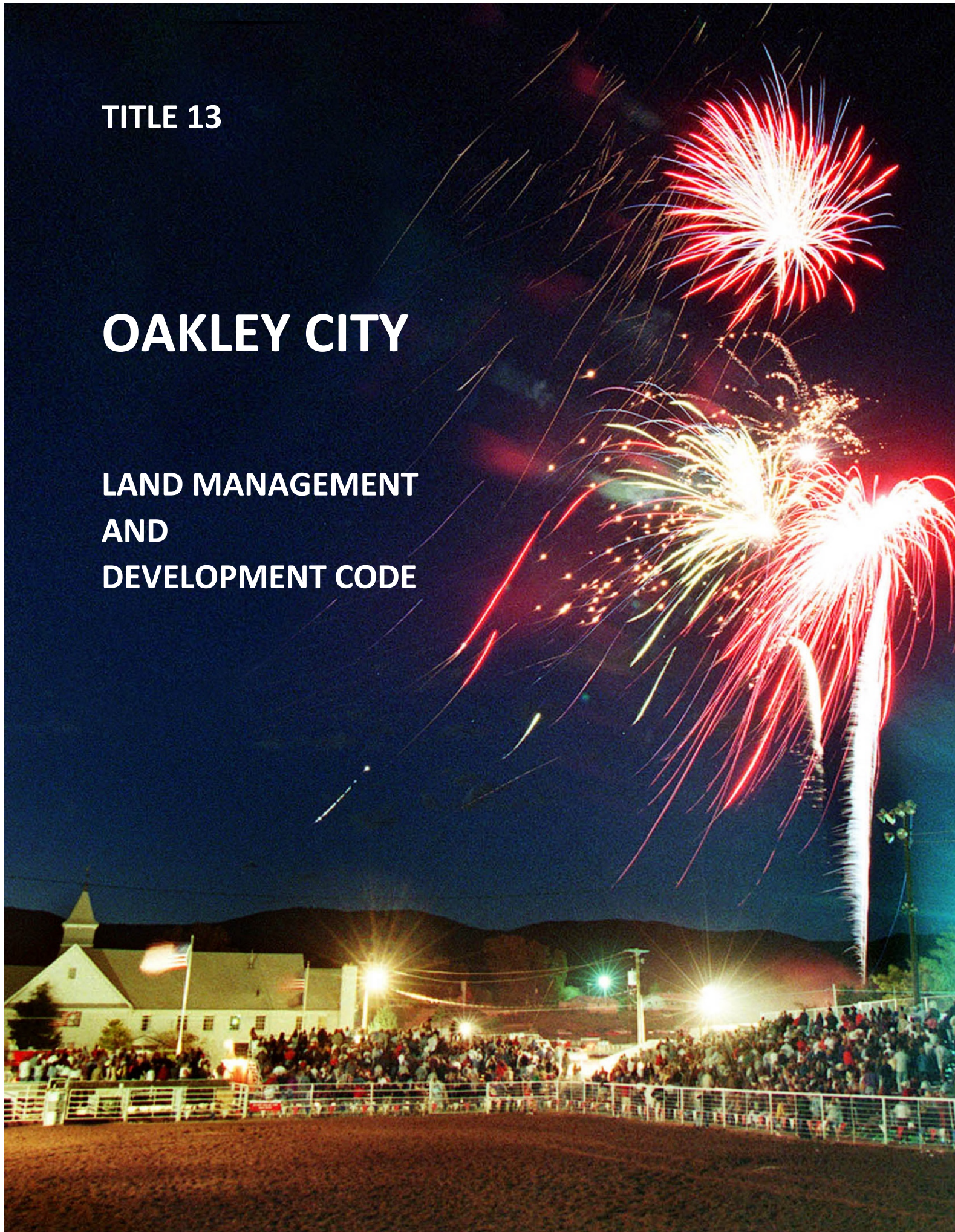


TITLE 13

OAKLEY CITY

**LAND MANAGEMENT
AND
DEVELOPMENT CODE**



**The Oakley City
Land Management and Development Code**



Adopted xx/xx/2021

**Prepared by the Oakley City Staff
and Planning Commission**

Approved:

Attest:

Mayor, Wade Woolstenhulme

City Clerk

Approved as to form: _____
City Attorney

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CHAPTER 1 GENERAL PROVISIONS

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13-1-1: SHORT TITLE:

This Title shall be known as the OAKLEY CITY LAND MANAGEMENT AND DEVELOPMENT CODE and is referred to herein as "this Title", or "this Code".

13-1-2: STATEMENT OF PURPOSE:

- A. The Oakley City General Plan (hereafter referred to as "the General Plan"), was developed to ensure that the rural, agricultural and small-town character of the of the City shall remain. It is the intent of the City, in adopting this Title, to fully exercise all of the powers granted to it by the provision of Utah Code Annotated Title 10, for the appropriate regulation of development and changes and improvements to land use within Oakley City (hereafter referred to as "the City").

- B. The intention of the City is to assure the managed, proper and sensitive development of land and to protect and enhance the rural, agricultural and small-town qualities and lifestyle that exist. This Title is intended to allow development in a manner that encourages the preservation of agricultural lands; the logical and appropriate growth of the City; is flexible with regard to location so long as a land

use is compatible with its surroundings; preserves the natural resources and greenspaces; secures economy in the City and municipal expenditures in providing adequate transportation, public safety, and other public services; and promotes a diverse population and economy. This Title seeks to prevent or minimize development where it will otherwise increase potential dangers to life and safety of existing and future residents; adversely influences critical wildlife habitats and environmentally sensitive areas; requires substantial expenditures by the City to serve and protect and detracts from the rural, agricultural and small-town character of Oakley City.

13-1-3: APPLICABILITY:

This Title and the Zone District Map shall be applicable to the entire geographic locale commonly referred to as Oakley City.

13-1-4: DEVELOPMENT REVIEW FEES:

From time to time the City Council may establish fees to be paid by applicants to the City for the purpose of covering specific City costs incurred during the review and processing of an application hereunder. The amount to be charged by the City shall be established by resolution of the City Council.

13-1-5: PLANNING COMMISSION:

- A. **Creation:** There is hereby established an Oakley City Planning Commission ("Planning Commission").

- B. **Powers and Duties:** The Planning Commission shall have the following powers and duties:
 - 1. To prepare or cause to be prepared a General Plan or element thereof and to recommend the proposed General Plan or element to the City Council;
 - 2. To prepare or cause to be prepared amendments to the General Plan or elements thereof and to recommend the amendments to the City Council;
 - 3. To review and make recommendations to the City Council in regard to amendments to the Zone District Map;
 - 4. To initiate, hear, review and make recommendations to the City Council on applications for amendments to this Title;
 - 5. To initiate a subpoena to compel documents and testimony required in the normal processing and review of matters pertaining to the Planning Commission;
 - 6. To hear, review and approve or disapprove all applications for conditional uses and long-term temporary uses. To hear, review and recommend approval or disapproval of all applications for minor subdivision of

property, cluster bonus/agricultural preservation subdivisions, major development review, master planned developments, development agreements or other procedures identified in this Title, in accordance with the rules and regulations established by the City Council and as stated in this Title; and

7. To adopt bylaws, policies, procedures and regulations for the conduct of its meetings, the consideration of applications for development approval, and for any other purposes deemed necessary for the functioning of the Planning Commission; provided, however, that the bylaws, policies, procedures and regulations shall be consistent with this Title and shall be approved by the City Council before taking effect.

C. **Qualifications for Membership:** Members of the Planning Commission shall have their primary residence in Oakley City and be a resident for six months prior to appointment. They shall also remain a resident of Oakley City throughout their term.

D. **Membership; Appointment, Terms, Removal, Vacancies and Compensation:**

1. The Planning Commission shall be composed of five (5) to seven (7) members to be appointed by the City Council. Any vacancy in the membership of the Planning Commission shall be advertised by posting and publication in a newspaper of general circulation and applications accepted for a minimum of fourteen (14) days following such application and posting. Reappointments of existing Planning Commission members may be made by the City Council. In making appointment to the Planning Commission, the City Council shall assure diversity in the membership of the commission to the extent reasonably practicable by considering all relevant factors such as geographic diversity, occupational diversity, socioeconomic factors, cultural influences, and other similar criteria.
2. All members of the Planning Commission shall serve at the pleasure of the City Council and may be removed at any time by a majority vote of the City Council.
3. Members may be compensated per diem, based upon meetings attended and reasonable and necessary expenses, as determined by the City Council.
4. All members shall serve a term of four (4) years, except that in the case of the first Planning Commission appointed under the provisions of this section, two (2) members shall be appointed for an initial term of two years (if there are 5 members), three (3) members shall be appointed for an initial term of two (2) years (if there are 6 or 7 members). Any vacancy created during the term of a member shall be filled for only the remainder of the unexpired portion of that term. No member shall serve more than three (3) consecutive terms, including portions of unexpired terms.
5. At the first meeting held in March, after the appointment of any new members, the members of the Planning Commission shall elect one of its

members as chair and one member as vice chair. In the absence of the chair, the vice chair shall act as chair and shall have all powers of the chair. The chair shall serve a term of one year. No member shall serve as chair for more than two (2) consecutive one-year terms.

6. The chair, or in the chair's absence the vice chair, shall be in charge of all proceedings before the Planning Commission, and shall take such action as shall be necessary to preserve order and the integrity of all proceedings before the Planning Commission.
7. The City Planner or other designated City staff member shall maintain attendance records of members. It is expected that planning commission members will attend at least eighty percent (80%) of meetings in a 12-month period. Failure to meet this obligation may also be cause for removal by the City Council.

E. **Recording Secretary:** The City Planner or designated planning staff member shall appoint a recording secretary to serve the Planning Commission. The secretary shall keep minutes of all proceedings of the Planning Commission, which minutes shall be a summary of all proceedings before the Planning Commission, attested to by a majority of the members of the Planning Commission voting. In addition, the recording secretary shall maintain all records of the Planning Commission meetings, hearings and proceedings, the correspondence of the Planning Commission, and a mailing list of persons registering to receive notices of meetings, agendas or minutes and who have paid an annual fee set by the City Council to solely cover the copying and mailing cost for receiving all notices and agendas.

F. **Planning Commission Staff:** The City Planner and any other City staff or duly appointed professional shall act as the professional staff of the Planning Commission.

G. **Quorum and Necessary Vote:** No meeting of the Planning Commission may be called to order without a quorum consisting of at least three (3) members in a five (5) member board, or four (4) members of a six (6) or seven (7) member board of the Planning Commission being present. No business shall be transacted without at least a majority of all members being present. All actions shall require the concurring vote of a majority of the members present, unless stricter voting procedures are established by the Planning Commission. The chair shall be considered for purposes of establishing a quorum and shall act as a voting member, unless there are six (6) commissioners appointed, and if so, the chair will only vote as a tie breaker.

H. **Meetings, Hearings and Procedures:**

1. The Planning Commission shall establish a regular meeting schedule. Special meetings, work sessions and field trips for any purpose, may be held at the call of the City Council, City Mayor, the members of the

Planning Commission or the City Planner or designated planning staff member.

2. If a matter is postponed due to lack of quorum, the matter shall be rescheduled to the next regular meeting. The City Planner or designated planning staff member shall notify all members and interested parties of the date of the rescheduled matter.

13-1-6: JOINT PLANNING:

In order to provide for coordination and a means to adequately address matters that overlap in any regional planning efforts, the City Council is authorized to require joint planning meetings for such matters. The City Planner or designated planning staff member shall notify the City Council of such matters and the City Council shall then determine whether joint planning sessions are required. The purpose of joint planning meetings is to provide for discussion among Planning Commission members of different Cities, Summit County, public officials, developers and the public on various regional issues related to the matter in question. Notice of such joint planning sessions shall be for the purpose of discussion and education and are not intended to result in any formal recommendation during the joint planning sessions, although information presented at such sessions may be made part of the record of subsequent proceedings of each Planning Commission or other official body related to the matter in question. Upon completion of the joint planning sessions, the Planning Commission shall take action or make a recommendation on matters as required under this Title.

13-1-7: BOARD OF ADJUSTMENT:

- A. **Appointment:** The City Mayor, with the advice and consent of the City Council, shall appoint five (5) members to the Board of Adjustment for three (3) year terms, or until the member's successor is appointed. Members shall serve no more than three (3) consecutive terms.
- B. **Removal:** The City Council may remove any member for intentional misconduct or neglect of duty. Violation of City policies shall be tantamount to misconduct hereunder, and failure to attend two (2) consecutive board meetings shall be tantamount to the neglect of duty hereunder. The City Planner or designated planning staff member shall immediately file a notification of such nonattendance with the Mayor and City Council. The City council may, by appropriate action, terminate the appointment of such person and fill the vacancy thereby created as soon as possible for the unexpired term.
- C. **Officers:** The members shall annually select a chair and vice chair for one-year terms.

- D. **Vacancies:** Vacancies on the board occasioned by removals, resignations, or otherwise, shall be filled for the unexpired term in the same manner as the original appointments.

- E. **Powers and Duties:**
 - 1. The Board of Adjustment shall hear and decide:
 - a. Variances from the terms of the zoning provisions established in chapter 4 of this Title, said variances to be only granted pursuant to the provisions of this Title regarding variances.
 - 2. The Board of Adjustment shall not have the power, jurisdiction or authority to consider any of the following:
 - a. Variances to the standards governing approval of subdivisions, site plans, MPD's, consent agreements, levels of service, or conditional use permits;
 - b. Amendments to the Oakley City General Plan and any element or map thereof, including permissible use of land within any land use category or zoning district; or
 - c. Variances from the use provisions of the zoning regulations.

- F. **Staff:** The City Planning department shall be and serve as the professional staff of the Board of Adjustment.

- G. **Meetings:**
 - 1. The board shall meet monthly or as needed and conduct business in compliance with the Utah open meetings act, including public notification of meeting places, times, and agenda items.
 - 2. Written minutes of each board meeting shall be prepared, preserved, and made available for public inspection.
 - 3. The attendance of three (3) or more members of the board shall constitute a quorum. All official acts of the board shall be by majority vote of those then present.

- H. **Qualifications for Membership:** Members of the BOA shall be residents of the City for one year prior to their appointment and shall remain residents of the City throughout their terms.

13-1-8: CONFLICT:

The provisions of this Title are in addition to all other City ordinances and the laws of the state. Whenever a conflict exists, the more restrictive provision shall apply to the extent allowed by law.

13-1-9: EFFECT ON PREVIOUS ORDINANCES:

This Title supersedes the Land Management and Development Code of Oakley City, adopted in xxxx, as thereafter amended, and the zoning maps which accompanied said code. Structures that were lawfully built prior to the adoption of this Title, or for which building permits were issued and on which work commenced as required under the permit shall, to the extent they do not conform to this Title, be considered as legal, nonconforming uses, and shall not be affected. Uses which were not lawfully established under the previous code and which do not conform to this Title are nonconforming uses, unless this Title is changed in a manner that makes the use conform to this Title.

13-1-10: PENALTY:

- A. Whenever under the provision of this Title an act is prohibited or whenever under these regulations the doing of any act is required or the failure to do any act is declared to be unlawful, and no specific penalty is provided therefor, each violation of any such provision of this Title shall be a class C misdemeanor, subject to penalties as provided in Oakley City code. Each day a violation of these regulations continues shall constitute a separate offense, unless otherwise prohibited.
- B. The City attorney reserves the right to enforce this Title using any of the remedies provided for in Utah Code Annotated section 17-27-1002.

13-1-11: INTERPRETATION:

The City Planner shall be responsible for interpreting the provisions of this Title. Any final decision of the Planner with regard to the interpretation of this Title may be appealed to the Board of Adjustment. The appeal shall be made in writing no later than ten (10) days of the date of the decision. The appeal shall state the basis of the appeal in detail. The appeal shall be heard by the Board of Adjustment at a regularly scheduled meeting as soon thereafter as may be practicable.

13-1-12: VESTED RIGHTS DETERMINATION:

It is the intent of the City to review applications for development that were made prior to the adoption of this Title under the provisions of the code then in effect, so long as the application was determined to be complete prior to this Title. Applications submitted after the effective date hereof shall be reviewed under the provisions herein. The City Council shall develop a procedure for considering any vested rights claims that are affected by the approval of this Title and to effectuate public policy favoring the settlement disputes. Said procedure may include the processing of consent agreements for the settlement of disputes pertaining to vested rights or other legal claims arising from this Title. It is the intent of the City to adjudge vested rights in accordance with

state law, and nothing in this section should be read or construed as suggesting a standard different from that provided by such state law.

13-1-13: ENFORCEMENT:

- A. **Generally:** This Title may be enforced by the City by any appropriate means authorized by state law and City ordinances, including, but not limited to, injunctive relief, fines, withholding of building permits and revocation of approvals/permits.
- B. **Duties of City Planner:** It shall be the duty of the City Planner or designated planning staff member to enforce these requirements and to bring to the attention of the City Attorney or his designated agent any violations of this Title.
- C. **Civil Enforcement:** Appropriate actions and proceedings may be taken in law or in equity to prevent any violation of this Title, to prevent unlawful construction, to recover damages, to restrain, correct or abate a violation and to prevent illegal occupancy of buildings, structures or premises. These remedies shall be in addition to the penalties described above.
- D. **Stay Order:** Notwithstanding any provision of this Title to the contrary, in order to maintain the status quo pending the appeal of any decision hereunder or otherwise, the City Planner or designated planning staff member may issue a stay order mandating that all development activities cease in accordance with the terms of the order. Said stay order may be appealed to the City Council within five (5) days of the receipt thereof by an aggrieved person.

13-1-14: VIOLATIONS AND PENALTIES:

- A. Whenever under the provision of this Title an act is prohibited or whenever under these regulations the doing of any act is required or the failure to do any act is declared to be unlawful, and no specific penalty is provided therefor, each violation of any such provision of this Title shall be a class C misdemeanor, subject to penalty as provided in City code. Each day a violation of these regulations continues shall constitute a separate offense, unless otherwise prohibited.
- B. The City attorney reserves the right to enforce this Title using any of the remedies provided for in Utah Code Annotated section 17-27a-802.
- C. Businesses in violation of this Title shall be subject to license revocation proceedings in accordance with the provisions of Oakley City code. Such business shall also be subject to conditional use permit revocation proceedings in accordance with the provisions of the applicable Land Management and Development Code. Where revocations occur, those businesses which are legal

nonconforming under the current Land Management and Development Code shall thereafter cease to be legal nonconforming uses within the City.

- D. Sexually oriented business employees in violation of this Title shall be subject to license revocation proceedings. A hearing shall be afforded to the individual by the City Council, or by an official whom the Mayor may designate. The individual shall be given written notice of the violation and an opportunity to be heard before the City Council or designated hearing official.
- E. It shall be unlawful to submit false or materially misleading information on or with a conditional use permit application for an adult/sex oriented facility or business or to fail to disclose or omit information for the purpose of obtaining said permit.
- F. Prior to any permit or license revocation hearing, as provided for by the applicable Land Management and Development Code, City business license ordinance, or this Title, a stay of enforcement action shall be granted, pending the outcome of the hearing and subsequent appeals, upon written application to the City by the permit or license holder.

13-1-15: REMEDIES:

No person may challenge in District Court a land use decision under this Title until they have exhausted all of their administrative remedies provided herein. Any person adversely affected by any final administrative decision made pursuant to this Title must file a petition for review of that final decision with the District Court within thirty (30) days and comply with all other requirements of Utah Code Annotated section 17-27a-801. Failure to comply with this section of the state law divests the District Court of subject matter jurisdiction to review decisions of the City.

13-1-16: APPEAL PROCEDURES:

- A. Appeals of administrative, Planning Commission, Board of Adjustment, and City Council actions shall occur as follows in the appeals chart:

Decision Maker	Action	Form of Appeal To	Appeal Period	Appellate Body	Comments
City Planner		Form to the City Planner	10 days	City Council	If the appeal is for a decision regarding a building permit, the permit shall be stayed until action is taken

Planning Commission		Form to the City Planner	10 days	City Council	If the appeal is for a decision regarding a CUP, the CUP shall be stayed until action is taken. The City Council has to schedule the appeal within 30 days from the date of the appeal
Mayor		Form to the City Planner	10 days	City Council	

Decision Maker	Action	Form of Appeal To	Appeal Period	Appellate Body	Comments
Mayor	Amendments to a road within a subdivision, including road vacations	Court filing	30 days	District court	In accordance with Utah code, as amended
Mayor	Enforcement actions	Court filing	30 days	District court	In accordance with Utah code, as amended
City Council		Court filing	30 days	District court	In accordance with Utah code, as amended
Board of Adjustment		Court filing	30 days	District court	In accordance with Utah code, as amended

- B. **Timing:** Unless otherwise specified in this section or under the Municipal Land Use Management Act contained within Title 17, Chapter 27a of the Utah Code, all appeal periods are based upon calendar days and appeals must be received on or before the close of business (5:00 p.m.) on the last day of the appeal period. Failure to file a completed appeal form (application) within the time period specific shall act as a jurisdictional bar and render the appeal moot. Electronic submissions of completed applications (.pdf, .jpg, .tif, etc.) will be accepted by the City via email if time stamped as being received prior to 5:00 p.m. on the last day of the appeal period.
- C. **Completed Application:** Unless otherwise specified, the form required by this section shall be obtained from and filed with the Planning Department and is considered a "development application" under this Code. The application must be complete including all requested information, a physical (hand written) signature and all fees paid in order to be considered complete. An application for

appeal shall be deemed insufficient if any relevant information is not provided, if the application form is not signed by the applicant or authorized agent, required fees are not paid, or if other information, as may be specified by the City Planner or designated planning staff member and which is necessary to adequately review the application, is not supplied in a timely fashion. Failure to file a completed application within the appeal time period specified shall act as a jurisdictional bar to the appeal.

- D. **Appellate Procedures:** For all non-court appeals, the appellate procedures adopted by the Oakley City Council and made part of the appeal application shall be in effect and binding on the parties.
- E. Pursuant to Utah Code Ann. §17-27a-801 et. seq. an appeal of a City Council or Board of Adjustment action goes to District Court.

CHAPTER 2 RURAL AGRICULTURE PROTECTION PROGRAM

SECTION CONTENTS:

- 13-2-1: Statement of Purpose**
- 13-2-2: Rural Agriculture Protection**
- 13-2-3: Cluster Bonus/Agriculture Preservation Incentive Subdivision**

13-2-1: STATEMENT OF PURPOSE:

The Oakley City General Plan (hereafter referred to as "the General Plan") was developed to ensure that the rural, agricultural, and small-town character of the City shall remain, even in the presence of growth and change. The intention of the City is to assure the managed, proper and sensitive development of land to protect and enhance these desired qualities and the lifestyle that exists. In adopting the Oakley City Land Management and Development Code (hereafter referred to as "this Title"), the City will fully exercise all of the powers granted to it by Utah Code Annotated Title 10, to require, to the extent possible and practical, that all development and change within Oakley City will occur in a manner that is consistent with the goals and expectations of the residents. In order to accomplish the stated purpose, this Title will:

- A. Protect the right to farm in Oakley City and promote and encourage the preservation of agricultural lands, operations and open greenspaces.
- B. Establish incentives for preserving active agriculture lands and operations.
- C. Allow simple procedures for landowners to undertake minor subdivisions of property to increase opportunities for residents and local workers to live in Oakley City.
- D. Protect existing businesses that are important to the Oakley City economy from the encroachment of new residential development.
- E. Allow appropriate flexibility with regard to the location of land uses and other zoning matters, so long as the resulting use of the land is compatible with its surroundings and generally consistent with the general plan.
- F. Ensure that new development is undertaken in a manner that is sensitive to the rural, agricultural and small-town character, and make every effort to ensure that new development will not bring about change that is inconsistent with the underlying community values and resources.
- G. Prevent or minimize development when it will significantly increase potential dangers to life and safety of existing and future residents and emergency service personnel.

- H. Require a commonsense approach to development and ensure that people choosing to locate in the remote areas of the City recognize and accept the possible consequences of their actions.
- I. Preserve the natural resources of Oakley City.
- J. Ensure that development is compatible with wildlife habitats and environmentally sensitive areas.
- K. Ensure that the City and Summit County cooperate in guiding development near the boundaries of the City.
- L. Protect private property rights.

