lot shall be added into the three (3) acre feet of water reserved for single-family residential lots.

(ord. 22-009, 9-13-2022, amd. ord. 24-014, 10-8-24)

9-9-8: INCENTIVIZED INCLUSIONARY HOUSING

A. Purpose and Authority: The purpose of this chapter is:

1. To support the 2022 Workforce Housing Plan’s recommendation to implement an inclusionary housing program within the Town;

2. To facilitate and encourage development that includes a range of housing opportunities through a variety of residential types, forms of ownership, home sale prices and rental rates;

3. To increase the number of owner-occupied or ‘for sale’ housing units for households with an income of one hundred twenty percent (120%) or less (i.e. less

than eighty percent (80%) or one hundred percent (100%) for some projects) of Iron County's Median Family Income; and

4. To increase the number of rental housing units for households with an income of sixty percent (60%) or less (i.e. less than thirty percent (30%) for some projects) of Iron County's Median Family Income.

5. To provide for a range of workforce/affordable housing units to ensure the welfare and viability of the Town's resort economy operations.

(amd. ord. 24-014, 20-8-24)

B. **Applicability & Minimum Project Size; Incentivized Height and/or Density Opportunities Based Upon the Provision of Workforce Housing**:

1. The following bonus density shall be allowed where the workforce housing provisions of this section are met.

    a. R1: Single-Family Residential – One (1) unit per one third (1/3) acre.
    b. R2: Medium Density Residential – Ten (10) units per acre.
    c. R3: Multi-Family Residential – Twenty five (25) units per acre.

2. On-site Option:
    a. Any new residential or commercial project may increase the allowed base density, or building height, on a site pursuant to the zoning classification bonus standards outlined in 9-9-8(B)(1) subject to the provision of deed-restricted workforce/affordable housing units on site with the following income restrictions:
        i. Rental Units:
            I. For subdivisions or condominium projects of ten (10) lots/units or more, two and a half percent (2.5%) of the total dwelling units for rent must be affordable to households earning thirty percent (30%) or less of Iron County's Median Family Income based on housing size and determined by the US Department of Housing and Urban Development (HUD); or

            II. For subdivisions or condominium projects of ten (10) lots/units or more, five percent (5%) of the total dwelling units for rent must be affordable to households earning sixty percent (60%) or less of Iron County's Median Family Income based on housing size and determined by the US Department of Housing and Urban Development (HUD);

        ii. Ownership or 'For Sale' Units:

            I. For subdivisions or condominium projects of ten (10) lots/units or more, five percent (5%) of the total dwelling units for sale must be affordable to households earning eighty percent (80%) or less of Iron County's Family Income based on housing size and determined by the US Department of Housing and Urban Development (HUD); or

II. For subdivisions or condominium projects of ten (10) lots/units or more, six and a quarter percent (6.25%) of the total dwelling units for sale must be affordable to households earning one hundred percent (100%) or less of Iron County's Median Family Income based on housing size and determined by the US Department of Housing and Urban Development (HUD); or

III. For subdivisions or condominium projects of ten (10) lots/units or more, seven and a half percent (7.5%) of the total dwelling units for sale must be affordable to households earning one hundred and twenty percent (120%) or less of Iron County's Median Family Income based on housing size and determined by the US Department of Housing and Urban Development (HUD).

b. For developments built by a single developer, all required workforce housing units must be constructed simultaneous to the market rate units. The final twenty percent (20%) of a project's building permits for the market units will not be issued until the workforce housing units are completed.

c. If the approved workforce housing units are part of a subdivision approval in which individual lots will be sold separately, the following provisions apply:

i. All final subdivision plats shall include plat notes specifically identifying those lots that are dedicated for the construction of workforce housing units. These plat notes must include minimum/maximum size of unit requirements, household income requirements (e.g., thirty percent (30%), sixty percent (60%), eighty percent (80%), one hundred percent (100%), or one hundred twenty percent (120%) of Iron County's median family income based on housing size and determined by the US Department of Housing and Urban Development (HUD), etc.

ii. These lots will be required to have a deed-restriction recorded with the final subdivision plat that outlines the requirements and limitations associated with workforce housing.

iii. The applicant shall provide a performance bond in the amount of the estimated construction costs for the workforce housing units. The Town Engineer or Town Manager will provide the construction cost estimate.

iv. Whether the developer sells or donates these lots to a private or non-profit organization or decides to build the units themselves, all workforce housing units must be completed and a Certificate of Occupancy (CO) issued within two (2) years of the recordation of the final subdivision plat.

3. Cash-In-Lieu Option

a. Calculation of cash-in-lieu fee: A developer may make a cash payment to the Town in lieu of providing the required number of on-site workforce/affordable units. The cash-in-lieu fee shall be calculated pursuant to the table below by multiplying the number of required workforce/affordable units by the applicable prescribed fee:

On-Site Workforce/Affordable Unit Tenure Type	Per Unit Fee
For Sale	$350,000
Rental	$200,000

**Note: Applicants may use the lowest percentage of units applicable as outlined in Section B.2 for calculating the cash-in-lieu amount.*

b. Remittance and collection of payment: Cash-in-lieu fees shall be collected in conjunction with the administration of the Town's system for planning and building review. All cash-in-lieu fees shall be paid in full prior to the recordation of the final subdivision plat. In the event that a project is phased, the cash-in-lieu fees may be paid with each applicable phase.
c. Deposit and use of fees: All cash-in-lieu fees collected pursuant to this section shall be remitted to the housing development fund or a similar fund maintained by the Town. These funds shall be used exclusively to support the preservation or development of workforce/affordable housing for the administration and compliance of housing programs.

4. Land Donation Option:
   a. A developer may dedicate land to the Town as a third option to satisfy their workforce housing units. The dedication of land shall be subject to the following requirements:

On-Site Workforce/Affordable Unit Tenure Type	Per Unit Land Dedication
For Sale	Dedication of land (or lots) that appraise at $350,000 or more at time of dedication.
Rental	Dedication of land (or lots) that appraise at $200,000 or more at time of dedication.

**Note: Applicants may use the lowest percentage of units applicable as outlined in Section B.2a for calculating the land dedication.*

   b. All land required for dedication to the Town must be deeded to the Town prior to or at the time of the recordation of the final subdivision or condominium plat.
   c. All land dedicated to the Town must be determined suitable for development by the Town's Planning and Zoning Department. Suitability shall be determined by an assessment of location and accessibility, marketability, slope, soil typology, additional environmental constraints, etc.

5. Proportional Application. Any development proposing a mixture of ownership or 'for sale' dwelling units and 'rental' dwelling units shall have an obligation to satisfy the requirements of sections (1), (2), and (3) above based on the proportion of each use type to the overall development. This applies to on-site units as well as the cash-in-lieu and land donation options.

6. Rounding or Fractional Units. When calculating the number of on-site workforce/affordable units required pursuant to section (1) above, rounding shall be applied as outline in the following example:
    a. Example: A new twenty five (25)-unit rental residential development is proposed. Application of a five percent (5%) inclusionary requirement for rental units results in a requirement for one and one quarter (1.25) deed-restricted workforce/affordable rental units. The proposed workforce/affordable housing plan shall (1) provide one (1) deed-restrict workforce/affordable rental unit on-site and pay an additional cash-in-lieu fee for one quarter (0.25) units (see calculation below) or (2) provide two (2) deed-restricted workforce/affordable rental units on-site with no additional cash-in-lieu fee.

    Fractional Unit Calculation:
    Twenty five (25) units with a five percent (5%) inclusionary requirement = 1.25 required workforce/affordable units.

    One (1) deed-restrict workforce/affordable rental unit shall be constructed on-site or a fee of two hundred thousand dollars ($200,000) paid.

    The remaining one quarter (0.25) unit requirement shall be met with the construction of one (1) workforce/affordable unit or a payment of fifty thousand dollars ($50,000) (0.25x$200,000).

C. **Standards for Income-Restricted Units**

1. Design. Restricted units shall be comparable in design, and appearance to the market-rate units in the residential development and shall comply with all size requirements and other design standards of this title including, but not limited to, building code requirements, parking standards, landscaping, etc. These requirements shall apply equally to all dwelling units, market units and workforce/affordable units alike.

    a. Minimum Square Footage Standards: In order to assure livability, the standard net livable square footage for workforce/affordable units shall be as follows:

UNIT TYPE	**MINIMUM SQUARE FOOTAGE**
Micro Unit/Studio	400 sq. ft.
1 Bedroom	600 sq. ft.
2 Bedroom	800 sq. ft.
3 Bedroom	1,200 sq. ft.
4 Bedroom	1,400 sq. ft.

**Note: No development shall have more than ten percent (10%) of all workforce/affordable units designated as 'Micro Unit/Studio' units unless specifically approved by the Land Use Authority. All units must be used as the homeowner's/renter's primary residence and comply with all aspects of this title and the adopted building code.*

(amd. ord. 24-014, 10-8-24)

2. Type. Residential developments that include more than one (1) type of residential unit shall provide income-restricted units in rough proportion to the types and various designs of market-rate residential units constructed. For example, in developments with a mixture of two-bedroom and three-bedroom residential units, the income-restricted units shall be comprised of each residential unit type in the same proportion and living area as the market-rate units. The applicant may request an exception from this requirement for review and approval by the Land Use Authority.
3. For sale or rent. Income-restricted units shall be for sale or for rent in the same proportion as the market-rate units. For example, if fifty percent (50%) of the units in the residential development are for sale, then at least fifty percent (50%) of the income-restricted units shall be for sale unless otherwise approved by the Land Use Authority.
4. Location. Income-restricted units shall be located on the site on which the residential development is proposed and shall have access to amenities equal to that of the owners and renters of the market-rate units, including without limitation: parks, outdoor play areas, pools, exercise facilities, and similar on-site amenities.
5. Timing. Income-restricted units shall be ready for occupancy no later than the date of the initial Certificate of Occupancy for any of the market-rate units in the project. If the market-rate units are to be constructed in phases, then the income-restricted units may be constructed in phases, in proportion to the phasing of the market-rate units.
6. Residency or Employment Requirements: For sale income-restricted units shall be limited to:
    a. A full-time (aggregate of thirty (30) hours of employment per week) employee of an entity or entities located within Iron County for a minimum of one (1) year (preference is given for a person employed within the Town); or
    b. An owner of a business or entity with a primary place of business within Iron County for a minimum of one (1) year (preference is given for a business that is located within the Town); or
    c. A full-time (aggregate of thirty (30) hours of employment per week) worker who is self-employed or works out of their home and can provide proof that a minimum of seventy five percent (75%) of their clients are based within Iron County for a minimum of one (1) year (preference is given for clients located within the Town).
    d. Remote workers will only be considered if the applicant has been a local, Iron County resident for a minimum of two (2) years prior to application (preference is given for a person that currently lives within the Town).

(amd. ord. 24-014, 10-8-24)

D. **Income Standards for All Workforce/Affordable Housing Units**

1. All units must remain affordable for a period not less than thirty (30) years from the initial issuance of Certificate of Occupancy. At that time, the Town Council shall determine whether to extend the inclusionary housing program and associated deed restrictions.
2. A deed restriction will be recorded on the property that stipulates the income requirements and term requirements for the units provided.
3. Household income shall be defined as the combined income of all individuals, excluding dependents, who are or will be occupying the unit regardless of legal status.
4. For ownership or 'for sale' units: qualified households cannot earn more than one-hundred and twenty percent (120%) of Iron County's median family income based on housing size and determined by the US Department of Housing and Urban Development (HUD);
5. For rental units: qualified households cannot earn more than thirty percent (30%) or sixty percent (60%) of Iron County's median family income based on housing size and determined by the US Department of Housing and Urban Development (HUD).
6. The Town Council will adopt income requirements by resolution as frequently as necessary and the requirements will be maintained by the Planning and Building Department.
7. In addition to income, the following standards will apply:
    a. Net Assets/Net Worth Standard:
        i. The combined net worth of the persons eighteen years of age and older in the Household shall not exceed four (4) times the AMI for the household size. Assets include business assets, real estate, stocks, bonds, trust funds, cash, and retirement accounts.
        ii. A one-time gift of up to thirty percent (30%) of the purchase price used for the purchase of a for sale unit may be considered in net assets, and not as income, for the purposes of initial qualification.
        iii. Disposition of assets: Any member of a household who has assigned, conveyed, transferred, or otherwise disposed of property or other assets within the last two (2) years without fair consideration in order to meet the net asset limitation or property ownership limitation shall be ineligible.
8. The Town's Planning and Building?? Department will serve as the entity to review and qualify household for the workforce/affordable units.
9. A list of qualified households shall be kept by the Town in order of approved application.

(amd. ord. 24-014, 10-8-24)

E. **Calculation of Sale Price**

1. The initial sales price for a workforce/affordable ownership unit in any development shall average a price affordable to a household earning eighty percent (80%) or one hundred percent (100%) or one hundred and twenty percent (120%) of Iron County's median family income based on housing size and determined by the US Department of Housing and Urban Development (HUD), depending on the proposed unit and AMI configuration the developer proposes to include in the development (see Section B.2.a), The target household income sale price shall be calculated according to the following guidelines:
    a. Mortgage payment for the owner-occupied unit, including principal and interest and homeowners association (HOA) operating dues shall not exceed thirty percent (30%) of the target household income (gross).
    b. The assumptions used to calculate the sales price shall be:
        i. a five percent (5%) down payment;
        ii. a thirty (30) year term; and
        iii. an interest rate equal to the prevailing interest rates as defined by the federal government (Federal Reserve Bank of St. Louis) at the time of the offer.

(amd. ord. 24-014, 10-8-24)

F. **Calculation of Rental Rates**

1. In general, rental rates for a workforce/affordable unit in any development shall be affordable to a household earning either thirty percent (30%) or sixty percent (60%) of Iron County's median family income based on housing size and determined by the US Department of Housing and Urban Development (HUD), depending on the project type submitted for review. Affordability standards are based on maximum rental rates which are targeted at thirty percent (30%) of the household's income. Maximum rental rates shall be calculated as follows:
    a. Maximum rental rates shall include the cost of utilities and homeowners association (HOA) fees, if applicable. The landlord/owner shall submit a lease which includes the proposed monthly rental rate along with proof of utility costs to the Planning and Zoning Department, or designee. Town Staff will evaluate the lease and either approve or deny the rental rate proposed based on the standards established herein.
    b. Rental rates shall apply whether the units are provided furnished or unfurnished.
    c. The owner of any designed workforce/affordable housing rental units, at their cost and expense, must keep and maintain the interior and exterior of the total structure (including all residential units therein) and the adjacent open areas in a safe and clean condition and in a state of good order and repair.

(amd. ord. 24-014, 10-8-24)

G. **Deed Restriction Standards for Workforce/Affordable Units – Owner-Occupied Units and Rental Units:**

1. Owner Occupied Units: All owner-occupied workforce/affordable units will have the following requirements clearly outlined in the deed restriction recorded for the property:
    a. The method of calculation of the allowed Maximum Resale Price ('MRP') shall include:
        i. An increase in price of three percent (3%) per year from the date of purchase to the date of owner's notice of intent to sell (compounded annually and prorated at the rate of one quarter percent (.25%) per each whole month of any part of a year).
            I. Any proposed improvements or renovations to the units, internal or external, must be approved by the Town's Planning and Zoning Department, or designee, prior to the commencement of any work. The base value of the unit (at time of purchase by the new owner) may not increase more than ten percent (10%) as a result of these approved eligible improvements. For example, if the base value of a unit is two hundred thousand dollars ($200,000), and an owner is approved to make improvements valued at twenty five thousand dollars ($25,000), the maximum value of the workforce/affordable unit will be capped at two hundred twenty thousand dollars ($220,000) ($200,000 * 0.10). The outstanding five thousand dollars ($5,000) for improvements will not be counted in the MRP.
        ii. The notice of intent to sell must be made to the Town's Planning and Building? Department, or designee, in writing delivered via mail (e.g. USPS) or by email. The notice of intent shall allow the Town Staff no less than sixty (60) days to determine whether to exercise the right-of-first-refusal or to coordinate a private transaction.
        iii. The Town shall either purchase the unit per a right-of-first refusal clause included in the deed restriction or coordinate with the owner of the workforce/affordable unit to sell the unit to the qualified household at the top of the Town's qualified households list.
    b. All owner-occupied units must be occupied by the qualified household that purchased the unit as the/their primary residence (minimum of twelve (12) months occupancy per year).
    c. No nightly rentals are permitted within any workforce/affordable housing unit.

    (amd. ord. 24-014, 10-8-24)

2. Rental Units: All rental workforce/affordable units will have the following requirements clearly outlined in the deed restriction recorded for the property:
    a. All rental units must be occupied by the qualified household that rented the unit as the/their primary residence (minimum of twelve (12) months occupancy per year unless the Land Use Authority approves a project with part-time workforce housing units such as, but not limited to, single-room occupancy units, etc.).

i. The applicant may request an exception from this requirement (e.g., a request for seasonal workforce housing, etc.) for review and approval by the Land Use Authority.

b. No subleases are allowed without the written approval of the Town's Planning and Building Department, or designee.
c. No nightly rentals are permitted within any workforce/affordable housing unit.
d. The landlord/owner may not increase the monthly rental rates for the workforce/affordable units more than two percent (2%) annually.

(amd. ord. 24-014, 10-8-24)

H. Violation and Penalty

1. It is unlawful to operate a restricted unit in violation of this chapter, and violations shall be punishable as set forth in the Town Code. Each day of violation shall be deemed as a separate offense.

2. In addition to the remedies provided by this code, the Town shall have any and all remedies provided by law and in equity for a violation of a deed restriction, including without limitation: (i) damages; (ii) specific performance; and (iii) injunctions, including without limitation an injunction requiring eviction of the occupant(s) and an injunction to prohibit the occupancy of the deed-restricted unit in violation of the deed restriction.

(ord. 23-007, 8-8-2023, amd. ord. 24-014, 10-8-24)

Title 9 – Land Management Code

Chapter 10
OTHER REQUIRED PERMITS

9-10-1: LOGGING AND TREE REMOVAL:
9-10-2: GRADING & TRENCHING PERMIT:
9-10-3: HORSE BOARDING:
9-10-4: TEMPORARY CONCRETE BATCHING FACILITIES:
9-10-5: HOME OCCUPATIONS:
9-10-6: BURN PERMITS:
9-10-7: TEMPORARY STRUCTURES & TENTS:

9-10-1: LOGGING AND TREE REMOVAL

A. **Purpose:**

1. It is the intent of the Town to preserve the natural environment and rural mountain town atmosphere, consistent with the General Plan, by preserving as many trees as is possible and reasonable. (2010 Code, amd. Ord. 15-004, 4-28-2015)

2. It is unlawful for any entity or person to log, harvest, cut down, remove, relocate, or cause any such to be done, or knowingly damage so as to require the cutting down or removal of any live tree with a diameter of six inches (6") or greater at a level of five feet (5') above the ground without a permit. Permits may be issued for the cutting down, relocation or removal of live trees in accordance with the Standards for Review delineated in 9-10-1(C). Relocation of trees off-premise will not count towards re-vegetation requirements. (Ord. 15-005, 4-28-2015, amd. Ord. 21-006, 05-25-21)

B. Permits:

1. Permits to cut down, relocate, or remove a tree as provided under this title shall be issued by the Planning and Zoning Administrator, or designee. An applicant shall provide such information as the town deems necessary to adequately evaluate the permit application. (amd. Ord. 15-005, 4-28-2015, amd. ord. 21-006, 05-25-21)

2. The permit application shall be accompanied by the appropriate fee as indicated on the consolidated fee schedule and reviewed by the Planning and Zoning Administrator, or designee, and any other staff deemed necessary to assist in application review. (amd. Ord. 21-006, 05-25-21).

I. **Standards For Review**: Permit applications shall be reviewed pursuant to the following standards:

1. The intended removal or relocation of a tree will have an acceptable impact on flooding, snow slide and landslide hazards, watershed areas, spring protection zones, water runoff and erosion areas, public rights of way, wind breaks, and other trees and vegetation.

2. The tree removal is necessary to eliminate or minimize disease, a danger of tree fall, danger to utility lines or structures, dangers to public rights of way, dangers to buildings or other structures, including fences or other trees, and will generally contribute to desired decrease in fire hazard in the forest.

3. The removal of the subject tree will not significantly diminish the aesthetics or historical character of the site, adjoining properties or neighborhood.

4. The removal or relocation of a tree is reasonably necessary for the development, installation or construction on the subject property or site, or is otherwise necessary or important to the reasonable use or enjoyment of the site property. This standard is not met unless and until a building permit, when applicable, has been issued and development of the property has been approved to proceed. (2010 Code, amd. Ord. 15-005, 4-28-2015)

5. The removal or relocation of the subject tree is warranted by good forestry practice, including the consideration of the number, spacing and species of trees on the site or adjoining properties. Town staff may request the opinion of a qualified forester regarding the appropriateness of the selection of trees to be removed. (2010 Code, amd. Ord. 15-005, 4-28-2015)

6. The privacy or architectural relationships between existing or planned structures on the site with other structures, trees or tree groupings shall be considered. (2010 Code, amd. Ord. 15-005, 4-28-2015)

7. Full consideration has been given to the relocation, rather than removal, of healthy trees.

8. Slash shall be removed, burned (with permit required), or chipped and utilized on site. (2010 Code, amd. Ord. 15-005, 4-28-2015)

9. Re-vegetation and/or reforestation are considered and implemented where it is not in conflict with other Standards for Review. (2010 Code, amd. Ord. 15-005, 4-28-2015)

J. **Inspections:** All tree removals shall be pre-inspected and shall be subject to inspection at all reasonable times by the Planning and Zoning Administrator, or designee. The permittee shall notify the Planning and Zoning Administrator, or designee, within three (3) business days of completion of the tree removal allowed under the permit. (amd. Ord. 21-006, 05-25-2021)

K. **Security For Completion**: The permittee shall furnish and file with the Town Clerk appropriate security pursuant to section 9-13-7 of this title. The security shall cover costs of cleanup, restoration and/or re-vegetation of the area where trees are to be removed.

F. **Expiration**: Unless a shorter time is stated in the tree removal permit when it is issued, all tree removal permits shall expire six (6) months after they are issued. All activities required or allowed by the permit, including cleanup, must be completed while the permit is in effect. Except with regard to required re-vegetation, upon expiration of the permit, all tree removal activities shall cease, and a new tree removal permit must be obtained by the applicant, before engaging in further tree removal activities. (2010 Code, amd. Ord. 15-005, 4-28-2015)

9 -10-2: GRADING & EXCAVATING PERMIT:

A. **Purpose:** The purpose of a grading and trenching permit is to eliminate unsafe slopes and soil instability, to avoid detrimental alteration of drainage patterns, to provide for safe and standardized utility location and installation practices, and to preserve the natural aesthetics of a mountain town consistent with the Town's General Plan.

B. **Permit Required:** No person shall commence or perform any excavation, grading, filling, trenching, or clearing of land and/or vegetation (grubbing) without first obtaining a grading and trenching permit. If the preceding activities are being proposed in preparation for development other than single-family residential use, a building permit must be approved prior to granting a grading and excavating permit.

1. No permit is required for a soils test or perc test which disturbs 200 square feet or small and is filled in upon completion of the test. Any person undertaking utility location shall comply with the applicable Blue Stakes regulations and standards.

2. If trees are being removed concurrent with grading and excavating operations, a separate tree removal permit must be obtained.

C. Application & Review Process:

1. Application Packet: The applicant shall submit a permit packet, which includes:
   a. Town-approved application form (available from Planning and Zoning Department) (amd. Ord. 21-006, 05-25-21)

   b. Appropriate fee (as outlined in the consolidated fee schedule)

   c. Professionally engineered site plans showing the following:
      i. Existing conditions, including:
         a) Existing topography and vegetation

b) Previously disturbed areas
c) Areas showing signs of a history of landslide or erosion.

ii. Proposed areas of disturbance
iii. Existing and proposed surface drainage flow patterns
iv. Location of existing and proposed utilities
v. Proposed cuts with slopes measurements and heights
vi. Proposed retaining walls.
vii. Proposed storm drainage infrastructure

d. Written description of the work being proposed, including:
   i. Timeframe in which work will be completed.
   ii. Equipment which will be used to conduct the operation.
   iii. Quantities to be removed from or brought to the site.
   iv. Plan for storage and disposal of materials
   v. Measures the applicant will take to mitigate erosion, noise, dust, smell, safety concerns and other potential nuisances during construction.

e. Site restoration and landscaping plan.

f. A report of subsurface investigation if it appears that there is a history of landslide or erosion that may be exacerbated by the proposed grading or filling.

g. Insurance and bond information (if work is to be undertaken in the public right of way)

2. Planning and Zoning Department Review:

a. The Planning and Zoning Department shall determine the adequacy of the application and may require the submission of further information where necessary to determine if all the Standards for Review have been met. (amd. Ord. 21-006, 05-25-21)

b. The Planning and Zoning Department may waive application requirements which are deemed unnecessary to determine if all the Standards for Review have been met. (amd. Ord. 21-006, 05-25-21)

c. The Town Engineer will review applications against the Standards for Review and furnish a report detailing findings and determinations.

d. The Applicant may revise and resubmit their application, if necessary, to meet the Standards for Review.

3. Security for Completion:

a. The Town may require a security for completion (in a form consistent with section 9-13-7 of this title) to assure the work will be corrected to eliminate hazardous conditions and to ensure the cleanup and restoration of the permitted area.

b. If grading or clearing is being done in preparation for development prior to obtaining a building permit, a performance bond shall be required sufficient to ensure that any scars on the land may be remedied.

D. **Standards for Review**: All grading, excavating, filling, and clearing operations which are performed under this chapter shall be consistent with section 9-12 of this title (Design Standards), and shall be designed to:

1. Prevent significant erosion and soil stability issues by:
   a. Minimizing cuts and fills on steep or hazardous terrain.

   b. Limit clearing of vegetation or disturbances of the soil to areas of proven stability, taking into consideration geologic hazards and soil conditions.

   c. Ensuring landscaping and restoration within one year of completing the grading work.

   d. Properly retaining any potentially unsafe slopes.

2. Ensure that the natural runoff capacity of streams, natural or historic runoff drainages, and improved storm drainage ditches or infrastructure shall not be exceeded causing flooding, erosion, or silting.

3. Comply with Standards & Specifications for Public Works Construction for utility construction and trench backfilling as well as the construction requirements and standards set forth in 9-10-2(E) of this title.

4. Preserve the natural aesthetics of a mountain town consistent with the General Plan by:
   a. Avoiding unnecessary clearing or burying of vegetation

   b. Ensuring that all excavation work, including spoil piles, do not create an attractive nuisance or hazard to the general public.

   c. Eliminating scars from cuts and fills, and preserve the natural scenic beauty of the area, such as rounding off sharp angles at the top, toe and sides of cut and fill slopes and matching or blending the natural contours and undulation of the land.

   d. Preserving trees and other native vegetation where possible and in accordance with fire-safe principles.

   e. Carefully removing, storing, and replacing a layer of fertile topsoil in disturbed areas for re-vegetation where feasible.

