

Chapter 1

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Chapter 1

Introductory Provisions

1.1 SHORT TITLE.

(1) This code shall be known as “The Land Use Development and Management Code” of the Town of Rush Valley, and may be so cited and pleaded.

1.2 AUTHORITY.

(1) The Town Council of The Town of Rush Valley adopts this Land Use Development and Management Code pursuant to Title 10, Chapter 9 of the Utah statutes and such other authorities and provision of Utah statutory and common law that are relevant and appropriate.

1.3 PURPOSE.

(1) This code is adopted to provide for the health, safety, and welfare, and promote the prosperity, peace and good order, comfort, convenience aesthetics, and welfare of The Town of Rush Valley and its present and future inhabitants and businesses, to secure safety from fire and other dangers, provide adequate light and air, classify land uses and distribute land development and utilization, protect the tax base, secure economy in governmental expenditures, foster the Town’s agricultural, industrial, business and residential development, and to protect property values.

1.4 EFFECT OF CHAPTER.

(1) The regulations hereinafter set forth in this chapter qualify or supplement, as the case may be, the district regulations and all other regulations appearing elsewhere in this Code.

1.5 INTERPRETATION.

(1) The regulations contained in this Ordinance shall be interpreted and applied in accordance with the following rules:

(a) All regulations shall be construed as the minimum requirements necessary to promote the public health, safety, convenience, order, and prosperity and welfare of the Town.

(b) The provisions of this Ordinance are not intended to interfere with, abrogate or require enforcement by the Town of any legally enforceable easements, covenants, or other agreements between private parties that may restrict the use of land or dimensions of structures more than the provisions of this Ordinance. However, when the regulations of this Ordinance impose greater restrictions than are imposed by such easements, covenants or other agreements between parties, or than are required by

laws or other applicable ordinances, the provisions of this Ordinance shall control. In addition, deed restrictions imposed by the Town as a condition of subdivision plat approval shall be enforced by the Town.

(c) The masculine gender shall include the feminine and the feminine gender shall include the masculine.

(d) A word importing the singular number may be applied to plural persons and things. Conversely, the use of the plural number shall be deemed to include any single person or thing.

(e) The present tense of a word shall be deemed to include the future tense as well.

(f) The word "shall" is mandatory; the word "may" is permissive.

(g) The word "year" shall mean a calendar year, unless otherwise indicated.

1.6 CONFLICT.

(1) This Code shall not nullify the more restrictive provisions of covenants, agreements, or other ordinances or laws, but shall prevail notwithstanding such provisions which are less restrictive. Whenever other restrictions or provisions are adopted under state law the most restrictive requirement shall govern.

1.7 EFFECT ON PREVIOUS ORDINANCES AND MAPS.

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

1.8 LICENSING.

(1) All departments, officials and public employees of The Town of Rush Valley which are vested with duty or authority to issue permits or licenses shall conform to the provisions of this Code and shall issue no permit or license for uses, buildings, or purposes where the same would be in conflict with the provisions of this Code, shall be null and void.

1.9 SEVERABILITY.

(1) Should any chapter, section, clause, or provision of this Code be declared by the courts to be invalid, the same shall not affect the validity of the Code as a whole or any part thereof other than the part so declared to be invalid.

1.10 LEGAL REMEDIES FOR VIOLATION.

(1) Any person, firm, or corporation, whether as principal, agent or employee, who violates or causes the violation of any of the provisions of this Code shall be guilty of a Class "C" Misdemeanor as defined by the Utah Code or as otherwise allowed by the Utah Code and upon conviction thereof shall be punished as provided by law. In addition, the following may institute injunction, mandamus, abatement, or any other appropriate action or proceeding to prevent, enjoin, abate or remove such unlawful erection, construction, reconstruction, alteration, or maintenance or use:

(a) The Town of Rush Valley by action of the Town Council, or

(b) Any owner of real estate within the zoning district in which an alleged violation of this Code has occurred; or the owner of real estate across a zoning district line and abutting or facing the real estate where the alleged violation has occurred.

1.11 APPEALS.

(1) No person may challenge in district court The Town of Rush Valley's land use decision made under this chapter or under the regulation made under authority of this chapter or this code until they have exhausted their administrative remedies. Any person adversely affected by any decision made in the exercise of the provisions of this chapter may file a petition for review of the decision with the district court within 30 days after the local decision is rendered.

1.12 ENFORCEMENT.

(1) The Town of Rush Valley or any owner of real estate within The Town of Rush Valley in which violations of this chapter or ordinances enacted under the authority of this chapter occur or are about to occur may, in addition to other remedies provided by

law, institute:

(a) injunctions (The Town of Rush Valley need only establish the violation to obtain the injunction), mandamus, abatement, or any other appropriate actions; or

(b) proceedings to prevent, enjoin, abate, or remove the unlawful building, use, or act.