13-2-2: RURAL AGRICULTURE PROTECTION:

Maintaining viable agricultural lands and operations and rural business enterprises is crucial to the public health, safety and welfare of Oakley City. New development must assume the responsibility for creating a compatible relationship with the normal operations of these activities. To this end, no subdivision plat shall be approved by the City without a plat note containing the language stated below. No building permit shall be issued for any previously platted lot without an acknowledgment in writing from the owner (titled "memorandum of understanding") containing the language stated below. The executed memorandum of understanding and plat shall be filed in the records of the Summit County recorder to notify any future owner of the lot about the presence of agricultural and rural business operations in Oakley City. It shall state:

The owners of property within Oakley City recognize the importance of agricultural lands and operations and small rural business enterprises. It is recognized that agricultural lands and operations and rural business enterprises have unique operating characteristics that must be respected. (Owners of each lot platted in this subdivision/the owner of the residence constructed upon this lot) have/has been given notice and recognizes that there are active agriculture lands and operations and rural business enterprises within Oakley City and acknowledges and accepts that, so long as such lands and operations exist, there may be dust, noise, odor, prolonged work hours, use of roadways for the purposes of herding/moving animals, and other attributes associated with normal agricultural operations and rural businesses.

13-2-3: CLUSTER BONUS/AGRICULTURE PRESERVATION INCENTIVE SUBDIVISION:

The cluster bonus/agriculture preservation incentive subdivision is hereby created to promote the retention of agricultural land and operations in Oakley City. It is specifically intended to assist those actively engaged in farming and ranching and to increase opportunities for residents and local workers to live in Oakley City. A density bonus shall be awarded to property owners within an Agricultural Residential (AR) zone district only if it results in the preservation of actively used agricultural lands. The cluster bonus/agriculture preservation subdivision shall be applicable for legally created

lots/parcels in the AR zone district, which constitute the heaviest concentration of agricultural enterprises and is located within the primary City infrastructure and service area. Chapter 5 of this Title defines the procedures related to the cluster bonus/agriculture preservation subdivision.

CHAPTER 3 DEVELOPMENT EVALUATION STANDARDS

SECTION CONTENTS:

- 13-3-1: **Purpose**
- 13-3-2: **Agriculture**
- 13-3-3: **Water and Wastewater**
- 13-3-4: **Natural Resources**
- 13-3-5: **City Infrastructure, Facilities and Services**
- 13-3-6: **Infrastructure Design and Maintenance**

13-3-1: **PURPOSE:**

- A. **Purpose:** The purpose of this chapter is to establish a set of development guidelines applicable to any development within Oakley City. These guidelines are necessary and desirable in order to: 1) protect the City's rural, agricultural, small town character and lifestyle; 2) protect the natural resources and ecologically and environmentally sensitive areas of Oakley City; and 3) facilitate the efficient use of the land in relation to the City's ability to ensure the availability of adequate services and infrastructure.

- B. **Standards; Compliance:** The following standards shall be applied to the review of any development application submitted in accordance with the provisions of this Title. Nothing in this chapter shall be construed to prevent the City from allowing an applicant to propose and agree to implement acceptable and suitable solutions to such impacts which otherwise result in a finding of noncompliance with these standards.

13-3-2: **AGRICULTURE:**

- A. **Plat Notes and Memorandums:** Nonagricultural development shall not be approved without appropriate plat notes and memorandums of understanding,

as described in Chapter 2 of this Title, that educate new residents of the presence of agriculture operations in Oakley City and protect the rights of farmers and ranchers to actively conduct normal operations associated with the farm or ranch.

- B. **Minimization of Complaints:** Nonagricultural development shall not be approved in an agricultural area without appropriate efforts from the developer to minimize potential complaints from future residents of the development regarding noise, odor, length of work hours, and the normal characteristics of the agricultural operation.
- C. **Livestock Fencing:** New, nonagricultural development immediately adjacent to an existing agricultural operation (defined by this Title as "agriculture") shall not be approved unless the developer and/or subsequent owners of property within the development assume the full responsibility for fencing or by paying one-half (1/2) of the cost thereof for fencing out livestock in accordance with the Utah code if aggregable to the adjoining agricultural landowner. All major developments, including residential subdivisions, commercial and industrial operations and other projects that border agriculture lands shall be subject to the following fencing considerations:
1. At the discretion of the adjoining agricultural landowner, the developer may be required to pay for one-half (1/2) of the cost, including labor and materials for a fence if:
 - a. The fence is or becomes a partition fence separating the project site from the adjoining agricultural landowner's property; and
 - b. The cost of the fence is reasonable for the type of fence commonly found in that particular area.
 2. Notwithstanding the above fencing requirement, the developer may, at his or her own discretion, cost and expense, construct a perimeter fence to enclose the development. Vinyl fencing must be evaluated for durability and approved by the City as a perimeter fence for any development. Privacy fencing is not allowed in any Agricultural (AR) zones and is highly discouraged in Rural Residential (RR) zones.
 3. In project areas including wildlife migration corridors or critical wildlife habitat, as determined by the state division of wildlife resources (DWR), wildlife friendly fencing may be considered with the following recommended design standards:
 - a. Total fence height should not exceed forty-two inches (42").
 - b. The space between the two (2) top wires (of a wire fence) should be at least twelve inches (12") apart with the top wire preferable being a smooth wire without barbs.
 - c. The bottom wire should be at least thirteen inches (13") from the ground and smooth.

- D. **Preservation of Agricultural Land:** New nonagricultural development within Oakley City shall preserve productive agricultural land to the extent possible and practical.
- E. **Irrigation Patterns and Systems:** Nonagricultural development shall preserve the integrity of existing irrigation patterns and systems. Surface irrigation ditches shall be mapped, and adequate easements of record created to allow for the proper operation and maintenance of all irrigation systems.

13-3-3: WATER AND WASTEWATER:

All development proposals and building permit applications must demonstrate that the project will meet all current and applicable Oakley City Water and Wastewater Rules and Regulations as well as all relevant construction standards and specifications before approval. The City Engineer shall approve all water and wastewater plans, specifications, improvements, and connections.

13-3-4: NATURAL RESOURCES:

The Land Use Authority shall review all applications for compliance and consistency with the following development evaluation standards:

- A. **Undevelopable Lands:** Development is prohibited on land which is found, on the basis of engineering and/or geologic data, to be within a geological hazard area. Notwithstanding the foregoing prohibition, development upon lands containing geologic hazards may be allowed by approval of the City Planner in cases where the developer demonstrates that the geologic hazard is fully mitigated so as to ameliorate the risks to health, safety and the general welfare of residents by appropriate design and construction techniques.
- B. **Erosion:** Care shall be taken to ensure that development shall not contribute to the acceleration of the erosion of soil and rock and stream sedimentation or cause other significant environmental concerns.
- C. **Hillside Development:** Development shall minimize the highly visible placement of homes and other structures on hillsides. Whenever possible, development shall be sensitively sited in order to encourage effective open space and the conservation of the natural appearance and aesthetic beauty of the mountains. When hillside development is permitted, it shall be integrated into the site, using topography, vegetation and other reasonable techniques, in a manner that causes it to blend into the hillside. Development near the toe of the hill, including the transitional area between the hillside and flat meadow areas, is appropriate.

- D. **Floodplain:** All development shall comply with current City flood control and floodplain ordinances. [Insert code reference] Development shall be strongly discouraged in a 100-year floodplain or in areas where there is a high-water table.
1. Development shall meet all requirements of the Federal Emergency Management Agency.
 2. Development shall not significantly alter the natural drainage patterns of the land.
- E. **Wetlands:** Development is prohibited within jurisdictional wetlands **as defined and/or delineated using Army Corps of Engineers standards**, unless appropriate mitigation is approved by the Army Corps of Engineers.
- F. **Natural Grade Slopes (Prohibition):** Development is prohibited on natural grade slopes in excess of thirty percent (30%).
- G. **Natural Grade Slopes (Exception):** In the event a conforming parcel has no locations (or insufficient area) for otherwise permissible development without violating subsection F of this section, or in the event access to a suitable development area on a conforming parcel requires the crossing of an area of thirty percent (30%) slope, the City Planner may approve development as a low impact permit subject to the findings in section 13-5-8 of this Title and the following additional findings:
1. The proposed development is located on the least environmentally sensitive portion of the site. The development is designed so that existing significant vegetation can be maintained to the greatest degree possible;
 2. Development is designed to fit well into the natural terrain, minimize excessive site grading and protect, preserve, and enhance the level of quality of the surrounding area;
 3. To the greatest extent possible, all driveways and walkways shall parallel slope contours;
 4. The structure is designed to be stepped to follow the natural line of the existing topography; and
 5. The applicant demonstrates to the satisfaction of the building official that the soil is stable or can be stabilized to minimize erosion and is suitable for construction activity.
- H. **Wildlife, Range Areas, Migration Corridors:** Care shall be taken to ensure that development shall not significantly affect in a negative fashion wildlife birthing areas, critical winter range areas and migration corridors.
- I. **Ridgeline Development (Prohibition):** Ridgeline development shall not be placed on any hillside or ridgeline in a manner that causes any portion of a structure to extend into the skyline as viewed from a public road when:

1. The public road is located below the ground elevation of the structure; and
2. The public road is more than one-half (1/2) linear mile from the structure measured from the proposed building location; and
3. The public road is less than one and one-half (1-1/2) linear miles from the structure, measured from the proposed building location.

J. **Ridgeline Development (Exception):** Where it is not possible to build on a conforming parcel without violating the prohibition in subsection I of this section, the City Planner may approve ridgeline development as a low impact permit subject to the findings in section 13-5-8 of this Title and all of the following additional criteria:

1. The proposed ridgeline development is located on the least environmentally sensitive portion of the site. The development is designed so that existing significant vegetation can be maintained to the greatest degree possible.
2. The proposed ridgeline development shall be located to ensure that the least amount of the structure extends into the skyline.
3. The height of all structures shall be limited to twenty-six feet (26').
4. The structure is stepped in levels to conform to the slope of the hill and keep a low profile.
5. Except for flashings, roof vents and equipment, the structure shall not use highly reflective finish materials. In the event flashings, roof vents and equipment are used, such shall be painted to match the structure.
6. Structure colors shall be consistent with the natural colors of the surrounding geology and vegetation.
7. Glass areas are limited so as to avoid highly reflective surfaces which are viewed from public roads. Mirrored glazing is prohibited.
8. The structure shall be designed so that the pitch of any roof is generally parallel to the slope upon which it is located.

K. **Drainage:** Development activity shall not cause run-off characteristics of a parcel to be more disruptive to perennial, intermittent and ephemeral streams, land uses or drainage systems, than existed prior to the development activity. The integrity of existing and natural drainage patterns shall be preserved so that:

1. The aggregate of development activities will not cause storm drainage and floodwater patterns to exceed the capacity of natural or constructed drainages;
2. Other areas are not subjected to increased potential for damage by flood, erosion or sedimentation; and
3. Perennial, intermittent, and ephemeral streams are not contaminated with pollutants in violation of State and/or Federal standards.

- L. **Air Quality:** Development shall not contribute significantly to the degradation of air quality in the City, including violation of any applicable State and/or Federal pollution control laws.
- M. **Noise Limits:** Non-agriculture development activity shall not generate noise:
 - 1. Equal to or exceeding sixty (60) decibels, as measured at the property line of the parcel generating the noise; and
 - 2. Which would result in materially adverse impacts relating to the use of the parcel generating the noise, or to adjacent parcels and/or its occupants.

13-3-5: CITY INFRASTRUCTURE, FACILITIES AND SERVICES:

- A. **Impact:** Major development shall be evaluated to determine its impact on the quality of public services, facilities or programs provided to the general community, or portions thereof. It is the policy of the City to ensure that the financial integrity of existing City services is not jeopardized by over extension, inadequately or poorly phased use levels or lack of revenue base as a result of new development. Any adverse impacts caused by the development shall be minimized.
- B. **Traffic Volume:** No development shall cause the traffic volume on any public road or intersection thereon, affected by the proposed subdivision, to fall below the design capacity of the roadway, as measured by the "Highway Capacity Manual" (Transportation Research Board, Special Report 209, 1985).
- C. **Fire Hazard:** Any development that, due to size, building materials or proximity to vegetation, presents an unusual fire hazard which is beyond the firefighting capability of the South Summit Fire District within which it is located is inappropriate and will not be approved by the City.
- D. **Remote Locations:** Development in remote locations that will adversely and unreasonably affect the firefighting or emergency service capability of the South Summit Fire District within which it is located to provide adequate service to the majority of the people located within the District, is inappropriate and will not be approved by the City.
- E. **Locked Gates on Private Roads:** Residential development, with private roads providing direct access to residential properties, will not be approved if there is a locked gate at the entrance to the residential property unless the developer/owner has made prior arrangements with the City operations, including Summit County Sheriff, and South Summit Fire District for emergency access to the property.

13-3-6: INFRASTRUCTURE DESIGN AND MAINTENANCE:

- A. **Rural Standards:** Oakley City shall maintain rural infrastructure design standards. Infrastructure that is not consistent with these standards is not appropriate. Water, Sewer, and Roadways shall be designed, engineered and constructed appropriately so as to minimize oversizing, limits of disturbance, future maintenance costs, to alleviate hillside visual and functional problems, and to avoid deep cuts or large fills.

- B. **Traffic Hazards:** No development shall be approved which will create traffic hazards or which does not provide adequate access for service vehicles and emergency vehicles, including fire trucks, ambulances and sheriff vehicles, water or sewer maintenance equipment, or which is not designed to facilitate reasonable removal or storage of snow from traffic areas.

- C. **Traffic Volume:** No development shall be approved which generates traffic volumes that require roads to be built or existing roads to be expanded in a manner not consistent with the rural infrastructure standards identified in this Title.

- D. **Maintenance Responsibility:** No major residential development shall be approved without adequate evidence of proper long term maintenance responsibilities of an association of the property owners for all privately maintained infrastructure, including, but not limited to, road maintenance, snow removal, fuel breaks for firefighting, and other specific requirements as may be appropriate.

CHAPTER 4 ZONING DISTRICTS AND REQUIREMENTS

SECTION CONTENTS:

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13-4-1: ESTABLISHMENT OF ZONE DISTRICTS:

In order to carry out the purposes and provisions of this chapter, the following zone districts are permitted within Oakley City. NOTE: Not all approved zones need be utilized in the current version of the City Zoning Map:

- Community Residential-2 (CR-2)**
- Community Residential-3 (CR-3)**
- Community Residential-4 (CR-4)**
- Rural Residential-1 (RR-1)**
- Rural Residential-2 (RR-2)**
- Agricultural Residential-5 (AR-5)**
- Agricultural Residential-10 (AR-10)**
- Agricultural Residential-20 (AR-20)**
- Agricultural Residential-40 (AR-40)**

Agricultural Forestry-100 (AF-100)
Commercial (C)
Light Manufacturing and Industrial (LM)
Village Mixed-Use (VM)
Public Facilities (PF)
Sensitive Lands Overlay (SLO)

13-4-2: COMMUNITY RESIDENTIAL-2 (CR-2):

- A. **District Intent:** In some central designated areas, higher density and multi-family residential buildings may be established to provide a residential environment within the City, characterized by a residential community setting and associated uses. This land use is intended to have a residential density higher than the lower-density residential areas specified above while maintaining a healthy residential character. Community Residential areas accommodate a density of two (2) or more residential units per acre.
- B. **Lot and Site Requirements:** Except as otherwise provided in this Code, no building permit shall be issued unless the property meets the requirements below:
1. **Parcel or Lot Size and Base Density:**
 - a. The base density is two (2) units per acre or 0.5 acres per unit.
 - b. The minimum lot size is one half acre.
 - c. Lots that are approved through a subdivision and clustered master planned development process and provided with public culinary water and sewer service may be permitted minimum lot sizes down to one-quarter (1/4) acre.
 - d. A grandfathered parcel is exempt from the minimum size requirement.
 - e. For Master Planned Development (MPD) projects following the provisions of 13-5-12, and Appendix B of this Title, additional bonus density may be awarded through a site analysis and development agreement.
 2. **Parcel or Lot Width:**
 - a. The minimum parcel or lot width is one hundred feet (100') measured at the front setback line. In the case of unusual parcel or lot configurations such as cul-de-sacs, etc., width standards shall be determined by the City Planner, or his/her designee. Lots approved through a subdivision and master planned development process and provided with culinary water and sewer service may be permitted a reduction in the minimum lot widths standard. A grandfathered parcel is exempt from the minimum lot width requirement. See 13.9.21 for panhandle or flag lot standards.

3. **Setbacks:** Unless otherwise indicated on a recorded plat or an approved site plan, the minimum setbacks on new subdivisions and developments shall be:

Location	Minimum Setback
Front setback	25 feet from property line
Front setback if property lines extend to the center of a public road	55 feet from the centerline of the road
Front setback if property lines extend to the center of a private access road	55 feet from the centerline of the road
Side setback	12 feet from property line
Rear setback	12 feet from property line
Wetland	40 feet from delineation line as defined by the Army Corps of Engineers
River or perennial stream	100 feet from ordinary high-water mark
Lake or natural pond	50 feet from ordinary high-water mark
Forest Service	100 feet from property line

- B. **Height:** The maximum height for all structures shall be thirty-two feet (32') above natural grade.
- C. **Uses:** Uses in the CR-2 Zoning District are those set forth in section 13-4-16, "Chart of Allowed and Permitted Uses", of this chapter.

13-4-3: COMMUNITY RESIDENTIAL-3 (CR-3):

- A. **District Intent:** In some central designated areas, higher density and multi-family residential buildings may be established to provide a residential environment within the City, characterized by a residential community setting and associated uses. This land use is intended to have a residential density higher than the lower-density residential areas specified above while maintaining a healthy residential character. Community Residential areas accommodate a density of two (2) or more residential units per acre.
- B. **Lot and Site Requirements:** Except as otherwise provided in this Code, no building permit shall be issued unless the property meets the requirements below:
1. **Parcel or Lot Size and Base Density:**
 - a. The base density is three (3) units per acre or 0.33 acres per unit.

- b. The minimum lot size is one third acre.
 - c. Lots that are approved through a subdivision and clustered master planned development process and provided with public culinary water and sewer service may be permitted minimum lot sizes down to one-quarter (1/4) acre.
 - d. A grandfathered parcel is exempt from the minimum size requirement.
 - e. For Master Planned Development (MPD) projects following the provisions of 13-5-12, and Appendix B of this Title, additional bonus density may be awarded through a site analysis and development agreement.
2. **Parcel or Lot Width:**
- a. The minimum parcel or lot width is one hundred feet (100') measured at the front setback line. In the case of unusual parcel or lot configurations such as cul-de-sacs, etc., width standards shall be determined by the City Planner, or his/her designee. Lots approved through a subdivision and master planned development process and provided with culinary water and sewer service may be permitted a reduction in the minimum lot widths standard. A grandfathered parcel is exempt from the minimum lot width requirement. See 13.9.21 for panhandle or flag lot standards.
3. **Setbacks:** Unless otherwise indicated on a recorded plat or an approved site plan the minimum setbacks on new subdivisions and developments shall be:

Location	Minimum Setback
Front setback	25 feet from property line
Front setback if property lines extend to the center of a public road	55 feet from the centerline of the road
Front setback if property lines extend to the center of a private access road	55 feet from the centerline of the road
Side setback	12 feet from property line
Rear setback	12 feet from property line
Wetland	40 feet from delineation line as defined by the Army Corps of Engineers
River or perennial stream	100 feet from ordinary high-water mark
Lake or natural pond	50 feet from ordinary high-water mark
Forest Service	100 feet from property line

- B. **Height:** The maximum height for all structures shall be thirty-two feet (32') above natural grade.
- C. **Uses:** Uses in the CR-3 Zoning District are those set forth in section 13-3-16, "Chart of Allowed and Permitted Uses", of this chapter.

13-4-4: COMMUNITY RESIDENTIAL-4 (CR-4):

- A. **District Intent:** In some central designated areas, higher density and multi-family residential buildings may be established to provide a residential environment within the City, characterized by a residential community setting and associated uses. This land use is intended to have a residential density higher than the lower-density residential areas specified above while maintaining a healthy residential character. Community Residential areas accommodate a density of two (2) or more residential units per acre.
- B. **Lot and Site Requirements:** Except as otherwise provided in this Code, no building permit shall be issued unless the property meets the requirements below:
 - 1. **Parcel or Lot Size and Base Density:**
 - a. The base density is four (4) units per acre or 0.25 acres per unit.
 - b. The minimum lot size is one quarter acre.
 - c. Lots that are approved through a subdivision and clustered master planned development process and provided with public culinary water and sewer service may be permitted minimum lot sizes down to one-fifth (1/5) acre.
 - d. A grandfathered parcel is exempt from the minimum size requirement.
 - e. For Master Planned Development (MPD) projects following the provisions of 13-5-12, and Appendix B of this Title, additional bonus density may be awarded through a site analysis and development agreement.
 - 2. **Parcel or Lot Width:**
 - a. The minimum parcel or lot width is one hundred feet (100') measured at the front setback line. In the case of unusual parcel or lot configurations such as cul-de-sacs, etc., width standards shall be determined by the City Planner, or his/her designee. Lots approved through a subdivision and master planned development process and provided with culinary water and sewer service may be permitted a reduction in the minimum lot widths standard. A grandfathered parcel is exempt from the minimum lot width requirement. See 13.9.21 for panhandle or flag lot standards.

3. **Setbacks:** Unless otherwise indicated on a recorded plat or an approved site plan the minimum setbacks on new subdivisions and developments shall be:

Location	Minimum Setback
Front setback	25 feet from property line
Front setback if property lines extend to the center of a public road	55 feet from the centerline of the road
Front setback if property lines extend to the center of a private access road	55 feet from the centerline of the road
Side setback	12 feet from property line
Rear setback	12 feet from property line
Wetland	40 feet from delineation line as defined by the Army Corps of Engineers
River or perennial stream	100 feet from ordinary high-water mark
Lake or natural pond	50 feet from ordinary high-water mark
Forest Service	100 feet from property line

- B. **Height:** The maximum height for all structures shall be thirty-two feet (32') above natural grade.
- C. **Uses:** Uses in the CR-4 Zoning District are those set forth in section 13-3-16, "Chart of Allowed and Permitted Uses", of this chapter.

13-4-5: RURAL RESIDENTIAL-1 (RR-1):

- A. **District Intent:** The Rural Residential areas are established to provide spaces for the encouragement and promotion of an environment for family life by establishing one-family detached dwellings on individual lots associated with permitted uses in a low-density setting. This land-use zone is characterized by attractively landscaped or naturally rural lots, with minor lawns and shrubs and natural green spaces. Home densities for Rural Residential accommodate a density of one (1) residential dwelling unit per between one (1) and five (5) acre densities.
- B. **Lot and Site Requirements:** Except as otherwise provided in this Code, no building permit shall be issued unless the property meets the requirements below:
1. **Parcel or Lot Size and Base Density:**

- a. The base density is one (1) units per acre or one (1) acres per unit.
 - b. The minimum lot size is one (1) acre.
 - c. Lots that are approved through a subdivision and clustered master planned development process and provided with public culinary water and sewer or health department approved septic service may be permitted minimum lot sizes down to one-third (1/3) acre.
 - d. A grandfathered parcel is exempt from the minimum size requirement.
 - e. For Master Planned Development (MPD) projects following the provisions of 13-5-12, and Appendix B of this Title, additional bonus density may be awarded through a site analysis and development agreement.
2. **Parcel or Lot Width:**
- a. The minimum parcel or lot width is one hundred feet (100') measured at the front setback line. In the case of unusual parcel or lot configurations such as cul-de-sacs, etc., width standards shall be determined by the City Planner, or his/her designee. Lots approved through a subdivision and master planned development process and provided with culinary water and sewer or health department approved septic service may be permitted a reduction in the minimum lot widths standard. A grandfathered parcel is exempt from the minimum lot width requirement. See 13.9.21 for panhandle or flag lot standards.
3. **Setbacks:** Unless otherwise indicated on a recorded plat or an approved site plan the minimum setbacks on new subdivisions and developments shall be:

Location	Minimum Setback
Front setback	25 feet from property line
Front setback if property lines extend to the center of a public road	55 feet from the centerline of the road
Front setback if property lines extend to the center of a private access road	55 feet from the centerline of the road
Side setback	12 feet from property line
Rear setback	12 feet from property line
Wetland	40 feet from delineation line as defined by the Army Corps of Engineers
River or perennial stream	100 feet from ordinary high-water mark
Lake or natural pond	50 feet from ordinary high-water mark

Forest Service	100 feet from property line
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- B. **Height:** The maximum height for all structures shall be thirty-two feet (32') above natural grade.
- C. **Uses:** Uses in the RR-1 Zoning District are those set forth in section 13-3-16, "Chart of Allowed and Permitted Uses", of this chapter.