E. Construction Requirements and Standards:

1. Discharge Prohibitions: No solid or liquid materials shall be discharged into any creeks or streams, onto lands below the high-water level of the same, or onto adjoining property. In order to prevent such discharges from occurring, own-approved erosion and silt control devices may be required.

2. Dust Control: Whenever the native ground cover is removed or disturbed, or whenever fill material is placed on the site, the exposed surface shall be treated to eliminate dust

arising from the exposed material. The Planning and Zoning Department must approve dust control methods. (amd. ord. 21-006, 05-25-21)

3. Disposal of Cleared Vegetation: Vegetation removed during grading or clearing operations shall be disposed of in a manner approved by the Planning and Zoning Department. (amd. ord. 21-006, 05-25-21)

4. Water Flow Diverters: The Planning and Zoning Department may require diverters, as necessary, at the top of all cut and filled slopes where there is a potential surface runoff. (amd. ord. 21-006, 05-25-21)

5. Protection of Non-disturbed Areas: Construction equipment shall be limited to the disturbance areas identified in the approved plans. No vehicle of any kind shall pass over areas to be left in their natural state according to the approved plans. Fill dirt from cuts and excavation shall not be spread over non-disturbed areas as a disposal method. Failure to comply with this provision may result in the forfeiture of security and fines.

6. Protection of Any Existing Underground Public Utilities: The contractor shall ascertain and verify the location of any public underground utilities that may be on the property by contacting Blue Stakes, or other applicable agency, before doing any grading excavation. Once such are located, the permittee shall take reasonable care to protect and avoid damage to any such underground utilities. Any and all damage caused to public utilities by any act or negligence of the contractor's employees shall be repaired at the contractor's expense to the satisfaction of the utility company and the Town.

7. No Grading Near Historic Or Prehistoric Ruins:
   a. No grading, filling, clearing of vegetation, operation of equipment or disturbance of the soil shall take place in areas where any historic, prehistoric ruins, monuments or objects of antiquity are present.

   b. The grading plan shall indicate all such historic or prehistoric areas on the site and shall indicate the measures that will be taken to protect such areas. Should excavation uncover or discover any historic or prehistoric ruins or monuments or object of antiquity which were not known at the time of the submittal of the grading plan, all work in the immediate area shall cease until the Planning and Zoning Administrator, or designee, shall determine what precautions should be taken to preserve the historic artifacts. (amd. ord. 21-006, 05-25-21)

F. **Inspections:** All construction or work for which a permit is required shall be subject to inspection at all reasonable times deemed necessary by the Planning and Zoning Department or the Town Engineer to ascertain compliance with the provisions of this chapter and other ordinances which are applicable. The permittee shall notify the Planning and Zoning Department at least twenty-four (24) hours in advance of both commencing and completing grading/excavating work as well as prior to infrastructure being covered or concealed by additional work. Whenever any work on which inspections are required is covered or concealed by additional work without first having been inspected, the Planning and Zoning Department may require, through written notice, that such work be exposed

for examination. The work of exposing and recovering shall be an expense of the permittee requiring the inspection. (amd. ord. 21-006, 05-25-21)

G. As built drawings: Drawings showing the final location of utilities installed shall be furnished to the Planning and Zoning Department for record purposes within thirty (30) days after the work is completed or forfeit any outstanding bonds. An extension period may be granted for a sufficient reason.

H. Expiration: Unless a shorter time is stated in the permit when it is issued, all grading and excavating permits shall expire six (6) months after they are issued. All activities required or allowed by the permit, including cleanup, must be completed while the permit is in effect. Except with regard to required restoration and revegetation, upon expiration of the permit, all grading and excavating activities shall cease, and a new permit must be obtained by the applicant before engaging in further grading and excavating activities. (ord. 21-006, 05-25-21).

(Chapter 10-2 was repealed and amended ord. 21-002, 3-9-21)

9-10-3: HORSE BOARDING:

A. **Requirements:**

1. Residential Horse Boarding:

   a. Purpose: Residential horse boarding is intended to provide for short term, boarding of horses in an approved residential zone with adequate property size and in such a way as to limit any negative impact on adjoining properties and maintain the harmony and residential character of the neighborhood. Short term shall mean no longer than ninety (90) days in a calendar year. (2010 Code, amd. ord. 15-005, 4-28-2015)

   b. Horse boarding in a residential zone shall be allowed for a period of seven (7) continuous days with a maximum of fourteen days in a calendar year without the requirement of a conditional use permit. Any term longer than fourteen days shall require a horse boarding permit. (ord. 15-005, 4-28-2015)

   c. Permitted Zones; Limitations: Horse boarding is permitted in an R-1 zone only, outside of any zone 1 and 2 water source protection zone and shall be subject to the following limitations: (2010 Code, amd. Ord. 15-005, 4-28-2015)

      i. A horse enclosure area shall have a fence structure of at least forty-two inches (42") in height and shall enclose at least one hundred forty-four (144) square feet per horse. Such enclosure area shall be located at least fifty feet (50') from any property line or residential structure.

      ii. The horses shall be used for the riding/packing pleasure of the property owner and his guests and shall not be available to the public for hire.

      iii. The site shall be maintained in a sanitary condition and shall conform to all public regulations. Appropriate fly control methods must be demonstrated.

iv. Drainage from the boarding area shall be maintained on the property and shall not be directed toward public street rights of way, adjoining property or any creek or stream.

v. Each animal's physical description, together with its owner's name and phone number, shall be filed with the public safety department so that the owner may be contacted in the event of escape or other emergency.

2. Commercial Horse Boarding Permit:

a. Purpose: A commercial horse boarding permit is intended to allow for the boarding, riding, and enjoyment of horses on a for hire, commercial basis in such a way as to not create a negative or detrimental impact on associated properties, and to maintain the harmony and character of the zone.

b. Permitted Zones; Limitations: A horse boarding permit issued in ROS, GC and LI zones shall be subject to the following limitations:

i. The property owner shall send a request by certified mail to each adjoining property owner within three hundred feet (300') of the boarding corral/structure. If the adjoining property is owned by multiple owners (i.e., a condominium development, etc.), the notice shall be mailed to each individual property owner.

ii. A horse enclosure area shall have a fence structure of at least forty-two inches (42") in height and shall enclose at least one hundred forty-four (144) square feet per horse. Such enclosure area shall be located at least fifty feet (50') from any property line or occupied structure.

iii. The site shall be maintained in a sanitary condition and comply with all town, county, state and federal applicable rules and regulations.

iv. Drainage from the boarding area shall be maintained on the property and shall not be directed toward public street rights of way, adjoining property or any creek or stream.

v. A commercial horse boarding operation must have a current valid business license.

B. **Revocation Or Discontinuance:** A boarding permit may be revoked by the Town after an opportunity for a hearing if the provisions of this section or the limitations prescribed as a condition of the permit are being violated, or if the horses are not being properly cared for as determined by the state Humane Society guidelines or in violation of the Town Nuisance Ordinance. A permit shall become void if not used within one month from the date of issuance.

C. **Appeal:** Any resident or property owner may file with the Appeal Authority an appeal of any action of the Town staff in connection with issuance or denial of a boarding permit, or the conditions attached thereto, within ten (10) days following such action. In the event of appeal, the Appeal Authority, after receiving a report from the Town staff, may confirm, reverse or modify the action of the Town staff. A public hearing shall not be required. (Ord. 08-016, 8-12-2008)

9-10-4: TEMPORARY CONCRETE BATCHING FACILITIES:

A. **Purpose**: The purpose of this section is to allow temporary concrete batch plants to be erected and used during a limited time of the year, on any property that conforms to these requirements, to provide concrete batching facilities in the town where industrial zoned land is unavailable for such use. The batch plant shall be associated with an assigned building permit of a chosen project to limit the time it can be in use and shall be located on-site. This license does not exclude the batch plant from delivering concrete to other projects on a commercial basis. This permit does not grant any vested rights for this use to the property it is located on.

B. **Permits**

1. A permit shall be required for any concrete batch plant that is erected or conducted within the town limits if it:
    a. Loads any type of truck or equipment with concrete materials for the purpose of delivering them on site or to another location for final use;
    b. Stores concrete materials or equipment, such as sand, gravel, cement powder, water, delivery trucks or equipment, batching equipment or anything related to the process.
2. A permit is not required when concrete batching is conducted in quantities of less than one cubic yard at a time (delivered in bags, or small bulk quantities), to be used only in the location of the batching, and not delivered to any off-site location.
3. The Town Manager, or designee, shall review all applications submitted under this section and ensure that the application and the operation represented thereby strictly complies with each requirement of this section and will not create a nuisance, negative effect or safety hazard on the proposed site, surrounding property or to the citizens of the town. The Town Manager, or designee, shall have the authority to approve, deny or revoke any application or permit obtained under this section.

C. Permit Application: The applicant shall submit a permit packet, which includes:

1. Permit application.
2. Site plan
3. Agent authorization to use the land if it is not owned by the applicant.
4. List of materials to be stored on the property, along with quantities.
5. List of equipment to be used on the site for delivery of raw materials, loading and processing of concrete, and delivery and placement of concrete materials.
6. Written explanation as to how the applicant will comply with this section regarding noise, dust, smell, safety, and other nuisances.
7. The source of water to be used for concrete batching.
8. Restroom facilities.

9. Insurance and bond information.
10. Town indemnification agreement.
11. Storm drain and erosion control plan.
12. Site restoration plan.
13. Other information that will show how the operation will be conducted, and site restored after use.

D. **Inspections:** All approved permit locations shall be subject to inspection at all reasonable times by the Town Manager, or designee. The permittee shall notify the Town Manager, or designee, within three (3) business days of completion of the project and removal of the equipment under the permit.

E. **Permit Standards:**

1. The operation may be located on town owned or leased property deemed fit by the Town Council for such facilities. The license shall be tied to one single building permit only, but may be transferred to another permit, one time only.
2. The facility shall only be operational from May 1 until November 1 of any given year, weather permitting. The Town staff may grant a one-month extension, weather permitting.
3. Operation of equipment, trucks and motors shall only be conducted between the hours of seven o'clock (7:00) A.M. to eight o'clock (8:00) P.M.
4. The facilities shall be maintained in a clean and orderly condition and the operator of the facility shall ensure that all dust, dirt, mud and excess water from any material, trucks, land, roads, and facilities leading to, from and on the facility, site are controlled.
5. No structure or portion of the facilities or any equipment used in connection with the facilities, or their operation shall exceed fifty feet (50') in height above natural grade. The facilities shall be completely fenced and locked during nonbusiness hours. All hazardous materials stored on site must be properly contained and legally disposed of.
6. At the time of filing its application for approval of a facilities site and operation, the operator shall file with the Town a security bond or deposit in the amount of twenty-five thousand dollars ($25,000). This is to ensure the operation of all facilities in compliance with this section, ensuring cleanup and restoration of the property upon which the facilities are to be located, and ensuring that the operator pay for any damages to private or public property or improvements which result in any way from the operation of or related to the facilities. Interest earned from the cash deposit will accrue to the benefit of the applicant. (2010 Code, amd. ord.15-005, 4-28-2015)
7. At the time of filing its application for approval of a facilities site and operation, the operator shall provide the Town with proof of general liability insurance in the sum of one million dollars ($1,000,000.00) per occurrence, naming the Town as an additional

insured. Such insurance shall not be subject to cancellation except upon thirty (30) days' prior written notice to the Town.

8. The lot, property, or parcel of land on which the facilities are to be located or operated shall be large enough to accommodate all facilities, equipment, concrete trucks, vehicles, and employee vehicles. No public roads may be used for any part of or for any use associated with the facilities or their operation. No tree removal permit shall be issued to accommodate the facility. (2010 Code, amd. ord. 15-005, 4-28-2015)
9. The operator shall be required to meter all water used with regard to the facilities or their operation and shall pay to the town, as required by the Town, the rate established by the Town for bulk water sales.
10. Facilities shall be allowed and permitted by the Town on a first come, first served basis. No more than three (3) concrete batching plants shall be allowed or permitted within the town boundaries at any one time.
11. Any facilities or operations proposed to be located within any well protection zone shall submit with their application a plan specifically identifying the measures which will be taken to protect against contamination of the well protection zone or the associated water or water source. The operator of any facility or operation approved for location within any well protection zone shall agree in writing, prior to the application being approved, to pay any and all costs and damages incurred as a result of any contamination of such well protection zone or the associated water and water source.
12. A facility shall identify and follow a plan to protect adjoining properties and the general citizenry from unreasonable nuisances and hazards relating to the operation of the batch plant in comparison to typical construction processes or similar process that may become an attractive nuisance.
13. An adequate number of temporary restroom and construction material container facilities shall be located on the facility site and shall be properly and regularly serviced and maintained. (ord. 08-016, 8-12-2008)

9-10-5: HOME OCCUPATIONS:

A. **Purpose:** It is the purpose and intent of this section to allow persons residing (either full-time or part-time) in dwellings to use their mental or physical expertise and talent in providing a service, developing a product for sale to the public, operating certain kinds of small businesses or maintaining a professional or business office work space in the dwelling, or in an attached or detached garage or accessory building, or yard space, while at the same time maintaining the peace, quiet and domestic tranquility within all residential areas of the town. The Town recognizes that many professional services (such as snow removal and bulk water hauling) are needed for the property functionality of a mountain resort town, and it is in the best interest of the Town and its residents to allow such services to operate from a residential zone in order to increase the likelihood that such services will be offered locally so long as they don't materially alter the character of the zone. Notwithstanding the Town's willingness to consider allowing these services and businesses

to be operated as home occupation in residential zones, all home occupations shall be clearly accessory and subordinate to the principal use of the property for dwelling purposes. (amd. ord. 21-001, 1-12-21)

B. **Permitted Standards For Home Occupations When Conducted Entirely Within Residence**: The following standards shall be observed in the operation of all home occupations to be approved by Town staff:

1. The home occupation shall be conducted primarily by residents (either full-time or part-time) of the premises. A home occupation may have employees; however, only one employee who does not live in the home may come to the home at any one time for purposes of employment. One additional off-street parking stall shall be provided for any employee coming to the home who is not a resident of the premises. (amd. ord. 21-001, 1-12-21)

2. The home occupation shall not physically change the dwelling or yard space to the extent that it would alter the residential or aesthetic character of the dwelling, yard, or neighborhood.

3. The home occupation shall be allowed one nameplate sign, which shall be consistent with chapter14 of this title. Temporary signs shall not be permitted for home occupations.

4. The home occupation shall not generate pedestrian or vehicular traffic in excess of that customarily associated with the zone in which the use is located, as determined by the Zoning Administrator and appropriate regulatory authorities. "Occupancy load", as defined by the currently adopted building code, shall not be exceeded.

5. The home occupation shall not cause a demand for municipal or utility services or community facilities in excess of those usually and customarily provided for residential use, as determined by the Zoning Administrator and appropriate regulatory authorities.

6. Sale of commodities produced on the premises shall be permitted. The sale of all commodities shall be by prior individual invitation only.

7. Home occupations shall conform to business license requirements of title 3 of the Town Code.

8. There shall be complete conformity with all applicable Town, County, State and Federal laws and ordinances.

C. Conditional Use Standards For Home Occupations Using Attached Or Detached Garages, Accessory Structures Or Yard Space: The following standards shall be observed in the operation of all home occupations using garages, other accessory

structures, or yard space, which shall be approved by conditional use, in addition to the standards specified in subsection B of this section:

1. An occupation may be considered as a conditional use only under the following conditions:
    a. The Planning Commission finds that the proposed home occupation will be clearly accessory and subordinate to the principal use of the property for dwelling purposes; and
    b. The Planning Commission finds that the proposed home occupation will not adversely affect the residential nature and aesthetic quality of the neighborhood; and;
    c. Any off-street parking displaced by the home occupation is relocated elsewhere on the lot or parcel; and
    d. The Planning Commission may impose any conditions it deems necessary to mitigate impacts of the home occupation on the neighborhood.

2. In determining whether to grant a conditional use approval for the use of an attached or detached garage, accessory structure or yard space for a home occupation, the Planning Commission shall consider the effect of such use on the residential character of the property upon which the home occupation is proposed to be located. In making a determination, the Planning Commission may consider factors including, but not limited to:
    a. Displacement of normally residential functions of yard space and building or structure usage.
    b. The potential for generation of noise, dust, vapors, fumes, odors and light.
    c. The potential for generation of excess traffic.
    d. The potential impact of the proposed home occupation on the aesthetic quality of the neighborhood and the property upon which the home occupation is proposed to be located.

3. Due to the special nature of home occupations, their potential to create adverse impacts to the neighborhood, and the potential for significant unforeseen impacts to occur, the Planning Commission reserves the right to review any home occupation granted conditional use approval pursuant to this subsection. The conditional use permit for the home occupation may be reviewed and modified or revoked by the Planning Commission due to failure of the owner or operator of the home occupation to observe all conditions specified in issuing the permit; failure to observe the purpose and intent of this section or other requirements of this title in regard to the maintenance of improvements and conduct of the home occupation as approved; or significant unforeseen impacts resulting from the operation of the home occupation in conflict with the purpose and intent of this section and as explained in the application.

D. **Permitted Uses:** Home occupations which may be considered under section B of this section may include the following uses, or uses which are similar in character, origin, or impact, as determined by the Building Official/Zoning Administrator:

Animal grooming services are conducted entirely within the home.

Architectural service.

Artist, author.

Barber shop, beauty service.

Childcare services in compliance with state and federal standards.

Consulting service.

Craft sale.

Dance studio; aerobic exercise, music lessons, tutoring and general educational instruction.

Data processing, computer programming.

Direct sales distribution.

Food preparation in compliance with state and federal standards.

Garden plants and produce.

Home crafts.

Insurance sales or broker.

Interior design.

Janitorial service.

Mail order (not including retail sales from site).

Real estate sales or broker.

Sales representative.

E. **Conditional Uses:** Home occupations which shall not be considered under subsection C of this section include the following uses, or uses which are similar in character, origin, or impact, as determined by the Building Official/Zoning Administrator*:* (2010 Code, amd ord. 21-001, 1-21-21)

Agricultural uses (not involving the keeping of animals) that use more than twenty-five percent (25%) of the area of the lot when the lot is less than one acre in size. (2010 Code, amd ord. 21-001, 1-12-21)

Kennel, animal hospital.

Machine shop.

Light Manufacturing.

Secondhand shops and pawnshops.

Storage and warehousing.

Uses which involve the storage, display or repair of motor vehicles, or body and fender work on such vehicles. (ord. 08-016, 8-12-2008)

Snow Removal Services

Water Transport Services

(ord. 15-018, 12-8-2015, amd. ord. 17-004, 7-11-2017).

9-10-6: BURN PERMITS:

A. **Purpose:** Burn permits are intended to act as a notification process to public safety personnel and dispatchers of scheduled burn operations to avoid unnecessary dispatching of fire crews, and to review the proposed burn in order to establish controls and safe practices for the preservation of life and property.

B. **Opening Burning And Recreational Fires**: Open burning and recreational fires shall be done in compliance with the international fire code as currently adopted by the state, Utah Code Annotated §11-7, and any current Town Public Safety Burn Policy as enacted for general public safety.

C. **Issuing Burn Permits**: A burn permit or Town public safety approval is required prior to any open burning or recreational fire by contacting the Town Public Safety office or County Dispatch. (ord. 08-016, 8-12-2008)

9-10-7: TEMPORARY STRUCTURES AND TENTS:

A. Prior to the issuance of an Administrative Permit for any temporary structure, tent or vendor, the following requirements shall be met.

1. Application: An Application must be submitted to the Town including the following information:

   a. Use**:** A temporary structure used in accordance with these provisions may be erected in any zone if the use is consistent with the permitted uses of that zone or conditional uses as approved under Section 9-11-2 of this title.

   b. General Description. An overview of the proposed activity. Include hours of operation, anticipated attendance. Use of speakers, beer or liquor licenses, any sign or lighting plan, and any other applicable information.

   c. Site Plan: The site plan shall be to scale indicating in detail how the proposal will comply with the International Building Code (IBC). It should indicate the location of the tent or temporary structure on the property and distances from property lines and other structures. A separate plan for the interior of the tent or temporary

structure is required. This plan will indicate any chairs, tables, exits, sanitation, heating, food services/handling etc. A snow removal plan must be included.

d. Structural Information and Calculations: For all temporary structure greater than 200 sq. ft. in floor area, structural calculations, wind and snow load information, fire rating, etc. must be submitted.

e. Fees: All applicable fees.

f. Building Permit: A permit issued by the Town is required for temporary structures greater than 200 sq. ft. in area, or as determined by the Chief Building Official upon review of size, materials, location, weather, and proposed use.

g. Special Event Permits: See Title 3.3 of the Town Code for regulations related to special events.

h. Duration: In no case shall a tent be installed for a duration longer than twenty-one (21) days and for more than five (5) times per year on the same property or site, unless a longer duration or greater frequency is approved by the Planning Commission consistent with condition use criteria in Section 9-11-2 and Design Standards in Section 9-12 of this title.

2. Review Criteria:

a. Lease agreement with Brian Head Town.

b. The use shall not violate the health or fire code regulations or any state regulations on mass gatherings.

c. The use must meet all applicable International Building Code (IBC) requirements.

d. The application shall adhere to all applicable town and state licensing ordinances.

e. If the proposed use is on private property, the applicant shall provide written notice of the property owner's permission.

f. Any net loss of parking shall be reviewed and if necessary, mitigated.

g. The proposed use shall not impede pedestrian circulation, emergency access, or any other public safety measure.

h. The use shall not violate the Town Noise Ordinance.

i. The use and all signing shall comply with the municipal sign and lighting codes. (ord. 15-005, 4-28-2015)

j. Temporary structures must be consistent with the Design Standards contained in Chapter 12 of this title. Tents are exempt from roof and external wall material design standards. (ord. 17-004, 7-11, 2017)

Title 9 – Land Management Code

Chapter 11
FLEXIBLE APPROACHES

9-11-1: VARIANCES:
9-11-2: CONDITIONAL USE PERMIT:
9-11-3: RESIDENTIAL PLANNED DEVELOPMENT (RPD)
9-11-4: MASTER PLANNED DEVELOPMENT (MPD)
9-11-5: DEVELOPMENT AGREEMENTS

9-11-1: VARIANCES:

A. **Purpose:** A variance is intended to grant a property owner relief from the terms of this title where conditions are such (particular physical surroundings, shape, or topographical conditions) that literal enforcement of this title would cause an unreasonable hardship upon the owner, as distinguished from a mere inconvenience or increased costs. A variance is not intended to disregard the spirit of the Town's General Plan, this title, or design standards found in chapter 12 of this title. A variance may be requested for physical constraints to the lot that deprive the applicant of the reasonable use of their property when others similarly situated are entitled to make such use of their property. (amd. ord. 24-014, 10-8-24)

B. **Review Procedures:**

1. Application: An application for variance review must be filed with the Town, and the required fee paid in advance. If, in the course of subdivision or building permit review, it is determined that a variance is required or desired, all further action shall be stayed until the applicant shall have obtained the variance.
2. Appeal Authority Review: The Appeal Authority shall review the application in a hearing to be held within a reasonable time after the application is submitted. Notice to adjoining property owners is required pursuant to section 9-1-8 of this title. The Appeal Authority shall grant or deny the variance pursuant to the standards and conditions set forth by state law, Utah Code Annotated §10-9a-702, as amended, and those set forth below:

C. **Standards For Review:**

1. The Appeal Authority may grant a variance only if:
    a. Literal enforcement of this title would cause an unreasonable hardship for the applicant that is not necessary to carry out the general purpose of this title.
    b. There are special circumstances attached to the property that do not generally apply to other properties in the same zone.
    c. Granting the variance is essential to the enjoyment of a substantial property right possessed by other property in the same zone.
    d. The variance will not substantially affect the Town's General Plan and will not be contrary to the public interest; and
    e. The spirit of this title is observed, and substantial justice is done.

2. In determining whether or not enforcement of this title would cause unreasonable hardship under subsection 11-1C(1) of this section, the Appeal Authority may not find an unreasonable hardship unless the alleged hardship:
    a. Is located on or associated with the property for which the variance is sought; and
    b. Comes from circumstances peculiar to the property, not from conditions that are general to the neighborhood.
3. In determining whether or not enforcement of this title would cause unreasonable hardship under subsection C(1) of this section, the Appeal Authority may not find an unreasonable hardship if the hardship is self-imposed or economic.
4. In determining whether or not there are special circumstances attached to the property under subsection C(1) of this section, the Appeal Authority may find that special circumstances exist only if the special circumstances:
    a. Relate to the hardship complained of; and
    b. Deprive the property of privileges granted to other properties in the same zone.
5. The applicant shall bear the burden of proving that all of the conditions justifying a variance have been met.

D. **Appeal:** The Town or any person aggrieved by a final decision of the Appeal Authority may appeal to a court of competent jurisdiction, provided the appeal is filed with the court within thirty (30) days after the decision of the Appeal Authority. (ord. 08-016, 8-12-2008)

9-11-2: CONDITIONAL USE PERMIT:

A. **Purpose:** Although each zoning district is primarily intended for a predominant type of use (i.e., dwelling units in residential districts), there are a number of uses which the Town Council has identified that may be appropriate in a particular district if conditions are met that mitigate potential adverse impacts of the proposed use. The conditional use review is intended to provide additional information necessary to assure compatibility and harmonious

relationships between proposed uses, surrounding properties and the Town in general. (amd. ord. 24-014, 10-8-24)

B. **Approval Required:** Conditional use approval is required for the conditional uses in each zoning district. Conditional use approval may be revoked upon failure to comply with all conditions attached to the original approval of the conditional use as set forth in a conditional use permit.

C. **Review Process:**

1. Application:

   a. An application for approval of a conditional use shall be filed with the Planning and Building Department on a form provided by the Town. The application shall make clear whether the applicant is a business or individual leasing the property or whether the applicant is the owner of the property. In the event the applicant is a lessee or tenant of the property, the application must include written consent by the owners of all property on which the conditional use activity shall be conducted. (amd ord. 15-018, 12-8-2015)

   b. The appropriate fee from the Town's Consolidated Fee Schedule shall be submitted with the application.

   c. Other information required to be submitted on or with the conditional use application can be found in chapter 4 of this title, table 2.