(c) The Town of Rush Valley may enforce the ordinance by withholding building permits or development approval.

1.13 BUILDING PERMITS – SITE PLAN REQUIRED.

(1) It is unlawful to erect, construct, reconstruct, alter, place or change the use of any lot, building or other structure within The Town of Rush Valley without approval of a building permit. An application for a building or use permit shall be made to The Town of Rush Valley Planning Commission and Building Official and shall include a site plan and such other information as may be required by ordinance in The Town of Rush Valley and State of Utah building codes. The Town of Rush Valley may not issue a building permit unless plans of and for the proposed erection, construction, reconstruction, alteration, or use fully conform to all regulations then in effect.

(a) Building, use, and occupancy permits shall not be granted for the construction or alteration of any building or structure, for the moving or removal of a building onto or from a lot or for the use or occupancy of a building or land if such structure, construction, alteration, moving, use, or occupancy would be in violation of any of the provisions of this Code. Permits issued in violation of any provision of this Code, whether intentional or otherwise, shall be null and void.

(b) An occupancy permit shall not be issued until the Building Official has filed, on record, a report finding that the structures and intended uses are in compliance with the provisions of this Code and specifically as to location and completion of both off-site (utilities, fences, ditches, etc.) and on-site (buildings, etc.) improvements.

1.14 Reserved

1.15 OCCUPANCY PERMIT REQUIRED.

(1) Land, buildings or premises in any district shall hereafter be used only for a purpose permitted in such district and in accordance with district regulations. A permit of occupancy shall be issued by the Building Official or designated representative to the effect that the use, building or premises will conform to the provisions of this or other related ordinances prior to occupancy, for any building that has been erected, enlarged or altered structurally, or the occupancy or use of any land, except for permitted agricultural uses. Such a permit is needed whenever the use or character of any building or use of land is to be changed. An Occupancy Permit is issued after the approved final inspection which shows completion of a building permit. Upon written request from the owner, a permit shall be issued covering any lawful use of buildings or premises existing on the effective date of this Ordinance and any subsequent amendments, including non-conforming buildings and uses.

1.16 INSPECTION.

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

1.17 INSPECTION AND APPROVAL REQUIRED PRIOR TO OCCUPANCY.

(1) Buildings and structures requiring a building permit pursuant to the provisions of this Code shall not be occupied nor put into use until the Town Building Official has inspected such building or structure, finds compliance with this Code and the building codes of the State of Utah, and gives a written certificate of occupancy and use to the owner or his agent to occupy and/or use the building or structure in the manner approved by the issuance of a valid building permit.

1.18 NOTICE.

(1) When application is made to amend a zoning district or portion thereof, in The Town of Rush Valley, notice of the public hearing shall be made by posting in three public places with the Town and by publication in a newspaper having general circulation within The Town of Rush Valley, at least fourteen (14) days in advance of the hearing.

1.19 PROPERTY OWNED BY OTHER GOVERNMENT UNITS – EFFECT OF LAND USE AND DEVELOPMENT ORDINANCES.

(1) Each county, municipality, school district, special districts, and political subdivision of Utah shall conform to the land use and development ordinances of The Town of Rush Valley when installing, constructing, operating, or otherwise using any area, land, or building situated within that municipality only in a manner or for a purpose that conforms to that municipality's ordinances. A school district is subject to The Town of Rush Valley's land use regulations as required by state statute, except that The Town of Rush Valley may not:

(a) impose requirements for landscaping, fencing, aesthetic considerations, construction methods or materials, building codes, building use for educational purposes, or the placement or use of temporary classroom facilities on school property;

(b) require a school district to participate in the cost of any roadway or sidewalk not reasonably necessary for the safety of school children and not located on or contiguous to school property, unless the roadway or sidewalk is required to connect an otherwise isolated school site to an existing roadway;

(c) require a school district to pay fees not authorized by state statute;

(d) provide for inspection of school construction or assess a fee or other charges for inspection, unless neither the school district nor the state superintendent has provided for inspection by an inspector, other than the project architect or contractor, who is qualified under criteria established by the state superintendent with the approval of the state building board and state fire marshal, charges for inspection, unless neither the school district nor the state superintendent has provided for inspection by an inspector, other than the project architect or contractor, who is qualified under criteria established by the state superintendent with the approval of the state building board and state fire marshal.

(e) Require a school district to pay any impact fee for improvements not reasonably related to the impact of the project upon the need which the improvement is to address; or

(f) Impose regulations upon the location of a project except as necessary to avoid unreasonable risks to health or safety.