13-4-6: RURAL RESIDENTIAL-2 (RR-2):

- A. **District Intent:** The Rural Residential areas are established to provide spaces for the encouragement and promotion of an environment for family life by establishing one-family detached dwellings on individual lots associated with permitted uses in a low-density setting. This land-use zone is characterized by attractively landscaped or naturally rural lots, with minor lawns and shrubs and natural green spaces. Home densities for Rural Residential accommodate a density of one (1) residential dwelling unit per between one (1) and five (5) acre densities.
- B. **Lot and Site Requirements:** Except as otherwise provided in this Code, no building permit shall be issued unless the property meets the requirements below:
 - 1. **Parcel or Lot Size and Base Density:**
 - a. The base density is one (1) units per two (2) acres or two (2) acres per unit.
 - b. The minimum lot size is one (1) acres.
 - c. Lots that are approved through a subdivision and clustered master planned development process and provided with public culinary water and sewer or health department approved septic service may be permitted minimum lot sizes down to one-third (1/3) acre.
 - d. A grandfathered parcel is exempt from the minimum size requirement.
 - e. For Master Planned Development (MPD) projects following the provisions of 13-5-12, and Appendix B of this Title, additional bonus density may be awarded through a site analysis and development agreement.
 - 2. **Parcel or Lot Width:**
 - a. The minimum parcel or lot width is one hundred feet (100') measured at the front setback line. In the case of unusual parcel or lot configurations such as cul-de-sacs, etc., width standards shall be determined by the City Planner, or his/her designee. Lots approved through a subdivision and master planned development process and provided with culinary water and sewer or health department approved septic service may be permitted a reduction

in the minimum lot widths standard. A grandfathered parcel is exempt from the minimum lot width requirement. See 13.9.21 for panhandle or flag lot standards.

3. **Setbacks:** Unless otherwise indicated on a recorded plat or an approved site plan the minimum setbacks on new subdivisions and developments shall be:

Location	Minimum Setback
Front setback	25 feet from property line
Front setback if property lines extend to the center of a public road	55 feet from the centerline of the road
Front setback if property lines extend to the center of a private access road	55 feet from the centerline of the road
Side setback	12 feet from property line
Rear setback	12 feet from property line
Wetland	40 feet from delineation line as defined by the Army Corps of Engineers
River or perennial stream	100 feet from ordinary high-water mark
Lake or natural pond	50 feet from ordinary high-water mark
Forest Service	100 feet from property line

- B. **Height:** The maximum height for all structures shall be thirty-two feet (32') above natural grade.
- C. **Uses:** Uses in the RR-2 Zoning District are those set forth in section 13-3-16, "Chart of Allowed and Permitted Uses", of this chapter.

13-4-7: AGRICULTURAL RESIDENTIAL-5 (AR-5):

- A. **District Intent:** The Agricultural Residential areas are established to provide spaces where the growing of crops and livestock raising can be encouraged and supported within the City. The character and essence of Oakley City are the Agricultural areas, and all efforts to protect these areas is encouraged. These areas are intended to protect agricultural uses from the encroachment of urban development until residential, commercial, or industrial uses in such areas become necessary and desired by the City. These areas also become the primary green space preservation lands described in more detail in the General Plan. Uses permitted in these areas, in addition to agricultural uses, must be incidental thereto and should not change the essential agricultural character of a farming environment. Conversion of the Agricultural uses to more urban type uses is

accomplished only in an orderly and careful manner following the General Plan, with minimal “leap-frog” encroachments of such urban uses or developments into the surrounding agricultural areas. Those agricultural uses existing in other grandfathered zones may continue, provided that the land use remains unchanged. Home densities for Agricultural Residential accommodate a density of one (1) residential dwelling unit per between five (5) and forty (40) acre densities.

B. Lot and Site Requirements: Except as otherwise provided in this Code, no building permit shall be issued unless the property meets the requirements below:

1. **Parcel or Lot Size and Base Density:**
 - a. The base density is one (1) unit per five (5) acres.
 - b. The minimum lot size is one (1) acre.
 - c. Lots that are approved through a subdivision and clustered master planned development process and provided with public culinary water and sewer or health department approved septic service may be permitted minimum lot sizes down to one-third (1/3) acre.
 - d. A grandfathered parcel is exempt from the minimum size requirement.
 - e. For Master Planned Development (MPD) projects following the provisions of 13-5-12, and Appendix B of this Title, additional bonus density may be awarded through a site analysis and development agreement.
2. **Parcel or Lot Width:**
 - a. The minimum parcel or lot width is one hundred feet (100') measured at the front setback line. In the case of unusual parcel or lot configurations such as cul-de-sacs, etc., width standards shall be determined by the City Planner, or his/her designee. Lots approved through a subdivision and master planned development process and provided with culinary water and sewer or health department approved septic service may be permitted a reduction in the minimum lot widths standard. A grandfathered parcel is exempt from the minimum lot width requirement. See 13.9.21 for panhandle or flag lot standards.
3. **Setbacks:** Unless otherwise indicated on a recorded plat or an approved site plan the minimum setbacks on new subdivisions and developments shall be:

Location	Minimum Setback
Front setback	25 feet from property line
Front setback if property lines extend to the center of a public road	55 feet from the centerline of the road

Front setback if property lines extend to the center of a private access road	55 feet from the centerline of the road
Side setback	12 feet from property line
Rear setback	12 feet from property line
Wetland	40 feet from delineation line as defined by the Army Corps of Engineers
River or perennial stream	100 feet from ordinary high-water mark
Lake or natural pond	50 feet from ordinary high-water mark
Forest Service	100 feet from property line

- B. **Height:** The maximum height for all structures shall be thirty-two feet (32') above natural grade.
- C. **Uses:** Uses in the RR-2 Zoning District are those set forth in section 13-3-16, "Chart of Allowed and Permitted Uses", of this chapter.

13-4-8: AGRICULTURAL RESIDENTIAL-10 (AR-10):

- A. **District Intent:** The Agricultural Residential areas are established to provide spaces where the growing of crops and livestock raising can be encouraged and supported within the City. The character and essence of Oakley City are the Agricultural areas, and all efforts to protect these areas is encouraged. These areas are intended to protect agricultural uses from the encroachment of urban development until residential, commercial, or industrial uses in such areas become necessary and desired by the City. These areas also become the primary green space preservation lands described in more detail in the General Plan. Uses permitted in these areas, in addition to agricultural uses, must be incidental thereto and should not change the essential agricultural character of a farming environment. Conversion of the Agricultural uses to more urban type uses is accomplished only in an orderly and careful manner following the General Plan, with minimal "leap-frog" encroachments of such urban uses or developments into the surrounding agricultural areas. Those agricultural uses existing in other grandfathered zones may continue, provided that the land use remains unchanged. Home densities for Agricultural Residential accommodate a density of one (1) residential dwelling unit per between five (5) and forty (40) acre densities.
- B. **Lot and Site Requirements:** Except as otherwise provided in this Code, no building permit shall be issued unless the property meets the requirements below:
 - 1. **Parcel or Lot Size and Base Density:**

- a. The base density is one (1) unit per ten (10) acres.
 - b. The minimum lot size is one (1) acre.
 - c. Lots that are approved through a subdivision and clustered master planned development process and provided with public culinary water and sewer or health department approved septic service may be permitted minimum lot sizes down to one-third (1/3) acre.
 - d. A grandfathered parcel is exempt from the minimum size requirement.
 - e. For Master Planned Development (MPD) projects following the provisions of 13-5-12, and Appendix B of this Title, additional bonus density may be awarded through a site analysis and development agreement.
2. **Parcel or Lot Width:**
- a. The minimum parcel or lot width is one hundred feet (100') measured at the front setback line. In the case of unusual parcel or lot configurations such as cul-de-sacs, etc., width standards shall be determined by the City Planner, or his/her designee. Lots approved through a subdivision and master planned development process and provided with culinary water and sewer or health department approved septic service may be permitted a reduction in the minimum lot widths standard. A grandfathered parcel is exempt from the minimum lot width requirement. See 13.9.21 for panhandle or flag lot standards.
3. **Setbacks:** Unless otherwise indicated on a recorded plat or an approved site plan the minimum setbacks on new subdivisions and developments shall be:

Location	Minimum Setback
Front setback	25 feet from property line
Front setback if property lines extend to the center of a public road	55 feet from the centerline of the road
Front setback if property lines extend to the center of a private access road	55 feet from the centerline of the road
Side setback	12 feet from property line
Rear setback	12 feet from property line
Wetland	40 feet from delineation line as defined by the Army Corps of Engineers
River or perennial stream	100 feet from ordinary high-water mark
Lake or natural pond	50 feet from ordinary high-water mark

Forest Service	100 feet from property line
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- B. **Height:** The maximum height for all structures shall be thirty-two feet (32') above natural grade.
- C. **Uses:** Uses in the RR-2 Zoning District are those set forth in section 13-3-16, "Chart of Allowed and Permitted Uses", of this chapter.

13-4-9: AGRICULTURAL RESIDENTIAL-20 (AR-20):

- A. **District Intent:** The Agricultural Residential areas are established to provide spaces where the growing of crops and livestock raising can be encouraged and supported within the City. The character and essence of Oakley City are the Agricultural areas, and all efforts to protect these areas is encouraged. These areas are intended to protect agricultural uses from the encroachment of urban development until residential, commercial, or industrial uses in such areas become necessary and desired by the City. These areas also become the primary green space preservation lands described in more detail in the General Plan. Uses permitted in these areas, in addition to agricultural uses, must be incidental thereto and should not change the essential agricultural character of a farming environment. Conversion of the Agricultural uses to more urban type uses is accomplished only in an orderly and careful manner following the General Plan, with minimal "leap-frog" encroachments of such urban uses or developments into the surrounding agricultural areas. Those agricultural uses existing in other grandfathered zones may continue, provided that the land use remains unchanged. Home densities for Agricultural Residential accommodate a density of one (1) residential dwelling unit per between five (5) and forty (40) acre densities.
- B. **Lot and Site Requirements:** Except as otherwise provided in this Code, no building permit shall be issued unless the property meets the requirements below:
 - 1. **Parcel or Lot Size and Base Density:**
 - a. The base density is one (1) unit per ten (20) acres.
 - b. The minimum lot size is one (1) acre.
 - c. Lots that are approved through a subdivision and clustered master planned development process and provided with public culinary water and sewer or health department approved septic service may be permitted minimum lot sizes down to one-third (1/3) acre.
 - d. A grandfathered parcel is exempt from the minimum size requirement.
 - e. For Master Planned Development (MPD) projects following the provisions of 13-5-12, and Appendix B of this Title, additional bonus density may be awarded through a site analysis and development agreement.

2. **Parcel or Lot Width:**
 - a. The minimum parcel or lot width is one hundred feet (100') measured at the front setback line. In the case of unusual parcel or lot configurations such as cul-de-sacs, etc., width standards shall be determined by the City Planner, or his/her designee. Lots approved through a subdivision and master planned development process and provided with culinary water and sewer or health department approved septic service may be permitted a reduction in the minimum lot widths standard. A grandfathered parcel is exempt from the minimum lot width requirement. See 13.9.21 for panhandle or flag lot standards.
3. **Setbacks:** Unless otherwise indicated on a recorded plat or an approved site plan the minimum setbacks on new subdivisions and developments shall be:

Location	Minimum Setback
Front setback	25 feet from property line
Front setback if property lines extend to the center of a public road	55 feet from the centerline of the road
Front setback if property lines extend to the center of a private access road	55 feet from the centerline of the road
Side setback	12 feet from property line
Rear setback	12 feet from property line
Wetland	40 feet from delineation line as defined by the Army Corps of Engineers
River or perennial stream	100 feet from ordinary high-water mark
Lake or natural pond	50 feet from ordinary high-water mark
Forest Service	100 feet from property line

- B. **Height:** The maximum height for all structures shall be thirty-two feet (32') above natural grade.
- C. **Uses:** Uses in the RR-2 Zoning District are those set forth in section 13-3-16, "Chart of Allowed and Permitted Uses", of this chapter.

13-4-10: AGRICULTURAL RESIDENTIAL-40 (AR-40):

- A. **District Intent:** The Agricultural Residential areas are established to provide spaces where the growing of crops and livestock raising can be encouraged and

supported within the City. The character and essence of Oakley City are the Agricultural areas, and all efforts to protect these areas is encouraged. These areas are intended to protect agricultural uses from the encroachment of urban development until residential, commercial, or industrial uses in such areas become necessary and desired by the City. These areas also become the primary green space preservation lands described in more detail in the General Plan. Uses permitted in these areas, in addition to agricultural uses, must be incidental thereto and should not change the essential agricultural character of a farming environment. Conversion of the Agricultural uses to more urban type uses is accomplished only in an orderly and careful manner following the General Plan, with minimal “leap-frog” encroachments of such urban uses or developments into the surrounding agricultural areas. Those agricultural uses existing in other grandfathered zones may continue, provided that the land use remains unchanged. Home densities for Agricultural Residential accommodate a density of one (1) residential dwelling unit per between five (5) and forty (40) acre densities.

B. Lot and Site Requirements: Except as otherwise provided in this Code, no building permit shall be issued unless the property meets the requirements below:

1. Parcel or Lot Size and Base Density:

- a. The base density is one (1) unit per ten (40) acres.
- b. The minimum lot size is one (1) acre.
- c. Lots that are approved through a subdivision and clustered master planned development process and provided with public culinary water and sewer or health department approved septic service may be permitted minimum lot sizes down to one-third (1/3) acre.
- d. A grandfathered parcel is exempt from the minimum size requirement.
- e. For Master Planned Development (MPD) projects following the provisions of 13-5-12, and Appendix B of this Title, additional bonus density may be awarded through a site analysis and development agreement.

2. Parcel or Lot Width:

- a. The minimum parcel or lot width is one hundred feet (100') measured at the front setback line. In the case of unusual parcel or lot configurations such as cul-de-sacs, etc., width standards shall be determined by the City Planner, or his/her designee. Lots approved through a subdivision and master planned development process and provided with culinary water and sewer or health department approved septic service may be permitted a reduction in the minimum lot widths standard. A grandfathered parcel is exempt from the minimum lot width requirement. See 13.9.21 for panhandle or flag lot standards.

3. **Setbacks:** Unless otherwise indicated on a recorded plat or an approved site plan the minimum setbacks on new subdivisions and developments shall be:

Location	Minimum Setback
Front setback	25 feet from property line
Front setback if property lines extend to the center of a public road	55 feet from the centerline of the road
Front setback if property lines extend to the center of a private access road	55 feet from the centerline of the road
Side setback	12 feet from property line
Rear setback	12 feet from property line
Wetland	40 feet from delineation line as defined by the Army Corps of Engineers
River or perennial stream	100 feet from ordinary high-water mark
Lake or natural pond	50 feet from ordinary high-water mark
Forest Service	100 feet from property line

- B. **Height:** The maximum height for all structures shall be thirty-two feet (32') above natural grade.
- C. **Uses:** Uses in the RR-2 Zoning District are those set forth in section 13-3-16, "Chart of Allowed and Permitted Uses", of this chapter.

13-4-11: AGRICULTURAL FORESTRY-100 (AF-100):

- A. **District Intent:** This land use is similar to the Agricultural Residential (AR). Still, it is imposed on lands controlled by the U.S. Forest Service or land in mountainous or remote and rugged terrain that would not be efficiently serviced by any large public infrastructure. This use has an extremely low residential density (100 or more acres per residence). It is always considered part of any green space or sensitive lands overlay type of zone or regulations.
- B. **Lot and Site Requirements:** Except as otherwise provided in this Code, no building permit shall be issued unless the property meets the requirements below:
1. **Parcel or Lot Size and Base Density:**
 - a. The base density is one (1) unit per ten (100) acres.
 - b. The minimum lot size is one (1) acre.

- c. Lots that are approved through a subdivision and clustered master planned development process and provided with public culinary water and sewer or health department approved septic service may be permitted minimum lot sizes down to one-third (1/3) acre.
 - d. A grandfathered parcel is exempt from the minimum size requirement.
2. **Parcel or Lot Width:**
- a. The minimum parcel or lot width is one hundred feet (100') measured at the front setback line. In the case of unusual parcel or lot configurations such as cul-de-sacs, etc., width standards shall be determined by the City Planner, or his/her designee. Lots approved through a subdivision and master planned development process and provided with culinary water and sewer or health department approved septic service may be permitted a reduction in the minimum lot widths standard. A grandfathered parcel is exempt from the minimum lot width requirement. See 13.9.21 for panhandle or flag lot standards.
3. **Setbacks:** Unless otherwise indicated on a recorded plat or an approved site plan the minimum setbacks on new subdivisions and developments shall be:

Location	Minimum Setback
Front setback	25 feet from property line
Front setback if property lines extend to the center of a public road	55 feet from the centerline of the road
Front setback if property lines extend to the center of a private access road	55 feet from the centerline of the road
Side setback	12 feet from property line
Rear setback	12 feet from property line
Wetland	40 feet from delineation line as defined by the Army Corps of Engineers
River or perennial stream	100 feet from ordinary high-water mark
Lake or natural pond	50 feet from ordinary high-water mark
Forest Service	100 feet from property line

- B. **Height:** The maximum height for all structures shall be thirty-two feet (32') above natural grade.
- C. **Uses:** Uses in the RR-2 Zoning District are those set forth in section 13-3-16, "Chart of Allowed and Permitted Uses", of this chapter.

13-4-12: COMMERCIAL (C):

- A. **District Intent:** This land use would be for commercial endeavors with light to moderate public traffic. The main area suitable for this use is Oakley's inner commercial block or in certain areas along the State highway, as designated on the Land Use Map. This use is to be architecturally sound and compatible with the community goals and visions associated with the General Plan. Some mixed uses of this zone may be allowed (integrated with residential) in certain areas along the highway or City center as in a Village type of development, providing that residential uses are not adversely interfered with or disturbed by any of the uses proposed. This zone district would provide the general public with access to a limited range of neighborhood commercial and service related uses necessary to support the needs of residents in the surrounding area. This zone district further allows existing commercial uses to be expanded and new commercial uses to be established.
- B. **Existing Legal Nonconforming Commercial Uses:** Existing legal nonconforming commercial uses not located within a Commercial Zone District may continue and may be enlarged and/or expanded in accordance with section 13-9-2 of this Title and the commercial use criteria listed in subsection C of this section.
- C. **Commercial Zone and Use Criteria:** New commercial uses shall not be established nor shall existing commercial uses be expanded within the Commercial Zone unless the use complies with all of the following criteria:
1. The commercial use provides goods and/or services and employment opportunities to the residents of Oakley City.
 2. There is sufficient off-street parking at a minimum ratio of three (3) spaces per one thousand (1,000) square feet of floor area with adequate circulation and convenient access to the property without hazards and conflicts in residential neighborhoods.
 3. Public services (sewer, water, electric, phone, etc.) are readily available to the property and can be provided at adequate levels to serve the demands of the commercial use without negatively impacting the level of service to adjoining uses or existing businesses as determined through an infrastructure analysis.
 4. The property does not contain critical areas that are negatively impacted by the commercial use.
 5. The commercial use is compatible and consistent with or supports other nearby uses and/or property conditions.
 6. The commercial use will not substantially alter the essential character of the surrounding area.

7. The commercial use will not substantially increase the danger of fire or otherwise endanger public safety, or substantially diminish or impair the enjoyment of surrounding properties.
 8. A site plan, building architectural drawings and operational management plan will be required as part of any conditional use, low impact permit, rezoning or expansion of a commercial use to fully address potential impacts to neighboring uses or the community at large.
- D. **Floor Area and Lot Coverage:** Floor area and lot coverage requirements in the Commercial Zones shall be dictated by off street parking, adequate circulation and other site design requirements and development standards. The maximum floor area or lot coverage shall not exceed sixty percent (60%) of the lot.
- E. **Lot Width:** There shall be no requirement for lot width, provided all off-street parking and circulation requirements can be satisfied.
- F. **Setback Requirements:** Minimum front yard setbacks shall be twenty feet (20') from any roadway right-of-way. Minimum side yard setbacks shall be twelve feet (12') from the side property line. Minimum rear yard setback shall be twenty-four feet (24') from the rear property line to provide adequate alleyways for deliveries. Variances to the required setbacks to facilitate the use of existing buildings may be considered by the Board of Adjustment.
1. **Wetlands and Streams:** The minimum setback from wetlands shall be forty feet (40'). The minimum setback from a river, perennial stream, pond, or lake shall be one hundred feet (100') from the ordinary high-water mark.
- G. **Parking:** Parking shall generally be located at the side or rear of commercial buildings with only limited parking allowed at the front of the building between the roadway and the building.
- H. **Building Height:** Maximum building height shall be thirty-two feet (32') unless additional building height is required for the commercial use and is approved by the Fire District and is determined by the Planning Commission to be compatible with adjacent buildings and uses. In no case shall the building height exceed fifty feet (50').
- I. **Special Requirements:** Special landscape screening and other buffer requirements, to the extent practical and reasonable, may be required to minimize the impact on adjacent uses. Special screening and buffer requirements shall be determined through the planning permit review processes.

13-4-13: LIGHT MANUFACTURING AND INDUSTRIAL (LM):

- A. **District Intent:** This land use is similar to the Commercial/Retail use described above. Still, it differs in that wholesale and or light manufacturing of products are allowed with less public accesses associated with the use. The types of businesses and plants in this use are relatively small and should be as environmentally clean as possible. A small park setting is most desirable. The plants, offices, or buildings

located in this classification must be architecturally compatible with the character of the City as defined in this General Plan.

- B. **Existing Legal Nonconforming Light Manufacturing and Industrial Uses:** Existing legal nonconforming light industrial and manufacturing uses not located within this zone district may continue and may be enlarged and/or expanded in accordance with section 13-9-2 of this Title and the use criteria listed in subsection C of this section.
- C. **Light Manufacturing and Industrial Zone Land Use Criteria:** New light manufacturing and industrial uses shall not be established nor shall existing light manufacturing and industrial uses be expanded within the Light Manufacturing and Industrial Zone unless the use complies with all of the following criteria:
 - 1. There is adequate off-street parking, circulation areas, and safe convenient access to the property.
 - 2. Public services (sewer, water, electric, phone, etc.) are readily available to the property and/or can be provided at adequate levels to serve the demands of the use without negatively impacting the level of service to adjoining uses or existing businesses as determined through an infrastructure analysis.
 - 3. The property does not contain critical areas that are negatively impacted by the use.
 - 4. The use will not substantially alter the essential character of the surrounding area.
 - 5. The use will not substantially increase the danger of fire or otherwise substantially endanger public safety.
 - 6. A site plan, building architectural drawings, and plan of operations will be required as part of any conditional use, low impact permit, rezoning or expansion of a light manufacturing and industrial use to fully address potential impacts to neighboring uses or the community at large.
- D. **Lot Width:** There shall be no requirement for lot width, provided all material handling, off street parking and circulation requirements can be satisfied.
- E. **Building Height:** Maximum building height shall be thirty-two feet (32') unless additional building height is required for the subject use and is approved by the Fire District and is determined by the Planning Commission to be compatible with adjacent buildings and uses. In no case shall the building height exceed fifty feet (50').
- F. **Setback Requirements:** Minimum setbacks for light industrial uses shall be determined through the low impact or conditional use approval process. The minimum setback shall be at least fifty feet (50') from any City designated roadway right-of-way or, in the absence of a designated right-of-way, at least eighty feet (80') from the centerline of the City designated roadway. Front setbacks from a private driveway or access road shall be thirty feet (30') from the front property line. In cases where the property lines extend to the center of a private driveway or access road, the minimum setback shall be fifty-five feet (55') from the centerline of the driveway or road. The minimum side and rear setbacks for all structures shall be twelve feet (12'). For structures taller than thirty-two

feet (32') and/or parcels larger than five (5) acres, the setbacks shall be at least one hundred feet (100') from any public road right-of-way or, in the absence of a designated right-of-way, at least one hundred twenty feet (120') from the centerline of the public roadway, and the minimum side and rear setbacks shall be fifty feet (50').

1. **Wetlands and Streams:** The minimum setback from wetlands shall be forty feet (40'). The minimum setback from a river, perennial stream, pond, or lake shall be one hundred feet (100') from the ordinary high-water mark.

G. **Special Requirements:** Special landscape screening and other buffer requirements, to the extent practical and reasonable, may be required to minimize the impact on adjacent uses. Special screening and buffer requirements shall be determined through the planning permit review processes.