2. Planning and Building Department**:** Upon receipt of a completed conditional use application, the Planning and Building Department shall conduct a review of the application. The Planning and Zoning Administrator, or designee, shall prepare and deliver to the Land Use Authority a written advisory report identifying any reasonably anticipated detrimental effects and recommend conditions of approval for the application. (amd. ord. 21-006, 05-25-21, amd. ord. 24-014, 10-8-24)

3. Land Use Authority Review And Action:

   a. Within a reasonable time of receipt of a complete application, the Town shall give public notice consistent with section 9-1-8 of this title and hold a public hearing on the proposed conditional use. Members of the public may submit written comments to be part of the public hearing record or may present oral comments at the hearing.

   b. Upon receipt of Town Staff and other applicable agency recommendations, and input from the public hearing, the Land Use Authority shall review the project and may impose reasonable conditions of approval which are designed to mitigate the reasonably anticipated detrimental effects of the proposed use. If the applicant accepts the conditions imposed, the Land Use Authority may grant the conditional use permit. If the reasonably anticipated detrimental effects of the proposed conditional use cannot be substantially mitigated by the proposal or

the imposition of reasonable conditions to achieve compliance with applicable standards, the Land Use Authority may deny the conditional use.

(amd. ord. 24-014, 10-8-24)

D. Standards For Review:

1. No conditional use permit may be issued unless the Land Use Authority finds that the application meets the following standards and conditions:
   a. Protects the safety of persons and property:
      i. Will not result in unreasonable traffic congestion or traffic hazards.
      ii. Has adequate and necessary access for municipal services.

   b. Will not exceed the obligations and/or financial capability of the Town and will not require a level of community facilities and services greater than that which is available, or which may be provided.

   c. Will protect environmental values:
      i. Will not cause unreasonable air, water, groundwater, light or noise pollution.
      ii. Does not have critically expansive soils, high water table, slope instability, or other soil problems which cannot be mitigated.

   d. Consistent with the Town's General Plan:
      i. Will comply with the requirements of the zoning district in which the use is to be established and with all other requirements of this title.
      ii. Will be compatible with the character of the neighborhood and surrounding structures in scale, mass and traffic circulation.

   e. The applicant has assured performance of obligations by posting bond or other adequate security as determined necessary by the Land Use Authority per chapter13 of this title. (amd. ord. 21-006, 05-25-21, amd. ord. 24-014, 10-8-24)

2. With its approval, the Land Use Authority may impose such conditions and safeguards to ensure compliance with the requirements, standards or conditions of this section. The violation of any condition, safeguard or commitment of record by the applicant shall be sufficient grounds for revocation of conditional use approval. (amd. ord. 24-014, 10-8-24)

E. Transferability: If the conditional use permit was requested by and granted to the owner of the underlying property, the conditional use permit is transferable with the title to the underlying property. If the permit was requested by and granted to a lessee or tenant of the underlying property, the permit is only transferrable to a new lessee following a review by the Land Use Authority. Upon this transfer review, the Land Use Authority may alter the conditions of the permit based upon the specific circumstances of the new lessee or tenant. The permit cannot be transferred off the site on which approval was granted. (amd. ord. 15-018, 12-8-2015, amd. ord. 24-014, 10-8-24)

F. **Time Limit:** The approval for the use shall expire unless the conditional use begins within a period of twelve (12) months from the date of conditional use approval or a building permit for the use has been issued. Any cessation in conditional use granted for a period of more than twelve (12) months shall result in the expiration of the permit (amd. ord. 15-018, 12-8-2015, amd. ord. 21-006, 05-25-21)

G. **Modification:** No approved conditional use may be modified, structurally enlarged, or expanded unless the permit has been reviewed, amended as necessary, and approved in accordance with the procedures and standards of this section. (amd. Ord. 21-006, 05-25-21)

H. **Related Permits And Requirements:** A conditional use shall also be subject to all other procedures, permits and requirements of other applicable ordinances and regulations of the Town. In the event of any conflict between the provisions of a conditional use permit and any other permit or requirement, the more restrictive provisions shall prevail. (ord. 08-016, 8-12-2008)

9-11-3: RESIDENTIAL PLANNED DEVELOPMENT (RPD):

A. **Purpose:** The purpose of the Residential Planned Development (RPD) is to encourage development patterns within residential zones which preserve treed open space, parks, and trails through clustering concepts. Additionally, the RPD encourages underground parking and optimal placement of development on the parcel. In order to encourage such development, the RPD allows for flexibility from zoning standards and other than use and density. (amd. ord. 15-018, 12-8-2015)

B. **Review Process:** Residential Planned Developments (RPD) shall be reviewed and approved under the same Land Use Authority provisions as the subdivision process. (amd. ord. 15-018, 12-8-2015)

C. **Standards For Review:**

1. The applicant shall demonstrate the following:
    a. The planned development is consistent with the Town's General Plan. (amd. ord. 15-018, 12-8-2015)
    b. The proposed development is in a residential zone and the proposed uses are consistent with the underlying zone. (amd. ord. 15-018, 12-8-2015)
    c. The arrangements of structures and open spaces will not adversely affect adjacent properties. (For example, where deemed necessary by the Land Use Authority, the lowest height and least intensity of buildings and uses shall be arranged around the boundaries of the development).

d. The development shall be in a single ownership at the time of application or filed jointly by all owners of the property. (amd. ord. 15-018, 12-8-2015)

e. The proponents of the RPD have demonstrated to the satisfaction of the Land Use Authority that an organizational structure and financial plan is established for construction, phasing, and maintenance (including HOA responsibilities and budget projection for ten (10) years to ensure sustainability of the project.

f. Minimum landscape requirements identified in chapter 7 of this title shall be increased by an additional ten percent (10%) of the area of the parcel, and application shall include a detailed landscape plan. No departure from the approved landscape plan will be allowed during construction without prior consent of the Land Use Authority. (amd. ord. 15-018, 12-8-2015)

g. The landscape plan shall preserve a minimum of fifty percent (50%) of existing trees within the required landscape area. (amd. ord. 15-018, 12-8-2015)

h. Easements are created to establish and maintain the continuity of existing and planned trails and ski ways with ownership and maintenance being the responsibility of the approved organizational structure, unless specifically accepted by the Town.

i. The development is planned as a single project (with possible phasing) with continuity of building design, theme and uses (including homeowners association (HOA) responsibilities and budget projection pursuant to State Code) to ensure sustainability of the project. (amd. ord. 15-018, 12-8-2015)

j. Recreational or park elements such as a picnic area are encouraged and will count towards the landscaped area requirement. (amd. ord. 15-018, 12-8-2015)

k. The majority of the required parking shall be underground or garaged and shall be considered part of the buildable area. (amd. ord. 15-018, 12-8-2015)

(amd. ord. 24-014, 10-8-24)

2. In cases where the applicant requests a waiver or flexibility from the zoning standards (excluding use and density, which may not be waived) they shall demonstrate the following:

a. Any request to modify physical restrictions identified in chapter 7 of this title shall be submitted for approval by the Land Use Authority. (amd. ord. 24-014, 10-8-24)

b. Special consideration has been given to preserving natural vegetation, land formations and topography. (amd. ord. 15-018, 12-8-2015)

D. **Appeals**: A final decision of the Land Use Authority may be appealed to the Appeal Authority following the procedures of subsection 9-3-2-H of this title but must be filed within ten (10) regular business days of the decision. (Ord. 08-016, 8-12-2008)

9-11-4. MASTER PLANNED DEVELOPMENT (MPD)

A. **Purpose:** The purpose of the Master Planned Development (MPD) is to allow flexibility in commercial development which is consistent with the Town's General Plan and which exceeds minimum standards set forth in the zoning ordinance with regard to open space, public recreational features, site and/or building design, etc. (amd. ord. 24-014, 10-8-24)

B. **Criteria:** The Town may grant approval for a Master Planned Development Agreement which:

1. Is consistent with the Town's General Plan.

2. Pertains to a parcel zoned as General Commercial or Village Commercial, or which will be re-zoned to General Commercial or Village Commercial concurrent with the Master Planned Development process.

3. Enables the Town to obtain supplemental facilities or benefits which would not otherwise be obtained through existing regulations, standards or policies.

4. Assures quality development within the Town as well as promotes the general health, safety, and welfare of current and future Town residents.

5. A development agreement may be approved by the Town Council without regard to the size of the Master Planned Development or the amount of density associated with such development. Such an agreement may allow for development which exceeds limits contemplated in the zoning requirements contingent upon satisfaction of all the foregoing criteria.

(ord. 15-018, 12-8-2015, amd. ord. 24-014, 10-8-24)

C. **Commitments:** Applicants for Master Planned Developments are encouraged to make commitments which enable the Town to obtain supplemental facilities or benefits which would not otherwise be obtained through existing regulations, standards, or policies. The Land Use Authority may consider commitments which may include, but shall not be limited to, the following:

1. The provision of open space, trails or other public recreational features and environmentally sensitive lands through dedication or other means.

2. The establishment and implementation of site design, building design, landscaping plans or other standards above and beyond established Town requirements or existing development entitlements.

3. The reduction of density.

(ord. 15-018, 12-8-2015, amd. ord. 24-014, 10-8-24)

9-11-5 DEVELOPMENT AGREEMENTS:

A development agreement may be approved by the Land Use Authority either in connection with the approval of a development permit or as a separate approval at the election of the applicant. The decision by the Town to enter into a development agreement with an applicant is always discretionary; nothing in this code shall be interpreted or construed as requiring the Town to approve a development agreement under any circumstances. There is never an entitlement on the part of the applicant to the approval of a development agreement. (amd. ord. 24-014, 10-8-24)

Prior approvals of separate development agreements, regardless of who the applicant was, shall have no bearing on new applications or imply any obligations on the part of the Town with respect to future development.

A. **Submittal Requirements:** A completed application for approval of a development agreement, whether included as part of a development permit application or submitted as a separate application, shall include the following information and documentation:

1. A properly acknowledged letter of authorization from the owner(s) of the land stating consent to proceed with the proposed development agreement and permitting a designated representative to process the application and negotiate terms of the agreement.
2. A narrative description of compliance with the applicable criteria under which the proposed agreement merits consideration.
3. A description of the specific commitments proposed by the applicant as described in section 11-4-3 of this chapter.
4. A draft of the proposed development agreement.
5. Such other reasonable information as the Town Manager or designee may require. (ord. 15-018, 12-8-2015)

B. **Procedure:** Following a receipt of a completed application for a development agreement, the following process will be pursued:

1. Staff Review: Applicable Town Staff shall review the application and determine whether it satisfies the criteria set forth in this chapter. Staff may suggest alterations to the proposed agreement with the applicant prior to forwarding a recommendation to the Planning Commission.
2. Planning Commission Recommendation: The Planning Commission shall review the development agreement and associated application, if applicable, and forward a recommendation to the Land Use Authority. The Planning Commission may suggest alterations to the proposed agreement with the applicant prior to forwarding their recommendations.
3. Land Use Authority Adoption: The Town Council shall review the proposed development agreement, associated application (if applicable) and the Planning Commission's recommendation and may adopt the development agreement by

ordinance. The Town Council may negotiate any alterations to the agreement with the applicant pursuant to the purposes and intents of this chapter prior to adoption.

4. Notice: Required: A development agreement that conflicts with or is different from a standard set forth in this code may only be approved by the Land Use Authority when the procedures used for enacting or modifying a land use regulation are followed, including review and recommendation from the Planning Commission in a duly noticed public hearing. (ord. 15-018, 12-8-2015, amd. ord. 24-014, 10-8-24)

C. **Recording of Development Agreement:** Within thirty (30) days of final adoption of the approving and authorizing ordinance, the applicant shall submit a copy of the approved Development Agreement to the Town for execution by the Town and subsequent recording, together with the required recording fees or it shall be considered null and void. The Development Agreement shall become effective upon recordation. (ord. 15-018, 12-8-2015, amd. ord. 24-014, 10-8-24)

Title 9 – Land Management Code

Chapter 12
DESIGN STANDARDS FOR CONSTRUCTION AND DEVELOPMENT

9-12-1: PURPOSE:
9-12-2: LOT STANDARDS:
9-12-3: DEVELOPMENT DESIGN AND LAYOUT:
9-12-4: CONSTRUCTION ON SLOPES EXCEEDING TWENTY FIVE PERCENT:
9-12-5: LANDSCAPING AND FENCES:
9-12-6: LIGHTING:
9-12-7: BUILDINGS:
9-12-8: CONSTRUCTION DEBRIS REMOVAL:
9-12-9: ROADS:
9-12-10: DRIVEWAYS:
9-12-11: CUTS, FILLS AND RETAINING WALLS:
9-12-12: BRIDGE AND TUNNEL REGULATIONS:
9-12-13: WATERWAYS, DRAINAGES AND FLOOD HAZARD AREAS:
9-12-14: UTILITY IMPROVEMENTS:
9-12-15: PARKING:
9-12-16: PUBLIC IMPROVEMENTS:
9-12-17: TRASH ENCLOSURES:
9-12-18: COMPLIANCE:
9-12-19: PUBLIC UTILITIES:
9-12-20: CAMPGROUNDS:

9-12-1: PURPOSE:

To enhance our mountain community, the regulations hereinafter set forth in this chapter qualify or supplement, as the case may be, the regulations appearing elsewhere in this title. (ord. 08-016, 8-12-2008)

9-12-2: LOT STANDARDS:

A. **Minimum Area, Dimensions**: The minimum area and dimensions of all lots shall conform to the requirements of the zone district in which the lot is located.

B. **Frontage:** Except as otherwise provided herein, all lots or parcels created by subdivision shall have frontage upon a dedicated street improved to standards hereinafter required. Land designated as public right of way shall be separate and distinct from lots adjoining such right of way and shall not be included in the area of such lots.

C. **Developable Lots:** All subdivisions shall result in the creation of lots which are developable and capable of being built upon. A subdivision shall not create lots and no building permit shall be issued for any lots that would make building or access impractical due to size, shape, steepness of terrain, location of watercourses, problems of sewerage or driveway grades, or other physical conditions, except where such lots are suitable and dedicated for a common open space, private utility, or public purpose.

D. **Side Lines:** The side lines of all lots, so far as possible, shall be at right angles to each street on which the lot faces, or approximately radial to the center of curvatures. Exceptions may be made to this requirement for considerations such as solar orientation, grades, line of site or other traffic safety issues.

E. **Corner Lots**: Corner lots for residential use shall be platted wider than interior lots in order to permit conformance with the required front setback requirements along all streets bordering such lots.

F. **Lot Lines:** A Town or zoning district boundary line shall not divide a parcel or lot. Lot lines shall be made along such boundary lines. Zoning boundaries shall generally follow the lot lines and centerline of the public right of way. (amd. ord. 24-014, 10-8-24)

G. **Lot Numbers:** Lot numbers shall begin with the number "1" and shall continue consecutively through the subdivision with no omissions or duplications; no block designations shall be used. Phased subdivisions shall maintain continuous numbering throughout all phases.

H. **Number Of Dwelling Units Permitted:** The number of dwelling units shall be in compliance with chapter 7 of this title.

I. **Area Of Lot**: The area within a lot shall not be considered as providing a yard or open space for any other building or lot.

J. **Minimum Area Maintained**: No area needed to meet the minimum width, yard area, coverage, parking, or other requirements of this title for a lot or building may be sold or leased away from such lot or building for the purpose of installing any kind of structure.

K. **Contiguous Lots**: Except as otherwise provided in this title, all lots shall be contiguous. (amd. ord. 24-014, 10-8-24)

L. **Frontage On Private Streets**: Lots with frontage on private streets shall only be allowed by conditional use within a planned unit development with an approved master development plan and subject to all applicable requirements of this title and other applicable ordinances. (ord. 08-016, 8-12-2008)

9-12-3: DEVELOPMENT DESIGN AND LAYOUT:

A. **Hazardous Site Conditions Avoided**: The design of the development shall avoid or fully mitigate hazardous site conditions (unstable slopes, geologic faults, seismic zones, wildland fire, avalanche, or flood potential, etc.).

B. **Drainage:** Drainage from individual lots shall be coordinated with the general storm drainage pattern for the area and shall avoid conveying to adjacent lots of runoff flows higher than historic patterns.

C. **Centrally Located Recreation Facilities**: Whenever possible, recreation facilities should be located central to all residents of the development. (amd. ord. 24-014, 10-8-24)

D. **Access:** All lots should have access to open space, trails, park land or recreation facilities that are set aside for the use of residents within a development or use by the general public. (amd. ord. 24-014, 10-8-24)

E. **Trails And Open Space Access:** Access to public trails and open space abutting the property proposed for subdivision shall be provided. (amd. ord. 24-014, 10-8-24)

F. **Extension Of Infrastructure**: Public utilities, streets and other public infrastructure shall extend to the farthest border of the development to allow for future development to continue.

G. **Maintenance Of Common Facilities:** Maintenance of common facilities must be accomplished through CC&Rs, a homeowners' association, a separate maintenance agreement, or some other perpetual agreement to ensure that sufficient funds are collected for this purpose.

H. **Layout:** The layout of lots should provide desirable settings for structures by making use of natural contours, maintaining views, affording privacy, and providing protection from wind, noise and vehicular traffic.

I. **Development Design:** Development design should provide for efficiency in the installation and provision of all public and private utilities and services.

J. **Preservation Of Features:** Where trees, groves, waterways, scenic points, historic spots or other Town assets and landmarks exist, as determined by the Town, every possible means shall be provided to preserve these features. Developments are encouraged to maintain a minimum of twenty percent (20%) of the lot area in natural vegetation in order to preserve the natural environment and topography or demonstrate to the satisfaction of the Land Use Authority that an alternate plan will satisfy this intent. Undisturbed natural vegetation areas that are shown on the approved plan(s) shall be properly marked and protected against damage. (amd. ord. 24-014, 10-8-24)

K. **Placement Of Buildings**: The placement of buildings shall be designed to preserve the natural terrain, drainage, existing topsoil, tree groupings, large trees and rocks as much as possible so as to screen the building and parking areas from public view. (amd. ord. 24-014, 10-8-24)

L. **Removal Of Hazardous Materials:** Trees, brush, deadfall, natural vegetation, or combustible materials shall be removed and maintained at least fifteen feet (15') from structures as a defensible space for firefighting purposes. Additional area(s) may be required by the Public Safety Department. Fire resistant plant materials may be planted in the defensible space as approved by the Public Safety Department.

M. **Building Placement:** Building placement shall be considerate of the following: (Ord. 20-002, 4-28-2020)

1. Preserving views of nature, creating a comfortable pedestrian environment with outdoor spaces that do not feel "boxed in" from tall buildings surrounding the space that create a "canyon effect".

2. Sun and shade areas to enhance the seasonal experience and make best use of environmental conditions for snow melting, outdoor seating areas and building efficiency.

3. Service and delivery areas should be screened from public areas and provide sufficient room for vehicular movement.

4. Pockets and enclosures are encouraged to create "outdoor rooms" adjacent to buildings, pedestrian traffic, and recreation areas. These spaces should blend with

the topography, have varied floor heights to add interest, incorporate vegetation and plantings, and incorporate both open and covered space for multi-seasonal use. (ord. 08-016, 8-12-2008)

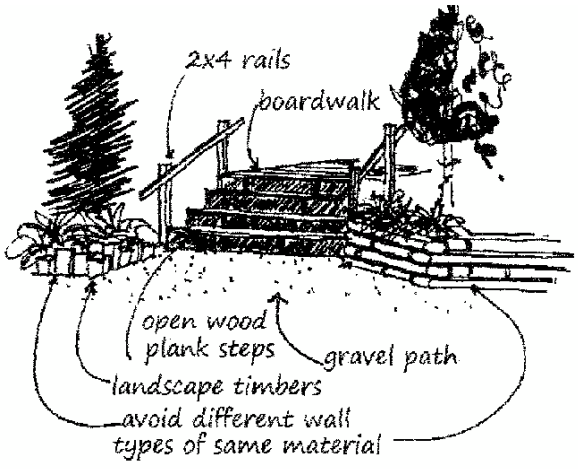
5. Incorporate non-linear and staggered placement of buildings to avoid straight rows of similar-styled buildings (the "cookie-cutter" effect). (ord. 20-002, 4-28-20)

9-12-4: CONSTRUCTION ON SLOPES EXCEEDING TWENTY FIVE PERCENT:

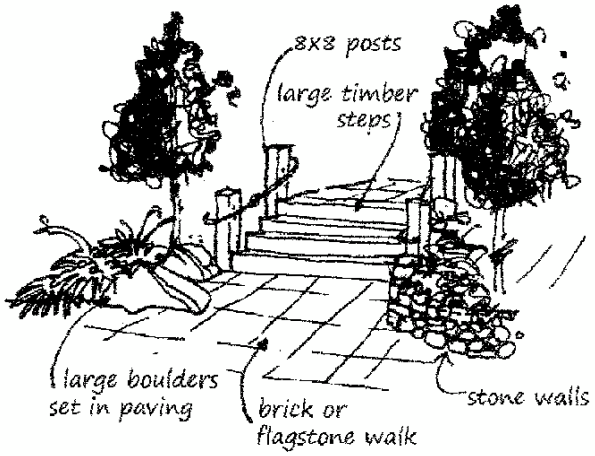
Lots with the building or disturbance area identified on slopes of twenty five percent (25%) (14 degrees) to forty percent (40%) (21.8 degrees) warrant especially close review to assure that all grading, retaining wall, cut/fill and road/driveway grade standards will meet the requirements of this title and currently adopted building codes, design, and construction standards. Construction or lot disturbance shall not take place on slopes exceeding forty percent (40%) (21.8 degrees), except for lots legally subdivided prior to the adoption date hereof. The design shall minimize lot disturbance and removal of existing vegetation and provide erosion protection. (ord. 08-016, 8-12-2008, amd. ord. 24-014, 10-8-24)

9-12-5: LANDSCAPING AND FENCES:

A. **Purpose:** Development shall attempt to blend with the natural terrain and to preserve drainage/waterways, existing topsoil, tree groupings, large trees and rocks. Landscaping design shall provide for new trees, shrubs and vegetation to screen buildings, parking lots and service areas from public view.



UNDESIRABLE LANDSCAPE MATERIALS



DESIRABLE LANDSCAPE MATERIALS

B. **Landscaped Areas Of Development**:

1. Shall incorporate natural, informal landscape design, rather than formal, geometric patterns.

2. Create buffer zones between adjacent uses and screen parking, service, and equipment areas from view within and between developments through the use of extensive tree, shrub, and natural grass planting.

3. Preserve natural vegetation, rock outcroppings and other natural features to blend the new development to the natural environment.

4. Incorporate paths, trails and gathering areas into the natural environment using materials that blend with the area, such as timbers, pavers, colored concrete, boulders, etc. (amd. ord. 24-014, 10-8-24)

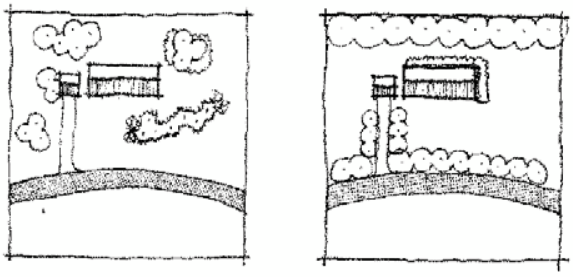
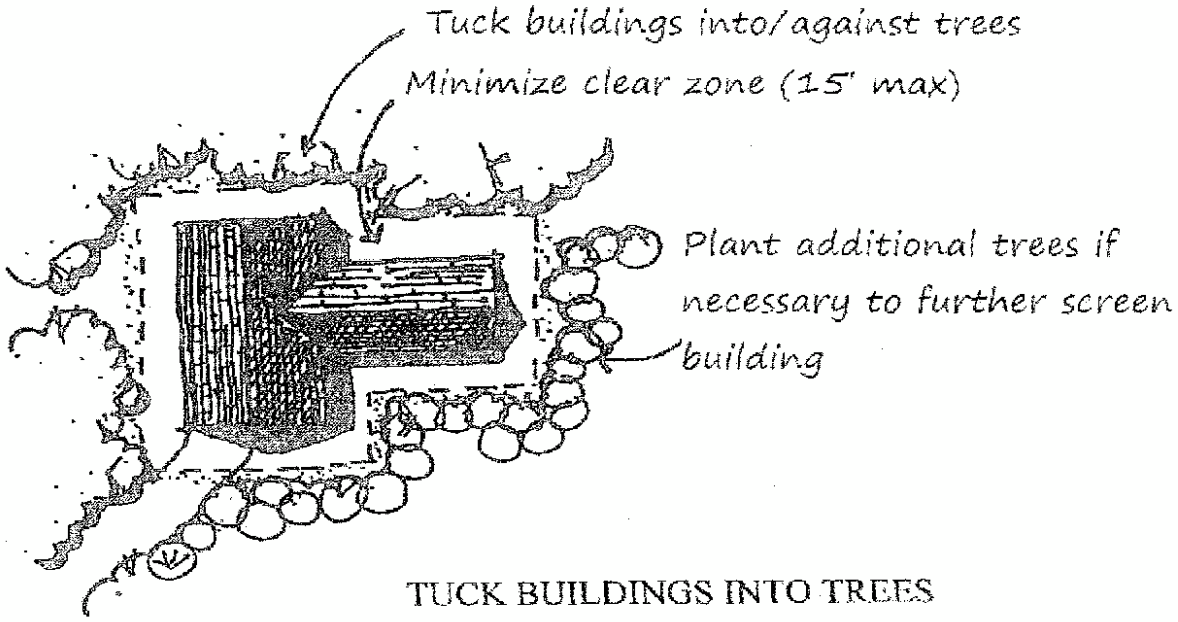


Figure 11.1: Informal planting (left) is preferred. Formal planting (right) is discouraged in Brian Head.



TUCK BUILDINGS INTO TREES

C. **Fences:** Fences and gates should be avoided to preserve a sense of openness and continuity. When fences are implemented for landscaping, safety, animal containment, or privacy they shall comply with the following:

1. Fences and gates shall be set back at least ten feet (10') behind the building's front facade.

2. Perimeter fencing of a property is prohibited without specific Planning Commission approval.

3. Fences shall not exceed four feet (4') in height, except where required for safety reasons (i.e. swimming pool and attractive nuisances) or where necessary to meet screening requirements or where not visible from off site. (ord. 08-016, 8-12-2008, amd ord. 15-018, 12-8-2015)

4. Fence materials shall be wood, timbers, rock or materials indigenous to the area. Wrought iron fencing should be used primarily at swimming pools and painted or treated to blend in with the surrounding environment or building facade.

5. Vegetation should be planted in and around fencing to soften the appearance except where no visible from off site. (ord. 08-016, 8-12-2008 amd ord. 15-018, 12-8-2015)

6. Stucco, chain link, vinyl wall fence materials are prohibited. Use of railroad ties or concrete blocks must be consistent with the General Plan and approved by the Planning Commission. (ord. 08-016, 12-2008, amd ord. 16-007, 12-8-2016, amd. ord. 24-014, 10-8-24).

9-12-6: LIGHTING:

Purpose: It is the intent of this section to encourage lighting practices and systems which preserve the Town's special resource of dark skies and support the Dark Sky Certification of neighboring Cedar Breaks National Monument by minimizing light pollution, glare, and light trespass, and by eliminating unnecessarily bright light color spectrums. The Town intends to accomplish these objectives without sacrificing nighttime safety, mobility, or the ability of businesses to operate reasonably. This section does not apply to indoor lighting. (ord. 18-006, 6-11-2018 amd. ord. 19-014, 11-12-2019, amd. ord. 24-014, 10-8-24)

A. **All light fixtures**, including security lighting and sign lighting, except streetlamps, shall be placed at a location, angle and height and shielded so that upward light pollution is minimized: (ord. 19-014, 11-12-2019)

1. Fixtures: Light fixtures shall be mounted to the building or a pole that directs light towards the ground and focuses on the object to be lit. Where signs and similar objects can be lit from above with lighting directed downward, this option should be employed. Where it is not possible, sufficient shielding should be employed to focus the light on the object rather than allowing it to escape upward and pollute the night sky. (amd. ord. 19-014, 11-12-2019)

2. Light fixtures shall be fully shielded on top with opaque material that disallows light from the sources to travel upward into the sky. The sides of the fixture shall be at least partially shielded with either transparent or translucent material. Fixtures which are not fully shielded with opaque material shall be limited to eight hundred (800)

lumens per fixture in residential zones and two thousand (2,000) lumens per fixture in all other zones. (amd. ord. 19-014, 11-12-2019)

(amd. ord. 24-014, 10-8-24)

B. **Temperature:** The correlated color temperature of any outdoor lighting fixture shall not exceed three thousand degrees kelvin (3,000°k). (ord. 19-014, 11-12-2019, amd. ord. 24-014, 10-8-24)

C. **Emission**: Light fixtures shall not emit more light than is necessary to accomplish its purpose:

1. Lighting fixtures shall be spaced sufficiently to provide adequate light as required by the building code. (ord. 19-014, 11-12-2019)

2. Parking lot lights, yard lights, or both, may be required for multi-family, commercial and industrial projects. The Land Use Authority shall review the proposed lighting plan to determine if meets the minimum lighting requirement necessary for public safety while maintaining sensitivity to night sky preservation.

3. Total outdoor lighting fixtures shall not produce more than one (1) lux at any property boundary for single-family residential purposes or more than twenty-five thousand (25,000) lumens per acre or more than five (5) lux at any property boundary for all other zones. (ord. 19-014, 11-12-2019)

4. Architectural and aesthetic lighting shall use low lumen light sources. (ord. 19-014, 11-12-2019)

(amd. ord. 24-014, 10-8-24)

D. **Security Lights:** Outdoor lighting shall only be used when necessary to accomplish its purpose: (amd. ord. 24-014, 10-8-24)

1. Security lights shall be operated on a motion sensor. Any light on a functioning motion sensor will not count toward the light maximum in subsection C(3) of this title. (ord. 19-014, 11-12-2019)

E. **Subdivision and Street Lighting:**

1. Street lighting will be used to ensure safety and mobility. (amd. ord. 19-014, 11-12-2019).
   a. Streetlights will be placed at all intersections with a state highway.
   b. The Public Safety Director may order the placement of additional streetlights where necessary to preserve public safety.
   c. The specifications of street lighting fixtures will be in accordance with the Town's Public Works Standards and shall utilize lamp types that are energy

efficient, are dark sky compliant, and mitigate the other negative impacts of artificial lighting.

d. Pedestrian trails, sidewalks and walkways may be lit with minimum light necessary to ensure pedestrian safety and in accordance with Public Works Standards.

e. Additional streetlights may be used to establish a sense of place in accordance with a Street Lighting Master Plan approved by the Land Use Authority.

(ord. 19-014, 11-12-2019, amd. ord. 24-014, 10-8-24).

2. All subdivision plans shall provide for the lighting of all streets in accordance with subsection 9-12-(E)(1) and the Town's Public Works Standards. (amd. ord. 19-014, 11-12-2019)

a. Additional streetlights along the public right of way may be required by the Land Use Authority in order to better establish a sense of place. Said streetlights, when required, shall conform to the Town's Public Works Standards. (amd. rd. 19-014, 11-12-2019,)

b. Subdivision plans shall include:

i. The location, height and overhang of each light.

ii. The size of lights in lumens and type of laminator, and the color of the lights (expressed in Kelvin). Where practicable, the most energy efficient laminators shall be used.

iii. A drawing or photograph of the typical streetlight and standard proposed and location of energy meter, switches, cutoffs, etc., if any.

(amd. ord. 19-014, 11-12-2019, amd. ord. 24-014, 10-8-24)

F. **Exceptions:** The following shall be exempt from the requirements of this chapter:

1. Holiday lighting from November 15 to January 15 as long as it does not create a safety hazard or nuisance to surrounding businesses or residences.

2. Traffic control signals and devices or temporary emergency lighting in use by law enforcement or government agencies or at their direction.

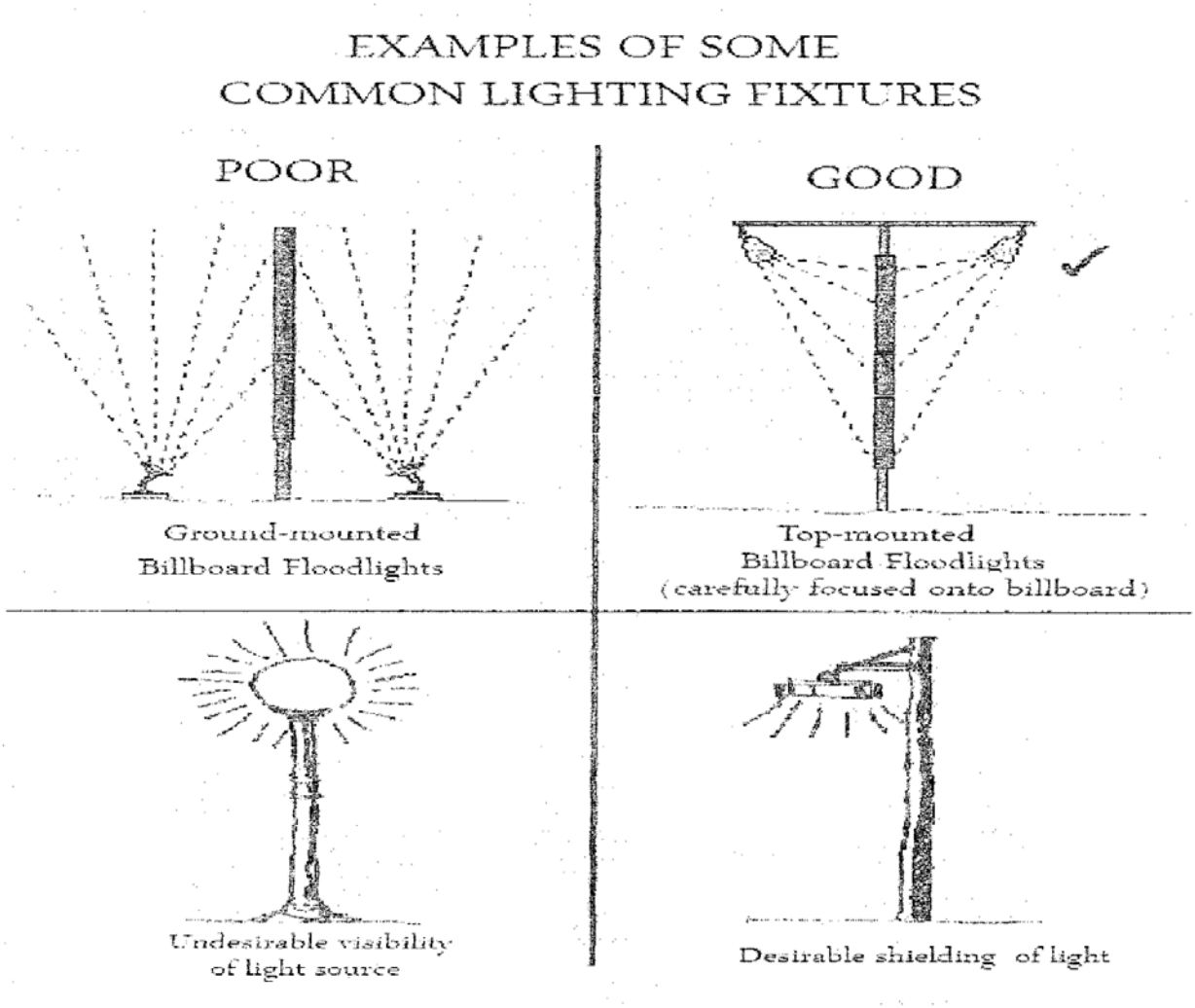
3. The lighting of federal or state flags**,** provided that the light is a narrow beam aimed and shielded to illuminate only the flag. Flag lighting should use appropriate illumination levels to light the flag, while at the same time fulfilling the purpose of this chapter. Upward lighting of flags is permitted with a limit of three (3) fixtures per flagpole with a maximum of two thousand (2,000) lumens each. The fixtures must be shielded such that the point source is not visible outside of a fifteen foot (15') radius.

4. Lights on snow removal or grooming equipment engaged in water snow operations.

5. Lighting for recreational uses (such as ballfields, parks, or night skiing) which do not strictly adhere to the requirements of this section may be approved by the Land Use Authority following a determine that the lighting meets the intent of the requirements

of this section and up on the condition that lighting will be subject to a reasonable curfew.

(ord. 19-014, 11-12-2019, amd. ord. 24-014, 10-8-24)



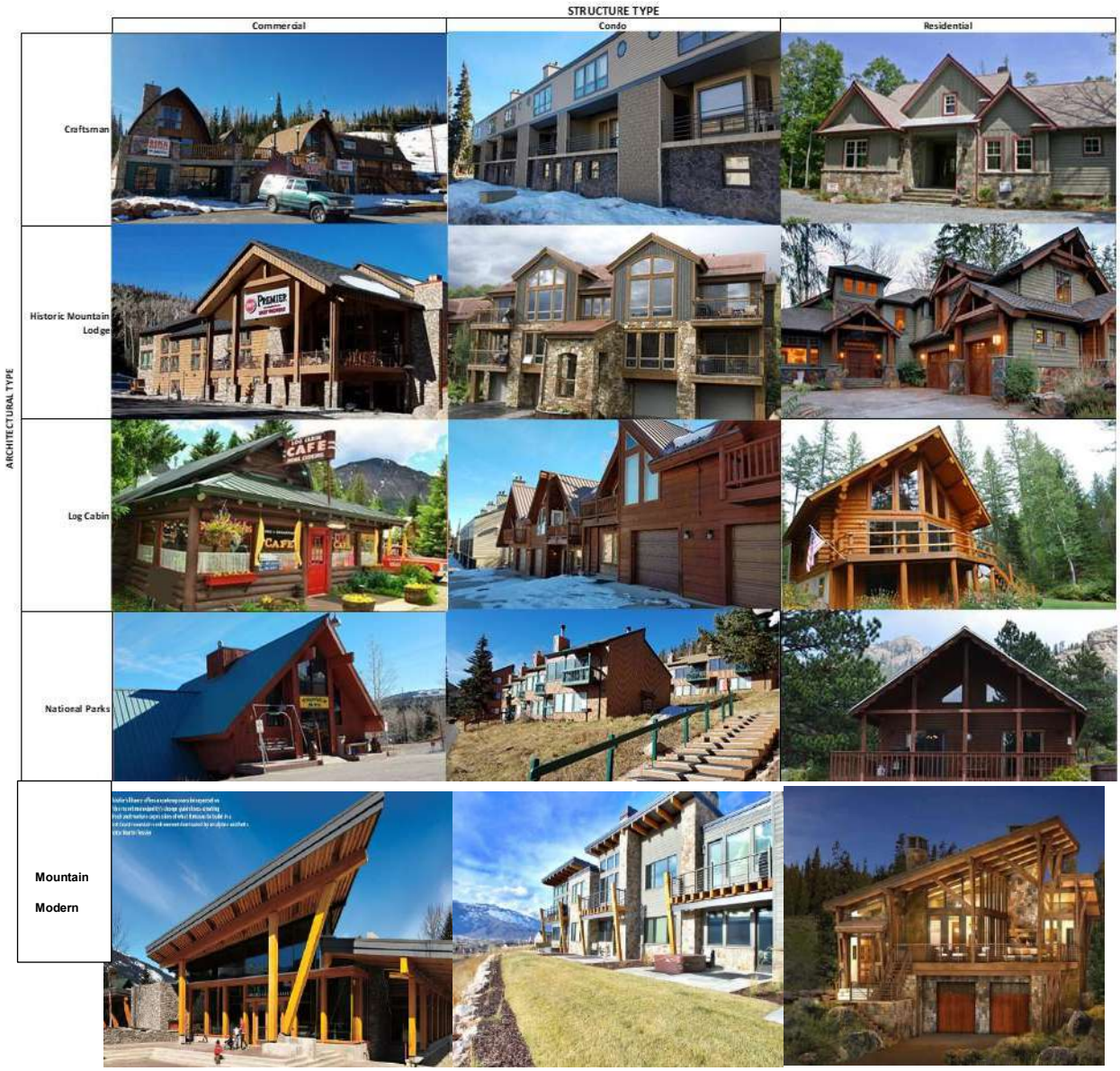
(ord. 08-016, 8-12-2008

9-12-7: BUILDINGS:

A. **Purpose:** All buildings and structures are to blend into and be in harmony with surrounding natural vegetation patterns and landforms of the mountain setting. Buildings are to be located to minimize tree removal and site disturbance, while being oriented to the outdoor lifestyle, weather, and climate conditions. Existing structures are encouraged to remodel or modify their appearance following the requirements of this chapter. (amd. ord. 17-004, 7-11-2017, amd. ord. 24-014, 10-8-24)

B. **Architectural Design And Style**: Buildings shall implement a rustic composition such as the craftsman, historic mountain lodge, log cabin, national park, or mountain modern style architecture that will blend with the mountain setting, as well as topography, landscape

and natural environment found in and around that site. These styles include gabled roofs, exposed rafters and beams, and multi-paned windows, varied exterior materials, stone and brick wainscots, dormers, large picture windows, decks and railings, and other features intended to break up the mas and scale of the buildings and help them blend in better to the natural surroundings. Building materials shall include large wooden beams and timbers, stone covered columns, chimneys, and foundation and exterior wall materials reflecting simple, rustic design. Other materials may be considered and approved at the Land Use Authority's discretion. (ord. 17-004, 7-11-2017 amd. ord. 22-004, 5-10-2022, amd. ord. 24-014, 10-8-24)



(ord. 17-004, 7-11-2017, amd ord. 19-014, 11-12-2019)

C. Height:

1. Building heights are specified in each zone district.

2. Public and quasi-public utility buildings, when authorized in a zone district, may be erected to a height greater than the zone district height limit by obtaining a conditional use permit.

3. No dwellings shall be erected to a height less than one (1) story above grade, unless specifically designed and approved as an earth sheltered structure.

4. Buildings that are two or more stories in height and more than 10,000 square feet in gross floor area shall be designed to include a variation in height of at least 30 percent. (ord. 24-011, 8-27-24)

D. **Mass, Scale And Composition:**

1. Building mass and scale should be sensitive to the site and surrounding structures in the neighborhood so as not to stand out or draw attention away from the natural environment.
2. Rooflines, foundations, and walls shall have steps, offsets and architectural features to follow existing slopes and reduce mass. Multi-unit structures should appear to be a cluster or collection of individual masses so as not to create the appearance of stacks or rows of identical "products".
3. Multifamily and townhome buildings shall be articulated as follows (for the purposes of this section, a "townhome building" includes all connected units):
   a. Horizontal articulation is the use of differentiating horizontal features to add interest and mark (or suggest) transitions between floors (or other vertical divisions) of buildings.
   b. Buildings that are three or more stories in height shall include elements that provide meaningful horizontal articulation, including any or any combination of the following:

      i. Belt courses, score lines, or other relief combined with a change in color;

      ii. Changes in materials (e.g., from stone to siding, or from horizontal siding to board and batten);

      iii. Gables that are aligned on a horizontal plane;

      iv. Balconies; or

      v. Stepbacks or cantilevered projections from the building wall.

(ord. 24-011, 8/27-2024)

E. **Roofs**:

1. Single and double gabled roofs are permitted with hips and sheds used on smaller sections, secondary roofs, or dormers. Monoslope roofs are allowable consistent with the mountain modern architectural style. Flat roofs are discouraged. (amd. ord. 19-014, 11-12-2019)

2. Wood shake shingles are prohibited.

3. Roof pitches should range between four to twelve (4:12) and twelve to twelve (12:12).

4. Valleys, dormers, rain gutter and associated roof features should be designed with consideration to retention of snow on the roof. Care should be taken to avoid ice dams and snow sliding that may damage roofing materials or landscaping and building elements below. Special consideration should be given to protecting public entries, patios and balconies, where the weight of falling snow may damage such structures and endanger human life.

F. **Exterior Walls**:

1. Exposed foundations under four feet (4') in height may be rubbed or finished in natural earth tone color. Walls over four feet (4') must be covered in stone, wood, or similar materials to blend with the rest of the structure and must be resistant to snow piling and water damage. (amd. ord. 17-004, 7-11-2017)

2. Building wall finishes shall include full log or log faced siding, stone (cultured or natural), wood shingles, horizontal wood board and batten siding, or other synthetic material textured to simulate natural materials that are consistent with the rustic composition architectural style as identified in subsection B of this title. Stucco, milled wallboard, brick, non-reflective metal similar material may be used in limited quantities (25% or less of any face or plane of the building) provided they are broken up with contrasting materials, colors, and textures consistent with the architectural styles identified in subsection B of this title. Reflective metal is not permitted. (amd. ord. 16-007, 12-8-2016. amd ord. 17-004, 7-11, 2017, amd. Ord. 24-011, 8-27-24).

3. Offset/Variation of Wall Planes: Building walls that are wider than fifty feet (50') shall include offsets according to the standards of this subsection.

   a. Maximum distance between offsets: fifty (50') feet.
   b. Minimum offset distance (measured perpendicularly to the wall plane from which the offset is taken): five feet (5') of the actual distance between offsets from the wall plane, or from the corner of the elevation to the offset.

   c. Minimum Width of Offset: twelve feet (12').

   d. Minimum Offset Height:
      i. One story buildings: Ninety five percent (95%) of the height of the wall that establishes the plane from which the offset is taken .
      ii. Two or more story buildings: Seventy five percent (75%) of the height of the wall that establishes the plane from which the offset is taken.

   e. Requirements of this section may be reduced where the Land Use Authority determines where sufficient architectural features have been incorporated into the and included into the design to break up the massive and scale of the wall.

(ord. 24-015, 10-8-24)

G. **Colors:**

1. Exterior building colors should be subdued colors found in the natural landscaping or complementary to the natural landscaping. Browns, greys, and greens are encouraged for large mass areas. Bright colors, including bright white, are not allowed for large mass areas. Trim colors of golds, reds, blues, and greens in darker shades found in or around the site are permissible as long as they blend with the overall building design and do not create a strong contrast. Buildings or building materials that stand out against the landscape because of color or light reflection are prohibited. (amd. Ord. 17-004, 7-11-2017, amd. ord. 24-011, 8-27-24)

    a. Structures in multi-family and commercial zones shall strictly adhere to muted colors found in or complementary to the natural environment. Large mass areas shall be subdued tones of browns, greys, and greens, expressly approved by the Land Use Authority, which do not distract from the mountain village character of the Town. (ord. 24-011, 8-276-24)

2. Roof colors should resemble natural earth tone hues that blend with the surrounding landscape. Reflective materials reflective light value (LRV) exceeding thirty (30) shall not be used. Bright red, bright blue, bright green, bright white, bright cream, or similar colors that stand out from the surrounding landscape, or draw attention to the structure, shall not be used. (2010 Code amd. ord. 18-009, 9-10-2018, amd. ord. 24-014, 10-8-24)

H. Windows And Doors:

1. Large glass surfaces should have features (structural or grid) that break the window up into multi-pane units.
2. Large windows and doors should be recessed and/or shaded by eaves, overhangs, decks, or similar architectural features that reduce glare and reflection.
3. Window and door frame colors shall comply with subsection G of this section.
4. Glass shall not create a mirrored finish but may be treated or coated to control solar heat gain.
5. Windows and doors should be trimmed or framed by wood, timber, wood shutters, stone or wood lintels and sills that are of a scale, color and mass that reflect styles such as the craftsman, historic mountain lodge, log cabin or national park style architecture.

I. **Accessory Structures**: Non-habitable accessory structures, subordinate to and located on the same lot with a primary structure, the use of which is clearly incidental to that of the main building or to the use of the land, and which is not attached by any part of a common wall or common roof to the main structure may be permitted. In addition to meeting requirements “A” through “I” of this Section, accessory structures must meet the following requirements:

1. Must have a minimum of ten feet (10’) of clearance from other structures.

2. Structure cannot be located within the setback (notwithstanding, setback exceptions that apply to the primary structure as outlined in chapter 7 of this title, in the applicable zone, also apply to accessory structures).

3. Must meet snow load requirements.

4. Required to have footings or foundation for accessory structures over 450 square feet.

5. Structures being used as a garage for vehicle storage must meet all applicable International Building Code requirements.

6. Shipping containers, intermodal containers, or railroad boxes may not be used as accessory structures. (Ord. 21-006, 05-25-21)

7. No more than three (3) accessory structures are allowed on a single lot of up to one (1) acre. Additional accessory structures may be allowed on lots larger than one acre, not to exceed two (2) accessory structures per additional acre.

8. Except for a building accessory to an agricultural use, the footprint of an accessory structure must not exceed fifty percent (50%) of the footprint of the primary structure. In no case shall an accessory structure's footprint exceed three thousand (3,000 sq. ft.) in size. (amd. ord. 24-014, 10-8-24)

9. Maximum height of accessory structures shall be limited as follows:

   a.

Size Of Accessory Structure	Maximum Structure Height
0 - 200 sq. ft.	15'
201 - 400 sq. ft.	19'
401 - 1,000 sq. ft.	24'
1,001 - 1,500 sq. ft.	27'
>1,501 sq. ft.	As determined by the Land Use Authority and not to exceed 32'.

(ord. 15-018, 12-8-2015 amd. ord. 17-004, 7-11-2017, amd. ord. 24-014, 10-8-24)

   b. If the proposed accessory structure sits at a lower elevation than the primary structure, an addition of one foot (1') of height may be allowed for each one foot

(1') of elevation difference up to five feet (5') of additional height following a determination of the Land Use Authority that the height of the accessory structure does not conflict with the Town's General Plan or detract from the intended character of the zone. (ord. 17-006, 8-8-2017, amd. ord. 24-014, 10-8-24)

c. Under no circumstances shall an accessory structure exceed eighty percent (80%) of the height of the primary structure. (ord. 17-006, 8-8-2017).

9-12-8: CONSTRUCTION DEBRIS REMOVAL:

All building/construction sites shall provide debris removal sufficient to facilitate the regular cleanup and removal of construction debris from the site. The debris container or containment area must prevent debris from being blown off the property and screen the debris/garbage from public view or maintain the material in a neat orderly manner. It may not become a fire hazard or nuisance to the public or attract vermin. Failure to comply with this section may result in the suspension of building permits, fines, or other such appropriate penalties. (ord. 08-016, 8-12-2008)

9-12-9: ROADS:

A. **Road Layout And Geometry**:

1. The design arrangement and construction of all roads, public and private (unless otherwise provided), shall be in conformance with the Town's Public Works Standards, the provisions of this title, and the Town's Design Standards.
2. Road systems shall provide efficient internal circulation and reasonable access to public highways, minimize congestion and unsafe conditions, and be in conformance with the Town's General Plan.
3. The arrangement of roads shall provide for the continuation of roads between adjacent properties when the continuation is necessary for the convenient movement of traffic, pedestrians, emergency or maintenance vehicles, or the efficient provision of utilities. Proposed streets shall be continuous and in alignment with existing planned or platted streets with which they are to connect.
4. Subdivision roads: roads shall be designed in compliance with applicable codes to provide emergency access and egress for residents and occupants, which shall include two (2) or more points of access to a development or neighborhood. (amd. ord. 24-014, 10-8-24)
5. Where the potential traffic impacts on the existing street systems are considered to be great, or in the case of unique circumstances concerning topography or street layout, the subdivider may be required to prepare a detailed engineering study of the road system.
6. Proposed streets shall intersect one another as nearly at right angles as topography and other limiting factors of good design permit. No intersection may be closer than

one hundred fifty feet (150') to any other intersection as measured from the centerlines of the intersections.

7. Where a road does not extend to the boundary of the development and its continuation is not required, its terminus shall provide for a cul-de-sac or turnaround as required by the Town's Public Works Standards or applicable building codes.
8. Protection strips reserved to control or restrict access to a property shall be utilized only where the reserve strip is deeded to and accepted by the Town.
9. Public or private roads must provide legal access to each building lot within the subdivision.
10. Curbs, gutters and sidewalks shall be of a type approved by the Town's Public Works Standards 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. All materials and workmanship shall be sensitive to appearance and durability, due to a harsh weather climate. Such curbs, gutters and sidewalks may be required as a condition of building or use permit approval.
11. Excessively long and straight streets which are conducive to high speed traffic shall be prohibited.
12. Every cul-de-sac and permanent dead-end street shall comply with the following requirements:
    a. End at a turnaround area having a radius no less than fifty feet (50') and be of hard surface material.
    b. Not exceed eight hundred feet (800') in total length unless additional turnaround areas (each having at least a fifty foot (50') radius are also provided at intervals of no less than eight hundred feet (800') throughout the length of such cul-de-sac or permanent dead-end street.
    c. Hammerhead turnaround areas may be allowed in special circumstances when recommended by the Public Safety Department and approved by the Land Use Authority.
13. Temporary dead-end streets, intended as access to future development parcels, shall be a minimum of one (1) lot depth in length and shall meet all of the other requirements for permanent dead-end streets set forth in subsection A-12 of this section.
14. Driveways, mailboxes, fire hydrants and all other obstructions at such turnaround areas shall be designed in such a way as to provide an area for snow storage.
15. Road edges shall be:
    a. Finished and landscaped to eliminate raw cuts in the land.
    b. Cuts shall be graded to provide for vegetation, without damaging existing vegetation and trees.
    c. Re-vegetated on road edges and cuts.
    d. Constructed to support a vehicle.
    e. Riprapped and graded to reduce erosion in drainage ways.
    f. Constructed to provide driveway and road swales or culverts to protect intersections.