13-4-14: VILLAGE MIXED-USE (VM):

A. **District Intent:** A Village Mixed-use area is designed to accommodate future development near the Oakley City core. This area's growth may be a compatible mix of commercial, lodging, and other high-density residential uses. This zone may also be developed as a Transfer of Development Rights (TDR) receiving area to move densities from sensitive or other outlying areas into this core high-density zone. All development, including various mixed-use densities and types within the VM zone, is designed, approved, and phased as per the Master Planned Development (MPD) regulations specified in this Title. The Village Mixed-Use Zone is intended to incentivize cooperation and community design flexibility. The aim of the Village Mixed-Use Zone is to create a comprehensive, community-specific land use and design strategy to address community needs, including but not limited to:

1. Construction of cost-efficient public and/or private infrastructure (streets, water and wastewater).
2. Provide a wide range of housing opportunities, including affordable housing options.
3. Provide spaces for small and local start-up businesses and live-work space.
4. Provide local employment opportunities.
5. Allow safe walkable access to:
 - a. Local shopping,
 - b. Cafes and restaurants,
 - c. Offices,
 - d. Service commercial and other light uses,
 - e. Arts and similar shops,
 - f. Civic and institutional uses, and
 - g. Future regional public transportation.

All setbacks, building heights, lot sizes and densities, architectural considerations, are varied and will be determined by City Planning and the Planning Commission in the project scoping and Master Planned Development processes.

13-4-15: PUBLIC FACILITIES (PF):

A. **District Intent:** The Public Facilities areas are established to provide spaces for the location and establishment of maintained facilities for public or quasi-public use. This land use should be created in the regions that are suitable and compatible with neighboring zones, possibly providing “buffer” areas where appropriate. Uses similar to the following may be permitted in these areas:

1. Automobile parking
2. Parks and Arenas
3. Cemeteries
4. Executive, legislative & judicial functions
5. Open and Green Space Protective functions
6. Postal services
7. Schools and Educational Services
8. Miscellaneous service organization
9. Cultural activities and nature exhibitions
10. City and other public properties
11. Public assembly

All setbacks, building heights, lot sizes and densities, architectural considerations, are varied and will be determined as each individual project is reviewed and approved.

13-4-16: SENSITIVE LANDS OVERLAY ZONE (SLO):

Sensitive and Hazardous Lands. These areas are dealt with through the creation of various overlays, as shown in the accompanying maps. These sensitive areas impose additional requirements on the other land uses listed above. These sensitive areas are assessed in new development applications by thorough study and analysis by the developer and City, with the use of suitability and mitigation measures, if necessary, determined. These requirements are in addition to the conditions imposed on any land use or zone regulations that may exist beneath the overlays. Other smaller areas of sensitive lands or hazardous lands may be discovered as new developments are processed, or regions are investigated. These locations will also become subject to Green Space standards' regulations as specified in section 11 of the General Plan.

The Land Suitability and Critical Lands Maps are to become a series of maps or compilation of the overlaid maps brought into one (1) general Sensitive Lands Overlay Zone map that defines lands that may not be suitable for development or where use

restrictions should apply. The compilation represents all areas from the individual maps. These areas become the significant areas of the Sensitive Lands Overlay Zone in this Title and uses in these areas become subject to additional study and analysis as determined by the City Planner, City Engineer, Planning Commission, and City Council. Data for these maps comes from various State, Federal, and County Studies updated as new data is made available. These maps do not define ALL areas subject to the Sensitive Lands reviews, only the obvious. Other small sites may be deemed appropriate for applying the review on a closer examination and a development case by case basis. The maps and other records may delineate the following general areas as sensitive (Map letter designations correspond to maps in the City General Plan):

- A. High value or Critical wildlife habitats (State Division of Wildlife Resources)
- B. Wetlands, flood plains, and water issues (Map D)
- C. Known Geologic Hazards, such as karst, landslides (Map E)
- D. Unsuitable or Critical building soils (Map F)
- E. Steep slopes over thirty (30) percent (assessed per project based on topography studies)
- F. Fire Hazardous from slopes, fuels, and vegetation (Map H)
- G. Hillsides and ridge tops (assessed per project based on topography studies)
- H. Public Lands, parks, and open spaces (Map J)

13-4-17: ZONE DISTRICT MAP:

- A. **Incorporation of Map:** The location and boundaries of established zone districts are set forth on the Zone District Map of Oakley City. The map, with all notations, references and other information shown thereon, is incorporated herein and is considered part of this Title.
- B. **Amendments:** If, in accordance with the provisions of this Title, changes are made in district boundaries or other matters portrayed on the Zone District Map, such changes shall be entered on the map promptly after amendment by the City Planner or designated planning staff member.
- C. **Official Copy on File:** Regardless of the existence of purported copies of the Zone District Map, the official Zone District Map shall be located in the Office of the City Planning Department and shall be the final authority as to the current zoning status of land, buildings, and other structures in Oakley City.
- D. **Uncertainty of Boundary:** When, due to scale, the Zone District Map lacks detail, is illegible, or where there is uncertainty, contradiction, or conflict as to the intended location of any zone district boundary as shown thereon, the City Planner or designated planning staff member shall make an interpretation of the map upon request of any person, and any person aggrieved by any such interpretation may appeal the same to the Planning Commission.

13-4-18: ALLOWED, CONDITIONAL, LOW IMPACT, AND TEMPORARY USES:

- A. **Allowed:** To facilitate public understanding of this Code and for better administration, convenience, and use thereof, those uses designated as "allowed" are permitted as a matter of right without special authorization, provided the use complies with all requirements of the zone district as described in this chapter. The establishment of any allowed use is subject only to obtaining a building permit, business license, and/or road encroachment permit.
- B. **Conditional:** Conditional uses are those uses which are permitted in a particular zone district upon showing that such use at a specific site within that zone district will comply with all conditions and standards specified in this Code for ensuring compatibility with surrounding land uses. Conditional uses that are not capable of meeting the development evaluation standards described in chapter 2 of this Title at a specific location shall not be approved at that location. However, the conditional use may be acceptable at another location where it can comply with the development evaluation standards.
- C. **Low Impact:** Low impact uses are uses, projects and activities that are considered to have little or no impact on the public health, safety and general welfare. Low impact uses determined to be in compliance with the development evaluation standards and general regulation of the Code may be approved administratively by the City Planner or designated planning staff member.
- D. **Temporary:** A temporary use is a use that can be established for a limited duration with the intent to discontinue such use upon the expiration of the time period. Any use not listed as an allowed use or a conditional use within a zone district may be considered as a temporary use pursuant to and in accordance with the provisions of section 13-4-9 of this Title.

13-4-19: CHART OF ALLOWED AND PERMITTED USES:

The following chart titled "Chart of Allowed and Permitted Uses" defines allowed, conditional, low impact, and temporary uses, as well as prohibited or not allowed designations for the various zone districts. Zone Districts are represented by column. Uses are designated as follows:

- A = Allowed**
- C = Conditional**
- L = Low Impact Permit**
- T = Temporary**
- [Blank] = Prohibited**

CHART OF ALLOWED AND PERMITTED USES

Permitted Uses	CR -2	CR -3	CR -4	RR -1	RR -2	AR -5	AR -10	AR -20	AR -40	AF	C	LM	VM	PF	Additional Reference
Accessory (non-dwelling) buildings and uses to the principal use, exceeding 2,000 square feet				C	C	C	C	C	C	C	C	C	C	C	
Accessory (non-dwelling) buildings and uses to the principal use, not to exceed 2,000 square feet				A	A	A	A	A	A	A	A	A	A	A	
Detached accessory dwelling unit not to exceed 1,000 square feet				L	L	L	L	L	L	L	L	L	L	L	Section 13-9-5 of this Title
Attached or in-home accessory dwelling apartment not to exceed 1,000 square feet	L	L	L	L	L	L	L	L	L	L	L	L	L	L	Section 13-9-5 of this Title
Adaptive reuse of a historically significant structure	C	C	C	C	C	C	C	C	C	C	C	C	C	C	Section 13-9-21 of this Title
Agricultural employee dwelling unit						C	C	C	C						Section 13-9-5 of this Title
Agricultural employee facility for the purpose of providing shelter for more than 1 family						C	C	C	C						
Agriculture buildings and uses customarily associated with traditional "agriculture" operations as defined in appendix A of this Title				A	A	A	A	A	A	A	A	A			
Auto impoundment yard and towing services											C	C			
Auto repair, service and detailing											C	C			
Auto wrecking yard												C			
Automotive sales											C	C			
Banks and financial services											A	C			

Permitted Uses	CR -2	CR -3	CR -4	RR -1	RR -2	AR -5	AR -10	AR -20	AR -40	AF	C	LM	VM	PF	Additional Reference
Bars, taverns, private clubs											C	C			
Bed and breakfast inn	C	C	C	C	C	C	C	C	C	C	A		C		
Butcher, retail				C	C	C	C	C	C		A	A	C		
Campgrounds and RV parks				C	C	C	C	C	C	C	C			C	See section 13-9-20
Car wash											C	C			
Cemetery	C	C	C	C	C	C	C	C	C	C				A	
Childcare, commercial	C	C	C	C	C	C	C	C	C	C	C	C	C		
Childcare, in home (4 children or less)	A	A	A	A	A	A	A	A	A	A					
Childcare, family (with 5 - 8 children)	C	C	C	L	L	L	L	L	L	L					
Childcare, family (with 9 - 16 children)				L	L	L	L	L	L	L					
Commercial and non-profit riding arenas				C	C	C	C	C	C	C					
Commercial stables				C	C	C	C	C	C	C	C	C			
Contractor's office				C	C	C	C	C	C	C	C	C	C		
Contractor's yard and material storage areas				C	C	C	C	C	C	C	C	C			Screening specified in CUP
Contractors storage of one piece of light equipment.	L	L	L	L	L	L	L	L	L	L	L				
Contractors storage of 2 or more trucks, heavy and light equipment, including trailers				C	C	C	C	C	C	C	C	L			
Distillery/microbrewery						C	C	C	C	C	C	C	C		
Dwelling unit, multi-family	C	C	C	C	C						C	C	A		
Dwelling unit, one-family	A	A	A	A	A	A	A	A	A	A	L	L	A	L	
Dwelling unit, single-family attached	C			C	C	C	C	C	C	C	C	C	C		
Equipment rental, heavy											C	A			
Equipment rental, light											A	A			
Event center				C	C	C	C	C	C	C	C	C	C	C	
Food processing, commercial				C	C	C	C	C	C	C	A	A	C		
Funeral services											A	A			
Gas and fuel, storage and wholesale											C	C			

Permitted Uses	CR -2	CR -3	CR -4	RR -1	RR -2	AR -5	AR -10	AR -20	AR -40	AF	C	LM	VM	PF	Additional Reference
Gasoline service station with or without convenience store											C	L			
Guest ranches or lodge intended to attract visitors/patrons on a daily basis or an extended stay				C	C	C	C	C	C	C	C	C			
Hazardous liquids or materials transmission pipelines				C	C	C	C	C	C	C	C	C		C	Section 13-9-19 of this Title
Home occupation	A	A	A	A	A	A	A	A	A	A	A	A	A	A	Section 13-9-3 of this Title
Hospitals											C	C			
Hotel, motel											C	C	C		
Houses of worship including churches and other religious institutions				C	C	C	C	C	C	C	C	C	C		
Indoor entertainment such as bowling alleys, skating rinks, movie theater, performing arts center											A	A	C		
Industrial uses and operations including storage and processing											C	A		C	
Institutional uses including fire stations, private schools and public or quasi-public buildings				C	C	C	C	C	C	C	C	C	C	C	
Kennels and Animal boarding and care				C	C	C	C	C	C	C	C	C			
Logging camp							C	L	L	L					
Manufacturing, custom				C	C	C	C	C	C	C	L	L			
Manufacturing, heavy												C			
Manufacturing, light				C	C	C	C	C	C	C	A	A			
Mobile home park															
Mobile home with foundation (see definition of "prefabricated home" in appendix A of this Title)	A	A	A	A	A	A	A	A	A	A	L	L			

Permitted Uses	CR -2	CR -3	CR -4	RR -1	RR -2	AR -5	AR -10	AR -20	AR -40	AF	C	LM	VM	PF	Additional Reference
Mobile home without foundation that is occupied for more than 180 days				C	C	C	C	C	C	C	C	C			
Municipal landfill												C		C	
Nursery/greenhouse				C	C	C	C	C	C	C	C	C	C		
Oil wells, natural gas wells and steam wells							C	C	C	C	C	C		C	Subsection 13-5-71 of this
Open space, recreational (motorized)						C	C	C	C	C				C	
Open space, recreational (nonmotorized)				L	L	L	L	L	L	L				A	
Petting zoo or public farm				C	C	C	C	C	C	C	C	C			
Petroleum refineries												C			
Professional offices				C	C	C	C	C	C	C	A	A	A		
Railroad industrial uses including shipping and distribution											C	C			
Recreation and athletic facilities				C	C	C	C	C	C	C	A	A	C		
Recreational equipment rental	C	C	C	C	C	C	C	C	C	C	A	A			
Recycling facility, Class I						C	C	C	C	C	A	A		C	
Recycling facility, Class II						C	C	C	C	C	A	L		C	
Rehearsal or teaching studio for creative, performing and/or martial arts with no public performances				L	L	L	L	L	L	L	A	A	C		
Residential care facilities				C	C	C	C	C	C	C	C	C	C		Section 13-9-18 and appendix A of this Title
Restaurant					C	C	C	C	C	C	A	A	A		
Restaurant with drive-through											L	L	L		
Retail commercial establishments											L	L	L		
Rock quarries, gravel pits, and associated surface mining uses, including, but not limited to, filtering,									C	C	C	C			

sifting, and processing of soil																
Permitted Uses	CR -2	CR -3	CR -4	RR -1	RR -2	AR -5	AR -10	AR -20	AR -40	AF	C	LM	VM	PF	Additional Reference	
Sawmill									C	C	C	C				
Seasonal plant and agricultural product sales	A	A	A	A	A	A	A	A	A	A	A	A	A			
Sexually oriented businesses															Appendix C of this Title	
Shooting ranges, indoor											C	L				
Shooting ranges, outdoor									C	C	C	C		C		
Solar electric panels on individual facilities	L	L	L	L	L	L	L	L	L	L	L	L	L	L	Requires building permit	
Solar Farms (Commercial-large scale)				C	C	C	C	C	C	C	C	C				
Telecommunications facilities - collocation	C	C	C	C	C	C	L	L	L	L	A	A	C	C	Section 13-9-7 of this Title	
Telecommunications facilities - stealth	C	C	C	C	C	C	A	A	A	A	A	A	L	L	Section 13-9-7 of this Title	
Underground transmission lines 6 inches or less in diameter such as, but not limited to, transmission lines for natural gas, water, sewer, telephone and power	A	A	A	A	A	A	A	A	A	A	A	A	A	A		
Underground transmission lines exceeding 6 inches in diameter that are not considered hazardous liquids or materials transmission pipelines as defined in section 13-9-19 of this Title	L	L	L	L	L	L	L	L	L	L	L	L	L	L		
Underground transmission lines exceeding 12 inches diameter (including but not limited to gas, oil and water)	C	C	C	C	C	C	C	C	C	C	C	C	C	C	City owned facilities are allowed in all zones	

Permitted Uses	CR -2	CR -3	CR -4	RR -1	RR -2	AR -5	AR -10	AR -20	AR -40	AF	C	LM	VM	PF	Additional Reference
Utility structures and related facilities	C	C	C	C	C	C	C	C	C	C	L	L	C	L	Section 13-9-6 of this Title
Utility towers and associated transmission and distribution lines 45 feet in height or less	C	C	C	C	C	C	C	C	C	C	C	L	C	L	
Utility towers and associated transmission and distribution lines greater than 45 feet in height	C	C	C	C	C	C	C	C	C	C	C	C	C	C	
Veterinarian clinic				C	C	C	C	C	C	C	L	L			
Warehousing and commercial storage											C	C			
Water and wastewater treatment plant				C	C	C	C	C	C	C	C	C	C	A	
Welding shop, commercial								C	C		A	A			
Wind power generation facilities 45 feet in height and less	C	C	C	A	A	A	A	A	A	A	L	L	C	L	
Wind power generation facilities greater than 45 feet in height ¹				C	C	C	C	C	C	C	C	C		C	

Note:

1. Wind power generation facilities greater than 45 feet in height are exempt from the ridgeline prohibition provisions of this Title provided it meets all of the conditional uses permit requirements in section 13-5-7J of this Title.

CHAPTER 5 DEVELOPMENT REVIEW PROCESSES AND PROCEDURES

SECTION CONTENTS:

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- 13-5-6: Final Site Plans
- 13-5-7: Conditional Use Permits
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- 13-5-10: Zoning Variances
- 13-5-11: Special Exceptions
- 13-5-12: Master Planned Developments

13-5-1: PURPOSE:

The purpose of this chapter is to provide clear and predictable standards of review and processes for the administration of development, subdivisions, and uses within Oakley City.

13-5-2: LOT/PARCEL REQUIREMENT FOR DEVELOPMENT, SUBDIVISIONS AND/OR USES:

- A. **A Conforming Parcel:** A conforming parcel is defined as one of the following:
 - 1. A lot within a recorded subdivision which was created through a lawful Oakley City Land Management and Development Code land division process and which is intended for development purposes;
 - 2. A parcel which was created through a lawful Oakley City Land Management and Development Code land division process after Oakley City adopted its first zoning ordinance in _____, and which conforms to the minimum size requirements of the applicable zone at the time of a development application;
 - 3. A parcel created under Utah Code Annotated section 17-27a-605(4), as amended;
 - 4. A grandfathered parcel; or
 - 5. A parcel created by a bona fide division or partition of land for agricultural activities.

- B. **A Non-Conforming Parcel:** A non-conforming parcel is a parcel not meeting the definition of a conforming parcel. A decision by the City Planner determining that a parcel is a non-conforming parcel may be appealed to the City Council within ten (10) calendar days from the date of the decision in accordance with section 13-1-16 of this Title.
- C. **Eligibility for Development:**
1. For development purposes and in order to apply for development, a parcel must be a conforming parcel.
 2. A non-conforming parcel is eligible for development of a single-family dwelling, subdivision, or other development action, permit, or use identified in section 13-4-19 of this Title, by an action of the City through one of the following development processes, as defined and outlined in this Title, provided all criteria can be met.
 - a. **Parcel Boundary Adjustment:** Parcel boundary adjustment, including the combination of a non-conforming parcel with a conforming parcel.
 - b. **Subdivision:** In cases where property descriptions were created in a manner not consistent with this Title, a retroactive subdivision may be considered. The application shall include all associated properties from which the non-conforming parcel was derived.
 - c. **Subdivision Plat Amendment:** Subdivision plat amendment, including the expansion of a subdivision to include land outside of a subdivision, regardless of whether said land is a conforming parcel or a non-conforming parcel.
 - d. **Special Exception:** Special exception as granted by the City Council if the criteria for approval as outlined in section 13-5-11 of this chapter can be satisfied.
- D. **Standards for Verification:** The following factors shall be taken into consideration in determining "conforming parcel" status, namely:
1. If a government action creates a public road that bisects a "conforming parcel", the parcels on either side of the road are considered to be separate "conforming parcels". If a government action results in the widening of a road within a "conforming parcel", the parcel shall maintain its "conforming parcel" status.
 2. If the Weber-Provo Canal divides a "conforming parcel", then the parcels on either side of the Rail Trail are considered to be separate "conforming parcels".
 3. If a property owner petitions to have only a portion of a "conforming parcel" annexed into a city, the portion of the property remaining under County jurisdiction loses its "conforming parcel" status unless the

property is subdivided in accordance with this Title prior to or concurrent with the annexation.

4. Government survey lot(s), although shown as individual lots on ownership plat maps, are not considered to be "conforming parcels" unless the lot(s) otherwise conform to the definition of "conforming parcel" and there is clear evidence that the government survey lot was owned, conveyed or patented independent of the quarter section of which it was part.
5. Section lines do not divide a parcel into two (2) or more "conforming parcels" unless the parcel(s) otherwise conform to the definition of a "conforming parcel".
6. If the description of a "conforming parcel" has changed due to an updated survey for the purpose of confirming property boundaries, and the description does not create additional, separately described parcels, the "conforming parcel" status will remain intact.
7. Multiple accessor parcel or Property Tax identification numbers are not conclusive proof of "conforming parcel".

13-5-3: PERMITS REQUIRED:

No development, subdivision, or use may be undertaken within Oakley City unless all permits applicable to the proposed development, subdivision, or use are issued in accordance with the provisions of this Title.

13-5-4: GENERAL PROVISIONS:

- A. **Initiation:** An application for development, subdivision or use activity approval shall be initiated by submitting the appropriate application to the Planning Department.
- B. **Initial Review, Recommendation, And Action:**
 1. Within thirty (30) days of receipt, the City Planner shall review the application to determine that all necessary submittal requirements and information are provided and that the land under consideration contains one or more conforming parcels. If the City Planner determines that the application does not contain the required information sufficient for compliance with this Title, the City Planner shall provide written notice to the applicant specifying the deficiencies of the application. The City Planner may elect to take no further action on the application until such time as all necessary submittal requirements are provided.
 2. An application for development, subdivision, and/or use activity shall be deemed incomplete if:
 - a. Any relevant information is not provided, including any supplemental information requested by the City Planner;
 - b. The application form is not signed by the owner;

- c. Required fees are not paid.
- 3. In the event that the applicant fails to satisfy the deficiencies in the application within thirty (30) days of notification of the same, all application materials (including application fees) shall be returned to the applicant, and the application process shall be deemed terminated with no approval.
- 4. A determination of sufficiency shall not constitute a determination of compliance with the substantive requirements of this Title, nor shall it indicate that the information submitted by the applicant is accurate or has been verified. Additional information may be required at a later date throughout the approval process.
- 5. All development permits shall be conditioned so that no final action shall be issued on the subject property until all outstanding and current Property Taxes have been paid.
- 6. The City Planner is the delegated authority to make administrative interpretations of this chapter and to provide such guidance as is necessary to applicants for development, subdivision, and/or land use activity approvals consistent with and in furtherance of this chapter.
- 7. Any person adversely affected by an administrative interpretation of this chapter may appeal such interpretation to the City Council, in accordance with the appeals procedures set forth in section 13-1-16 of this Title.

13-5-5: SUBDIVISIONS, CONDOMINIUMS, SUBDIVISION PLAT AMENDMENTS, PARCEL BOUNDARY ADJUSTMENTS, AND DIVISIONS OF LAND FOR NON-DEVELOPMENT PURPOSES:

- A. **Purpose:** The purposes of this section are to:
 - 1. Guide the future growth of Oakley City in a manner consistent with the Oakley City General Plan.
 - 2. Advance the public health, safety, and welfare of the property owners and residents who reside within Oakley City.
 - 3. Provide development opportunities for property owners and residents to live, work, and conduct business within Oakley City.
 - 4. To direct development to areas readily accessible to adequate access, water, wastewater, and other necessary public infrastructure and services.
 - 5. Encourage development that adequately mitigates any potential adverse effects on adjacent properties.
 - 6. Encourage clustered development to protect wetlands, riparian areas, steep slopes, greenspaces, ridgelines and other environmentally sensitive areas wherever practicable.
 - 7. Provide reasonable and predictable standards of review and preview processes and achieve responsible orderly development.
 - 8. Provide for the division of land for non-development purposes.

B. Subdivisions Consisting of Three or Less Lots (Minor Subdivisions):

1. **Special Provision:** When a single parcel includes multiple zones, density may be located upon the parcel in the most appropriate manner irrespective of the boundaries of the zones.
2. **Submission Requirements:** An application for a subdivision consisting of three (3) lots or less shall include the information set forth below. The City Planner may waive specific submittal requirements if it is determined that the submittal requirement(s) are not necessary to demonstrate compliance with the provisions of this chapter.
 - a. Completed subdivision application signed by the owner(s);
 - b. The payment by the applicant of the subdivision application fee;
 - c. The subdivision shall contain sufficient land area necessary to meet the density requirements of the zone;
 - d. Name and address, including telephone number, of all the owner(s), and citation of last instrument conveying title to each parcel of property involved in the proposed subdivision, giving grantor, grantee, date, and land records reference;
 - e. One (1) copy of a survey prepared by a surveyor licensed in the State of Utah including the following information:
 - (1) The name of the land surveyor;
 - (2) Approximate true north arrow;
 - (3) Legal description and location of property, including citation of any existing legal rights-of-way, public and private roads, streets, irrigation ditches, water bodies, water wells, streams/rivers, structures, and/or other physical improvements affecting the property and existing covenants on the property, if any;
 - (4) A delineation of environmentally sensitive areas, floodplains, delineated wetlands, ridgelines, and slopes exceeding thirty percent (30%);
 - f. Two (2) copies (one 11" x 17" copy and one 24" x 36" copy) of the proposed final subdivision plat and one (1) electronic copy of a scaled final subdivision plat prepared by a surveyor or civil engineer licensed in the State of Utah, including:
 - (1) The subdivision name and date of plat creation. The subdivision name may not be the same name as any existing recorded subdivision in Oakley City or in Summit County, Utah;
 - (2) The name of the land surveyor;
 - (3) Approximate true north arrow;
 - (4) The plat scale and the location and dimensions of all boundary lines of the property (expressed in feet and in decimals of a foot), the locations, dimensions, and areas of all proposed lots, rights-of-way, and easements;

- (5) Consecutively numbered or lettered lots with addresses (subject to final review and approval by the City);
- (6) Notation of any self-imposed plat restrictions;
- (7) Signature blocks for the Oakley City, Land Use Authority, City Engineer, Public Health Officer, City Attorney, applicable fire district, local electrical power provider, local natural gas provider (if applicable), and local culinary water provider (if different from City);
- (8) Notarized signatures on the plat by every person having a security interest in the property which sets forth that he/she is subordinating his/her liens to all covenants, servitude and easements imposed on the property, and all conditions of development approval proposed by the City;
- (9) All monuments erected, corners, and other points established in the field;
- (10) Plat notes stating that:

"Further subdivision of such lands, whether by deed, bequest, divorce, decree, or other recorded instrument, shall not result in a buildable lot until the same has been approved in accordance with the Oakley City Land Management and Development Code."