16. Retaining soils on roadways shall comply with section 9-12-11 of this chapter.

B. **Road Grades**:

1. Road grades shall be in compliance with the Town's Public Works Standards, the adopted building codes and this code. (amd. ord. 24-014, 10-8-24)
2. All road grades greater than twelve percent (12%) (6.8 degrees) shall be submitted for approval to the Land Use Authority with the recommendation of the Town Staff.
3. Intersections, switchbacks, hammerheads, and cul-de-sacs shall not exceed a four percent (4%) grade. Roadway sections extending from these areas shall not exceed ten percent (10%) for a distance of at least two hundred feet (200').
4. Roadway sections exceeding ten percent (10%) (5.7 degrees) shall be no longer than four hundred feet (400') in length and at the bottom of such section shall be provided a straight "braking section" less than ten percent (10%). The length of the braking section must be at least one-half ($^1/_2$) of the length of the roadway that exceeds the ten percent (10%) (5.7 degrees) grade.

C. **Private Road Maintenance:** A maintenance plan must be established to the satisfaction of the Land Use Authority upon the recommendation of Town Staff before a private road may be approved. The plan shall define private road construction, surface material and schedule of maintenance, and ensure that sufficient funds will be available to maintain the road. (amd. ord. 24-014, 10-8-24)

D. **Street Names**:

1. Street names shall be proposed by the applicant and approved by the Land Use Authority, with the recommendation of Town Staff. (ord. 08-016, 8-12-2008, amd ord. 15-018, 12-8-2015, amd. ord. 24-014, 10-8-24)
2. Applicants are encouraged to do an investigation of local history regarding the names and references to geological and historical features located in the subdivision and, wherever possible, to incorporate the historical names and references into the names and designations of streets. (ord. 08-016, 8-12-2008)
3. The Town may change the name of a street without petition or after petition by a property owner under the following conditions:
    a. A notice of the hearing is published:
        i. In a newspaper of general circulation in the county once per week for four (4) consecutive weeks before the hearing; and
        ii. On the Utah Public Notice Website created in UCA §63A-12-114, for four (4) consecutive weeks prior to the hearing; and
    b. Posted in three (3) places for four (4)consecutive weeks prior to the hearing; and,
    c. Mailed to all owners of property abutting the road.
4. All street names must be coordinated with the appropriate county official.

(amd. ord. 15-018, 12-8-2015, amd. ord. 24-014, 10-8-24)

9-12-10: DRIVEWAYS:

The following shall apply to all driveways connecting the public right of way to a private or public parking lot or structure:

A. **When Approval Required**: Driveways exceeding one hundred fifty feet (150') in length and/or twelve percent (12%) (6.8 degrees) grade must be approved by the Director of Public Safety or designee.

B. **Driveway Standards**:

Standards	Residential Single-Family Dwelling (SFD)	Residential Multi-Family Dwelling (MFD)	Commercial (All Others)
Minimum Width	16’	20’ (4 or fewer units) (1) 24’ (5 or more units) (1)	20’ (one-way); 24’ (two-way)
Maximum Width At Street Line	24’	36’	36’
Maximum Number Of Driveway Accesses Per Lot	2 Interior Lot, 3 Corner Lot Local: N/A	2 Interior Lot, 3 Corner Lot Local: 15’ (2)	1 Per Each 200’ Of Frontage (Or Fraction T*hereof*) Local: 75’
Minimum Spacing Between Driveway (6)	Private: N/A Collector: N/A Arterial: 150’ (4)	Private: 10’ (2 3) Collector: 75’ (4) Arterial: 150’ (4)	Private: N/A Collector: 75’ Arterial: 150’
Minimum Spacing From Intersections	Local: 25’ Collector: 50’ (3) Arterial: 150’ (4)	Local: 25’ Collector: 100’ (4) Arterial: 150’ (4)	Local: 75’ Collector: 100’ Arterial: 150’
Minimum Spacing from Property Line	N/A	5’ (5)	10’ (5)

Driveway Angle To Street	45° - 90°	45° – 90°	70° - 90°
Snow Storage	20% additional area of driveways and walks (7). Maintain clear view at intersection.	25% additional area of driveways and walks (7). Maintain clear view at intersection.	25% additional area of driveways and walks (7). Maintain clear view at intersection.
Drainage	May not drain to road surface.	To approved storm drain collection system.	To approved storm drain collection system.
Retaining Walls	May extend into public right-of-way with Town Staff	May extend into public right-of-way with Town Staff approval.	May extend into public right of way with Town Staff approval

(amd. ord. 24-014, 10-8-24)

1. Driveways for individual units connected to a local or private road can be reduced to sixteen (16').
2. Driveway spacing between two (2) units in the same building that share a common wall or property line between garage and/or parking area is not required or can be reduced. Driveways for other units in the same building will need to meet minimum spacing.
3. An administrative exemption may be granted based on lot shape and slope.
4. Driveways or private roads need to be designed to allow vehicles to turn around to prevent vehicles backing into roadways.
5. Driveway spacing is not required or can be reduced if rear loading garage or parking is used.
6. Except where it is possible to provide one access point that will serve both adjacent properties with recorded access and maintenance agreement.
7. Snow storage shall be provided on the subject property within the parking lot, adjacent landscaping or other areas that allows for safe snow storage without damage to the structures or landscaping and be salt resistant. Area less than five feet (5') feet to the property line or less than five feet (5') feet to the imaginary line between units on the same property cannot be counted for snow storage.(amd. Ord.24-011, 8-27-2024)

(ord. 08-016, 8-12-2008, amd ord. 16-007, 11-8-2016, amd. ord. 23-008, 8-8-2023)

C. **Surface Material**: Hard surface is required in commercial and multi-family residential zones. Other materials that make the surface effectively hard but aren't asphalt or concrete may be used with the approval of the Land Use Authority. All weather surfaces may be used for overflow parking (parking in excess of the requirement) as well as in all other zones. (ord. 16-007, 11-8-2016, amd. ord. 24-014, 10-8-24)

D. **Design Of Access Point:** Where a driveway meets pavement (access point) such access point must be approved by the Public Works Director to minimize snow removal and drainage issues. (ord. 17-004, 7-11-2017, amd. ord. 24-014, 10-8-24)

E. Where multi-family or commercial developments are situated with frontage on both a collector road and residential road, the driveway access point shall be from the collector road. (ord. 20-002, 4-28-2020)

9-12-11: CUTS, FILLS AND RETAINING WALLS:

A. **Purpose:** Because of the dramatic visual impact of cuts, fills and retaining walls in the Town, and the public safety factors that may arise with significant cuts and fills in unsuitable soils, cuts, fills and retaining walls shall be designed to mitigate visual impact and ensure safe soil retention.

B. **Cuts And Retaining Walls**: Cuts, fills and retaining walls shall conform to the following criteria:

1. Un-retained cuts shall not exceed one (1) slope unit vertical for each two (2) units horizontal (fifty percent (50%) slope) (unless a steeper slope is designed by a state licensed engineer) and must be re-vegetated to prevent erosion.
2. Any single retaining wall or retaining mechanism, within the same plane, exceeding twelve feet (12') in height or one hundred feet (100') in length of exposed wall shall be reviewed by the Land Use Authority.
3. Up to three (3) terraced cuts may be created under a terraced cut retaining system, so long as each wall is separated by a minimum four-foot (4') setback (measured from the top of the lower face to the toe of the upper face) for visual relief and re-vegetation. Total maximum height of a terraced retaining system exceeding twelve feet (12') in height shall be reviewed by the Land Use Authority as part of the approval process. In cases where re-vegetation will be detrimental to the structural integrity of the wall, the applicant shall propose and implement design strategies to create visual relief or contrast to enhance the appearance and mitigate the mass of the wall. (amd. ord. 15-018, 12-8-2015, amd. ord. 24-014, 10-8-24)
4. No single retaining wall face shall exceed seven feet (7') in height and no retaining wall system shall exceed twenty feet (20') in height. Retaining wall height shall be measured as the exposed face of a single wall or combined faces of a terraced retaining system. (amd. ord. 24-014, 10-8-24)

C. **Measuring Cut/Fill Heights**: Cuts and/or fills shall be measured vertically at natural grade from the lowest to the highest point of disturbance.

D. **Retaining Wall Appearance**: Retaining walls and/or retaining systems shall be constructed of decorative, natural, or rustic materials, such as stone. Concrete or masonry materials (including split face block) may be used when structural design requirements exceed natural material capabilities. Walls shall be colored or tinted and have a surface texture to blend with the surrounding soil or rock colors, and must be approved by the Planning and Zoning Administrator before excavation permits shall be granted. (amd. ord. 24-014, 10-8-24)

E. **Retaining Wall Design**: All retaining walls greater than four feet (4') in height shall be designed by a professional engineer or architect licensed in the state for the loads imposed on it. Plans shall be submitted which demonstrate that the hillside above any proposed cut will remain stable after the proposed cut/fill and retaining system, if any, has been completed. (amd. ord. 24-014, 10-8-24)

F. **Re-vegetation/Erosion Control**:

1. All cut and fill slopes must be naturalized and re-vegetated within one (1) growing season after the cut or fill is made.
2. Cuts and fills should be naturalized by rounding edges, placing boulders in natural fashion and planting native plants, including trees, brush and ground cover, to match surrounding areas. A landscape/re-vegetation plan in compliance with the Town's Design Standards shall be submitted to Town Staff for review with the cut/fill design plans.
3. All re-vegetated areas must be maintained and replanted as necessary to control erosion and maintain the aesthetic value of the site.
4. Foot bridges and private vehicle bridges shall be reviewed and approved by the Planning and Building department in conjunction with the single-family dwelling approval per chapter 8 of this title. (Ord. 08-016, 8-12-2008, amd. ord. 24-014, 10-8-24)

G. **Standards for Review**: All retaining walls approved under this section shall comply with the following standards:

1. The height and length of the retaining wall is the minimum necessary for the needed functionality. The mass of the wall shall be broken up using terracing, vegetation, and/or other visual relief strategies.
2. The wall does not create an attractive nuisance or hazard to the general public.
3. The wall shall preserve the natural scenic beauty of the area by rounding off sharp angles and otherwise blending with the natural contours of the land, and by preserving trees and other native vegetation.
4. If the retaining wall is being done in preparation for development, a building permit has been obtained and work has been approved to proceed. If an applicant is in the process of obtaining a building permit, approval may be made contingent on the finalization of the building permit, but work may not begin on grading or the retaining wall until the building permit is issued.

(Ord. 17-004, 7-11-2017, amd. ord. 24-014, 10-8-24)

9-12-12: BRIDGE AND TUNNEL REGULATIONS:

The design of bridges and/or tunnels shall conform to the following regulations:

D. **Design Plans**: All bridges and tunnels must be detailed in design plans submitted to the Land Use Authority for its review and comply with chapter 8 of this title, as applicable.

E. **State Code Compliance:** Highway bridge abutments shall comply with state code.

F. **Retaining Wall Applicability:** All wing walls and bridge abutments shall be constructed in conformity with the retaining wall section of this code (section 9-12-11 of this chapter). (ord.08-016, 8-12-2008)

G. **Exception**: Foot bridges and private vehicles bridges shall be reviewed and approved by the Planning and Building department in conjunction with the single-family dwelling approval per Chapter 8 of this title. (ord. 15-018, 12-82-15, amd. ord. 24-014, 10-8-24)

9-12-13: WATERWAYS, DRAINAGES AND FLOOD HAZARD AREAS:

Special attention shall be given to ensure that development is setback sufficiently from waterways, drainages, and flood hazard areas to prevent erosion, flooding and damage to development and the waterways per state and federal standards. Such features should be constructed to give a natural "streambed" appearance to the waterway or drainage area by making small meanders, placing rocks of various sizes (pebbles, cobble, rocks, and boulders) in the streambed and banks, and planting clumps of trees and shrubs along the outside edge.

A. **Design Storm:**

1. As each site is unique for elevation and time of concentration, the following website can be used for determining the precipitation intensity, currently found at:

   http://hdsc.nws.noaa.gov/hdsc/pfds/pfds_map_cont.htm

2. The use will input the latitude and longitude for the particular site and choose "precipitation intensity" from the drop-down menu on screen (the user will verify the elevation is within acceptable limits for the project area).

3. If a storm distribution is being utilized for the stormwater design, a standard SCS type II distribution should be used. This distribution shows approximately fifty to seventy five percent (50 -75%) of total rainfall to occur in a brief period (approximately two (2) hours), which is typical of the intense short duration storms experienced in the town area.

B. **Detention Ponds:** On site detention ponds are to be sized for the one hundred (100) year twenty four (24) hour storm.

C. **Stormwater Conveyance:** Stormwater conveyance pipes are to be sized based on a ten (10) year 24-hour storm.

1. Pipes will be sized using a rainfall intensity determined by the time of concentration for the applicable drainage basin with a minimum pipe size of fifteen inches (15”).

2. The time of concentration will be estimated using the soil conservation service technical release 55 (SCS TR-55) method. SCS TR-55 method uses three (3) distinct runoff patterns in a watershed: a) sheet flow; b) shallow concentrated flow; and c) channel flow. Sheet flow occurs in the upper reaches of a watershed and persists for

a maximum of three hundred feet (300'). The minimum time of concentration to be used for design shall be five (5) minutes.

After flowing in sheets, water then typically becomes less sheet-like and more concentrated. Following shallow concentrated flow, water typically collects in natural or manmade channels (U.S. soil conservation service, 1986).

D. **Other Permits:** Below is a list of other permits that may be required for development activity in the Town. This list is for informational purposes only and may not include all necessary permits, depending on the project location: (amd. ord. 24-014, 10-8-24)

1. Utah pollutant discharge elimination system (UPDES) general permit for storm water discharges associated with construction activities. This permit is required for any land disturbance of one acre or greater. The permit requires submittal of a notice of intent (NOI) to the Utah Division of Water Quality (DWQ) with appropriate fee, preparation of a stormwater pollution prevention plan (SWPPP) and erosion control plan. Additional information regarding this permit can be found at:

   http://www.waterquality.utah.gov/UPDES/stormwaterco

2. Utah stream alteration permit: This permit is required for any construction activity occurring along a creek or stream. The permit requires submittal of a stream alteration permit to the Division of Water Rights (DWR) with applicable design drawings and calculations. Additional information regarding this permit can be found at:

   https://waterrights.utah.gov/strmalt/default.asp

3. U.S. army corps of engineers (USACE) wetland permits. Potential wetlands need to be assessed and jurisdiction needs to be determined and approved by the USACE. Possible requirements are a wetland boundary delineation, drawings, meetings with the USACE and permits. (Ord. 08-016, 8-12-2008)

9-12-14: UTILITY IMPROVEMENTS:

A. **Purpose:** The provisions of this section are intended to regulate utility installations within subdivisions and private improvements and not major utility installations relating to distribution lines, etc.

B. **Construction:** All utility connections and lines shall be installed underground. Before any installations are covered, material and service must be inspected and approved by the Town or applicable utility. During the construction period, temporary power poles and lines shall be allowed within the boundaries of the construction project; however, such poles and lines must be removed before final certificate of occupancy for the project is granted.

C. **Easements:**

1. All utilities shall be placed within public road rights of way or specific rights of way or easements. Multiple use of a given easement is encouraged. Subdivision plats shall

note all easements, and associated their construction drawings shall define the location of each utility. (amd. ord. 24-014, 10-8-24).

2. Easements shall be provided at the rear and along at least one (1) side of each lot (so that they adjoin each other on common lot lines) or be provided in such a way as to demonstrate that utilities can be provided to each lot.

3. Recreational easements are required for all proposed motorized and non-motorized trails, ski runs, or open space to promote recreational opportunities in the Town, unless otherwise approved by the Land Use Authority. Easements shall be required during land use approval (i.e., zone change, subdivision, building permit) for existing trails, ski runs, and open space established by historic use (see subsection 9-12-16B1 of this chapter). (amd. ord. 24-014, 10-8-24)

4. Easement locations should be established to ensure the best use of the land and to provide corridors for utility services through raw land for the future development or subdividing of land according to the Town's General Plan. (Ord. 08-016, 8-12-2008)

9-12-15: PARKING:

A. **Purpose**: There shall be provided at the time of erection of any main building, or creation of a land use, or at the time such buildings or uses are altered, enlarged, converted or increased in capacity, minimum off street parking space with adequate provision for ingress and egress by standard sized vehicles in accordance with the requirements of this section. Whenever feasible, parking shall be placed underground.

B. **Parking Space Requirements**: Parking spaces shall be determined in accordance with this section. Variations may be made to these provisions when justified by a parking study prepared by a licensed engineer and approved by the Land Use Authority.

C. **Required Number; Table**: The off-street parking spaces required for each use permitted by this code shall not be less than that found in table 1 of this subsection. When a computation of spaces results in a fractional number, the fractional part shall be computed as a whole space.

D. **TABLE 1**

OFF STREET PARKING SCHEDULE

Land Use	Required Spaces for Patrons	Required Spaces for Employees (Measured in Gross sq. ft. of Entire Building)
Bed and breakfast inn:	1 per bedroom	2
Civic buildings and conference center:	Determined by the Land Use Authority	Determined by the Land Use Authority

Commercial outdoor recreation, including skiing, biking, stables/riding academy:	1 per 3 persons maximum rated capacity	Determined by the Land Use Authority
Financial institution:	3 per 1,000 sq. ft. of leasable floor area	2 for the first 2,000 sq. ft. and 1 per each additional 1,000 sq. ft.
Hospital or clinic:	3 per bed or patient room	2 for the first 2,000 sq. ft. and 1 per each additional 1,000 sq. ft.
Hotel/motel (2 bed maximum per unit):	1 per guest room, plus 1 per 500 sq. ft. of interior common area	2 for first 40 the guest rooms and 1 per each additional 20 guest rooms
Indoor entertainment, recreation/theater:	The greater of 1 per 4 seats, or 5 per 1,000 sq. ft. of floor area	2 for the first 2,000 sq. ft.
Industry:	Determined by the Land Use Authority	Determined by the Land Use Authority
Multi-family dwelling unit greater than 650 sq. ft., but less than 1,000 sq. ft.:	2 per dwelling unit	N/A
Multi-family dwelling unit greater than 1,000 sq. ft, but less than 2,500 sq. ft.:	2.5 per dwelling unit	N/A
Multi-family dwelling unit greater than 2,500 sq. ft.:	3.5 per dwelling unit	N/A
Multi-family dwelling unit not greater than 650 sq. ft.:	1 per dwelling unit	N/A
Office:	1 per 2,000 sq. ft. of leasable space	2 for the first 2,000 sq. ft. and 1 per each additional 1,000 sq. ft
Restaurant/food beverage establishment:	1 per 150 sq. ft. of dining area.	2 for the first 2,000 sq. ft. and 1 per each additional 1,000 sq. ft.

Retail:	1 per 300 sq. ft. of retail space.	2 for the first 2,000 sq. ft. and 1 per each additional 1,000 sq. ft
Shopping center or complex of multi- tenant retail spaces:	4 per 1,000 sq. ft. of leasable floor area, plus 1 per 500 sq. ft. of interior common area	1.5 per each 1,000 sq. ft.
Grocery / convenience store:	1 per 200 sq. ft. of retail space	1 for the first 2,000 sq. ft. and 1 per each additional 1,000 sq. ft
Single-family dwelling unit and multi- dwelling unit up to 3 units:	2 per dwelling unit, plus 1 additional stall per each 2,500 sq. ft., or fraction thereof, when a single dwelling exceeds 2,500 sq. ft.	N/A

(ord. 22-008, 7-26-22, amd. ord. 24-014, 10-8-24)

E. **Combination Of Uses**: Where there is a combination of uses on a lot, the required number of parking spaces shall be the sum of that required for each use. In cases where multiple uses are not in competition for the same parking space, relief may be granted by the Land Use Authority.

F. **Location Of Lot**: The parking spaces required by this section shall be provided on the same lot or parcel as the use, or where the exclusive use of such is provided on another lot or parcel, not more than three hundred feet (300') radially from the subject lot and within the same or less restrictive zoning district. Required parking shall not be located in a manner that requires occupants walking from their vehicle to the residential unit to cross a public right-of-way. (amd. ord. 24-015, 10-8-24)

G. **Parking Stall Dimensions**: Parking stall dimensions shall be in accordance with this subsection:

1. Width:
    a. A minimum width of ten feet (10') shall be provided for each interior (protected from weather) parking stall and ten feet (10') for exterior parking stalls. (amd. Ord. 18-006, 6-11-2018)
    b. Exceptions:
        i. Parallel parking stalls shall be permitted to be eight feet (8') wide.
        ii. The width of a parking stall shall be increased ten inches (10") for obstructions (columns, walls, etc.) located on either side of the stall within fourteen feet (14') of the access aisle.
2. Length: A minimum length of twenty feet (20') shall be provided for each stall. Parallel parking stalls shall be a minimum twenty-two feet (22') in length.

H. **Design Of Parking Facilities**: The design of parking facilities shall be in accordance with this subsection, and section 9-12-10 of this chapter for driveways connecting to the public rights of way: (amd. ord. 24-014, 10-8-24)

1. Driveway Widths: Every parking facility shall be provided with one (1) or more access driveways, the width of which shall be the following:
    a. Private parking lot access at least sixteen feet (16'). (Ord. 08-016, 8-12-2008, amd Ord. 16-007, 11-8-2016)
    b. Commercial driveways:
        i. Twenty feet (20') for one-way enter/exit. (Ord. 08-016, 8-12-2008, amd Ord. 16-007, 11-8-2016)
        ii. Twenty-four feet (24') for two-way enter/exit.
2. Driveway And Parking Slopes:
    a. Maximum Slope: The maximum slope of any driveway or ramp shall not exceed twelve percent (12%) (6.8 degrees). Transition slopes in driveways and ramps shall be provided in accordance with the Town's design standards. (amd. ord. 24-014, 10-8-24)
    b. Exception: Where a ramp is covered or heated and will not be susceptible to snow or ice buildup, the ramp slope may not exceed sixteen percent (16%) (9.1 degrees) and shall provide sufficient landings at top and bottom of ramp to provide for safe starting and stopping.
3. Stall Accessibility: Each required parking stall shall be individually and easily accessible. No automobile shall be required to back onto any public street or sidewalk to leave any parking stall except in single family residential uses and where the parking stalls themselves are in the public right of way. All portions of a public lot or garage where the lot itself is not in the public right of way shall be accessible to other portions thereof without requiring the use of any public street. (Ord. 08-016, 8-12-2008, amd Ord. 16-007, 11-8-2016)

    An exception may be granted in multi-family residential zones where deemed safe by the Public Safety Director (Ord. 20-006, 7-14-20)
4. Screening: A buffer shall be created whenever a parking area with associated ramps and driveways abuts a public way. The buffer shall consist of a landscaped earthen berm, rock wall, vegetation, or similar natural materials to complement the environment for a height of at least three feet (3'), or a width of at least ten feet (10').

I. **Surfacing:** Hard surface is required in commercial and multi-family residential zones. Other materials that make the surface effectively hard but aren't asphalt or concrete may be used with the approval of the Land Use Authority with recommendation from Town Staff. All weather surfaces may be used for overflow parking (parking in excess of the requirement) as well as in all other zones. Each parking lot and associated ramps and driveways shall be maintained in good condition and kept clear and in unobstructed and usable condition at all times. Responsibility for maintenance of the parking lot shall rest with the property owner. The parking lot shall provide adequate access to a street or

alley. Parking spaces in excess of the minimum spaces required may be used for snow storage in winter (Ord. 08-016, 8-12-2008, amd Ord. 16-007, 11-8-2016, amd. ord. 24-014, 10-8-24)

J. **Grading, Erosion Control And Existing Waterway Provisions:** Parking lots shall be graded for proper drainage, with surface water diverted in such a way as to keep the parking area free of accumulated water or ice and to prevent erosion and comply with requirements of section 9-12-13 of this chapter.

K. **Snow Storage**: All parking lots, sidewalks and other hard surface areas requiring snow removal shall provide twenty-five percent (25%) additional area to accommodate snow storage (fifteen percent (15%) for parking with snow melting equipment). Snow storage shall be provided on the subject property within the parking lot, adjacent landscaping or other area that allows for safe snow storage without damage to the structures or landscaping and be salt resistant. (Ord. 08-016, 8-12-2008, amd Ord. 15-018, 12-8-2015, amd. Ord. 24-011, 8-27-2024, amd. ord. 24-014, 10-8-24)

1. Exception R-1 Single-Family Residential shall provide twenty percent (20%) additional area to accommodate for snow storage for driveways, walks and other hard surfaces. (ord. 24-011, 8-27-2024)

L. Loading Spaces:

1. General: Loading spaces shall be provided on the same lot for every building in the commercial zones. No loading space is required if prevented by an existing lawful building. The Land Use Authority shall be authorized to waive this requirement on unusual lots. (amd. ord. 24-014, 10-8-24)
2. Size: Each loading space shall have a clear height of fourteen feet six inches (14'6") and shall be directly accessible through a usable door not less than three feet (3') in width and six feet eight inches (6'8") high. The minimum area of a loading space shall be four hundred square feet (400 sq. ft) and minimum dimensions shall be twenty feet (20') long and ten feet (10') wide. (Ord. 08-016, 8-12-2008)

9-12-16: PUBLIC IMPROVEMENTS:

A. **Design Standards:**

1. Design and construction specifications for public improvements such as curbs, gutters, sidewalks, storm drainage, flood control facilities, water, sewer distribution systems and fire protection shall be in accordance with the Town's Public Works Standards as currently adopted, or other applicable codes.
2. The design for all such facilities which are or will be under the control of the town shall be submitted to the Town for review and approval. The design of streets, blocks, lots, open spaces and other design functions shall be consistent with the Town's General Plan and this title. (amd. ord. 24-014, 10-8-24)

B. **Required Improvements:**

1. The subdivider shall improve all streets, trails, pedestrian ways or easements and water and sewer facilities in the subdivision necessary to service the subdivision, and enhance the recreational opportunities in the Town, along with streets which abut, or serve access to, the subdivision. No improvement work shall be commenced until improvement plans and profiles have been approved by the Land Use Authority, or designee, and the Town has approved the final plat of the subdivision. The final plat shall not be recorded in the office of the County Recorder prior to obtaining sufficient guarantee for improvements as provided in chapter 13 of this title. (amd. ord. 24-014, 10-8-24)
2. Improvements shall be installed to permanent line and grade and to the satisfaction of the Town Manager, or designee, and in accordance with the standard specifications adopted and amended from time to time by the Town Council. Cost of inspection shall be paid by the subdivider as outlined in the Town's Consolidated Fee Schedule. (amd. ord. 24-014, 10-8-24)
3. Notwithstanding the fact that the land on which the improvements are or will be located is dedicated at the time of the recording of a plat, the subdivider shall be required to maintain all improvements until accepted by the Town provided for in section 9-9-6 of this title. (Ord. 08-016, 8-12-2008)

9-12-17: TRASH ENCLOSURES:

Trash dumpsters shall be as approved by the Land Use Authority. Dumpsters are encouraged to be screened from public view with vegetation or walls and located in an area accessible by the refuse vehicle and sensitive to limiting backing of the vehicle. If an enclosure is proposed, it shall comply with the building material requirements and be sensitive to the snow and ice accumulations common to the Town. Trash dumpsters shall be purchased by the Town with the cost being borne by the developer. The Town shall require one (1) dumpster for every twenty (20) single-family building lots or condo units, and one (1) dumpster for every four thousand square feet (4,000 sq. ft.) of commercial/office space, unless other rationale is justified by the applicant and approved by the Land Use Authority. (Ord. 08-016, 8-12-2008, amd. ord. 24-014, 10-8-24)

9-12-18: COMPLIANCE:

Any time a permit under chapter 8 or chapter10 of this title is applied for, the applicant shall demonstrate compliance with the provisions of this chapter as they relate to the work applied for. (Ord. 08-016, 8-12-2008)

9-12-19: PUBLIC UTILITIES

A. Structures associated with public utility uses will comply with the design standards put forth in this chapter, including color, exterior materials, roof design, etc.

B. Above-ground utility equipment and other visible utility infrastructure shall be housed in a structure designed to reduce any potential visual and noise impact on neighbors in residential and commercial zones. In industrial zones, the equipment and infrastructure may be screened in a manner compliant with the requirements for that zone.

(Ord. 17-004, 7-11-2017, amd. ord. 24-014, 10-8-24)

9-12-20: CAMPGROUNDS

In an effort to mitigate the potential impacts of overnight outdoor uses such as recreational vehicle (RV) parks / campgrounds, tent campgrounds, and non-permanent structures (such as KOA-style cabin or yurt) campgrounds, the following design standards shall be applied: (amd. Ord. 20-006, 7-14-20, amd. Ord. 21-006, 05-25-21, amd. ord. 24-014, 10-8-24)

A. **Campgrounds will be designed** in a manner that is sensitive to the natural environment and consistent with the Town's General Plan. Vegetation will only be cleared as necessary for installation of camping and recreational appurtenances (tent sites, campfire rings, RV pads, etc.) or fire mitigation in accordance with Wildland Urban Interface requirements. (amd. Ord. 21-006, 05-25-21)

B. **Development of the campground area** shall be restricted to the portion of the property not required to be landscaped or undisturbed.

1. All buildings and structures, camping sites, driveways, private roads, parking, restrooms, pavilions, picnic pads, day use areas, snow storage areas, etc. shall fit within the remainder of the property not reserved for minimum landscaping and minimum undisturbed area. (Ord. 21-006, 05-25-21)

C. **Lighting** will strictly meet Town Code for night sky standards. (Ord. 21-006, 05-25-21)

D. **Fire pits** will be limited to two (2) per acre and will meet the requirements for improved campfire rings under Stage 1 Fire Restrictions. (Ord. 21-006, 05-25-21)

E. **Design of campground access** will minimize the impact of vehicular traffic and parking on surrounding recreational uses. (amd. Ord. 21-006, 05-25-21)

F. **Water, wastewater, plumbing, and operations and maintenance** plans will comply with Utah State R392-300. Camping cabins which are intended to be inhabited overnight year-round shall be equipped with indoor plumbing and sanitation facilities. (Ord. 17-004, 7-11-2017, amd. Ord. 21-006, 05-25-21)

G. **Campsites** shall be appropriately spaced to allow for the open feeling anticipated in the Town's General Plan:

1. Building setbacks for the zone shall apply to campsites.

2. Additional setbacks may be required by the Land Use Authority for visual and noise mitigation. (amd. ord. 24-014, 10-8-24)

3. A minimum ten-foot (10') buffer shall be applied on all sides of an RV campsite or cabin, and a twenty-foot (20') buffer applied on all sides of a tent campsite. (Ord. 21-006, 05-25-21)

4. The minimum size for a tent or RV campsite shall be eight hundred square feet (800 sq. ft.). (Ord. 21-006, 50-25-21)

5. Snow storage area will be provided for year-round campsite usage. (Ord. 21-006, 05-25-21)

H. **Natural screening** (such as mature trees, and shrubs, slopes, etc.) shall be utilized to minimize visual impacts from public rights of way and adjacent uses. Vegetative screening shall be in natural groupings/clusters and shall be fashioned to create a mostly opaque visual barrier to campsites, RV sites, restrooms, etc. from the public right of way and neighboring uses. Vegetative screening shall be kept clear of snow storage areas and shall be maintained in perpetuity. (Ord. 20-006, 7-14-20, amd. Ord. 21-006, 05-25-21, amd. ord. 24-014, 10-8-24)

Title 9 – Land Management Code

Chapter 13
ENFORCEMENT

9-13-1: PURPOSE:
9-13-2: ENFORCEMENT:
9-13-3: ATTORNEY FEES:
9-13-4: PENALTIES:
9-13-5: ISSUANCE OF BUILDING PERMIT AND CERTIFICATES OF OCCUPANCY:
9-13-6: COMPLIANCE WITH SUBDIVISION AND OTHER PERMIT APPROVAL:
9-13-7: SECURITY FOR COMPLETION:

9-13-1: PURPOSE:

The purpose of this chapter is to provide enforcement provisions and to ensure compliance with this title. (Ord. 08-016, 8-12-2008)

9-13-2: ENFORCEMENT:

The Town Manager, or designee, shall be designated as the person to administer and enforce the provisions of this title and all other land use regulations adopted by the Town. The Town Manager, or designee, shall take legal action when deemed necessary to enforce the provisions of this title or other land use regulations. The failure of any person to properly interpret, apply or enforce any provision of this title, or other ordinance of the Town, shall not operate to waive or stop the town from enforcing compliance with the Town's ordinances. (Ord. 08-016, 8-12-2008, amd. ord. 24-014, 10-8-24)

9-13-3: ATTORNEY FEES:

All action necessary to enforce any provision of this title and other applicable ordinances, including, but not limited to, the costs of commencement of legal proceedings in a court of proper jurisdiction seeking judgments for violation of such ordinances, and for all court costs and attorney fees, shall be paid by the violator. (Ord. 08-016, 8-12-2008)

9-13-4: PENALTIES:

Any person, firm, or corporation (as principal, agent, employee or otherwise) violating, causing or permitting violation of the provisions of this title shall be guilty of a Class C misdemeanor and subject to penalty as provided in section ~~1~~4-1 of this code. In addition, the Town may bring an action to enjoin the continuation of the violation or seek other equitable relief. Each day a violation continues shall be considered a separate violation and offense. (Ord. 08-016, 8-12-2008; amd. 2010 Code)

9-13-5: ISSUANCE OF BUILDING PERMIT AND CERTIFICATES OF OCCUPANCY

A. **Policy:** In order to protect buyers of condominiums, master planned development (MPD) projects, single family residential, and other property in the Town against purchasing property on which the on and off site improvement work is incomplete and may not be completed, and to protect the public at large from dangerous and undesirable conditions that result from unfinished on and off site improvements, such as, but not limited to, erosion, flooding and blowing dust, it is the policy of the Town that no building permit may be issued on any building project within the Town unless and until the final plat has been recorded. Construction may not begin until the development has provided necessary access to the building lot for delivery of goods and access for laborers. No wood framing shall proceed without an all-weather surface road or driveway and working water system to serve fire hydrants and firefighting apparatus. In no event shall a certificate of occupancy be issued on any building until all required on and off-site improvements are completed sufficient for safe, orderly occupancy of the building as determined by the Town Manager, or designee. (Ord. 08-016, 8-12-2008, amd Ord. 15-018, 12-8-2015, amd. ord. 24-014, 10-8-24)

B. **Site Plan Conformance:** The Building and Planning Department, prior to issuance of a permanent Certificate of Occupancy, shall review the completed improvements to ensure compliance with the approved site plan, showing the location and nature of drainage work, grade changes, retaining walls and landscaping, together with any trails, paths or walkways. A temporary occupancy certificate may be issued with adequate bonding for incomplete work when determined by the Town Manager, or designee. (amd. ord. 24-014, 10-8-24)

C. **Construction According To Approved Plans**: No site plan shall be altered or modified without the prior approval of the appropriate land use authority. (amd. ord. 24-014, 10-8-24)

D. **Completion And Cleanup Deposit:** Upon issuance of a building permit, the Building and Planning Department inspection department shall charge a completion and cleanup deposit as established in the Town's Consolidated Fee Schedule. Upon satisfactory completion of the building and site cleanup, including repair or restoration to any onsite or offsite damage caused by construction activities, the deposit will be refunded to the

contractor of record. In such cases where the site cleanup (including fire risk mitigation and on or offsite damage) is not corrected in a timely manner, the Town may use the deposit and hire the work to be done. (Ord. 08-016, 8-12-2008, amd. ord. 24-014, 10-8-24)

9-13-6: COMPLIANCE WITH SUBDIVISION AND OTHER PERMIT APPROVAL:

A. **Policy:** Due to the fragile nature of the ecosystem and land scarring that has occurred when projects have not been completed, the provision of this section are intended to provide protections and securities to minimize detrimental interference to property. In order to ensure compliance with certain provisions of this title for subdivisions, commercial projects, Residential Planned Developments (RPD) and Master Planned Development (MPD) the Town Manager or designee is authorized to ensure compliance with the provisions and requirements of previously authorized permits or subdivision approval. (Ord. 08-016, 8-12-2008, amd. Ord. 15-018, 12-8-2015, amd. ord. 24-014, 10-8-24)

B. **As Built Drawings For Subdivisions:** A detailed as built site plan showing the location of public utilities, nature of drainage work, grade changes, retaining walls and landscaping, together with any trails, paths or walkways, shall be submitted to the Town prior to acceptance of improvements and releasing of financial security. Site improvements shall be completed pursuant to this title and as shown in the detailed site plans in both a paper and approved electronic format.

C. **Construction According To Approved Plans:** No subdivision improvements may be modified from the approved plat and associated construction drawings without prior approval of the appropriate land use authority. (Ord. 08-016, 8-12-2008, amd. ord. 24-014, 10-8-24)

9-13-7: SECURITY FOR COMPLETION:

A. **Policy:** In order to ensure compliance with certain provisions of this title for subdivisions, building projects and other permits, the Town Manager, or designee, is hereby authorized to ensure completion of the approved design through a form of security as deemed necessary by this section, or as determined by the provisions of the required permit. (amd. ord. 24-014, 10-8-24)

B. **Subdivisions And Other Projects:** In the event that approval is sought for the completion of a subdivision, commercial project or Master Planned Development (MPD) the Town shall ensure that all of the following conditions are met: (Ord. 08-016, 8-12-2008, amd. Ord. 15-018, 12-8-2015)

1. The developer shall submit to and obtain approval from the appropriate Land Use Authority for all final construction plans, improvements and development agreements. The developer shall guarantee the installation and construction of the required improvements free from defects in material or workmanship and in compliance with

Town standards. In subdivisions this shall include the public and private utilities, trails, drainage systems, streets, curbs, retaining structures, and land reclamation. In commercial projects and Master Planned Development (MPD) this shall include all of the above and any additional work so that if the building components are not completed, the land will be free from erosion, flooding, barren landscape, or other situations that would create a negative visual or ecological impact. (Ord. 08-016, 8-12-2008, amd. Ord. 15-018, 12-8-2015, amd. ord. 24-014, 10-8-24)

2. The guarantee shall be in the form of a corporate surety bond, escrow agreement, cashier's check or money market certificate made payable only to the Town, or irrevocable letter of credit in forms acceptable to the Town and for an amount equal to one hundred ten percent (110%) of the estimated cost of the improvements. The form of any guarantee of improvements shall be reviewed and approved by the Town Attorney before acceptance of the guarantee or security by the Town. The cost estimates shall be reviewed by the Town Engineer or Town Manager to ensure completion of all public improvements as shown on the approved plans. In the event that the Town Engineer or Town Manager disputes the amounts stated in the bid bond, the developer shall provide contracts supported by a full performance and payment bond by the contractor, or the Town Engineer, or Town Manager's price shall be used. All improvements must be completed within one (1) year of posting of the required security. Such one (1) year period may be extended once at the discretion of the Town Manager, or designee, where weather or other circumstances justify the extension. In the event of any extension, the bond amounts shall be reviewed and adjusted as necessary. (Ord. 08-016, 8-12-2008, amd. Ord. 15-018, 12-8-2015, amd. ord. 24-014, 10-8-24)

C. **Other Permits:** In order to ensure compliance with certain provisions of this title for projects requiring other permits, the Town Manager, or designee, is authorized to ensure completion of the approved design through a form of security as deemed necessary by this section or as determined by the provisions of the required permit.

D. **Logging And Tree Removal, Grading, Trenching And Horse Boarding Permits:** In the event that approval is sought for the completion of project requiring logging and tree removal, grading, trenching or horse boarding, the applicant may be required to submit a guarantee similar to that required for subdivisions (see subsection B of this section).

E. **Term Of Security:** The terms of any security arrangement offered to the Town shall include, but not be limited to:

1. An approved final plat, permit application and all associated data required for the completion of the subdivision or permitted project, including approved construction plans which are used to compute the cost of the improvements by the Town Engineer or Town Manager.
2. The improvements shall be completed to the satisfaction of the Town Manager, or designee, and according to Town specifications as established in this title.

3. The Town shall have exclusive control over the security proceeds, and they may be released only upon written approval of the Town Manager, or designee.

4. The security proceeds may be reduced upon request of the developer or permittee, with approval of the Town, as the improvements are installed. The amount of the reduction shall be determined by the Town Manager, on advice from the Public Works Department or Town Engineer. Such requests may be made only once every thirty (30) days, and no reductions may be authorized until such time as the Public Works Department or Town Engineer has inspected the improvements and found them to be in compliance with Town specifications. Any reductions may only be granted by written authorization of the Town Manager.

5. If the security proceeds are inadequate to pay the cost of the completion of the public improvements according to Town specifications for whatever reason, including previous reductions, then the owner, developer or permittee shall be responsible for the deficiency; in the context of subdivision improvements, no further building permits shall be issued in the subdivision until the improvements are completed or a new security agreement has been approved and executed to ensure completion of the remaining improvements.

6. If, upon written demand of the Town after expiration of the security time period, the security proceeds are not transferred to the Town within thirty (30) days of the demand, then the Town's costs of obtaining the proceeds, including the Town Attorney's fees and costs of any outside attorney fees and/or court costs, shall be deducted from the security proceeds. (amd. ord. 24-014, 10-8-24)

7. Upon receipt of the security proceeds after the expiration of the time period, the costs of completion shall include reimbursement to the Public Works Department or Town Engineer and all other Town departments for the costs of administration of the completion of the improvements, including inspection costs.

8. The owner, developer or permittee agrees to hold the Town harmless from any and all liability that may arise as a result of the improvements which are installed until such time as the Town accepts the improvements.

9. All improvements required under this title shall be installed by a contractor or subcontractor licensed by the state, as required by law.

F. **Payment Of Interest:** The Town shall not be required to deposit any funds provided as security in an interest-bearing account. However, any interest accruing on deposited funds shall accrue to the benefit of the owner, developer, or permittee and not to the Town, unless expended for completion of required improvements.

G. **Release Of Funds:** The Town shall relinquish funds held or security posted for the purpose of paying for required improvement work performed according to the plans as that work is completed. In such an event, the Town shall release funds equal to the actual cost of performing the work as the work progresses, minus five percent (5%). Upon satisfactory completion of all required improvement work, all funds, up to the final five percent (5%), shall be immediately released to the owner, developer, or permittee. The final five percent (5%) shall be reserved by the Town for a one (1) year warranty period. (See subsection K of this section.)

H. **Modification Of Plans:** An owner, subdivider or permittee may request modifications to plans covering required improvements by submitting revised plans to the Town Manager, or designee, for review and approval by the appropriate Land Use Authority. If the modification of the plans increases the cost of required improvements, additional security must be provided by the owner, subdivider, or permittee to cover the increased costs.

I. **Phased Projects:** Security for improvements applicable to each phase of a phased project or development shall be provided as each phase is platted or permitted.

J. **Final Inspection**: After completion of all required improvements, the owner, developer or permittee shall make a written request to the Town Manager, or designee, for a final inspection to be made by all affected Town Departments as required by this title. Upon receipt of inspection reports from all affected departments, a summary of the final inspections shall be provided by the Town Manager, or designee, specifying the acceptability and/or completion of all required improvements.

K. **Warranty Period:** Once all required subdivision improvements are inspected and approved by the Town, a one (1) year warranty period shall begin and any guarantee or security filed with the Town with regard to such improvements shall be released, provided at least five percent (5%) of the guarantee or security amount is held to guarantee the quality of workmanship and materials during the one (1) year warranty period. At the end of the one-year guarantee period, any remaining guarantee or security shall be released only in accordance with subsection G of this section. (Ord. 08-016, 8-12-2008)

Title 9 – Land Management Code

Chapter 14

SIGNAGE

9-14-1: PURPOSE:
9-14-2: DEFINITIONS:
9-14-3: SIGN TYPES:
9-14-4: GENERAL PROVISIONS:
9-14-5: EXEMPT SIGNS:
9-14-6: PROHIBITED SIGNS:
9-14-7: PERMITS:
9-14-8: SPECIFIC SIGN REQUIREMENTS:
9-14-9: SIGNS FOR NONRESIDENTIAL COMPLEXES:

9-14-1: PURPOSE:

The purpose of this chapter is to protect the safety and general welfare, to ensure community development and aesthetics are consistent with the General Plan through the regulation of signs and sign structures. (Ord. 08-016, 8-12-2008 amd Ord. 16-003, 2-9-2016)

9-14-2: DEFINITIONS:

The following words and terms shall, for the purposes of this chapter and as used elsewhere in this title, have the meanings shown herein:

ABANDONED SIGN: A sign structure that has ceased to be used and the owner no longer intends to have used, for the display of sign copy, or as otherwise defined by state law.

ANIMATED SIGN: A sign employing actual motion or the illusion of motion. Animated signs, which are differentiated from "changeable signs" as defined and regulated by this chapter, include the following types:

A. **Electronically Activated:** Animated signs producing the illusion of movement by means of electronic, electrical, or electromechanical input and/or illumination capable of simulating movement through employment of the characteristics of one or both of the classifications noted below:

   1. Flashing: Animated signs or animated portions of signs whose illumination is characterized by a repetitive cycle. (Ord. 08-016, 8-12-2008 amd Ord. 16-003, 2-9-2016)

2. Patterned Illusionary Movement: Animated signs or animation portions of signs whose illumination is characterized by simulated movements through alternate or sequential activation of various illuminated elements for the purpose of producing repetitive light patterns designed to appear in some form of constant motion.

B. **Environmentally Activated**: Animated signs or devices motivated by wind, thermal changes, or other natural environmental input. Includes spinners, pinwheels, pennant strings and/or other devices or displays that respond to naturally occurring external motivation.

C. **Mechanically Activated:** Animated signs characterized by repetitive motion and/or rotation activated by a mechanical system powered by electric motors or other mechanically induced means.

ARCHITECTURAL PROJECTION: Any projection that is not intended for occupancy and that extends beyond the face of an exterior wall of a building, but that does not include "signs", as defined in this section. See also definitions of Awning Sign, Backlit Awning, Canopy (Attached) and Canopy (Freestanding).

AWNING: An architectural projection or shelter projecting from and supported by the exterior wall of a building and composed of a covering of rigid or non-rigid materials and/or on a supporting framework that may be either permanent or retractable, including such structures that are internally illuminated by fluorescent or other light sources.

AWNING SIGN: A sign displayed on or attached flat against the surface or surfaces of an awning. See also definition of Wall Or Fascia Sign.

BACKLIT AWNING: An awning with a translucent covering material and a source of illumination contained within its framework.

BANNER: A flexible substrate on which copy, or graphics may be displayed.

BANNER SIGN: A sign utilizing a banner as its display surface.

BILLBOARD: See definitions of Off Premises Sign. (Ord. 08-016, 8-12-2008 amd Ord. 16-003, 2-9-2016)

BUILDING ELEVATION: The entire side of a building, from ground level to the roofline, as viewed perpendicular to the wall on that side of the building.

CANOPY (ATTACHED): A multisided overhead structure or architectural projection supported by attachment to a building on one or more sides and either cantilevered from such building or also supported by columns at additional points. The surface and/or soffit of an attached canopy may be illuminated by means of internal or external sources of light. See also definition of Marquee.

CANOPY (FREESTANDING): A multisided overhead structure supported by columns, but not enclosed by walls. The surface and or soffit of a freestanding canopy may be illuminated by means of internal or external sources of light.

CANOPY SIGN: A sign affixed to the visible surface of an attached or freestanding canopy.

CHANGEABLE SIGN: A sign with the capability of content change by means of manual or remote input, including signs which are:

A. **Electrically Activated:** Changeable sign whose message copy or content can be changed by means of remote electrically energized on-off switching combinations of alphabetic or pictographic components arranged on display surface. Illumination may be integral to the components, such as characterized by lamps or other light emitting devices; or it may be from an external light source designed to reflect off the changeable component display. See also definition of Electronic Message Sign Or Center.

B. **Manually Activated:** Changeable sign whose message copy or content can be changed manually.

COMBINATION SIGN: A sign that is supported partly by a pole and partly by a building structure.

COPY: Those letters, numerals, figures, symbols, logos and graphic elements comprising the content or message of a sign, excluding numerals identifying a street address only.

DEVELOPMENT COMPLEX SIGN: A freestanding sign identifying a multiple occupancy development, such as a shopping center or planned industrial park, which is controlled by a single owner or landlord, approved in accordance with subsection 9-14-9B of this chapter.

DIRECTIONAL SIGN: Any sign that is designed and erected for the purpose of providing direction and/or orientation for pedestrian or vehicular traffic.

DOUBLE FACED SIGN: A sign with two (2) faces, back to back.

ELECTRIC SIGN: Any sign activated or illuminated by means of electrical energy.

ELECTRONIC MESSAGE SIGN OR CENTER: An electrically activated changeable sign whose variable message capability can be electrically programmed.

EXTERIOR SIGN: Any sign placed outside a building.

FASCIA SIGN: See definition of Wall Or Fascia Sign.

FINE ART: Creative art whose products are to be appreciated primarily for their imaginative, ascetic, or intellectual content. (Ord. 16-003, 2-9-2016)

FLASHING SIGN: See definition of Animated Sign, Electrically Activated.

FLAG: Any fabric banner containing distinctive colors, patterns or symbols.

FREESTANDING SIGN: A sign principally supported by a structure affixed to the ground, and not supported by a building, including signs supported by one or more columns, poles or braces placed in or upon the ground. See Section 9-14-9 of this title (Ord. 08-016, 8-12-2008 amd Ord. 16-003, 2-9-2016).

FRONTAGE (BUILDING): The length of an exterior building wall or structure of a single premises oriented to the public way or other properties that it faces.

FRONTAGE (PROPERTY): The length of the property lines of any single premises along either a public way or other properties on which it borders.

GROUND SIGN: See definition of Freestanding Sign.

ILLUMINATED SIGN: A sign characterized by the use of artificial light, either projecting through its surface (internally illuminated); or reflecting off its surface (externally illuminated).

INTERIOR SIGN: Any sign placed within a building, but not including "window signs", as defined in this section. "Interior signs", with the exception of "window signs", as defined in this section, are not regulated by this chapter.

MANSARD: An inclined decorative roof-like projection that is attached to an exterior building facade.

MARQUEE: See definition of Canopy.

MARQUEE SIGN: See definition of Canopy Sign.

MENU BOARD: A freestanding sign oriented to the drive-through lane for a restaurant that advertises the menu items available from the drive through window, and which has no more than twenty percent (20%) of the total area for such a sign utilized for business identification.

MULTIPLE FACED SIGN: A sign containing three (3) or more faces.

OFF PREMISES SIGN: Sign identifying a business, commodity, service or industry which is not conducted upon the premises on which the sign is placed. (Ord. 08-016, 8-12-2008 amd Ord. 16-003, 2-9-2016)

PARAPET: The extension of a building facade above the line of the structural roof.

POLE SIGN: See definition of Freestanding Sign.

PORTABLE SIGN: Any sign not permanently attached to the ground or to a building or building surface.

PROJECTING SIGN: A sign, other than a wall sign, that is attached to or projects from a building face or wall or from a structure whose primary purpose is other than the support of a sign. See Section 9-14-9 of this title. (Ord. 08-016, 8-12-2008 amd Ord. 16-003, 2-9-2016)

REAL ESTATE SIGN: A temporary sign advertising the sale, lease or rental of the property or premises upon which it is located.

REVOLVING SIGN: A sign that revolves three hundred sixty degrees (360°) (6.28 radius) about an axis. See also definition of Animated Sign, Mechanically Activated.

ROOF SIGN: A sign mounted on, and supported by, the main roof portion of a building, or above the uppermost edge of a parapet wall of a building and which is wholly or partially supported by such a building. Signs mounted on mansard facades, pent eaves and architectural projections, such as canopies or marquees, shall not be considered to be roof signs. For a visual reference, and a comparison of differences between roof and fascia signs, see section 9-14-9 of this title. (Ord. 08-016, 8-12-2008 amd Ord. 16-003, 2-9-2016)

ROOFLINE: The top edge of a peaked roof or, in the case of an extended facade or parapet, the uppermost point of said facade or parapet.

SIGN: Any device visible from a public place that displays either commercial or noncommercial messages by means of graphic presentation of alphabetic or pictorial symbols or representations. Noncommercial flags or any flags displayed from flagpoles or staffs will not be considered signs.

SIGN AREA: The area of the smallest geometric figure, or the sum of the combination of regular geometric figures, which comprise the sign face. The area of any double sided or V shaped sign shall be the area of the largest single face only. The area of a sphere shall be computed as the

area of a circle. The area of all other multiple sided signs shall be computed as fifty percent (50%) of the sum of the area of all faces of the sign.

SIGN COPY: Those letters, numerals, figures, symbols, logos and graphic elements comprising the content or message of a sign, exclusive of numerals identifying a street address only.

SIGN FACE: The surface upon, against or through which the sign copy is displayed or illustrated, not including structural supports, architectural features of a building or sign structure, nonstructural or decorative trim, or any areas that are separated from the background surface upon which the sign copy is displayed by a distinct delineation, such as a reveal or border. See section 9-14-9 of this title. (Ord. 08-016, 8-12-2008 amd Ord. 16-003, 2-9-2016)

A. In the case of panel or cabinet type signs, the "sign face" shall include the entire area of the sign panel, cabinet, or face substrate upon which the sign copy is displayed or illustrated, but not open space between separate panels or cabinets.

B. In the case of signs with routed areas of sign copy, the "sign face" shall include the entire area of the surface that is routed, except where interrupted by a reveal, border or a contrasting surface or color.

C. In the case of signs painted on a building, or individual letters or graphic elements affixed to a building or structure, the "sign face" shall comprise the sum of the geometric figures or combination of regular geometric figures drawn closest to the edge of the letters or separate graphic elements comprising the sign copy, but not the open space between separate groupings of sign copy on the same building or structure.