"The owners of property within Oakley City recognize the importance of agricultural lands and operations and small rural business enterprises. It is recognized that agricultural lands and operations and rural business enterprises have unique operating characteristics that must be respected. Owners of each lot platted in this subdivision/the owner of the residence constructed upon this lot have/has been given notice and recognize(s) that there are active agriculture lands and operations and rural business enterprises within Oakley City and acknowledge(s) and accept(s) that, so long as such lands and operations exist, there may be dust, noise, odor, prolonged work hours, use of roadways for the purposes of herding/moving livestock, and other attributes associated with normal agricultural operations and rural businesses."

If serviced by a private water system:

"Water has not been approved for this site. It shall be the responsibility of each lot owner to demonstrate that water of adequate quality and quantity is available for each lot prior to the issuance of a building permit. This shall be

accomplished with a memorandum of decision from the state engineer for a private well, spring or a written commitment from a private water company."

- g. Following final action on the final subdivision plat which results in an approval, a current (within 30 days) preliminary title report covering all property located within the subdivision;
- h. Following final action on the final subdivision plat which results in an approval, a 24" x 36" mylar of a scaled (1" = 100') final subdivision plat prepared by a surveyor or civil engineer licensed in the State of Utah, including all items listed in subsection B2f of this section.

3. **Review Procedure:**

- a. **Optional Sketch Plan:** Prior to submitting a formal application for a subdivision review, an applicant may exercise the voluntary option to submit a Sketch Plan, which shall contain enough information in graphic and text form to adequately describe the applicant's intentions with regard to the proposed development. Sketch Plans shall be drawn to a convenient scale of not more than one hundred feet to an inch (1" = 100'), unless otherwise approved by the City Planner.

- (1) **Sketch Plan Review:** The City Planner shall review the Sketch Plan and identify any relevant issues for the applicant to address with the final subdivision plat application, as well as any additional information necessary to establish the project's compliance with the standards and requirements of this chapter. A Sketch Plan may be reviewed by the Planning Commission for preliminary input at the direction of the City Planner or at the request of the applicant.

- b. **Final Subdivision Plat Review Procedure:**

- (1) The City Planner shall secure input regarding the proposed subdivision from all affected agencies and service providers including, but not limited to utility providers, the Summit County Health Department, the Fire District, City Engineer, and the City Public Works Department. Upon receiving such input, the City Planner shall prepare a staff report analyzing the proposed final subdivision plat's compliance with the review standards set forth herein and identifying any compliance-related issues related to the application.
- (2) The staff report and all application submittal materials shall be forwarded to the City Planner. The City Planner shall provide notice of the proposed subdivision plat application to all adjacent property owners in the manner set forth in this chapter. Following the completion of the required

noticing period, the City Planner shall be authorized to take final action upon the application. The City Planner has the discretion to refer the application to the Planning Commission pursuant to subsection B3b(3) of this section.

- (3) The City Planner may refer any subdivision application to the Planning Commission due to the complexity of the application or the significance in change to the property or the surrounding area. The City Planner shall schedule the matter before the Planning Commission for a public hearing and possible action. Following the public hearing, the Planning Commission shall make a recommendation to the City Planner regarding an approval, approval with conditions or denial of the application.
- (4) Once the final subdivision plat is approved and all applicable signatures are obtained on the final mylar, the City Attorney will review the preliminary Title report for acceptability. The Title report must be current (within 30 days).
- (5) Upon approval of the City Attorney and once all required signatures are obtained on the final mylar, the final subdivision plat shall be recorded in the records of the Summit County Recorder.

4. **Criteria for Approval:** Before a subdivision can be approved; it must conform to all of the following criteria:
 - a. All of the land required for the density needed to create the lots within the subdivision, including a remnant parcel, which on its own would not be large enough to qualify for any density, shall be contained within the boundaries of the final subdivision plat, and any remnant parcel shall bear a plat note stating that no density exists on such remnant parcel until such time (if ever) as the zone is changed to permit additional density rights and the remnant parcel is, if necessary, re-subdivided in accordance with this chapter; or the remnant parcel is otherwise vacated from the final subdivision plat for the purposes of a parcel boundary adjustment, which shall constitute good cause thereof under State law.
 - b. In the event that the parcel(s) being subdivided contain more land than that which is needed to establish the density for the subdivision, such remainder parcel(s) do not need to be included within the boundaries of the final subdivision plat if each of such remainder parcel(s) (or such number of them if contiguous) conform to the minimum size requirement of the applicable zone at the time. In such cases, a certificate executed by the City shall be recorded with the Summit County Recorder, at the same time as the final subdivision plat is recorded, against the remainder parcel(s) located outside of the final subdivision plat stating that

such remainder parcel(s) are conforming parcels pursuant to this chapter.

- c. Each proposed lot shall have legal access through a recorded right-of-way or easement. The applicant shall demonstrate that adequate access to the property from a public road may be granted by the State, County, or City, whichever is applicable.
- d. Compliance with the development evaluation standards provided in chapter 3 of this Title.
- e. Compliance with the infrastructure standards in chapter 9 of this Title.
- f. The minimum lot size for new lots created through this process will meet the minimum lot size requirements for the applicable zone.
- g. If the subdivision includes any land located within one hundred feet (100') of the center line of a canal, the City Planner shall:
 - (1) Within thirty (30) days after the day on which the application is filed, notify the canal company or canal operator responsible for the canal, if the canal company or canal owner has provided information under Utah Code Annotated 17-27a-213.
 - (2) Wait at least ten (10) days after the day on which the City Planner notifies a canal company or canal operator to approve, approve with conditions or reject the final subdivision plat.
- h. An approval from the Summit County Health Department.
- i. Proof that property taxes for the applicable property have been paid.
- j. Compliance with all applicable City regulations.

C. Subdivisions Consisting of Four or More Lots:

- 1. **Master Planned Development Required:** In the following cases, a Master Planned Development approval is required pursuant to section 13-5-12 of this chapter:
 - a. Any application to subdivide at base density resulting in four (4) or more lots or parcels.
 - b. Any proposal which includes the movement of density between zones on a single parcel which results in the creation of four (4) or more lots.
- 2. **Submission Requirements:** An application for subdivision consisting of four (4) or more lots shall include the information set forth below. The City Planner may waive specific submittal requirements if he or she determines that the submittal requirement(s) are not necessary to demonstrate compliance with the provisions of this chapter.
 - a. Completed subdivision application signed by the owner;
 - b. Subdivision application fee payment;

- c. The subdivision shall contain sufficient land area necessary to meet the density requirements of the zone;
- d. Name and address, including email address and telephone number, of all the owners, and citation of last instrument conveying title to each parcel of property involved in the proposed subdivision, giving grantor, grantee, date, and land records reference;
- e. One (1) copy of a survey prepared by a surveyor licensed in the State including the following information:
 - (1) The name of the land surveyor;
 - (2) Approximate true north arrow;
 - (3) Legal description and location of property, including citation of any existing legal rights-of-way, public and private roads, streets, irrigation ditches, water bodies, streams/rivers, structures, and/or other physical improvements affecting the property; including existing covenants on the property, if any;
 - (4) A delineation of environmentally sensitive areas, including floodplains, delineated wetlands, ridgelines and slopes exceeding thirty percent (30%);
- f. Two (2) copies (one 11" x 17" copy and one 24" x 36" copy) of the proposed final subdivision plat and one (1) electronic copy of a scaled final subdivision plat prepared by a surveyor or civil engineer licensed in the State of Utah, including:
 - (1) The subdivision name and date of plat creation. The subdivision name may not be the same name as any existing recorded subdivision in Oakley City, Utah;
 - (2) The name of the land surveyor;
 - (3) Approximate true north arrow;
 - (4) The plat scale and the location and dimensions of all boundary lines of the property (expressed in feet and in decimals of a foot), the locations, dimensions, and areas of all proposed lot, rights-of-way, easements; consecutively numbered or lettered lots with addresses (subject to final review and approval by the City);
 - (5) Notation of any required plat restrictions;
 - (6) Signature blocks for the Oakley City, Land Use Authority, City Engineer, Public Health Officer, City Attorney, applicable fire district, local electrical power provider, local natural gas provider (if applicable);
 - (7) Notarized signatures on the plat by every person having a security interest in the property which sets forth that he/she is subordinating his/her liens to all covenants,

- servitude and easements imposed on the property, and all conditions of development approval proposed by the City;
- (8) All monuments erected, corners, and other points established in the field;
 - (9) Plat notes stating that:

"Further subdivision of such lands, whether by deed, bequest, divorce, decree, or other recorded instrument, shall not result in a buildable lot until the same has been approved in accordance with the Oakley City Land Management and Development Code."

"The owners of property within Oakley City recognize the importance of agricultural lands and operations and small rural business enterprises. It is recognized that agricultural lands and operations and rural business enterprises have unique operating characteristics that must be respected. Owners of each lot platted in this subdivision/the owner of the residence constructed upon this Lot have/has been given notice and recognizes that there are active agriculture lands and operations and rural business enterprises within Oakley City and acknowledge(s) and accept(s) that, so long as such lands and operations exist, there may be dust, noise, odor, prolonged work hours, use of roadways for the purposes of herding/moving animals, and other attributes associated with normal agricultural operations and rural businesses."

If serviced by a private water system:

"Water has not been approved for this site. It shall be the responsibility of each lot owner to demonstrate that water of adequate quality and quantity is available for each lot prior to the issuance of a building permit. This shall be accomplished with a memorandum of decision from the state engineer for a private well, spring or a written commitment from a private water company."

- g. Following final action on the final subdivision plat which results in an approval, a current (within 30 days) preliminary title report covering all property located within the subdivision;
- h. Following final action on the final subdivision plat which results in an approval, a 24" x 36" mylar of a scaled (1" = 100') subdivision final plat prepared by a surveyor or civil engineer licensed in the

State of Utah, including all items listed in subsection C2f of this section.

3. **Review Procedure:**

a. **Optional Sketch Plan:** Prior to submitting a formal application for a subdivision review, an applicant may exercise the voluntary option to submit a Sketch Plan, which shall contain enough information in graphic and text form to adequately describe the applicant's intentions with regard to the proposed development. Sketch Plans shall be drawn to a convenient scale of not more than one hundred feet to an inch (1" = 100'), unless otherwise approved by the City Planner.

(1) **Sketch Plan Review:** The City Planner shall review the Sketch Plan and identify any relevant issues for the applicant to address with the final subdivision plat application, as well as any additional information necessary to establish the proposed subdivision's compliance with the standards and regulations of this chapter. A Sketch Plan may be reviewed by the Planning Commission for preliminary input at the direction of the City Planner or at the request of the applicant.

b. **Final Subdivision Plat Review Process:**

(1) The City Planner shall secure input regarding the proposed subdivision from all affected agencies and service providers including, but not limited to utility providers, the Summit County Health Department, Fire District, City Engineer, and City Public Works Department. Upon receiving such input, the City Planner shall prepare a staff report analyzing the proposed final subdivision plat's compliance with the review standards set forth in this section and identifying any compliance-related issues related to the proposal.

(2) The staff report and all application submittal materials shall be forwarded to the City Planner. The City Planner shall provide notice of the proposed final subdivision plat application to all property owners in the manner set forth in this chapter and schedule the application for a public hearing before the Planning Commission.

(3) The Planning Commission shall hold a public hearing on the proposed final subdivision plat and forward a recommendation to the City Council.

(4) The City Council shall take final action on the proposed final subdivision plat.

(5) Once the final subdivision plat is approved and all applicable signatures are obtained on the final mylar, the City Attorney will review the preliminary title report for

acceptability. The title report must be current (within 30 days).

- (6) Upon approval of the City Attorney and once all required signatures are obtained, the detailed final subdivision plat shall be recorded in the records of the Summit County Recorder.

4. **Criteria for Approval:** Before a subdivision can be approved; it must conform to all of the following criteria:
 - a. All of the land required for the density needed to create the lots within the subdivision, including a remnant parcel, which on its own would not be large enough to qualify for any density, shall be contained within the boundaries of the final subdivision plat, and any remnant parcel shall bear a plat note stating that no density exists on such remnant parcel until such time (if ever) as the zone is changed to permit additional density rights and the remnant parcel is, if necessary, re-subdivided in accordance with this chapter; or the remnant parcel is otherwise vacated from the final subdivision plat for the purposes of a parcel boundary adjustment, which shall constitute good cause thereof under State law.
 - b. In the event that the parcel(s) being subdivided contain more land than that which is needed to establish the density for the subdivision, such remainder parcel(s) do not need to be included within the boundaries of the final subdivision plat if each of such remainder parcel(s) (or such number of them if contiguous) conform to the minimum size requirement of the applicable zone at the time. In such cases, a certificate executed by the City shall be recorded with the Summit County Recorder, at the same time as the final subdivision plat is recorded, against the remainder parcel(s) located outside of the final subdivision plat stating that such remainder parcel(s) are conforming parcels pursuant to this chapter.
 - c. Each proposed lot shall have legal access through a recorded right-of-way or easement. The applicant shall demonstrate that adequate access to the property from a public road may be granted by the State or City, whichever is applicable.
 - d. Compliance with the development evaluation standards provided in chapter 3 of this Title.
 - e. Compliance with the infrastructure standards in chapter 9 of this Title.
 - f. If the subdivision includes any land located within one hundred feet (100') of the center line of a canal, the City Planner shall:
 - (1) Within thirty (30) days after the day on which the application is filed, notify the canal company or canal operator responsible for the canal, if the canal company or

canal owner has provided information under Utah Code Annotated 17-27a-213.

- (2) Wait at least ten (10) days after the day on which the City Planner notifies a canal company or canal operator to approve, approve with conditions or reject the final subdivision plat.
- g. The minimum lot size for new lots created through this process will meet the minimum lot size requirements for the applicable zone.
- h. An approval from the Summit County Health Department.
- i. Proof that the taxes for the applicable property have been paid.
- j. Compliance with all applicable City regulations.

D. Condominium Plats:

1. **Plat Requirements:** A plat is required in all cases which satisfy the definition of condominium. A condominium plat shall contain the information required for a Final Site Plan as identified in section 13-5-6 of this chapter. Covenants, Conditions and Restrictions for the development shall also be submitted for review by the City Attorney prior to recordation of the condominium plat.
2. **Review Procedure:** The review procedure for a condominium plat shall be the same as the review procedure for a final site plan, as outlined in section 13-5-6 of this chapter.
3. **Issuance of Building Permit:** A building permit for condominium units can be issued following approval of the condominium plat by the Planning Commission as provided in this chapter. A building permit will be issued based upon a certified architectural plan of the building elevation and floor plans as approved by the building official.
4. **Filing:** All condominium plats shall be filed with the Summit County Recorder following completion of construction and before acceptance of improvements.

E. Subdivision Plat Amendments:

1. **Submission Requirements:** Any request for a proposed vacation, alteration or amendment of a final subdivision plat, any portion of such final subdivision plat, or any public or private road or lot contained in such plat shall require the application for a subdivision plat amendment. An application for a subdivision plat amendment shall include the information set forth below. The City Planner may waive specific submittal requirements if he or she determines that the submittal requirement(s) are not necessary to demonstrate compliance with the provisions of this chapter.
 - a. Completed subdivision plat amendment application including a description of all proposed amendments to the final subdivision plat;

- b. Proof that property taxes for the applicable property have been paid;
- c. Subdivision plat amendment application fee payment;
- d. Name and address, including email address and telephone number, of the owner(s), and citation of last instrument conveying title to each parcel of the property involved in the subdivision plat amendment, giving grantor, grantee, date, and land records reference;
- e. The signature of each owner who consents to the subdivision plat amendment;
- f. Two (2) copies (one 11" x 17" copy and one 24" x 36" copy) of the proposed subdivision plat amendment and one (1) electronic copy of a scaled final subdivision plat prepared by a surveyor or civil engineer licensed in the State of Utah, including:
 - (1) The subdivision plat amendment name and date of plat creation;
 - (2) The name of the land surveyor;
 - (3) Approximate true north arrow;
 - (4) The plat scale and the location and dimensions of all boundary lines of the property (expressed in feet and in decimals of a foot), the locations, dimensions, and areas of all proposed lot, rights-of-way, easements; and remainder parcels (if applicable);
 - (5) Consecutively numbered or lettered lots with addresses authorized by the City;
 - (6) Notation of any self-imposed plat restrictions or revisions thereof;
 - (7) Signature blocks for the Summit County Recorder, City Planner, City Engineer, Public Health Officer, City Attorney, Fire District, local power and gas providers (if applicable), and local culinary water provider (if different from the City);
 - (8) Endorsement on the plat by every person having a security interest in the property which sets forth that he/she is subordinating his/her liens to all covenants, servitude and easements imposed on the property, and all conditions of development approval proposed by the City;
 - (9) All monuments erected, corners, and other points established in the field;
 - (10) Following final action on the subdivision plat amendment which results in an approval, a current (within 30 days) preliminary title report covering all property located within the subdivision;
 - (11) Following final action on the subdivision plat amendment which results in an approval, a 24" x 36" mylar of a scaled

(1" = 100') final subdivision plat prepared by a surveyor or civil engineer licensed in the State of Utah, including all items listed in subsection E1f of this section.

2. **Lot Combinations and Lot Line Adjustments:**
 - a. **Land Use Authority:** The City Planner shall be the Land Use Authority for all subdivision plat amendments resulting in the combination of lots and adjusting and/or altering lot lines within a final subdivision plat.
 - b. **Written Notice:** Prior to the approval of a subdivision plat amendment the City Planner shall provide written notice by first class mail a minimum of ten (10) days in advance of the requested action to all affected entities.
 - c. **Review and Decision:** The City Planner shall take final action on an application for a subdivision plat amendment based on the standards set forth in this chapter and Utah State law. The final action shall become effective on the date that the final subdivision plat is signed by the City Planner.
 - d. **Referral of Application by City Planner to Planning Commission:** The City Planner may refer any subdivision plat amendment application to the Planning Commission if the City Planner determines the application to be complex or to result in a significant change to the property or the surrounding area; or if a written objection against the application is received within ten (10) calendar days of the mailed notice set forth in subsection E7a of this section. The Planning Department shall schedule the matter before the Planning Commission for a public hearing and possible action. Following the public hearing, the Planning Commission shall make a recommendation to the City Planner approving, approving with conditions or denying of the application.
3. **Other Subdivision Plat Amendments Not Involving A Private or Public Road:**
 - a. **Land Use Authority:** The Planning Commission shall be the Land Use Authority for all subdivision plat amendments that result in building pad adjustments, subdivision title changes, plat note revisions, altering of utility easements, vacations and all other amendments that do not affect a public or private road.
 - b. **Public Hearing:** The Planning Commission shall hold a public hearing prior to taking final action on a proposed subdivision plat amendment.
4. **Subdivision Plat Amendments Altering or Vacating A Private Road:**
 - a. **Land Use Authority:** The Planning Commission shall be the Land Use Authority for subdivision plat amendments involving the alteration or vacation of a private road.

- b. **Public Hearing:** The Planning Commission shall hold a public hearing prior to taking final action on a request to alter a private road within a final subdivision plat.
- 5. **Subdivision Plat Amendments Altering or Vacating A Public Road:**
 - a. **Land Use Authority:** The City Council shall be the Land Use Authority for subdivision plat amendments involving the alteration or vacation of a public road within a subdivision. The final action of the City Council shall be based upon compliance with State law and shall be in the form of an ordinance.
 - b. **Public Hearing by Planning Commission:** The Planning Commission shall hold a public hearing in accordance with this chapter. The Planning Commission shall forward a recommendation to the City Council.
 - c. **Public Hearing by City Council:** The City Council shall hold a public hearing in accordance to this chapter prior to taking final action on a request to alter or vacate a public road shown on a final subdivision plat.
- 6. **Subdivision Plat Amendments Which Amount to a Re-Subdivision:** Re-subdivisions shall conform to the minimum lot size within the zone, comply with all applicable regulations of this Title, honor existing plat note restrictions, and follow the appropriate processes in subsection B or C of this section.
- 7. **Notice of Public Hearings for Subdivision Plat Amendments:** In the event that a public hearing is required or the City Planner elects to hold a public hearing, the following requirements shall apply:
 - a. **Written Notice:** The Planning Department shall give written notice of any proposed subdivision plat amendment and associated public hearing. Notice shall be by first class mail a minimum of ten (10) calendar days in advance of the requested action to all owners of property located within the subdivision, to each owner of property within one thousand feet (1,000') from the lots being amended, and to all affected entities.
 - b. **Private or Public Road Vacation, Alteration, or Amendment Notice:** If the proposed subdivision plat amendment involves the vacation, alteration, or amendment of a private or public road, the Planning Department shall give notice of the date, place, and time of the public hearing by:
 - (1) Mailing notice, as required in this chapter;
 - (2) For public roads, publishing the notice once a week for four (4) consecutive weeks before the public hearing in a newspaper of general circulation within the City.
 - (3) For public roads, publishing the notice on the Utah Public Notice Website.

- c. **Required Public Hearing Timeframe:** Once a subdivision plat amendment application is filed and it is determined that a public hearing is required, the Land Use Authority shall hold the public hearing within forty-five (45) days following the receipt of a complete application.
- 8. **Waiver of The Public Hearing Requirement for Subsection E3:** At the discretion of the City Planner, any public hearing requirement may be waived for subdivision plat amendments if the following criteria are met:
 - a. The name and address and consenting signatures of all owners of record of the land contained in the entire subdivision are submitted with the application; or
 - b. The signatures of all owners within the subdivision acknowledging consent to the amendment are submitted with the application.
- 9. **General Criteria:**
 - a. Upon final approval of the subdivision plat amendment, the following signatures are required on the amended final subdivision plat:
 - (1) **Owners:** Notarized signatures of each owner of record of the portion of the final subdivision plat that is amended is required.
 - (2) **City Planner:** If the subdivision plat amendment results in a lot combination or lot line adjustment set forth in subsection E2 of this section, the signature of the City Planner is required.
 - (3) **Planning Commission:** If the subdivision plat amendment results in either the alteration or vacation of a private road in accordance with subsection E4 of this section, or the adjustment of a building pad, subdivision title change, plat note revision, and any other amendments that do not affect a public road as set forth in subsection E3 of this section, the signature of the Chair of the Planning Commission is required.
 - (4) **City Council:** If the subdivision plat amendment results in an alteration or vacation of a public road on a final subdivision plat pursuant to subsection E5 of this section, the signature of the Chair of the City Council is required.
 - (5) **Other Signatures:** The signatures of the County Recorder, City Engineer, City Attorney, and County Assessor are required. A Certificate of Consent from any and all mortgagors, lien holders, or others with a real property interest in the affected parcels is also required.
 - b. Once the application is approved and all applicable signatures are obtained on the amended final subdivision plat mylar, the City Attorney shall review a preliminary title report for acceptability.

- c. Upon approval of the City Attorney, and once all required signatures are obtained on the mylar, the amended final subdivision plat shall be recorded in the records of the Summit County Recorder.
- 10. **Grounds for Vacating or Amending A Subdivision Plat Not Involving A Private or Public Road:**
 - a. If the Land Use Authority is satisfied that the public interest will not be materially injured by the proposed vacation, alteration or amendment, and there is good cause for the vacation, alteration or amendment, the Land Use Authority, may vacate, alter or amend the final subdivision plat, or any portion of the final subdivision plat.
 - b. No subdivision plat amendment shall be approved which results in an increase in density unless the requirements set forth in subsection E6 of this section for a re-subdivision have been satisfied.
- 11. **Grounds for Vacating or Amending A Public or Private Road Within A Subdivision Plat:**
 - a. If the Land Use Authority is satisfied that there is good cause for the vacation, alteration or amendment, and the public interest or any person shall not be materially injured by the proposed vacation, alteration or amendment, the Land Use Authority may vacate, alter or amend a public or private road within a final subdivision plat.
 - b. No subdivision plat amendment that vacates, alters or amends a public or private road shall be approved which results in an increase in density except as provided in subsection E10 of this section.
- 12. **Appeal:** An aggrieved party may appeal the final action on a subdivision plat amendment in accordance with the appeals procedures set forth in section 13-1-16 of this Title.

F. Parcel Boundary Adjustments:

- 1. A property owner:
 - a. May execute a parcel boundary adjustment by quitclaim deed or by boundary line agreement as described in Utah Code Annotated section 17-27a-522, 17-27a-523, or 57-1-45.
 - b. Shall record the quitclaim deed or boundary line agreement in the Office of the Summit County Recorder.
- 2. A parcel boundary adjustment is not subject to the review of the Land Use Authority.
- 3. Creation of any new legal description through this process does not affect the status of the parcel as a conforming parcel.

G. Divisions of Land for Non-Development Purposes:

1. A division of a parcel for agricultural activity is not a subdivision for purposes of this chapter.
2. A division of a parcel without conformance to the final subdivision plat requirements of this chapter or the certificate required by Utah Code Annotated section 17-27a-605(1), as amended, does not create a conforming parcel for purposes of this chapter. However, in conformance with Utah Code Annotated section 17-27a-605(3), as amended, such divisions of land can be recorded for purposes of conveying property ownership.

13-5-6: FINAL SITE PLANS:

A. Information Required: A detailed Final Site Plan is required for all conditional use permits. Final Site Plans shall contain the information set forth in this section. The City Planner may waive specific submittal requirements if it is determined that the submittal requirement(s) are not necessary to demonstrate compliance with the provisions of this chapter.

1. A vicinity map at a scale of not less than one inch equals one thousand feet (1" = 1,000').
2. A legal description and accompanying map exhibit of the exterior boundaries of the development area giving lengths and bearings of the boundary lines at the scale of one inch equals one hundred feet (1" = 100'), showing the location and type of boundary evidenced. Such information should be provided from the recorded plats. The legal description shall include the following data:
 - a. Metes and bounds of all property lines;
 - (1) Total area of property;
 - (2) North scale and north arrow; and
 - b. Name and route numbers of boundary roads and the width of existing rights-of-way.
3. Existing topography with maximum contour intervals of two feet (2').
4. A final detailed land use plan at a scale of not less than one inch equals one hundred feet (1" = 100') showing:
 - a. The location and arrangement of all proposed uses, including building area.
 - b. The height and number of floors of all buildings, other than single-family dwelling units, both above and below or partially below the finished grade.
 - c. A cross section elevation plan depicting all buildings, structures, monuments, and other significant natural and manmade features of the proposed development.
 - d. The yard dimensions from the development boundaries and adjacent private and public roads and alleys.

- e. The traffic and the pedestrian circulation system, including the location and width of all public and private roads, driveways, entrances to parking areas and parking structures, trails, walkways and bicycle paths.
- f. Off street parking and loading areas and structures, and landscaping for parking areas.
- g. Greenspace and other active recreation space areas, together with proposed private recreational areas, specifying the proposed improvement of all such areas, and delineating those areas proposed for specific types of recreational facilities.
- h. Architectural features of typical proposed structures, including lighting fixtures, signs and landscaping.
- i. A plan or statement showing the location and design of all screening measures and indicating the type and height of such screening.
- j. When the development is to be constructed in stages or units, a final sequence of development schedule showing the order of construction of such stages or units, and approximate completion date for the construction of each stage or unit.
- k. A copy of all Covenants, Restrictions and Conditions pertaining to the use, maintenance and operation of private open space areas.
- l. All existing monuments found during the course of the survey (including a physical description such as "brass cap").
- m. All existing easements or rights-of-way, including those contiguous to the platted area, their nature, width, and the book and page number of their recording in the Summit County Recorder's Office.
- n. All rights-of-way and easements and trails (including open space) created by the development with their boundary, bearings, lengths, widths, name, number or purpose. For curved boundaries, the curve radius, central angle and length of arc shall be given.
- o. A final statement in tabular form which sets forth the following data, when such data is applicable to a given development plan:
 - (1) The area of all parcels created, total acreage, total acreage in lots, and total acreage in private or public roads or other dedicated parcels;
 - (2) Total number of dwelling units, by development phase;
 - (3) Residential density and units per acre;
 - (4) Total floor area and floor area ratio for each type of use;
 - (5) Total area in open space and length of trails;
 - (6) Total area in developed recreational open space; and
 - (7) Total number of off street parking and loading spaces.

- B. **Site Plan Contents:** In addition to the requirements of subsection A of this section, the Final Site Plan shall conform to current surveying practice and shall show the following information:
1. A title block giving the development's name and the quarter-quarter section, section, township, range, principal meridian, and City of its location.
 2. A notation of any adjoining plats or certificates of survey and titles thereto.
 3. All monuments set during the course of the survey (including a physical description such as "rebar driven to depth of..."), including appropriate witness monuments.
 4. The owner's Certificate of Consent, including a legal description of the subdivision's boundaries and the dedication of public ways or spaces. This certificate shall be signed, dated and notarized.
 5. The owner's Certificate of Consent should include a reference to any covenants that may be declared and blanks where the Summit County Recorder may enter the book and page number of their recording.
 6. A Certificate of Consent from any and all mortgagors, lien holders, or others with a real property interest in the subdivision. These Certificates of Consent shall be signed, dated and notarized.
 7. A Surveyor's Certificate showing the name and registration number of the surveyor responsible for making the survey. This Surveyor's Certificate shall be signed and dated.
 8. Signature blocks prepared for the dated signatures of the Planning Commission, City Mayor, County Recorder, City Engineer, City Attorney, electrical and gas utilities (when applicable) and the Fire District. A signature block shall also be provided for the Summit County Assessor indicating that all taxes, interest and penalties owing to the land have been paid.
- C. **Site Plan Materials, Size, Copies:** Final site plans may be prepared on linen or on a stable base polyester film (mylar). Final site plans may be either eighteen inches by twenty-four inches (18" x 24"), or twenty-four inches by thirty six inches (24" x 36"). Three (3) paper copies shall be submitted along with the linen or film copy.
- D. **Multiple Sheets:** Multiple sheet final site plans may be used. All sheets shall be numbered and referenced to an index, and all required certificates shall appear on a single sheet (along with the index and vicinity maps).
- E. **Review Procedure:** The City Planner shall review the application for a final site plan, prepare a staff report, which makes recommendations and proposed findings, and present such to the Planning Commission. Following a lawfully advertised public hearing, the Planning Commission shall take final action on the application for a final site plan.

13-5-7: CONDITIONAL USE PERMITS:

- A. **Purpose:** It is recognized that there are activities which, because of the nature of the intended use and potential impact upon the enjoyment of neighboring properties, require special review. These uses, referred to as conditional uses, are identified in section 13-4-19, "Chart of Allowed and Permitted Uses", of this Title. Conditional uses shall be reviewed in accordance with the following criteria and procedures.
- B. **Findings for Approval:** Before an application for a conditional use permit is approved, the Planning Commission must conclude that factual evidence exists to verify the following findings:
1. The proposed use, as conditioned, shall be appropriate in the particular location, taking into account the nature of the use, its relationship to surrounding uses and its impact on the natural environment.
 2. The proposed use, as conditioned, shall be in compliance with the development evaluations standards in chapter 3 of this Title.
 3. The applicant shall present evidence to show approval of the landowner for the particular use, unless the land is owned by the applicant and, in such case, the applicant shall submit proof of ownership.
 4. There are reasonable conditions that can be imposed which mitigate the reasonably anticipated detrimental effects of the proposed use.
- C. **Review Procedure:**
1. The applicant shall submit a completed application for a conditional use permit and all information set forth herein. The City Planner may waive specific submittal requirements based on a finding that the information is not necessary to evaluate the project's compliance with the standards of this chapter. The City Planner or Planning Commission may require additional information based upon a finding that the information is necessary to evaluate the project's compliance with the standards of this chapter. The City Planner shall review the application and shall make findings and recommendations and shall schedule a review before the Planning Commission as soon thereafter as may be practicable.
 2. The Planning Commission shall review the project and the staff report. After holding a public hearing, the Planning Commission shall take final action on the application for a conditional use permit.
- D. **Time Limit for Action:** Unless otherwise approved by the Planning Commission, conditional use permits shall expire in one (1) year from the date of Planning Commission's written approval unless the conditional use permit activity has commenced. Once such activity has commenced, the conditional use permit shall vest and run with the land.

- E. **Periodic Review Process:** Conditional use permits are subject to periodic reviews by the City Planner to assess if the conditions of approval are being satisfied. If the original conditions associated with the conditional use permit are not being satisfied, the Planning Commission may commence a review of the conditional use permit and possible revocation action.

- F. **Establishment of A Conditional Use Permit:** Final action on an application for a conditional use permit shall be in the form of a signed letter issued by the City Planner to the applicant specifically identifying each condition together with the approved Final Site Plan and any other accompanying documents determined to be relevant by the City Planner.

- G. **Amendments to Conditional Use Permits:**
 - 1. **Minor Amendment:** A minor amendment is defined as an amendment that does not increase the square footage, density, or intensity of a previously approved conditional use permit. A minor amendment may be approved by the City Planner. No public hearing is required.
 - 2. **Major Amendment:** A major amendment is defined as an amendment that increases square footage, density, and/or intensity of a previously approved conditional use permit. A major amendment may be commenced by filing an application for a conditional use permit and paying the fee for the review thereof. The application shall follow the review process set forth in subsection C of this section.

- H. **Adult/Sex-Oriented Facilities:** See appendix C of this Title for adult/sex-oriented facilities and businesses requirements.

- I. **Additional Criteria for Oil Wells, Gas Wells and Steam Wells:** An application for a conditional use permit shall be reviewed and approved for oil, gas, and steam wells according to the following additional criteria:
 - 1. Access to the drill site shall utilize existing private and public roads as much as possible.
 - 2. Any required grading and associated cut and fill areas shall be re-vegetated and contoured to maintain existing drainage patterns.
 - 3. Erosion control best management practices in accordance with City engineering regulations shall be applied to all disturbed areas, including private and public roads, staging areas and drill site.
 - 4. The drilling and production operation shall be conducted in such a manner as to minimize, so far as practicable, dust, noise, vibration, and odors.
 - 5. All waste shall be disposed of in such a manner as to comply with the air and water quality regulations of the State, County, and City.

6. Firefighting apparatus and supplies, as approved by the County Wildland Fire Marshal, shall be maintained on the drilling site at all times during drilling and production operations.
7. Upon completion or abandonment of the well, all disturbed areas, including the drill site and staging areas shall be reclaimed by re-contouring the area to blend with the natural terrain, replacing topsoil and re-vegetating. A weed mitigation plan shall be implemented as part of the re-vegetation plan for all disturbed areas.
8. Drill sites and/or staging areas located on sensitive lands such as steep slopes and ridgelines or within one (1) mile of a residential area (including recreational cabins) or public buildings shall be subject to additional review criteria such as hours of operation, screening and buffering, fencing, traffic, and lighting.

J. **Additional Criteria for Wind Power Generation Facilities:** An application for a conditional use permit shall be reviewed and may be approved for wind power generation facilities according to the following additional criteria:

1. Access to the site shall utilize existing private and public roads as much as possible.
2. Any required grading and associated cut and fill areas shall be re-vegetated and contoured to blend into the natural terrain and maintain existing drainage patterns. A weed mitigation plan shall be implemented as part of the re-vegetation plan for all disturbed areas.
3. Erosion control Best Management Practices in accordance with City engineering regulations shall be applied to all disturbed areas, including private and public roads, staging areas and facility site.
4. Transmission and distribution lines shall be located along existing roadways where possible or in other locations that avoid vegetation disturbance and visual scarring of prominent hillsides.
5. All distribution lines will be buried.
6. Facility sites located on sensitive lands such as steep slopes, ridgelines, view corridors or within one mile of a residential area (including recreational cabins) or public buildings shall be subject to additional review criteria such as screening, height, colors, and security fencing.

13-5-8: LOW IMPACT PERMITS:

A. **Purpose:** The purpose of the low impact permit is to provide a process and procedure for reviewing and approving, approving with conditions, or denying a low impact use. Low impact uses are identified in section 13-4-19, "Chart of Allowed and Permitted Uses", of this Title. Upon compliance with the provisions of this section, a low impact permit may be granted by the City Planner, with reasonable conditions necessary for the protection and preservation of the public health, safety, and welfare.

- B. **Applicability:** A low impact permit is utilized to obtain administrative approval for projects determined to be low intensity and which are in conformance with the development evaluation standards and general regulations of this Title. An application for approval of a low impact permit shall be commenced by filing a plan and paying the applicable fee with the Planning Department.
- C. **Review Procedure:**
1. The applicant shall provide a development plan and description of the proposed project. The plan shall contain enough information, in graphic and text form, to adequately describe to the satisfaction of the City Planner the applicant's intentions with regard to use, site layout and compliance with this chapter, and any applicable ordinance, development permit, or development agreement.
 2. In proposals where the City Planner determines that potential issues may arise or additional comment is needed or has been received from the community, a public hearing on the application may be scheduled with the Planning Commission. Following the public hearing, the Planning Commission shall make a recommendation to the City Planner to either approve, approve with conditions or deny the low impact permit.
 3. The City Planner shall determine whether the application is sufficient and in compliance with the provisions of this chapter. The City Planner may require the applicant to submit such additional information as may be necessary to determine whether the application conforms to the requirements of this chapter.
 4. The City Planner shall take final action on the application for a low impact permit and shall communicate the decision to the applicant. The City Planner may impose all reasonable conditions necessary to ensure compliance with any applicable provisions of this Title. The City Planner may also provide written notice of such decision to any persons who have requested notice of such decision. Any person aggrieved by such decision may appeal the final action in accordance with the provisions of this Title.
 5. The Planning Commission shall periodically be provided with a list of the low impact permits that have been issued by the City Planner.
- D. **Findings for Approval:** Before a low impact permit is approved, the City Planner must conclude that factual evidence exists to verify the following findings:
1. The use conforms to all applicable requirements of this chapter and State and Federal regulations.
 2. The use is consistent with the goals and policies of the General Plan.
 3. The use conforms to all requirements in chapter 3, "Development Evaluation Standards", of this Title.
 4. The use is not detrimental to public health, safety and welfare.

5. The use is appropriately located with respect to public facilities and services.
6. The natural topography, ridgelines, soils, critical areas, greenspaces, watercourses and vegetation shall be preserved where possible through careful site planning and design of access routes, circulation areas, buildings and other structures, parking areas, utilities, drainage facilities and other features.

13-5-9: TEMPORARY USE PERMITS:

- A. **Purpose:** Upon compliance with the provisions of this section, a temporary use permit may be granted, upon reasonable conditions necessary for the protection and preservation of the public health, safety, and welfare. This section is intended to provide a process and procedure for reviewing and approving, approving with conditions, or denying a temporary use.
- B. **Findings for Approval:** Before an application for a temporary use permit is approved, the City Planner must conclude that factual evidence exists to verify the following findings:
 1. The use shall not adversely affect, in a significant manner, the public health, safety, and welfare.
 2. The proposed use shall be appropriate, on a temporary basis, in the particular location, taking into account the nature of the use, its relationship to surrounding uses and its impact on the natural environment.
 3. The proposed use shall be in compliance with the development evaluations standards in chapter 3 of this Title.
 4. The applicant shall present evidence to show approval of the landowner for the particular use, unless the land is owned by the applicant and, in such case, the applicant shall submit proof of ownership.
 5. The site shall be returned to its original condition or, when significant disturbance has occurred, to a condition approved by the City Planner.
- C. **Review Procedure:**
 1. **Permit Application:** Temporary uses shall be permitted for a period not to exceed one (1) year. The applicant shall submit a completed application for a temporary use permit and all information deemed necessary and reasonable by the City Planner to permit the City the opportunity to conduct a detailed assessment of the impacts of the proposed use. The City Planner shall take final action on the application for a temporary use permit and shall communicate the decision to the applicant. Approval of a temporary use permit shall not be considered valid unless a specific period of time during which the use may exist and operate is designated. The City Planner may consider and approve one (1) 6-month extension of a

temporary use permit beyond the one (1) year approval period after which the temporary use permit is no longer valid.

2. **Referral of Application by City Planner to Planning Commission:** The City Planner may refer any application for a temporary use permit or an extension of a temporary use permit to the Planning Commission due to the complexity of the application or the significance in change to the property or the surrounding area. The Planning Department shall schedule the matter before the Planning Commission for a public hearing. Following the public hearing, the Planning Commission shall make a recommendation to the City Planner regarding an approval, approval with conditions or denial of the temporary use permit.

13-5-10: ZONING VARIANCES:

- A. **Waiver, Modification, Or Variance:** Any person or entity desiring a waiver or modification of the requirements of this chapter as applied to a parcel that he/she owns, leases, or in which he/she holds some other beneficial interest may apply to the Board of Adjustment for a variance from the terms of this chapter. See section 13-1-7 of this Title.
- B. **Prohibited Variances:** The Board of Adjustment may not grant a use variance.
- C. **Standards:** The Board of Adjustment may grant a zoning variance only if:
 1. Literal enforcement of the Code would cause an unreasonable hardship for the applicant that is not necessary to carry out the general purpose of this chapter;
 2. There are special circumstances attached to the parcel that do not generally apply to other parcels within the same zone;
 3. Granting the zoning variance is essential to the enjoyment of a substantial property right possessed by other property owners in the same zone;
 4. The zoning variance will not substantially affect the General Plan and will not be contrary to the public interest; and
 5. The spirit of this chapter is observed and substantial justice done.
- D. **Unreasonable Hardship:** In determining whether enforcement of this chapter would cause unreasonable hardship, the Board of Adjustment must find that:
 1. The alleged hardship is located on or associated with the parcel for which the zoning variance is sought; and
 2. The alleged hardship comes from circumstances peculiar to the property, not from conditions that are general to the neighborhood; and
 3. The alleged hardship is not self-imposed or purely economic in nature.

- E. **Special Circumstances:** In determining whether or not there are special circumstances attached to the parcel, the Board of Adjustment must find that:
 1. The circumstances relate to the hardship complained of; and
 2. The circumstances deprive the property of privileges granted to other properties in the same zone.

- F. **Conditions:** In approving a zoning variance, the Board of Adjustment may impose additional requirements on the applicant that will:
 1. Mitigate any harmful effects of the zoning variance; or
 2. Serve the purpose of the standard or requirement that is waived or modified.

- G. **Run with the Land:** Zoning variances shall run with the land.

- H. **Review Procedure:**
 1. The City Planner shall review the application for a zoning variance and make preliminary findings as to whether the application complies with the standards for approving a zoning variance established in this chapter.
 2. If applicable, the City Planner may secure input regarding the proposed request from any affected agencies and service providers. Upon receiving such information, the City Planner shall prepare a report and make proposed findings and recommendations and shall schedule a public hearing before the Board of Adjustment.
 3. The Board of Adjustment shall review the application and staff report. After conducting a public hearing, the Board of Adjustment shall take final action on the application for a zoning variance.

13-5-11: SPECIAL EXCEPTIONS:

- A. **Purpose:** Through a proper appeal process as outlined in Chapter 13.1.16 of this Title, a request for a special exception may be made to the City Council. Where the City Council finds that an applicant has a unique circumstance or equitable claim which makes strict enforcement of the provisions of this chapter unduly burdensome, it may, after a public hearing, approve legislative exemptions to the zoning provisions of this chapter so that substantial justice may be done and the public interest secured; provided that the special exception does not have the effect of nullifying the intent and purpose of this chapter or any provision thereof.

- B. **Criteria for Approval:** The City Council shall not approve a special exception unless the applicant demonstrates compliance with each of the following:
 1. The special exception is not detrimental to the public health, safety, and welfare;
 2. The intent of this chapter and the General Plan will be met;

3. The applicant does not reasonably qualify for any other equitable processes provided through the provisions of this chapter; and
 4. There are equitable claims or unique circumstances warranting the special exception.
- C. **Submission Requirements:** An application for a special exception shall not be accepted as complete unless such application contains sufficient information in graphic and text form to adequately describe the applicant's objective and all applicable fees are paid.
- D. **Review Procedure:**
1. If applicable, the City Planner may obtain input regarding the proposed special exception from all affected agencies and service providers. Upon receiving such information, the City Planner shall prepare a report and make proposed findings and recommendations and shall schedule a public hearing before the City Council as soon thereafter as may be practicable.
 2. The City Council shall review the application and staff report. After conducting a public hearing, the City Council shall take final action on the application for a special exception.
- E. **No Right of Appeal:** A special exception is a request for discretionary legislative action and thus is not subject to further appeal.

13-5-12: MASTER PLANNED DEVELOPMENTS:

- A. **Intent:** A Master Planned Development (MPD) is a comprehensive project design strategy to create projects that best address site conditions, the characteristics of the surrounding properties, as well as community and market demands. The master planned development process also creates tools to promote the efficient use of land resources as well as efficient public infrastructure and utility services. The goal of this strategy is to produce superior project design through flexibility and innovation so as to advance the goals of the General Plan and this chapter.
- B. **Applicability:** The master planned development process shall be required in all zones for the following applications:
1. Any application for a rezone.
 2. Any application to subdivide at base density resulting in four (4) or more lots or parcels.
 3. Any application which includes the movement of base density or uses between zones on a single parcel which results in the creation of four (4) or more lots or parcels.
 4. Any application which includes a density bonus within a residential zone. This applicability can apply to a Minor Subdivision (3 or less lots).

5. All applications for commercial uses, retail commercial establishments, offices, institutional uses or industrial uses with more than twenty thousand (20,000) square feet of floor area.
- C. **Uses:** A master planned development can only contain uses which are permitted or conditional within the zone(s) in which such are located, including rezones. When the project area includes parcels with differing zones, uses may be relocated across zone boundaries so long as the application is for a rezone and the Planning Commission and City Council determines that relocation results in a project design that advances the goals set forth in the General Plan.
- D. **Process:**
1. **Pre-Application Conference:** A required pre-application conference shall be held with staff in order for the applicant to become acquainted with the master planned development procedures and related City requirements and schedules. Staff may give preliminary feedback to the applicant based on information available at the conference and may inform the applicant of potential issues or special requirements which may result from the proposal.
 2. **The Master Planned Development Application:** A plan for the master planned development shall be submitted with a completed application form supplied by the City. A list of minimum requirements will accompany the application form. The application must include written consent by all owners of the property to be included in the master planned development. Once an application is received, it shall be assigned to a City planner who will review the application for completeness. The applicant will be informed if additional information is necessary to constitute a complete application.
 3. **Planning Commission Review and Public Hearing; City Council Action:** The City Council is the Land Use Authority for master planned developments. Prior to final action by the City Council, the Planning Commission is required to hold a minimum of one (1) public hearing prior to forwarding a recommendation to the City Council. The City Council shall take final action on the application for a master planned development. City Council action shall be in the form of written findings of fact, conclusions of law, and in the case of approval, conditions of approval.
 4. **Vesting of Approval:**
 - a. **Master Planned Developments Not Associated with A Final Subdivision Plat:** Construction within the MPD area will be required to commence within five (5) years of the date of the City Council MPD approval. After construction commences, the MPD shall remain valid as long as it is consistent with the approved specific project-phasing plan as set forth in the approved Final Site Plan and associated documents. It is anticipated that the specific

- project-phasing plan may require review and re-evaluation of the project at specified points in the development of the project.
- b. **Master Planned Developments Not Associated with A Rezone, but Requiring A Final Subdivision Plat:** A final subdivision plat must be recorded within five (5) years of the date of the City Council MPD approval. Additionally, construction within the MPD area will be required to commence within five (5) years of the date of the City Council MPD approval. In the event that the required final subdivision plat recordation and construction commencement has not taken place in the prescribed timeframe, the MPD shall expire and the final subdivision plat shall be void.
 - c. **Master Planned Developments Associated with A Rezone, but Not Requiring A Final Subdivision Plat:** Construction within the MPD area will be required to commence within five (5) years of the date of the City Council MPD approval. After construction commences, the MPD shall remain valid as long as it is consistent with the approved specific project-phasing plan as set forth in the approved final site plan and associated documents. It is anticipated that the specific project-phasing plan may require review and re-evaluation of the project at specified points in the development of the project. In the event that the required construction commencement has not taken place in the prescribed timeframe, the MPD shall expire and the zone shall revert to the previous zone designation.
 - d. **Master Planned Developments Associated with A Rezone and Final Subdivision Plat:** Unless otherwise extended per the provisions set forth in this chapter, a final subdivision plat associated with a rezone must be recorded within five (5) years of the date of the City Council MPD approval. Additionally, construction within the MPD area will be required to commence within five (5) years of the date of the City Council MPD approval. In the event that the required final subdivision plat recordation and construction commencement has not taken place in the prescribed timeframe, the MPD shall expire and the zone shall revert to the previous zone designation. After recordation of the final subdivision plat and the commencement of construction, the MPD shall remain valid as long as it is consistent with the approved specific project plan and associated documents.
 - e. **Master Planned Developments Associated with A Density Bonus and Final Subdivision Plat:** A final subdivision plat associated with a density bonus must be recorded within five (5) years of the date of the City Council MPD approval. For phased developments, it shall be necessary to record the Phase 1 final subdivision plat within the prescribed five (5) year timeframe to vest the entire master planned development and density bonus. Additionally,

construction within the MPD area will be required to commence within five (5) years of the date of the City Council MPD approval. In the event that the required final subdivision plat recordation and construction commencement has not taken place in the prescribed timeframe, the MPD shall expire and the final subdivision plat shall be void.