D. In the case of sign copy enclosed within the painted or illuminated border or displayed on a background contrasting in color with the color of the building structure, the "sign face" shall comprise the area within the contrasting background, or within the painted or illuminated border.

SIGN STRUCTURE: Any structure supporting a sign.

TEMPORARY SIGN: A sign intended to be transitory or temporary nature. Portable signs or any sign not permanently embedded in the ground, or not permanently affixed to a building or sign structure that is permanently embedded in the ground. (such as banners, real estate, sandwich boards, or cardboard signs on wooden stakes hammered into the ground) are considered "temporary signs". (Ord. 08-016, 8-12-2008 amd Ord. 16-003, 2-9-2016)

UNDER CANOPY SIGN OR UNDER MARQUEE SIGN: A sign attached to the underside of a canopy or marquee.

V SIGN: Signs containing two (2) faces of approximately equal size, erected upon common or separate structures, positioned in a "V" shape with an interior angle between faces of not more than ninety degrees (90^{o}) (1.57 rad) with the distance between the sign faces not exceeding five feet (5') (1,524 mm) at their closest point.

WALL OR FASCIA SIGN: A sign that is in any manner affixed to any exterior wall of a building or structure and that projects not more than eighteen inches (18") (457 mm) from the building or structure wall, including signs affixed to the architectural projections from a building, provided the copy area of such signs remains on a parallel plane to the face of the building facade or to the face or faces of the architectural projection to which it is affixed. For a visual reference and a comparison of differences between wall or fascia signs and roof signs, see section 9-14-9 of this title. (Ord. 08-016, 8-12-2008 amd Ord. 16-003, 2-9-2016)

WINDOW SIGN: A sign affixed to the surface of a window with its message intended to be visible to and readable from the public way or from adjacent property. (Ord. 08-016, 8-12-2008)

9-14-3: SIGN TYPES:

Sign types and the computation of sign area shall be as depicted in figures 9-14-9 of this title. (Ord. 08-016, 8-12-2008, amd Ord. 16-003, 2-9-2016)

9-14-4: GENERAL PROVISIONS:

A. **Under unusual circumstances and with notice to the Town Council**, the Town Manager may grant temporary, not to exceed one hundred twenty (12) days, exemptions to the provision of this title with notice to the Town Council. (Ord. 16-003, 2-9-2016)

B. **Conformance to Code:** Any sign hereafter erected shall conform to the provisions of this title, the provisions of the International Building Code, provision established within the design standards and any other ordinance and regulation within this jurisdiction.

C. **Signs In Rights Of Way:** No sign, other than an official traffic sign or similar sign, shall be erected within the lines of any street, or within any town right of way, unless specifically authorized by other ordinances or regulations of this jurisdiction, or by specific authorization of the code official. Signs advertising a special community event shall not be prohibited in or over public right of way, subject to approval by the code official as to the size, location and method of erection. The code official may not approve any special event signage that would impair the safety and convenience or use of public rights of way or obstruct traffic visibility. (Ord. 08-016, 8-12-2008 amd Ord. 16-003, 2-9-2016)

D. **Projections Over Public Ways:** Signs projecting over public walkways shall be permitted to do so only subject to the projection and clearance limits either defined herein or, if not so defined, at a minimum height of eight feet (8') (2,438 mm) from grade level to the bottom of the sign. Signs, architectural projections or sign structures projecting over vehicular access areas must conform to the minimum height clearance limitations as proposed by the property owner and approved by the staff.

E. **Traffic Visibility:** No sign or sign structure shall be erected at the intersection of any street in such a manner as to obstruct free and clear vision, nor at any location where by its position, shape, or color it may interfere with or obstruct the view of or be confused with any authorized traffic sign, signal or device.

F. **Computation Of Frontage:** If a premises contains walls facing more than one property line or encompasses property frontage bounded by more than one street or other property usages, the sign area for each building wall or property frontage will be computed separately for each building wall or property line facing a different frontage. The sign area thus calculated shall be permitted to then be applied to permitted signs placed on each separate wall or property line frontage.

G. **Animation And Changeable Messages:** Animated signs, except as prohibited in section 9-14-6 of this chapter, are permitted in commercial and industrial zones only. Changeable signs, manually activated, are permitted for nonresidential uses in all zones. Changeable signs, electrically activated, are permitted in all nonresidential zones, and R-2, R-3 businesses.

H. **Maintenance, Repair And Removal:** Every sign permitted by this title shall be kept in good condition and repaired. When any sign becomes insecure, in danger of falling, or is otherwise deemed unsafe by the code official, or if any sign shall be unlawfully installed, erected or maintained in violation of any of the provisions of this title, the owner thereof or the person or firm using the same shall, upon written notice by the code official forthwith in the case of immediate danger, and in any case within not more than ten (10) days, make such sign conform to the provisions of this title, or shall remove it. If, within ten (10) days the order is not complied with, the code official shall be permitted to remove or cause such sign to be removed at the expense of the owner and/or the user of the sign.

I. **Obsolete Sign Copy**: Any sign copy that no longer advertises or identifies a use conducted on the property on which said sign is erected must have the sign copy removed within thirty (30) days after written notification from the code official; upon failure to comply with such notice, the code official is hereby authorized to cause a removal of such sign copy, and any expense incident thereto shall be paid by the owner of the building, structure or ground on which the sign is located. (Ord. 08-016, 8-12-2008 amd Ord. 16-003, 2-9-2016)

J. **Nonconforming Signs:** Any sign legally existing at the time of passage date hereof that does not conform in use, location, height, or size with the regulations of the zone in which such sign is located, shall be considered a legal nonconforming use or structure. (Ord. 08-016, 8-12-2008 amd Ord. 16-003, 2-9-2016)

1. The following modifications may be made to nonconforming signs without losing nonconforming status:
    a. Sign copy and face changes, non-structural modification, and non-structural maintenance (e.g., painting, and rust removal) are allowed so long as there is no alternation to the physical structure or support elements which extend the useful life of the sign.
    b. A nonconforming sign may be restored if 50 percent or less of the sign is destroyed, provided that restoration is started within 90 days of the damage occurring and is diligently pursued to completion.

2. The Town may terminate a nonconforming billboard by complying with the provisions of Utah Code Annotated section 10-9a-512 and 10-9a-513, as amended.

(Ord. 08-016, 8-12-2008 amd Ord. 16-003, 2-9-2016)

K. **Color Restrictions:** In no case will "day glow" or neon, fluorescent, reflective colored material that gives the appearance of changing color, or brilliant luminescent colors be permitted. (Ord. 08-016, 8-12-2008)

L. **Lighting Restrictions:** All externally illuminated signs, including backlit signs, shall conform to the lighting requirements contained in Chapter 12 of this Title. (Ord. 18-006, 6-11-2018)

9-14-5: EXEMPT SIGNS:

The following signs shall be exempt from the provisions of this chapter. No sign shall be exempt from subsection 9-14-4D of this chapter:

A. **Official notices** authorized by a court, public body or public safety official.

B. **Directional, warning or information signs** authorized by federal, state or municipal governments.

C. **Memorial plaques, building identification signs and building cornerstones** when cut or carved into a masonry surface, or when made of noncombustible material and made an integral part of the building or structure.

D. **The flag of a government or noncommercial institution**, such as a school.

E. **Religious symbols and seasonal decorations** within the appropriate public holiday season.

F. **Works of fine art displayed in conjunction with a commercial enterprise** where the enterprise does not receive direct commercial gain.

G. **Street address signs and combination nameplate** and street address signs that contain no advertising copy and which do not exceed six (6) square feet ($0.56m^2$) in area.

H. **No more than three (3) recreational and informational signs** per acre, with the total combined square footage not to exceed thirty-two (32) square feet.

I. **Flag/banners** that do not display a promotion, sale, special event, or advertising print, other than business name and logo, and affixed to a permanent flag or light pole. Limited to one flag/banner of not more than thirty-two (32) square feet in area each and not more than one flag/banner per one hundred feet (100') of linear street frontage and not to exceed four (4) flag/banners per business or property.

J. **Residential nameplate** affixed to the structure and not exceeding two (2) square feet in area.

K. **Business hours signs, warning/instructional signs** (i.e., beware of dog, no soliciting) at the entrance/exit of a building that do not exceed one square foot in area. (Ord. 08-016, 8-12-2008)

L. **Signs interior to a property** which are not visible from adjacent properties or the public right of way. (Ord. 16-003, 2-9-2016)

9-14-6: PROHIBITED SIGNS:

The following devices and locations shall be specifically prohibited:

A. Signs located in such a manner as to obstruct or otherwise interfere with an official traffic sign, signal or device, or obstruct or interfere with a driver's view of approaching, merging or intersecting traffic.

B. **Except as provided for elsewhere** in this title, signs encroaching upon or overhanging Town right of way. No sign shall be attached to any utility pole, light standard or any other public facility located within the public right of way. (Ord. 08-016, 8-12-2008 amd Ord. 16-003, 2-9-2016)

C. **Signs which blink, flash or are animated by lighting** in any fashion that would cause such signs to have the appearance of traffic safety signs and lights, or municipal vehicle warnings from a distance.

D. **Any sign attached to, or placed on, a vehicle** or trailer parked on public or private property except for signs meeting the following conditions: (Ord. 08-016, 8-12-2008 amd Ord. 16-003, 2-9-2016)

1. The primary purpose of such a vehicle or trailer is not the display of signs.

2. The signs are magnetic decals or painted upon an integral part of the vehicle as originally designed by the manufacturer, and do not break the silhouette of the vehicle.
3. The vehicle or trailer is in operating condition, currently registered and licensed to operate on public streets when applicable, and actively used or available for use in a daily function of the business to which such signs relate.

E. **Vehicles and trailers** shall not be used primarily as static displays, advertising a product or service, nor utilized as storage, shelter or distribution points for commercial products or services for the general public.

F. **Streamers or brightly colored decorations on signs**. (Ord. 08-016, 8-12-2008 amd Ord. 16-003, 2-9-2016)

G. **Any sign that blinks, flashes or is animated**, Blinking or flashing "open" signs no larger than four square feet are permitted in commercial zones. (Ord. 08-016, 8-12-2008 amd Ord. 16-003, 2-9-2016)

H. **Exterior signs that are internally illuminated**, including neon signs. J. Roof signs. (Ord. 08-016, 8-12-2008)

I. **Roof signs.**

J. **Off Premises Signs**. (Ord. 16-003, 2-9-2016)

9-14-7: PERMITS:

A. **Permit Required**: Unless specifically exempted, a permit must be obtained from the code official for the erection and alteration of all signs within this jurisdiction and in accordance with other ordinances of this jurisdiction. Exemptions from the necessity of securing a permit, however, shall not be construed to relieve the owner of the sign involved from responsibility for its erection and maintenance in a safe manner and in a manner in accordance with all the other provisions of this title. (Ord. 08-016, 8-12-2008 amd Ord. 16-003, 2-9-2016)

B. **Construction Documents**: Before any permit is granted for the erection of a sign or sign structure requiring such permit, construction documents shall be filed with the code official showing the dimensions, materials and required details of construction, including loads, stresses, anchorage, and any other pertinent data. The permit application shall be accompanied by the written consent of the owner of the premises upon which the sign is to be erected and by engineering calculations signed and sealed by a registered structural

engineer where required by the international building code. (Ord. 08-016, 8-12-2008 amd Ord. 16-003, 2-9-2016)

C. **Changes To Signs**: No sign shall be structurally altered, enlarged, or relocated except in conformity to the provisions herein, nor until a proper permit, if required, has been secured. The changing or maintenance of movable parts or components of an approved sign thatis designed for such changes, or the changing of copy, business name, lettering, sign faces, display and/or graphic matter, or the content of any sign, shall not be deemed a structural alteration. (Ord. 08-016, 8-12-2008 amd Ord. 16-003, 2-9-2016)

D. **Permit Fees**: Permit fees to erect, alter or relocate a sign shall be in accordance with the Consolidated Fee Schedule adopted by the Town. (Ord. 08-016, 8-12-2008)

9-14-8: SPECIFIC SIGN REQUIREMENTS:

A. **Identification Signs**: Identification signs shall be in accordance with this subsection.

1. Wall Signs: Every single-family residential subdivision, multiple-family residential complex, commercial or industrial building, and every separate nonresidential building in a residential zone, may display wall signs per street frontage subject to the limiting standards set forth in table 1-1 of this subsection. For shopping centers, planned industrial parks or other multiple occupancy nonresidential buildings, the building face or wall shall be calculated separately for each separate occupancy, but in no event will the allowed area for any separate occupancy be less than twenty (20) square feet.

2. Freestanding Signs: In addition to any allowable wall signs, every single-family residential subdivision, multiple-family residential complex, commercial or industrial building, and every separate nonresidential building in a residential zone, shall be permitted to display freestanding or combination signs per street frontage, subject to the limiting standards set forth in table 2 of this subsection.

3. Directional Signs, On Premises: This subsection regulates the directional/ informational signs for an individual business or development, such as a hotel complex, ski resort or similar type property. No more than two (2) directional sign structures shall be permitted per street entrance to any property. There shall be no limit to the number of directional signs providing directional information interior to a lot. The maximum area for any directional sign visible from adjacent property or rights of way shall be thirty-two (32) square feet, except where it can be shown that the mass and scale of the sign justifies larger area in order to make the directional information visible and legible. Not more than twenty five percent (25%) of the area of any directional sign shall be permitted to be devoted to business identification, advertising or logos, which area shall not be assessed as identification sign area.

TABLE 1-1

IDENTIFICATION SIGN STANDARDS - WALL SIGNS

Land Use	Aggregate Area (Square Feet)
Single-family residential	6
Nonresidential in a residential zone	9
Commercial and industrial & Multi-Family Residential	See table 1-2

For SI: 1 square foot = 0.0929 m^2

(Ord. 08-016, 8-12-2008 amd Ord. 16-003, 2-9-2016)

TABLE 1-2

SIGN AREA

Distance Of Sign From Road Or Adjacent Commercial Or Industrial Zone	Percentage Of Face* Permitted For Sign
0 to 100 feet	10 percent, not to exceed 100 square feet
101 to 300 feet	15 percent, not to exceed 150 square feet
Over 301 feet	20 percent, not to exceed 200 square feet

For SI: 1 linear foot = 304.8 mm

*Face = Building Elevation x Frontage (see definitions)

(Ord. 08-016, 8-12-2008 amd Ord. 16-003, 2-9-2016)

TABLE 2

IDENTIFICATION SIGN STANDARDS - FREESTANDING SIGNS

Land Use	Number Of Signs	Height To Top Of Sign	Area	Spacing
Single-family residential	1	9 feet	6	1 per subdivision entrance
Multi-family residential	1	12 feet	32 square feet	1 per driveway
Nonresidential in residential	1	9 feet	6 square feet	300[1]
Commercial and industrial	1	See figures 1008.1.2(1), (2), (3) of 2000 international zoning code	See figures 1008.1.2(1), (2), (3) of 2000 international zoning code	150[2]

For SI: 1 foot = 304.8 mm, 1 square foot = 0.0929 m^2, 1 acre = 4,047 m^2

(Ord. 08-016, 8-12-2008 amd Ord. 16-003, 2-9-2016)

Notes:

1. For subdivision or apartment signs placed on a decorative entry wall approved by the code official, two (2) identification signs shall be permitted to be placed at each entrance to the subdivision or apartment complex, one on each side of the driveway or entry drive.
2. For shopping centers or planned industrial parks, two (2) monument style freestanding signs not exceeding fifty percent (50%) each of the permitted height and area and spaced not closer than one hundred feet (100') to any other freestanding identification sign, shall be permitted to be allowed in lieu of any freestanding sign otherwise permitted in table 2.
3. For any commercial or industrial development complex exceeding one million (1,000,000) square feet of gross leasable area, or forty (40) acres in size, such as regional shopping centers, auto malls or planned industrial parks, one freestanding sign per street front shall be permitted to be increased in sign area by up to fifty percent (50%).

B. **Temporary Signs**: It is the purpose of the Town to restrict the use of temporary signs as such signs are often poorly constructed, poorly maintained, located in a manner that creates traffic safety concerns, and ten to depreciate the scenic beauty and quality of life of the community

by creating visual clutter. Temporary signs shall be in accordance with this subsection. (Ord. 08-016, 8-12-2008, amd Ord. 16-003, 2-9-2016)

1. Commercial and Industrial zones:
    a. Maximum Number of Signs: One (1) sign per twenty (20) linear feet of frontage.
    b. Maximum Height: The bottom of the sign copy area can't be higher than six feet (6') above the ground, and the top of the sign copy area can't be higher than sixteen feet (16') above the ground.
    c. Maximum Area: Total square footage of all temporary signs permitted shall not exceed the total allotment permitted to free-standing signs (see figure 1008.1.2(1) of the 2000 International Zoning Code, appended to this chapter). Notwithstanding the total allotment, no single temporary sign in commercial/industrial zones shall exceed thirty-two (32) square feet in area.
    d. Maximum Duration: No commercial or industrial zoned property may display temporary signs for more than one hundred fifty (150) days in a calendar year.

    (Ord. 08-016, 8-12-2008, amd Ord. 16-003, 2-9-2016)
2. Residential Zones:
    a. Maximum Number of Signs: One (1) sing per full acre, with a minimum of one (1) sign per lot.
    b. Maximum Height: Six (6) square feet.
    c. Maximum Area: Six (6) square feet per sign.
    d. Maximum Duration: No residential property may display temporary signs for more than ninety (90) days in a calendar year.
3. No temporary sign is permitted within ten feet (10') of the public right of way.
4. Temporary signs which are damaged, dangling, fallen over, or in a similar state of disrepair must be removed, replaced, or repaired.

    (Ord. 08-016, 8-12-2008, amd Ord. 16-003, 2-9-2016)
5. Real Estate Signs: Real estate signs shall be permitted in all zoning districts, subject to the following limitations:
    a. Real estate signs located on a single residential lot shall be limited one sign, not greater than six feet (6') in height and six (6) square feet in area.
    b. Real estate signs advertising the sale of lots located within a subdivision shall be limited to one sign per entrance to the subdivision, and each sign shall be neither greater than thirty-two (32) square feet in area, nor greater than six feet (6') in height. All signs permitted under this section shall be removed within ten (10) days after sale of the last original lot. (Ord. 08-016, 8-12-2008, amd. Ord. 16-003, 2-9-2016)
    c. Real estate signs advertising the sale or lease of space within commercial or industrial buildings shall be no greater than six (6) square feet in area, nor six feet (6') in height, and shall be limited to one sign per street front.
    d. Real estate signs advertising the sale or lease of vacant commercial or industrial land shall be limited to one sign per street front, and each sign shall be no greater than six

feet (6') in height, and thirty two (32) square feet for property of ten (10) acres (40,470 m^2) or less, or one hundred (100) square feet (9.3 m^2) for property exceeding ten (10) acres (40,470 m^2).

e. Real estate signs shall be removed not later than sixty (60) days after execution of a lease agreement in the event of a lease, or the closing of the sale in the event of a purchase. (Ord. 08-016, 8-12-2008, amd Ord. 16-003, 2-9-2016)

4. Development And Construction Signs: Signs temporarily erected during construction to inform the public of the developer, contractor, architect, engineer, the nature of the project or anticipated completion dates, shall be permitted in all zoning districts, subject to the following limitations:

a. Such signs on a single residential lot shall be limited to one sign, not greater than six feet (6') in height and six (6) square feet in area.

b. Such signs for a residential subdivision or multiple residential lots shall be limited to one sign, at each entrance to the subdivision or on one of the lots to be built upon and shall be no greater than six feet (6') in height and thirty-two (32) square feet in area.

c. Such signs for nonresidential uses in residential districts shall be limited to one sign and shall be no greater than six feet (6') in height and six (6) square feet in area.

d. Such signs for commercial or industrial projects shall be limited to one sign per street front, not to exceed six feet (6') in height and sixteen (16) square feet for projects on parcels five (5) acres (20,235 m^2) or less in size, and not to exceed six feet (6') in height and thirty-two (32) square feet for projects on parcels larger than five (5) acres (20,235 m^2).

e. Development and construction signs may not be displayed until after the issuance of construction permits by the building official and must be removed not later than sixty (60) days following the issuance of an occupancy permit for any or all portions or the project. (Ord. 08-016, 8-12-2008, amd Ord. 16-003, 2-9-2016)

3. Special Events: See definition of Special Event in 3-1 of the town code. (Ord. 08-016, 8-12-2008, amd Ord. 16-003, 2-9-2016)

C. **Requirements For Specific Sign Types:** Signs of specific type shall be in accordance with this subsection.

1. Canopy And Marquee Signs:

a. The permanently affixed copy area of canopy or marquee signs shall not exceed an area equal to one hundred percent (100%) of the face of the canopy, marquee or architectural projection upon which the sign is affixed or applied. (Ord. 08-016, 8-12-2008, amd. Ord. 16-003, 2-9-2016).

b. Graphic striping, patterns, or color bands on the face of the building, canopy, marquee or architectural projection shall not be included in the computation of sign copy area.

2. Awning Signs:

   a. The copy area of awning signs shall not exceed an area equal to one hundred percent (100%) of the background area of the awning or awning surface to which such a sign is affixed or applied, or the permitted area for wall or fascia signs, whichever is less. (Ord. 08-016, 8-12-2008, amd Ord. 16-003, 2-9-2016)

   b. Neither the background color of an awning, nor any graphic treatment or embellishment thereto, such as striping, patterns or valances, shall be included in the computation of sign copy area.

3. Projecting Signs:

   a. Projecting signs shall be permitted in lieu of freestanding signage on any street frontage, limited to one sign per occupancy along any street frontage with public entrance to such an occupancy. No such sign shall exceed an area of three (3) square feet, and not to exceed twenty-four inches (24") from the wall. (Ord. 08-016, 8-12-2008, amd. Ord. 16-003, 2-9-2016)

   b. No such sign shall extend vertically above the highest point of the building facade upon which it is mounted.

   c. Such signs shall maintain a clear vertical distance above any public sidewalk a minimum of seven feet six inches (7'6").

4. Under Canopy Signs:

   a. Under canopy signs shall be limited to no more than one such sign per public entrance to any occupancy and shall be limited to an area not to exceed six (6) square feet.

   b. Such signs shall maintain a clear vertical distance above any sidewalk or pedestrian way a minimum of seven feet six inches (7'6").

5. Window Signs: Window signs shall be permitted for any nonresidential use in a residential district, and for all commercial and industrial districts, subject to the following limitations:

   a. The aggregate area of all such signs shall not exceed the parameters of tables 1-1 and 1-2 of subsection A of this section, or up to fifty percent (50%) of the window area, whichever is less. Window panels separated by muntins or mullions shall be considered as one continuous window area.

   b. Window signs shall not be assessed against the sign area permitted for other sign types.

   (Ord. 08-016, 8-12-2008, amd Ord. 16-003, 2-9-2016)

6. Menu Boards: Menu board signs shall not be permitted to exceed sixteen (16) square feet.

7. Neon And LED: Interior neon and LED illuminated window signs shall be limited to three (3) signs, not to exceed six (6) square feet each on each street frontage. Signs shall only be illuminated during business hours. (Ord. 08-016, 8-12-2008, amd Ord. 16-003, 2-9-2016)

9-14-9: SIGNS FOR NONRESIDENTIAL COMPLEXES:

A. **Master Sign Plan Required**: All landlord or single owner controlled multiple occupancy development complexes on parcels exceeding eight (8) acres (32,376 m^2) in size, such as shopping centers or planned industrial parks, resorts, and privately-owned parks, shall submit to the Code Official a master sign plan prior to the issuance of new sign permits. The master sign plan shall establish standards and criteria for all signs in the complex that require permits, and shall address, at a minimum, the following:

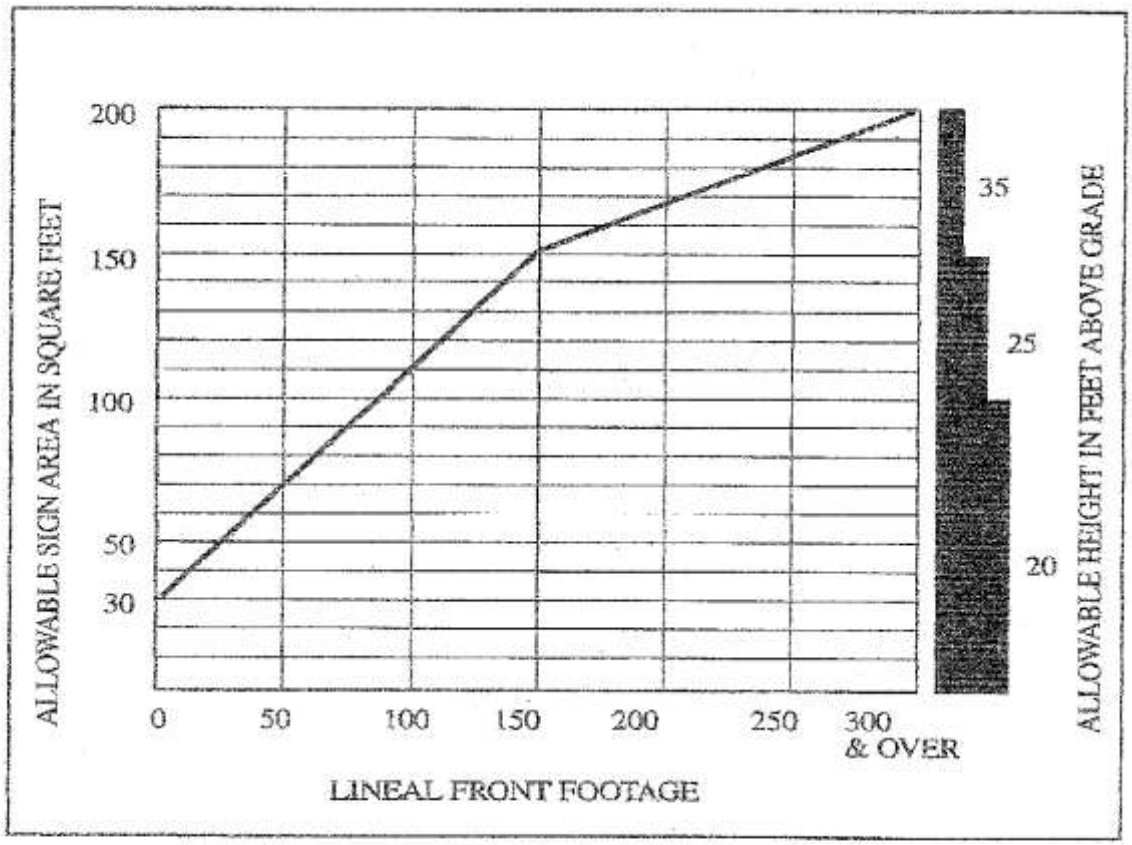
1. Proposed sign locations.
2. Materials.
3. Type of illumination.
4. Design of freestanding sign structures.
5. Size.
6. Quantity.
7. Uniform standards for nonbusiness signage, including directional and informational signs.