5. **MPD Modifications:**

- a. **Minor Amendment:** A minor amendment is defined as an amendment that does not increase square footage, density, or intensity of the previously approved master planned development. A minor amendment shall be processed as a low impact permit.
- b. **Major Amendment:** A major amendment is defined as an amendment that increases square footage, density, or intensity of the previously approved master planned development. A major amendment shall be processed as a master planned development.

E. **MPD Requirements:** All applications for a master planned development shall meet the following minimum requirements. Additional project information necessary for the project analysis may be required at the discretion of the City Planner, Planning Commission, or City Council.

1. **Density:** The maximum density permitted on the project site will be determined as a result of a site analysis. The maximum density shall not exceed that set forth in the proposed or existing zone, except as otherwise provided in this section. In cases where a project site contains more than one (1) zone, the City Council may permit the clustering of density irrespective of zone boundaries so long as the relocation results in the project advancing the goals set forth in the General Plan.
2. **Density Bonus:** A density bonus may be permitted based on a site analysis and in accordance with the provisions and formula outlined in appendix B of this Title. Bonus density is a negotiated process and is not an entitlement or guarantee. Bonus density may be granted through a development agreement by one or more of the following as detailed in Appendix B:
 - a. Provision of permanent deed restricted open space.
 - b. Protection of the Weber River corridor.
 - c. Provision of public non-motorized trails.
 - d. Provision of water efficient landscape designs.
 - e. Other critical public infrastructure contributions
3. **Setbacks:** The minimum setback around the exterior boundary of an MPD shall match the setbacks of the more restrictive/larger abutting zone setback. In some cases, that setback may be increased to create an adequate buffer to adjacent uses. The City Council may reduce or increase setbacks within the project from those otherwise required provided the

project meets minimum Building Code and Fire Code requirements and can demonstrate that such change:

- a. Maximizes agricultural land or open space; and/or
 - b. Avoids important natural features of the site.
4. **Building Height:** The maximum building height for all structures within a master planned development shall not exceed the zone standard. The City Council may grant additional building height beyond the maximum zone standard up to forty-five feet (45') based on demonstrated good cause related, but not limited to, structured parking, affordable housing, deed restricted open space, community outdoor common area improvements or superior architectural design.
5. **Reduction of Minimum Lot Size Requirements:** The City Council may reduce the minimum lot size specified in a zone if it finds the proposed decrease in minimum lot size improves the site design, clustering of buildings, and/or preservation of agricultural land or open space.
6. **Open Space:** Master planned developments shall provide for open space or greenspace of at least ten percent (10%) of the site area regardless of any possible bonus density approved.
7. **Off-Street Parking:** Master planned developments shall meet the following off-street parking standards:
- a. Residential uses:
 - (1) Single family dwelling unit (Minimum 2 spaces/unit)
 - (2) Duplex dwelling unit (Minimum 2 spaces/unit [total of 4/building])
 - (3) Accessory dwelling unit (Minimum 1 space/unit)
 - (4) Guest house (Minimum 1 space/unit)
 - (5) Multi-unit (3 or more units) (Minimum 1 space/unit)
 - b. Non-residential uses:
 - (1) Commercial/retail:
3 spaces/1,000 sq. ft. of net leasable floor area
 - (2) Commercial/restaurant-café:
3 spaces/1,000 sq. ft. of net leasable floor area
 - (3) Hotel/lodging:
1 space/guest room or suite; 2 spaces/1,000 sq. ft. support commercial
 - (4) Offices:
2.5 spaces/1,000 sq. ft. net leasable area

The off-street parking requirements for any other uses not listed above shall be determined by the City Council based on a project-specific parking study. The City Council may reduce or increase the overall parking requirement for a master planned development based upon the applicant demonstrating reasonable justifications for the increase/decrease in parking spaces. The City Council may grant additional exterior/surface

- parking provided such parking is designed to include permeable surfaces, additional landscaping and buffering.
8. **Designing with The Topography:** Master planned developments shall be designed to fit into the topography of the site. The City Council may consider flexibility in the siting of development so as to best fit into the natural terrain, minimize excessive site grading and mitigate impacts on the natural environment and resources of the surrounding area. The project design shall demonstrate the preservation of watercourses, drainage areas, wooded areas, rough terrain and similar natural features and areas.
 9. **Designing with Adjacent Uses:** The master planned development plan shall take adjacent land uses into consideration. Development along the project perimeter shall adequately mitigate any potentially adverse effects, including but not limited to flooding, erosion, subsidence, sloping of the soil or other dangers and nuisances.
 10. **Access:** All master planned developments shall have vehicular access from a public road. All projects shall have a secondary point of access/emergency access unless otherwise mitigated to the satisfaction of the City Engineer and/or Fire Marshal. All roads/streets shall follow the natural contours of the site wherever possible to minimize the amount of grading.
 11. **Utilities:** Existing or proposed utilities, including private and public services for master planned developments will be adequate to support the proposed project at normal service levels and will be designed in a manner to avoid adverse impacts on adjacent land uses, public services, and utility resources. Unless otherwise permitted by this chapter, all master planned developments shall comply with all requisite infrastructure standards found in chapter 9 of this Title.
 12. **Building Locations:** All buildings shall be located to avoid, to the extent practicable, valuable greenspaces, wetlands, riparian areas, steep slopes and ridgelines. Building locations and associated lot configurations should be oriented to encourage active and passive solar design principles wherever practicable.
 13. **Connectivity:** Internal and external vehicular/pedestrian/bicycle circulation should be demonstrated at the time of application as deemed necessary by the City Council. Pedestrian/equestrian/bicycle circulation trails and paths should be separated from vehicular circulation wherever reasonable.
 14. **Snow Storage:** Master planned developments shall include adequate areas for snow removal and snow storage. An appropriate form of landscaping plan shall allow for snow storage areas. Structures shall be set back from any hard surfaces so as to provide adequate areas to remove and store snow. The assumption is that snow should be able to be stored on site and not removed to an off-site location.

15. **Outdoor Lighting:** All outdoor lighting shall be down directed and fully shielded. All outdoor lighting shall be designed and installed to prevent light trespass on adjacent properties. Lighting of the United States flag is exempt from this provision.
16. **Compliance with Development Evaluation Standards:** Unless otherwise permitted by this chapter, all master planned developments shall comply with all requisite development evaluation standards found in chapter 3 of this Title.
17. **Site Design Narrative:** An application for a master planned development shall include a written explanation of how the project plan addresses the following design questions:
 - a. **Neighborhood Connectivity:** How does the proposed development interconnect and the surrounding properties, neighborhood, and area? Including but not limited to:
 - (1) Where will vehicles enter and exit the site?
 - (2) Where will new streets be developed?
 - (3) Is there a need for pedestrian and bicycle routes (including trails and sidewalks) through the project area? If so, how are such needs addressed?
 - b. **Availability of Neighborhood Facilities and Services:** Is the location of the proposed development within reasonable proximity (including walking and biking) to community facilities such as schools, retail centers, parks, etc.?
 - c. **Meeting Housing Needs:** How does the proposed development advance the community need for a mix of housing types and affordability?
 - d. **Character:** What are the architectural design character objectives of the proposed development? How do these design objectives address the local context, climate, and/or community needs?
 - e. **Site Design:** How is the proposed development designed to take advantage of the existing topography, landscape features, trees, wildlife corridors, existing structures, minimize site grading, etc.?
 - f. **Complete Street Design:** How is the proposed development street/circulation system designed to accommodate a variety of transportation modes (where appropriate), easy route finding, and safe speeds?
 - g. **Parking Areas:** How does the proposed development balance the need for parking with the need to design parking areas in a manner that minimize visibility, site grading, and exterior lighting?
 - h. **Public and Private Outdoor Spaces:** What are the proposed development's need(s) for outdoor space, open space, greenspace, habitat/wildlife areas, parks, or outdoor amenity areas? How does the proposed development address these needs?

- i. **External Storage:** How does the proposed project address needs for garbage collection, equipment storage, etc.?

F. **Required Findings and Conclusions of Law:** The City Council must find sufficient evidence that supports the following conclusions in order to approve a master planned development. In some cases, conditions of approval will be attached to the final action to ensure compliance.

1. The master planned development is designed to fit well into the natural terrain, minimize excessive site grading and protect and preserve the surrounding area.
2. The master planned development makes suitable provisions for the protection, preservation, and enhancement of greenspaces, watercourses, drainage areas, wooded areas, rough terrain and similar natural features.
3. The master planned development takes adjacent land uses into consideration and mitigates potential impacts, including but not limited to flooding, erosion, subsidence, sloping of the soil or other dangers and nuisances, through careful planning.
4. The master planned development has direct vehicular access from a public road or suitable private road or driveway access meeting all requirements of the City Engineer and Fire Marshal.
5. The master planned development has a secondary point of access/emergency access or other mitigation satisfactory to the Oakley City Engineer and Fire Marshal.
6. All roads/streets within master planned development follow the natural contours of the site wherever possible to minimize the amount of grading.
7. Existing or proposed utility and public services are adequate to support the proposed master planned development at normal service levels and are designed in a manner to avoid adverse impacts on adjacent land uses, public services, and utility resources.
8. The proposed structures within the master planned development are located on reasonably developable portions of the site. The open areas and greenspaces within the master planned development are designed so that existing significant vegetation can be maintained to the greatest degree possible.
9. The master planned development includes adequate internal vehicular and, where deemed necessary, pedestrian/equestrian/bicycle circulation.
10. The master planned development includes adequate areas for snow removal and snow storage.
11. All exterior lighting within the master planned development is down directed and fully shielded.
12. The master planned development, as conditioned, complies with all the requirements of this chapter.
13. The master planned development, as conditioned, is consistent with the General Plan.

14. The master planned development has been noticed and a public hearing held in accordance with this chapter.
15. An approval from the Summit County Health Department.

CHAPTER 6 AFFORDABLE HOUSING

SECTION CONTENTS:

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- 13-6-2: Methodology and Applicability
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13-6-1: INTENT:

- A. The purposes of this chapter are to:
 - 1. Provide requirements, guidelines, and incentives for the construction of housing affordable to extremely low income, very low income, and low income households in Oakley City;
 - 2. Implement the affordable housing goals, policies, and objectives contained in Oakley City General Plan;
 - 3. Ensure a wide variety of affordable housing options and opportunities for residents, seniors, workers, and special needs individuals in Oakley City;
 - 4. Maintain a balanced community that provides housing for people of all income levels; and
 - 5. Implement planning for affordable housing as required by state code.

13-6-2: METHODOLOGY AND APPLICABILITY:

- A. **Affordable Housing Needs:** The City, in conjunction with Mountainlands Community Housing Trust, or another community local housing nonprofit agency shall adopt a needs assessment model to determine the need for affordable housing, types of housing, special needs, and specific incomes to be targeted in

Oakley City. The model shall be utilized to update the needs assessment no less than once every five (5) years, unless requested sooner by the Planning Commission or county Council.

- B. **Base Requirement:** There shall be a base requirement to provide affordable housing throughout all zones of Oakley City. The base requirement shall apply to all new residential, commercial, and mixed-use development, and shall be calculated using affordable unit equivalents (AUEs).
- C. **Exemptions:** The following developments shall not be required to provide additional affordable housing:
1. The construction of accessory dwelling units in or abutting single-family residences.
 2. The construction of a single-family residence on an existing lot of record.
 3. The expansion of an existing residence.
 4. The construction of schools, churches, public facilities, and other institutional uses.
 5. A change or expansion of an existing commercial use which is less than a fifteen percent (15%) increase in the existing structure gross square footage or total project square footage, but no greater than five thousand (5,000) square feet; this is a onetime exemption.
 6. The first five thousand (5,000) square feet of a new commercial use; this is a onetime exemption.
 7. A change or expansion of an existing commercial use which is less than a fifteen percent (15%) increase of the existing total acreage but no greater than two (2) acres, if the use is primarily outdoors; this is a onetime exemption.
 8. A change in use which does not increase the employee generation by more than two (2) employees per one thousand (1,000) square feet.
 9. A small subdivision of 3 or less lots, providing the subdivision and homes are affordable by homeowners making a combined income which is at or below the City AMI, or as determined by the Planning Commission.
- D. **Definitions:**
- AREA MEDIAN INCOME (AMI):** The amount of income which divides the income distribution of the area (Oakley City) into two (2) equal groups, half having income above that amount, and half having income below that amount as determined by the U.S. Department of Housing and Urban Development for Oakley City from time to time.
- MEDIAN LOT SIZE:** Half of all lots in the development are larger, and half are smaller.

13-6-3: AFFORDABLE HOUSING REQUIREMENTS:

- A. **Affordable Housing Agreement:** All developments containing affordable units shall enter into a housing agreement with Oakley City. The housing agreement shall be recorded against all parcels and units identified as affordable in the development, and shall include the following:
1. Identification of the units to be deed restricted as affordable housing, including, but not limited to, unit ID number and/or address, square footage, location, and style of unit.
 2. A specification of allowed starting sales and/or rental price(s), price increase methodology, target household size and target income range for each unit.
 3. Management plan for the affordable units, including the process for buyer qualification to ensure that employees working and living in Oakley City or the South Summit area are given priority. The management plan shall conform to a template to be provided by Oakley City.
 4. A copy of the approved deed restriction or document to assure affordability to be recorded against the individual affordable units.
 5. A good faith marketing plan for the units. All sellers or owners of deed restricted affordable units shall engage in good faith marketing efforts each time a deed restricted unit is rented or sold such that members of the public who are qualified to rent or purchase such units have a fair chance of becoming informed of the availability of such units. A public marketing plan shall be submitted by the developer prior to the initial sale or lease of the units.
- B. **Affordable units shall meet all of the following criteria:**
1. **Design to Be Consistent with Character of Neighborhood:** The specific unit type and design shall be consistent with the character of the surrounding neighborhood and/or development. If the development contains both market rate and affordable units, the exterior design, look and feel, and finishes of affordable units shall match the exterior design, look and feel and finishes of market rate units in the development. Interior finishes may differ between affordable and market rate units.
 2. **Compliance with Development Standards Required:** Affordable housing units shall comply with all the development standards outlined in this Title, and shall comply with the requirements of the underlying zone, with the exceptions outlined in this chapter.
 3. **Minimum Size:** The minimum size of an affordable housing unit shall be based on the category of unit, as outlined in section 13-6-4, "Affordable Unit Equivalents (AUEs)", of this chapter.
 4. **Concurrent Construction:** The affordable housing component in a development shall be constructed concurrently with the rest of the development. Each phase of a project must contain a proportionate

amount of the required affordable housing. This applies to both on-site and off-site housing.

5. **Construction Within Development Site:** The affordable housing component of a development shall be constructed within the development site, except as outlined in this chapter.
6. **Residential Parking:** Residential parking shall be provided at a minimum rate of one space per single room occupancy (SRO), studio, or one bedroom unit, and two (2) spaces per unit for multiple bedroom units. Visitor parking will also be provided throughout the project at a rate of 0.25 spaces per unit.
7. **Variation of Prices:** The affordable units shall be provided in a variety of prices so that multiple income levels, as outlined in section 13-6-12 of this chapter, are targeted. No one target income level may make up more than seventy five percent (75%) of the affordable units, except in cases where the total number of affordable units provided is ten (10) or fewer, or where the land use authority determines that a different unit mix is compatible with the proposed development, or where all units are approved to be located in a single structure.
8. **Variation of Sizes and Styles:** The affordable units shall be provided in a variety of sizes and styles, as outlined in subsection 13-6-4C of this chapter. No one size or style of unit may make up more than seventy five percent (75%) of the affordable units, except in cases where the total number of affordable units provided is ten (10) or fewer, or where the land use authority determines that a different unit mix is compatible with the proposed development, or where all units are approved to be located in a single structure.
9. **Compatibility:** To allow for the structures to be compatible with market homes within the subdivision and the existing neighborhoods, the homes constructed can be multi-family to avoid having smaller homes within a larger home community. Such multi-family structures shall contain no more than three (3) units per structure and shall be designed in such a manner that they appear to be one detached single-family home consistent with the adjacent larger homes. Multi-family structures shall be subject to all permitting requirements in chapter 3 of this Title.
10. **Minimum Length of Time:** The minimum length of time for a unit to be deed restricted as an affordable unit shall be sixty (60) years as measured from issuance of certificate of occupancy, which may be renewable for an additional term.
11. **Rentals:** On projects where rentals are approved by the City, all deed restricted rental units shall be rented for a minimum period of ninety (90) consecutive days. Nightly and weekly rentals shall be prohibited.
 - a. **Exception:** Special needs emergency/transitional/athlete/employee housing shall be exempt from the ninety (90) day limitation, but shall be rented for a sufficient period to prevent nightly and weekly rentals. To

qualify for the exemption, there must be a quantified, demonstrated need for the emergency/transitional/athlete/employee housing within the City boundaries, and the housing must be developed in collaboration with a federally recognized, 501(c)(3) nonprofit organization. The housing must satisfy all other requirements of this chapter.

12. **For Sale Units:** The maximum initial sales price or rent of an affordable unit shall be limited to a price that is affordable to an "extremely low income", "very low income", or "low income" household as defined by the Department of Housing and Urban Development (HUD) for the area median income (AMI) for Oakley City each year, and annual appreciation shall be limited through a deed restriction to ensure that the unit remains affordable over time. Notwithstanding this provision, the deed restrictions may provide for sales or rental to higher income households in the event the unit is not sold or rented within a reasonable time.
13. **Net Income Limitations:** In addition to the net income limit, qualifying households are limited to a net worth of four (4) times the AMI.
14. **Master Leases:** A qualified nonprofit organization, or employer desiring to provide qualifying employees with affordable housing, may purchase or lease existing affordable units when a master lease program is approved by the City, whereby the nonprofit organization or employer will rent or lease the units to qualifying employee households. A management plan shall be approved by Oakley City and recorded against the affordable units as part of, or an amendment to, a housing agreement.
15. **Housing Availability:** In an effort to ensure that the affordable housing is available for qualified individuals:
 - a. All renters of affordable units will be required to certify annually to the City, or its designee, that they still qualify for the targeted percentage of AMI. If a renter no longer qualifies for the housing, their lease will not be renewed and the property will then be made available to a qualifying renter.
 - b. If a for sale unit owner's household's income increases to an amount above the targeted percentage of AMI while occupying an affordable unit, the household shall not be required to sell the unit. Upon vacating the premises naturally, a for sale unit shall be sold pursuant to the terms of the deed restriction.
16. **Priority in Obtaining Units:** Households currently living or working in Oakley City shall have priority in obtaining affordable units, through a selection process determined by the City Council, subject to compliance with federal and state fair housing requirements. If there is not an immediate need of an Oakley household, priority will then go to a household in the South Summit School District boundaries.
17. **Deed Restriction Approval:** A deed restriction shall be approved by the City and recorded on all affordable dwelling units. A template restriction

approved by the City Council shall be used for all new affordable units, unless substitute restrictions setting forth substantially the same information are provided by a community oriented housing nonprofit group for units they develop, and if the substitute restriction is approved by the City Council. Such substitute restrictions may include the use of a community land trust or management by a local housing nonprofit to ensure long term control and stewardship. The deed restriction templates shall be reviewed annually, and shall at a minimum outline the following:

- a. Income and net worth qualification,
 - b. Term of applicability,
 - c. Assignable City right of first refusal,
 - d. Allowable capital improvements,
 - e. Maintenance,
 - f. Occupancy requirements,
 - g. Rental and sales policies,
 - h. Starting sales and rental prices,
 - i. Allowable annual price increase,
 - j. Reporting and monitoring structures,
 - k. Management,
 - l. Enforcement provisions.
18. **Modification of Restrictions:** These restrictions may be modified to satisfy state and/or federal requirements, if a project receives state and/or federal funding that requires modifications.
19. **Certification:** All for sale and rental affordable units shall be certified by an independent qualified evaluator, at a minimum, Energy Star or its equivalent energy efficient certification.

13-6-4: AFFORDABLE UNIT EQUIVALENTS (AUEs):

- A. **Affordable Unit Equivalents (AUEs):** All new development not exempt from this chapter shall be required to provide a certain number of affordable unit equivalents (AUEs), as outlined in this chapter. To encourage the provision of smaller more affordable units, the cumulative total square footage required decreases for smaller units and increases for larger units.
- B. **AUE Defined:** "AUE" is defined as a "two (2) bedroom unit with nine hundred (900) square feet of net livable space, measured exterior wall to exterior wall". Multiple smaller units together may constitute one AUE, or fewer larger units, according to the conversion in subsection C of this section.
- C. **AUE Conversions:**
1. **Dormitory unit:**

- a. Minimum size = 150 square feet per bed
 - b. 1 AUE = 5 beds (1 bed = 0.2 AUE)
 - c. Example: 8 AUEs = 40 beds
 - (1) $8 \times 5 = 40$, or
 - (2) $8 \div 0.2 = 40$
2. **Single room occupancy (SRO) unit:**
- a. Minimum unit size = 275 square feet
 - b. 1 AUE = 2.75 units (1 unit = 0.3636 AUE)
 - c. Example: 8 AUEs = 22 units
 - (1) $8 \times 2.75 = 22$, or
 - (2) $8 \div 0.36 = 22$
3. **Studio unit:**
- a. Minimum unit size = 400 square feet
 - b. 1 AUE = 2.0 units (1 unit = 0.5 AUE)
 - c. Example: 8 AUEs = 16 units
 - (1) $8 \times 2.0 = 16$, or
 - (2) $8 \div 0.5 = 16$
4. **One-bedroom unit:**
- a. Minimum unit size = 650 square feet
 - b. 1 AUE = 1.25 unit (1 unit = 0.8 AUE)
 - c. Example: 8 AUEs = 10 units
 - (1) $8 \times 1.25 = 10$, or
 - (2) $8 \div 0.8 = 10$
5. **Two (2) bedroom unit:**
- a. Minimum unit size = 900 square feet
 - b. 1 AUE = 1 unit
 - c. Example: 8 AUEs = 8 units
 - (1) $8 \times 1 = 8$, or
 - (2) $8 \div 1 = 8$
6. **Three (3) bedroom unit:**
- a. Minimum unit size = 1,150 square feet
 - b. 1 AUE = 0.80 unit (1 unit = 1.25 AUEs)
 - c. Example: 8 AUEs = 6.4 units
 - (1) $8 \times 0.80 = 6.4$, or
 - (2) $8 \div 1.25 = 6.4$
7. **Four (4) bedroom unit:**
- a. Minimum unit size = 1,400 square feet
 - b. 1 AUE = 0.70 unit (1 unit = 1.43 AUEs)
 - c. Example: 8 AUEs = 5.6 units
 - (1) $8 \times 0.70 = 5.6$, or
 - (2) $8 \div 1.43 = 5.6$

D. AUE Application:

1. Dormitory and SRO units shall only be permitted to meet the requirement for commercial and resort uses, and shall not be permitted in single-family residential neighborhoods.
2. If units are provided that are larger than the minimum size outlined in subsection C of this section, the number of units per AUE may be reduced, but:
 - a. In no case may the reduction exceed a total of ten percent (10%) of the obligated AUEs for a development, and
 - b. In no case may the credit per unit exceed one hundred fifty (150) square feet per dormitory unit, SRO, studio, or one-bedroom unit, and
 - c. For multiple bedroom units, in no case may the additional square footage credited toward the AUEs exceed one hundred fifty (150) square feet multiplied by the number of bedrooms.