B. **Development Complex Sign**: In addition to the freestanding business identification signs otherwise allowed by this chapter, every multiple occupancy development complex shall be entitled to one freestanding sign per street front, at the maximum size permitted for business identification freestanding signs, to identify the development complex. No business identification shall be permitted on a development complex sign. Any freestanding sign otherwise permitted under this chapter may identify the name of the development complex.

C. **Compliance With Master Sign Plan**: All applications for sign permits for signage within a multiple occupancy development complex shall comply with the master sign plan.

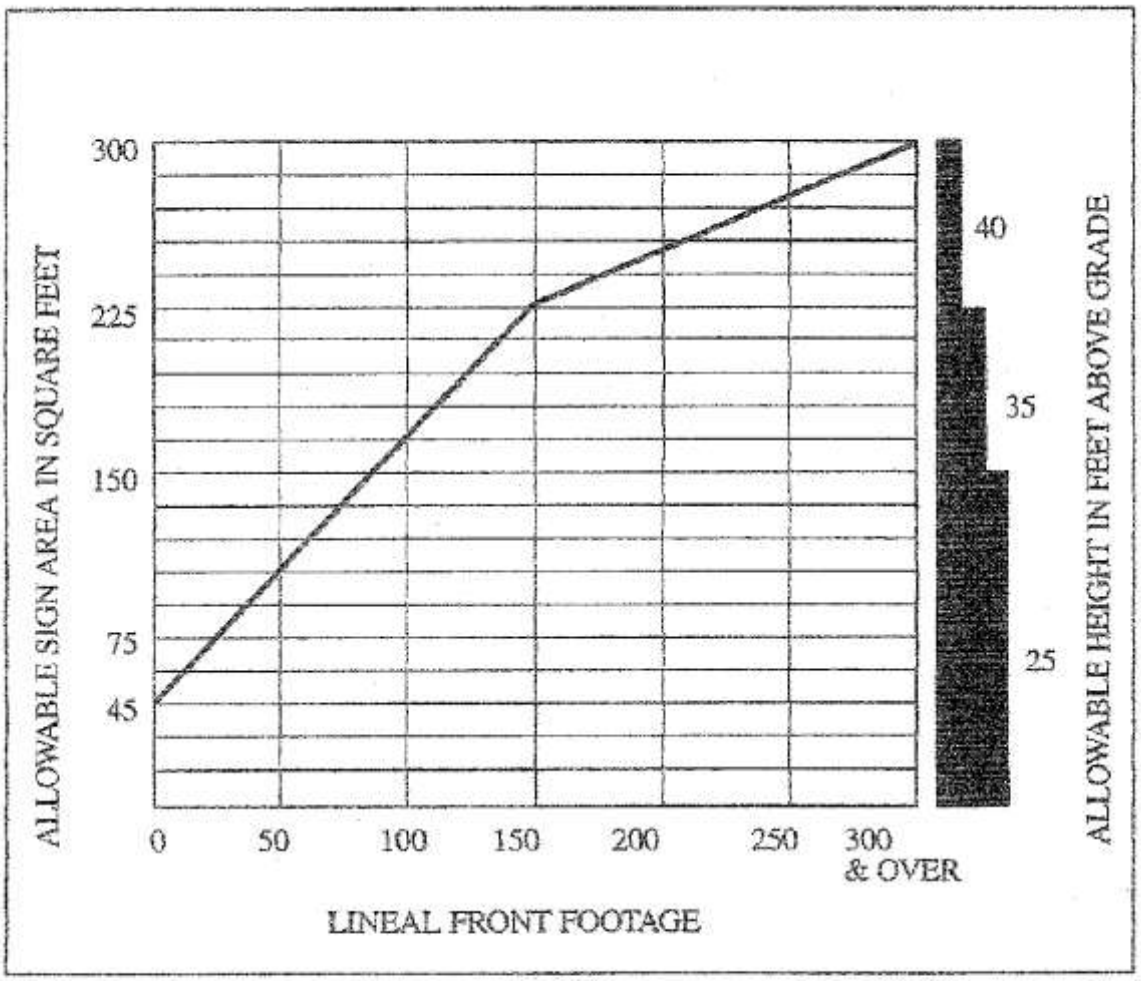
D. **Amendments**: Any amendments to a master sign plan must be signed and approved by the owners within the development complex before such amendment will become effective. When multiple ownership applies, a signed affidavit is required showing notice has been given to all owners.

E. **Approval:** All master sign plans under this section must be approved by the Planning Commission.



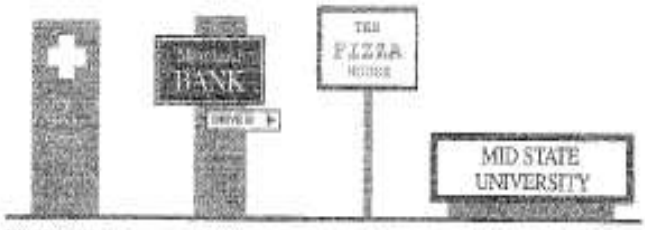
For SI: 1 foot = 304.8 mm, 1 square foot = 0.0929 m^2, 1 mile per hour = 1.609 km/h.

FIGURE 1693.1.2(1)
ON-PREMISE FREE-STANDING SIGNS/COMMERCIAL AND INDUSTRIAL ZONES
VEHICULAR SPEED SUBJECT TO POSTED LIMITS UNDER 35 MILES PER HOUR

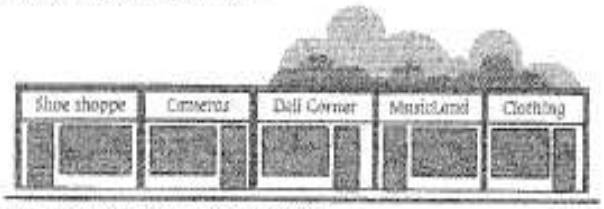


For SI: 1 foot = 304.8 mm, 1 square foot = 0.0929 m^2, 1 mile per hour = 1.609 km/h.

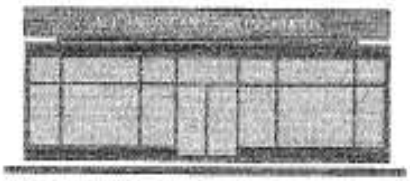
FIGURE 1008.1.2(2)
ON-PREMISE FREE-STANDING SIGNS/COMMERCIAL AND INDUSTRIAL ZONES
VEHICULAR SPEED SUBJECT TO POSTED LIMITS BETWEEN 35 AND 55 MILES PER HOUR



COMMON FREESTANDING SIGN TYPES



WALL OR FASCIA SIGNS ON STOREFRONTS



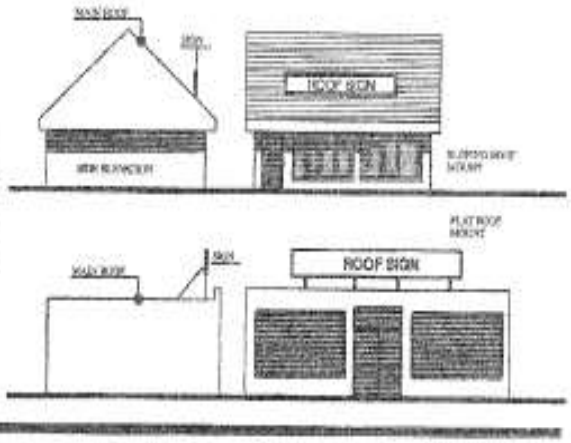
ROOF SIGN

CANOPY SIGN
OR FREESTANDING CANOPY

PROJECTING
SIGN

FIGURE 1060.1(1)
GENERAL SIGN TYPES

ROOF SIGNS



FASCIA SIGNS ON ROOF-LIKE PROJECTIONS

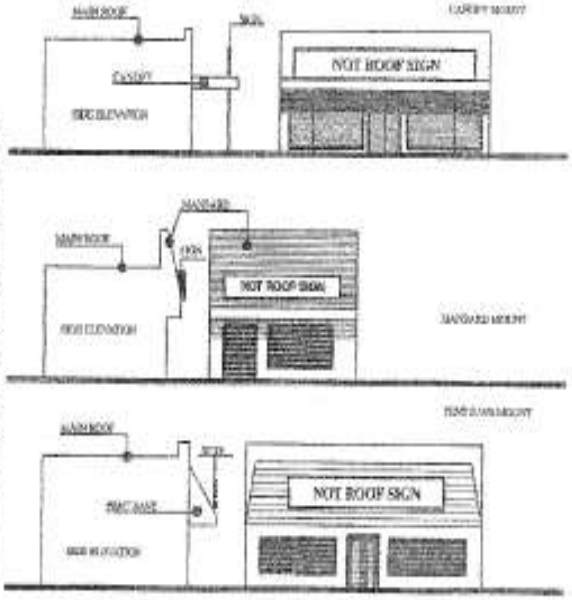


FIGURE 1060.1(2)
COMPARISON—ROOF AND WALL OR FASCIA SIGNS

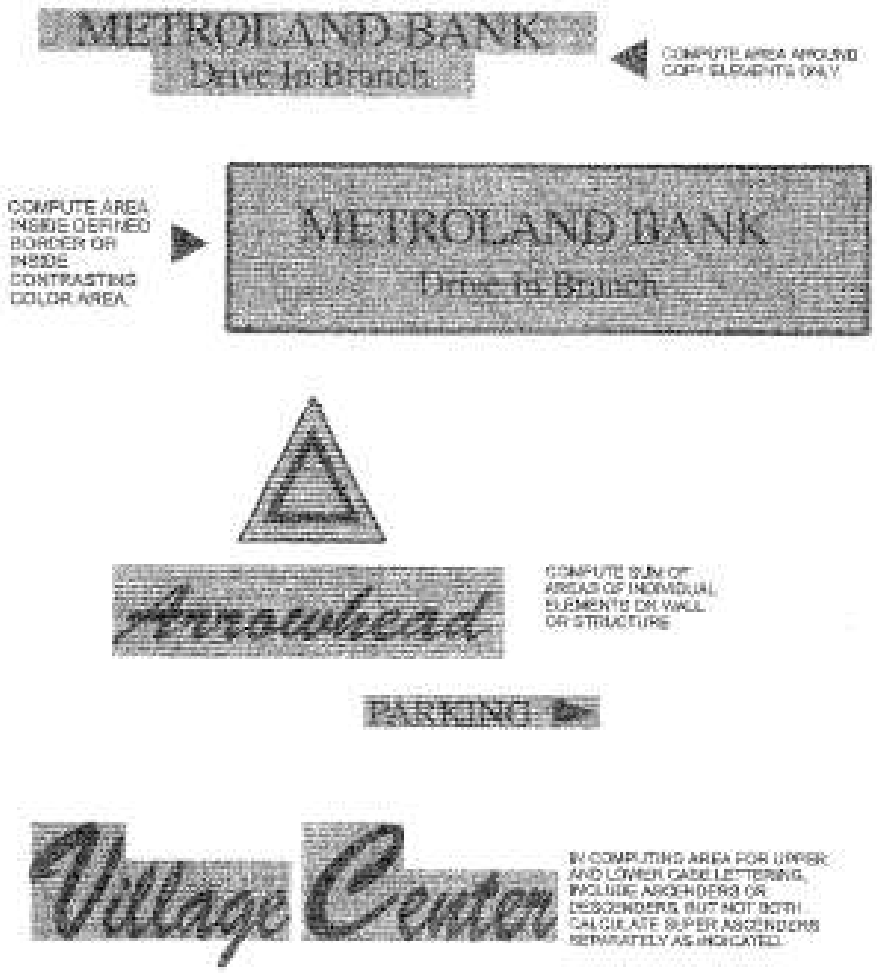


FIGURE 9909.1(4)
SIGN AREA—COMPUTATION METHODOLOGY

(Ord. 08-016, 8-12-2008)

Title 9 – Land Management Code

Chapter 15

WIRELESS TELECOMMUNICATION FACILITIES

9-15-1: PURPOSE:
9-15-2: DEFINITIONS:
9-15-3: APPLICABILITY:
9-15-4: MASTER PLAN REQUIRED:
9-15-5: ALLOWABLE USES:
9-15-6: FACILITY TYPES AND STANDARDS:
9-15-7: COLOR:
9-15-8: SITE REQUIREMENTS:
9-15-9: ADDITIONAL REQUIREMENTS:
9-15-10: ACCESSORY BUILDINGS:
9-15-11: NON-MAINTAINED OR ABANDONED FACILITIES:
9-15-12: BUILDING PERMIT REQUIRED:
9-15-13: ILLUSTRATIONS:

9-15-1: PURPOSE:

The purpose of this chapter is to establish general requirements for the siting of wireless telecommunication facilities which deal with issues of visual mitigation, noise, residential impacts, health, safety, and facility siting. The provisions of this chapter apply to both commercial and private wireless telecommunication facilities, except for residential communication equipment for single-family units that are not used for commercial profit. The intent of this chapter is to:

A. **Encourage the location** of wireless telecommunication facilities in nonresidential areas.

B. **Minimize the total number** of monopole wireless telecommunication facilities throughout the community.

C. **Encourage the collocation use** of new and existing wireless telecommunication facility sites.

D. **Encourage providers and users** of wireless telecommunication facilities to locate such facilities where the adverse impact on the community is minimal.

E. **Encourage providers** and users of wireless telecommunication facilities to use innovative designs to minimize adverse visual impact; and

F. **Enhance the ability** of the providers of telecommunication services to provide such services to the community quickly, effectively, and efficiently. (Ord. 08-016, 8-12-2008)

9-15-2: DEFINITIONS:

As used in this chapter:

ANTENNA: A transmitting or receiving device used in telecommunications that radiates or captures radio signals.

COLLOCATION: The siting of two (2) or more communication antennas on a single communication tower, or siting of one or more antennas on an existing building or structure.

LATTICE TOWER: A self-supporting multiple sided, open steel frame structure used to support telecommunications equipment.

MONOPOLE FACILITY: An antenna or series of individual antennas mounted on a single cylindrical pole, together with its associated equipment. For the purposes of this chapter, if a facility does not fit the definition of a roof or wall mounted facility, it shall be considered a "monopole facility".

ROOF MOUNTED FACILITY: An antenna or series of individual antennas mounted on a flat or pitched roof, mechanical room or penthouse of a building or structure, together with its associated equipment.

SATELLITE DISH: A dish-shaped type of parabolic antenna designed to receive microwaves from communications satellites, which transmit data transmissions or broadcasts, such as satellite television. (Ord. 15-018, 12-8-2015).

STEALTH FACILITY: A wall, roof or monopole facility which is disguised as another object or otherwise concealed from view. Examples of stealth facilities include, but are not limited to, trees, synthetic rocks, or architectural elements, such as dormers, steeples and chimneys.

WALL MOUNTED FACILITY: An antenna or series of individual antennas mounted against the vertical wall of a building or structure, together with its associated equipment.

WIRELESS TELECOMMUNICATION FACILITY OR FACILITIES: An unmanned structure or structures which consist of equipment used primarily for the transmission, reception or transfer of voice or data through radio wave or wireless transmissions. Such sites typically require the construction of transmission support structures to which antenna equipment is attached. (Ord.08-016, 8-12-2008)

9-15-3: APPLICABILITY:

The requirements of this chapter apply to both commercial and private wireless telecommunication services, such as "cellular" or "PCS" (personal communications services) communications, wireless internet, and paging systems. All wireless telecommunication facilities shall comply with the following regulations and all other ordinances of the town, as well as with any pertinent regulations of the federal communications commission and the federal aviation administration. (Ord. 08-016, 8-12-2008)

9-15-4: MASTER PLAN REQUIRED:

A site location master plan shall be submitted by each company desiring placement of wireless telecommunication facilities. The master plan shall be submitted to the Planning Commission and town staff prior to processing any permits for permitted or conditional use locations. The master plan shall include an inventory of existing and anticipated sites for the location of wireless telecommunication facilities within the Town, within the town annexation boundary, and within one-half ($^1/_2$) mile outside of the town annexation boundary. The plan shall indicate area coverage, if known, location, antenna height above existing grade, ability to collocate or justification for not collocating, and antenna type for each site. The plan shall be updated by the company upon request from the Planning Commission. Every master plan shall be considered proprietary information and not be part of the public record. (Ord. 08-016, 8-12-2008)

9-15-5: ALLOWABLE USES:

The uses specified in table A are allowed; provided, that they comply with all requirements of this chapter:

TABLE A

P **Permitted Use**		**C** **Conditional Use**		**N** **Not Allowed**
Zones	**Wall Mount**	**Roof Mount**	**Monopole**	**Lattice Tower**
R-1	C	C	N	N
R-2[1]	C	C	C	N
R-3[1]	C	C	C	N

GC[1]	C	C	C	N
VC[1]	C	C	C	N
L-1[1]	C	C	C	N
ROS (recreation open space)	C	C	C	N
COS (conservation open space)	C	C	N	N
CV (civic uses)[1]	C	C	C	N

(Ord. 08-016, 8-12-2008, amd. Ord. 15-018, 12-8-2015)

Note:

1. Stealth facilities are conditional uses and not required to be located with public or quasi-public uses.

(Ord. 08-016, 8-12-2008)

9-15-6: FACILITY TYPES AND STANDARDS:

Wireless telecommunication facilities are characterized by the type and location of the antenna structure. There are four (4) general types of antenna structures: wall mounted; roof mounted; monopoles; and lattice towers. Standards for the installation of each type of antenna are as follows:

A. **Wall Mounted Antenna**: The following provisions apply to wall mounted antennas (see figure 1 at section 9-15-13 of this chapter). Satellite dishes which meet this requirement are not required to get a building permit or approval. Satellite dishes cannot stick out more than four feet (4') and less than 36" in diameter. (Ord. 08-016, 8-12-2008, amd. Ord. 15-018, 12-8-2015)

1. Wall mounted antennas shall not extend above the wall line of the building or structure or extend more than four feet (4') horizontally from the face of the building or structure.
2. Antennas, equipment, and the supporting structure shall be painted to match the color of the building or structure, or the background against which they are most commonly seen. Antennas and the supporting structures on buildings shall be architecturally compatible with the building.

3. Antennas mounted directly on existing parapet walls, penthouses, or mechanical equipment rooms, with no portion of the antenna extending above the roofline of such structures, shall be considered a wall mounted antenna.

4. Stealth wall mounted antennas are encouraged and shall be allowed to vary from the provisions of this section as determined by the Town Manager, or his designee, for permitted uses, and the Planning Commission for conditional uses. Stealth wall mounted antennas are not required to be located with public or quasi-public uses in R-l, R-2 and R-3 zones (see table A at section 9-15-5 of this chapter).

B. **Roof Mounted Antenna:** The following provisions apply to roof mounted antennas (see figures 2 and 3 at section 9-15-13 of this chapter):

1. Roof mounted antennas shall be allowed on top of existing penthouses or mechanical equipment rooms, provided the antennas and antenna mounting structures shall not extend more than eight feet (8') above the existing roofline of the penthouse or mechanical equipment room.

2. For antennas not mounted on a penthouse or mechanical equipment room and on a flat roof:

   a. The antennas shall be mounted at least five feet (5') from the exterior wall or parapet wall of a building or structure.

   b. The height shall be measured from the top of the antenna to the roofline of the building or structure, or to the top of the parapet wall if a parapet wall exists. For antennas mounted between five feet (5') and fourteen feet (14') from the exterior wall or parapet wall, the maximum height of the antenna is equal to the distance the antenna is set back from the exterior wall or parapet wall. For antennas set back more than fourteen feet (14'), the maximum height shall be fourteen feet (14').

   c. Roof mounted antennas on a pitched roof shall be allowed, provided the antennas and antenna support structures do not extend higher than the peak of the roof measured by a horizontal line from the peak extending over the roof (see figure 3 at section 9-15-13 of this chapter).

   d. Roof mounted antennas shall be constructed and/or colored to match the surroundings in which they are located.

   e. Stealth roof mounted antennas are encouraged and shall be allowed to vary from the provisions of this section as determined by the Planning Commission. Stealth roof mounted antennas are not required to be located with public or quasi-public uses in R-1, R-2 and R-3 zones (see table A at section 9-15-5 of this chapter).

C. **Monopole:** The following provisions apply to monopoles:

1. The height limit for monopoles is sixty feet (60'). The height shall be measured from the top of the structure, including antennas, to the original grade directly adjacent to the monopole. The Planning Commission may allow a monopole up to eighty feet (80') in the GC, VC, L, ROS, COS and CV zones, if it finds that:

a. The monopole will blend in with surrounding structures, poles or trees and is compatible with surrounding uses;

b. The monopole will be available for collocation with other companies; and

2. In R-2 and R-3 zones, monopoles will only be allowed in conjunction with an existing public or quasi-public use. Public and quasi-public uses include, but are not limited to, churches, schools, utility infrastructure areas (substation, service yards) and parks.

3. No monopoles shall be allowed in the front yard setback of any lot.

4. Monopoles shall be set back from any residential structure a distance equal to its height.

5. Stealth monopole facilities are encouraged and shall be allowed to vary from the provisions of this section as determined by the Town Manager, or designee, for permitted uses and the Planning Commission for conditional uses. Stealth monopoles are not required to be located with public or quasi-public uses in R-2 and R-3 zones (see table A at section 9-15-5 of this chapter).

D. **Lattice Towers**: Lattice towers are not allowed. (Ord. 08-016, 8-12-2008)

9-15-7: COLOR

Monopoles, antennas and any associated buildings or equipment shall be covered with natural material (exposed aggregate, wood, stone veneer) or painted to blend with the surroundings with which they are most commonly seen. The color and appearance shall be determined on a case by case basis by the Planning Commission for conditional uses, and by the Town Manager, or his designee, for permitted uses. Within six (6) months after the facility has been constructed, the Planning Commission or the Town Manager may require the color be changed if it is determined that the original color does not blend with the surroundings. (Ord. 08-016, 8-12-2008)

9-15-8: SITE REQUIREMENTS:

A. **Any grading for telecommunication facilities**, including access roads and trenching for utilities, shall comply with this title and currently adopted state building codes. All reasonably available measures shall be taken to minimize disturbance of the natural environment.

B. **A computer generated visual simulation** of the proposed structures is required for all sites. The simulation shall show all structures, including, but not limited to, monopoles, antennas, equipment buildings and any related facilities or structures.

C. **All reasonably available measures** shall be taken to minimize disturbance of the visual environment. Site placement and color shall be carefully considered so that the facilities will blend in with the surroundings.

A. Continuous outside lighting is prohibited unless required by the FAA for the monopole or antenna. (Ord. 08-016, 8-12-2008)

9-15-9: ADDITIONAL REQUIREMENTS:

The following shall be considered by the Planning Commission for conditional uses:

A. **Compatibility of the proposed structure** with the height and mass of existing buildings and utility structures.

B. **Location of the antenn**a on other existing structures in the same vicinity, such as other monopoles, buildings, water towers, utility poles, athletic field lights, parking lot lights, etc., where possible, without significantly impacting antenna transmission or reception.

C. **Location of the antenna** in relation to existing vegetation, topography, including ridgelines, and buildings to obtain the best visual screening.

D. **Spacing between monopoles** which creates detrimental impacts to adjoining properties.

E. **Installation of, but not limited to**, driveways, landscaping and fencing as required by this title. (Ord. 08-016, 8-12-2008)

9-15-10: ACCESSORY BUILDINGS:

Accessory buildings constructed or used in connection with antennas, monopoles or other facilities must comply with the required setback, height, and landscaping requirements of the zoning district in which they are located. All utility lines on the lot leading to the accessory building, antenna, monopole or other facility or structure shall be installed underground, with exceptions granted as necessary where lines enter the building. (Ord.08-016, 8-12-2008 amd Ord. 15-018, 12-8-2015)

9-15-11: NONMAINTAINED OR ABANDONED FACILITIES:

The Building Official may require each non-maintained or abandoned telecommunication facility to be removed from the building or premises when such a facility has not been repaired or put into use by the owner or agent within ninety (90) calendar days after notice of non-maintenance or abandonment is given to the owner or agent. (Ord. 08-016, 8-12-2008)

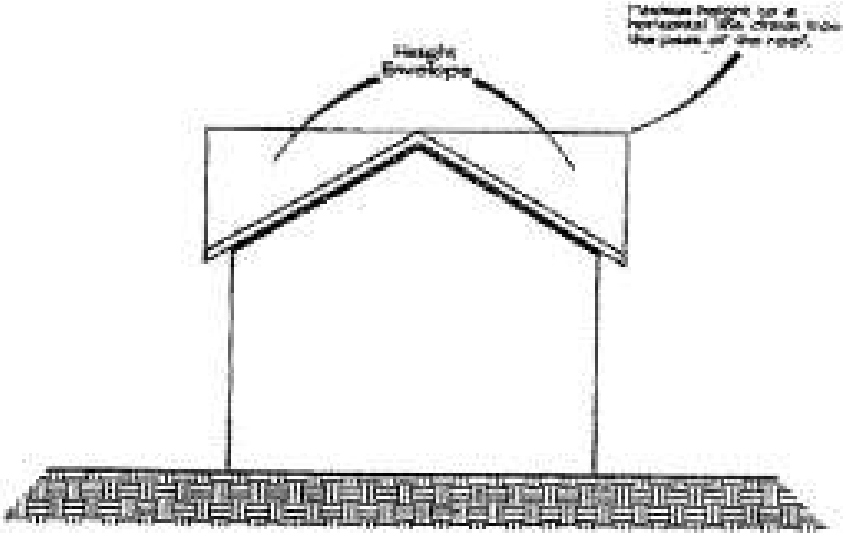
9-15-12: BUILDING PERMIT REQUIRED:

A building permit is required for all wireless telecommunication facilities, including, but not limited to, monopoles, and roof and wall mounted antennas. (Ord. 08-016, 8-12-2008)

Exemptions: Satellite dishes less than 36" in diameter and connect stick out from the building more than four feet (4') for private use (Ord. 15-018, 12-8-2015)

9-15-13: ILLUSTRATIONS:

The following illustrations, figures 1, 2, and 3, are intended to demonstrate graphically the intent of this chapter. Such illustrations shall in no way be interpreted to modify, amend, or vary the terms of this chapter:



Roof Mounted Antennas
Pitched Roof

Figure 3

(Ord. 08-016, 8-12-2008)

Title 9 – Land Management Code

Chapter 16
MASTER TRAILS PLAN

9-16-1: MASTER TRAIL PLAN ADOPTED

9-16-1: STANDARD PLANS AND SPECIFICATIONS ADOPTED:

The Master Trail Plan dated February 10, 2015, attached to ordinance and standards applicable to the construction and improvements to all Town trails motorized and non-motorized. All construction and improvements of trails within the Town shall comply with such plans. (ord 15-002, 02-10-2015)