E. Fractional Obligation: If the total number of required AUEs contains a decimal, and the units provided do not account for the entire decimal, then the developer shall pay a fee in lieu for the remaining fractional obligation only. In no case shall the number of AUEs provided be less than the whole number portion of the obligation.

1. **Example:** If a developer has an obligation of 13.4 AUEs, and 13.2 AUEs are provided, a fee in lieu shall be paid for the 0.2 remainder, as outlined in section 13-6-9 of this chapter. In this case the number of AUEs provided may not be less than thirteen (13), the whole number portion of the obligation.

F. Reductions in Requirement: Developers may be granted the option of only one of the following reductions:

1. If a developer provides all the required affordable housing up front (prior to the first certificate of occupancy for the market portion of the development), the number of required AUEs may be reduced by up to twenty five percent (25%) at the discretion of the land use authority.
2. If a developer provides the required affordable housing in such a manner that the average household income targeted does not exceed fifty percent (50%) of the area median income, the number of required AUEs shall be reduced by twenty five percent (25%).
3. If a developer provides the required affordable housing in such a manner that the average household income targeted does not exceed forty percent (40%) of the area median income, the number of required AUEs shall be reduced by forty percent (40%).
4. If a developer provides the required affordable housing in such a manner that the average household income targeted does not exceed thirty

percent (30%) of the area median income, the number of required AUEs shall be reduced by fifty percent (50%).

13-6-5: RESIDENTIAL BASE REQUIREMENT:

- A. **Obligation Rate:** All new residential development subject to this chapter shall be required to develop or ensure the development of affordable housing at a rate of twenty percent (20%) of the units in a development. The affordable housing obligation shall be met concurrently with the construction of market rate units.
1. **Calculation of Required AUEs:** The total number of allowed market rate units shall be multiplied by twenty percent (20%). The resulting number shall represent the total number of AUEs required of the project, shall be provided in addition to the allowed market rate units in the project, and shall not count against the allowed density of the project.
 2. **Expansion:** When existing development applies for additional units, the obligation rates shall be calculated on the net unit increase only.
- B. **Example:** Example calculation for residential development requirement:
Number of allowed market units in example development = 23
Obligation rate = $23 \times 20\% = 4.6$
Total AUEs required = 4.6
Total units permitted: 23 market + 4.6 affordable = 27.6 units
Result: 27 units, fee in lieu for 0.6
- C. **Development of For Sale Lots:** In projects developing for sale lots subject to this chapter, where the developer does not construct units on the lots but requires the purchaser to do so, the developer shall be required to create lots for the development of affordable housing at a rate of twenty percent (20%) of the total approved market rate lots in the development.
1. The affordable lots may be donated to an approved housing nonprofit organization for the development of affordable housing on the lots. Utilities, curb and gutter, water shares and/or rights, and other necessary improvements shall be completed and provided by the developer so that an approved housing nonprofit organization receives a construction ready lot free and clear of all encumbrances. All required fees, such as special service fees, water shares and/or rights, impact fees but excepting building and planning fees, shall be paid by the developer of the project prior to the donation of the lots, unless otherwise agreed to in writing by the nonprofit organization.
 2. The smallest affordable lot shall be no smaller than fifty percent (50%) of the size of the median market rate lot in the development.
 3. The affordable lots and units shall be integrated into the development. The land use authority shall have the discretion to modify this provision if they find that the development of affordable housing and the overall

project will be enhanced by the non-integration of the affordable units based upon the design of the project, the type and size of the affordable housing provided and the character of the surrounding neighborhood.

13-6-6: COMMERCIAL BASE REQUIREMENT:

- A. **Obligation Rate:** For new commercial development subject to this chapter, or expansion of existing commercial development, an applicant shall be required to develop or ensure the development of affordable housing to meet twenty percent (20%) of the employee housing demand generated by the new development.
- B. **Employee Generation:** "Average employee generation", defined as full time equivalents (FTEs, 2,080 hours) per one thousand (1,000) net leasable square feet, is established as follows:

EMPLOYEE GENERATION BY TYPE OF USE

Types of Use	FTEs
Commercial/retail	3.3
High intensity, including, but not limited to, call centers, real estate/property management offices, recreation/amusements	5.6
Lodging/hotel	0.6 per room
Low intensity, including, but not limited to, utilities, education, medical offices, light industry, research parks	2.62
Medium intensity offices, including, but not limited to, banking and professional services	3.7
Restaurant/bar	6.5
Overall/general ¹	4.4

Note:

- 1. The overall/general type of use shall apply to any use not listed in the employee generation table if an independent calculation is not performed.

- C. **Independent Calculation:** An applicant may submit an independent calculation of the number of employees to be generated by a proposed development, to be used in place of the employee generation table, subject to the following requirements:
 - 1. The City shall create a pool of approved entities, persons, or groups to conduct independent calculations. The pool shall be chosen from on a strictly rotational basis; each subsequent application requesting an

independent calculation shall be assigned to the next entity, person, or group on the approved list.

2. The land use authority shall make the final determination of whether or not the calculation constitutes compelling evidence of a more accurate calculation of employee generation than the "Employee Generation by Type of Use" table of this section.
3. Should the independent calculation not be accepted, then the applicable generation factor from the employee generation table shall be applied to the proposed development.
4. Any acceptance of an independent calculation shall be site and use specific, nontransferable, and be memorialized in the housing agreement for the property, which shall be executed prior to the issuance of any building or development permits.

D. **Calculation of Required AUE(s):** Required AUEs for commercial development shall be calculated using the following formula:

Formula:

(Employee generation x square footage) ÷ 1,000 = employees generated

(Employees generated x obligation rate of 20%) = # of employees to mitigate

(Employees to mitigate ÷ 1.5 workers per household ÷ 1.2 jobs per employee) =
AUE obligation

E. **Example Calculation for Commercial Development Requirement:**

Example: Commercial development application for a 15,000 square foot project:

First 5,000 square feet are exempt; calculation done on 10,000 square feet

Employee generation, general category: $(4.4 \times 10,000) \div 1,000 = 44$ employees
generated

Mitigation:

44 employees multiplied by 0.20 (mitigation rate) = 8.8 employees

8.8 divided by 1.5 (workers per household) = 5.87 employees

5.87 divided by 1.2 (jobs per worker) = 4.89 AUEs

F. **Winter Seasonal Units:** An applicant for a commercial development may choose to satisfy employee housing requirements by provision of dormitory units designed for occupancy by seasonal employees. The dormitory units must meet the requirements of this chapter, as well as the following minimum standards:

1. Occupancy of each dormitory unit shall be limited to no more than six (6) persons.
2. There shall be at least one hundred fifty (150) square feet of net livable square footage per person, including sleeping and bathroom uses.
3. At least one bathroom shall be provided for shared use by no more than four (4) persons. The bathroom shall contain at least one toilet, one washbasin, and one shower.

4. A kitchen facility or access to a common kitchen or common eating facility shall be provided subject to the building department's approval and determination that the facilities are adequate in size to service the number of people using the facility.
5. Use of a minimum of twenty (20) net usable square feet per person of enclosed storage area located within, or adjacent to, the unit.
6. Seasonal dormitories may be required to house qualified employees of the community at large; if the development or ongoing expense of the development are substantially subsidized by an employer, and if federal funds do not require otherwise, that employer may be permitted to first offer the units to its employees.

13-6-7: ALTERNATIVES TO ON SITE HOUSING:

- A. Development may meet their AUE obligation in one of the following ways:
 1. Construct on-site affordable units.
 2. Construct off-site affordable units as outlined below:
 - a. Prior to obtaining approval for the market site, a suitable alternate site for affordable housing, along with a conceptual site plan and unit layout for the alternate site, shall be presented by the applicant and approved by the City.
 - b. Prior to commencement of improvements of the market site, a draw down bond with a minimum two (2) year term shall be posted in the amount equal to the fee in lieu of the required AUEs.
 - (1) In the event the required unit equivalents are not completed with a certificate of occupancy, or if substantial progress satisfactory to the City Council has not occurred within two (2) years, the City Council shall have the right to draw upon the bond, in which case all funds deposited shall be forfeited by the developer to the City.
 - c. Prior to receiving a certificate of occupancy for any portion of the market site, a development plan, site plan, final plat if required, elevations, deed restriction, housing agreement, and timeline of construction for the affordable units shall be approved, and recorded where required, by the City.
 - d. The off-site housing shall be constructed within two (2) years of the market development.
 3. Pay a fee in lieu as outlined in this chapter.
 4. Purchase existing unit(s) at market rate, record a City approved deed restriction on the unit(s), and sell the unit(s) to qualifying household(s) at an affordable price. The existing units shall be subject to the size and income requirements of this chapter.

5. Donate land of sufficient size to accommodate the number of required AUEs to the City or its designee.
 - a. Examples of City designees may include qualifying community based housing nonprofits such as Habitat For Humanity, Mountainlands Community Housing Trust, religious organizations, and Peace House. The recipient shall provide written acceptance setting forth the terms and conditions of the acceptance of the proposed donation to the City.
 - b. Utilities, curb and gutter, water shares and/or rights, and other necessary improvements shall be completed and provided by the developer so that an approved housing nonprofit organization receives a construction ready lot free and clear of all encumbrances. All required fees, such as special service fees, water shares and/or rights, impact fees but excepting building and planning fees, shall be paid by the developer of the project prior to the donation of the lots, unless otherwise agreed to in writing by the nonprofit organization.
6. Transfer the development rights under a TDR agreement to another current or future development project in the City.

13-6-8: MIXED USE BASE REQUIREMENT:

Mixed Use Development Requirements: The obligation rate for the residential portion of the development shall be determined using the residential development requirements, and the obligation rate for the commercial portion of the development shall be determined using the commercial development requirements. The total required AUEs shall be the sum of the residential obligation and the commercial obligation.

13-6-9: FEES IN LIEU:

- A. **Applicability:** Fees in lieu shall be available for any AUE obligation.
- B. **Fee Amount:** The "in lieu fee" shall be defined as the difference between the amount of the allowable price as set forth in section 13-6-12 of this chapter for a low-income household for a family of four (4) and the median assessed square footage value of a two (2) bedroom home in Oakley City, multiplied by nine hundred (900) square feet. A per unit fee in lieu amount shall be adopted by the City Council, and shall be, at a minimum, reviewed and updated biennially.
- C. **Payment of Fees:** All fees in lieu shall be placed in a separate City account designated for affordable housing purposes only; or in the alternative, fees may instead be paid directly to an approved housing nonprofit upon approval by the appropriate land use authority.

- D. **Use of Fees:** Use of the funds shall be approved on a case-by-case basis by the City Council. Some examples of permitted uses may include, but shall not be limited to, the following:
1. To provide down payment and mortgage assistance to qualifying households.
 2. To provide fee assistance for Oakley City impact fees, specifically for affordable housing units.
 3. To buy down the price of affordable units that have naturally appreciated so as to become unaffordable to a qualifying household.
 4. To assist qualifying community-based housing nonprofit organizations in their affordable housing endeavors.
 5. To assist in the construction of affordable housing on City owned property.
 6. To purchase and/or rehabilitate existing properties in Oakley City that are available at below market rate prices.
 7. To preserve existing affordable units by purchasing mortgages or units to protect them from foreclosure.
 8. To provide funds to take advantage of potential opportunities that will enhance the objectives of this chapter.

13-6-10: ACCESSORY DWELLING UNITS (ADUs):

Purpose: ADUs may provide a good source of seasonal affordable housing, as well as year-round affordable rental units and meet the requirements of this chapter, provided they are developed concurrently with the project. Requirements for ADUs are found in 13-9-5 of this Title. Unless deed restricted, made available to rent on a permanent basis, and placed under the management of the City or its designee, ADUs will not count toward the AUE obligation as they are considered part of a single-family dwelling.

13-6-11: FEE WAIVERS:

- A. **Applicability:** Affordable units may be eligible for waivers of building department and planning department application and permit fees. The waivers shall apply only to affordable units and/or lots, and shall not apply to market rate units and/or lots in a development containing affordable units.
- B. **Schedule:** Affordable units may be granted waivers as outlined below, up to the full amount of fees actually applied:
1. A waiver of up to fifty percent (50%) of the fees for each unit targeting low-income households.

2. A waiver of up to seventy five percent (75%) of the fees for each unit targeting very low-income households.
 3. A waiver of up to one hundred percent (100%) of the fees for each unit targeting extremely low-income households.
- C. **Process:** Prior to construction an applicant shall submit an application to the appropriate City department, containing the following:
1. A site plan showing the total number of units in the development, and identifying the affordable units.
 2. A summary outlining the sales and/or rental prices of each individual affordable unit.
 3. Nonprofit developers shall be granted a waiver of any waived fees up front.
 4. For profit developers shall post a cash bond, post a surety bond, or provide an irrevocable letter of credit for all required fees; any waived amount shall be released to the developer upon project completion, and un-waived fees paid to the appropriate department.
 5. The final decision concerning the approval of fee waiver applications shall be made by the City Council.

13-6-12: ALLOWABLE PRICES:

- A. **Prices:** The rent and sales prices of affordable units shall be based upon the size of the unit. Units that are the minimum allowed size shall be priced at the low end of the allowed range, and units that exceed the minimum allowed size may be allowed to be priced in the middle or upper end of the allowed range. The allowed price ranges shall be set as follows:
1. Dorm units, SRO, and studio units shall be priced for extremely low-income households, adjusted for household size.
 - a. Dorm units and single room occupancy (SRO) units shall have an assumed household size of 0.75 persons per one hundred fifty (150) square feet, and studio units shall have an assumed household size of one person.
 2. One-bedroom units shall be priced for very low-income households, adjusted for household size. One-bedroom units shall have an assumed household size of two (2) persons.
 3. Two (2) bedroom units shall be priced for low income households and have an assumed household size of three (3) persons.
 4. Three (3) bedroom or more units and larger shall be priced for low income households and shall have an assumed household size of four (4) persons.
 5. The allowable price shall be calculated based upon the monthly income (as defined by federal standards) of qualifying households.

- a. **For Sale Units:** The allowable sales price shall be calculated so that the sum of the monthly mortgage payment, plus mortgage insurance, property taxes, and HOA dues does not exceed thirty percent (30%) of a household's gross monthly income, and based upon the following assumptions:
 - (1) An available fixed rate thirty (30) year mortgage, consistent with the first-time homebuyer rate offered by the Utah Housing Corporation, plus fifty (50) basis points. A lower rate may be used in calculating affordable prices if the developer can guarantee the availability of a fixed rate, thirty (30) year mortgage at this lower rate for all of the inclusionary units.
 - (2) A down payment of no more than five percent (5%) of the purchase price.
 - (3) A calculation of property taxes, and
 - (4) A calculation of homeowners' insurance and/or homeowners' association fees.
 - (A) Homeowners' association (HOA) fees shall be no more than the HOA fee for market rate units and shall be the lesser of the actual HOA fee or an annual amount equal to one percent (1%) of the allowable price as adjusted annually based upon the permitted increases in the allowable price as set forth in the deed restrictions. This limitation of HOA fees shall be set forth in the recorded deed restrictions.
- b. **For Rent Units:** The allowable rental price shall be calculated so that the monthly rent, plus utilities, does not exceed thirty percent (30%) of a household's gross monthly income.

13-6-13: ENFORCEMENT; MANAGEMENT:

The City or its designee shall have the authority and responsibility to enforce compliance with the requirements outlined in this chapter. The provisions of this chapter shall apply to all agents, successors, and assigns of an applicant. No building permit or certificate of occupancy shall be issued, nor development approval be granted, which does not meet the requirements of this chapter. In the event it is determined that rents or sales prices in excess of those allowed by this chapter have been charged to a renter or buyer of an affordable unit, the City or its designee shall take appropriate legal action to correct the situation.

13-6-14: APPROVAL PROCESS:

Each project shall comply with the applicable development application procedure and approval processes outlined in this Title.

CHAPTER 7 INSTALLATION AND GUARANTEE OF DEVELOPMENT IMPROVEMENTS

SECTION CONTENTS:

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13-7-1: CONSTRUCTION PLANS:

- A. **Required; Scale:** Construction plans shall be prepared for all required improvements and submitted to the City Planner. Plans shall be drawn at a scale of no more than one inch equals fifty feet (1" = 50'), and map sheets shall be of the same size as the plat. The following shall be shown:
1. Profiles showing existing and proposed elevations along centerlines of all roads. Where a proposed road intersects an existing road or roads, the elevation along the centerline of the existing road or roads within one hundred feet (100') of the intersection shall be shown. Approximate radii of all curves, lengths of tangents, and central angles of all roads shall be shown.
 2. The City Planner or City Engineer may require, where steep slopes exist, that cross sections of all proposed roads be provided at one-hundred-foot (100') stations. The cross sections shall extend at right angles from the centerline to twenty-five feet (25') beyond the catch point of the cut

or fill slope. The cross section shall indicate the location of the property lines (right of way lines).

3. Plans and profiles showing the locations and typical cross section of road pavements, including curbs and gutters, sidewalks, trails, drainage easements, servitudes, rights of way, manholes, and catch basins; the location of road trees, road lighting standards, and road signs; the location, size, and invert elevations of existing and proposed sanitary sewers, stormwater drains, and fire hydrants, showing connection to any existing or proposed utility systems; and exact location and size of all water, gas, or other underground utilities or structures.
4. Location, size, elevation and other appropriate descriptions of any existing facilities or utilities, including, but not limited to, existing roads, sewers, drains, water mains, easements, water bodies, streams, and other pertinent features such as swamps, railroads, buildings, features noted on the general plan at the point of connection to proposed facilities and utilities within the subdivision, and each tree with a diameter of two inches (2") or more, measured twelve inches (12") above ground level. The water elevations of adjoining lakes or streams at the date of the survey, and the approximate high and low water elevations of such lakes or streams. All elevations shall be referred to the USGS datum plane. If the subdivision borders a lake, river or stream, the distances and bearings of a meander line established not less than twenty feet (20') back from the ordinary high-water mark of such waterways.
5. Topography at the same scale as the sketch plan with contour intervals of two feet (2'), referred to sea level datum. All datum provided shall be the latest applicable U.S. coast and geodetic survey datum and should be so noted on the plat.
6. All specifications and references required by the City construction standards and specifications, including a site grading plan for the entire subdivision.
7. Notation of approval as follows:

Owner	Date
-------	------

Oakley City Mayor	Date
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8. Title, name, address and signature of professional engineer and surveyor, and revision dates.

B. Construction Plan Review:

1. **General Application Requirement:** Construction plans shall be prepared by or under the supervision of a professional engineer or architect registered in the state as required by state law governing such professions. Plans submitted for review by the City shall be dated and

bear the responsible engineer's or architect's name, registration number and the designation of "professional engineer", "PE" or "architect", and an appropriate stamp or statement identifying that the documents are for preliminary review and are not intended for construction. Final plans acceptable to the City shall bear the seal and signature of the engineer or architect and the date signed on all sheets of the plans. Public improvements in roads, alleys, rights of way or easements shall be designed by a professional engineer registered in the state.

2. **Construction Plan Review Procedure:** Copies of the construction plans, and the required number of copies of the plat or site plan shall be submitted to the City Planner and City Engineer for final approval prior to submittal of a final plat or site plan. The plans shall contain all necessary information for construction of the project, and other special features. Each sheet of the plans shall contain a title block, including space for the notation of revisions. This space is to be completed with each revision to the plan sheet and shall clearly note the nature of the revision and the date the revision was made. The City engineer will release the plans for construction, subject to approval of the final plat or site plan by the City Planner and payment of all necessary fees. Upon such release, each contractor shall maintain one set of plans, stamped and signed by the county, on the project at all times during construction.
3. **Preconstruction Conference:** The City engineer may require that all contractors participating in the construction shall meet for a preconstruction conference to discuss the project prior to beginning work.
4. **Conditions Prior To Authorization:** Prior to authorizing construction, the City Engineer shall be satisfied that the following conditions have been met:
 - a. The subdivision plat or site plan shall have been approved as required in this Title.
 - b. All required contract documents shall be completed and filed with the City Engineer.
 - c. All necessary off-site easements or dedications required for public facilities not shown on the final plat or site plan must be conveyed solely to the City, or other agency approved by the City, with proper signatures affixed. The original of the documents, and filing fees as determined by the City Planner, shall be delivered to the City Engineer prior to approval and release of the construction documents.
 - d. All contractors participating in the construction shall be presented with a set of approved plans bearing the stamp of release of the City Engineer. These plans shall remain on the job site at all times.
 - e. A complete list of the contractors, their representatives on the site, and telephone numbers where a responsible party may be reached at all times must be submitted to the City Engineer.

- f. All applicable fees must be paid to the City.

13-7-2: REQUIRED DEVELOPMENT IMPROVEMENTS AND IMPROVEMENT AGREEMENT:

Where applicable, the following improvements and related items shall be constructed or provided and guaranteed by the applicant, in a form and amount satisfactory to the City, as a condition of final subdivision plat or final site plan approval. The installation of required development improvements shall be at the applicant's expense.

- A. Temporary and permanent, structural and nonstructural soil conservation measures, and revegetation plantings;
- B. Temporary and permanent, structural and nonstructural runoff control measures;
- C. Structural or nonstructural measures intended to mitigate soils or slope limitations or geologic or avalanche hazards;
- D. Buffering, screening and landscaping;
- E. Utilities, including water and wastewater service;
- F. Roads or road improvements, both public and private;
- G. School bus turnaround, shelters and related features;
- H. Required street and intersection lighting;
- I. All road identification and traffic control devices;
- J. Curbing and gutters, and sidewalks, if required by the City Planning Commission;
- K. Trails;
- L. Parking and loading areas;
- M. Recreational facilities, including parks and/or other amenities represented by the applicant; and
- N. All community benefits proposed by the applicant in exchange for density incentives through an approved MPD plan.

13-7-3: PHASING:

For site plan improvements, installation may be phased in accord with an approved phasing plan submitted with the application for a building permit and approved by the City. In subdivisions, a separate final plat or site plan shall be filed on each phase of the development.

13-7-4: FINANCING:

Installation of the improvements required in a development or development phase may be guaranteed by: A. Installation of all required and represented improvements with an approved improvement agreement, as provided in section 13-7-8 of this chapter, prior to the City signing and filing of a final plat or final site plan; or B. Provision of security for installation of improvements as provided in section 13-7-8 of this chapter.

13-7-5: WARRANTY:

All improvements shall be warranted by the applicant for two (2) full years of normal operation. The City shall either retain ten percent (10%) of the bond or escrow total or require a bond or escrow equal to ten percent (10%) of the required total improvement costs until twenty four (24) months from the date of completion of the improvements and acceptance thereof by the City as a warranty should the improvements prove to be defective during said twenty four (24) month period.

13-7-6: MAINTENANCE:

The maintenance of all required improvements shall be assigned to an appropriate public entity (such as the City or other relevant service provider) or private (such as a homeowners' association) entity in a dedication, contract, covenant or other agreement. Such agreement shall be accepted by the City Council and the City attorney as sufficient to assure perpetual maintenance of the improvements.

13-7-7: REVOCATION:

Failure to properly install, warrant or maintain all required improvements shall result in the suspension or revocation of a development permit or certificate of occupancy.

13-7-8: IMPROVEMENT AGREEMENT AND GUARANTEE OF COMPLETION:

- A. **Improvement Agreement:** The property owner shall enter into an improvement agreement incorporating approved development plans and by which the owner covenants to complete all required development improvements no later than twenty-four (24) months following the date upon which the final plat or site plan is approved. This two (2) year deadline may be extended by the City Council upon showing of sufficient cause, but no additional phase of the development shall be permitted during such an extension. The improvement agreement shall be approved by the City Council and City Engineer. The City Council may also require the property owner to complete and dedicate some required public improvements prior to approval of the final plat or final site plan and to enter into an improvement agreement for completion of the remainder of the required improvements during such period. The improvement agreement shall contain such other terms and conditions as are agreed to by the property owner and City.

- B. **Covenants to Run with The Land:** The improvement agreement shall provide that the covenants contained therein shall run with the land and bind all successors, heirs and assigns of the property owner. The improvement agreement shall be recorded in the office of the county recorder and on file with

the City. All existing lien holders shall be required to subordinate their liens to the covenants contained in the improvement agreement.

- C. **Security:** Whenever the City permits a property owner to enter into an improvement agreement after approval of a final plat or site plan, it shall require the owner to provide sufficient security to ensure completion of the required development improvements. The security shall be in the form of either:
1. **Letter of Credit:** A letter of credit, in the amount of one hundred twenty percent (120%) of the estimated cost of improvements, drawn upon a state or national bank. Said letter of credit shall: a) be irrevocable; b) be of a term sufficient to cover the completion, plus sixty (60) days, and warranty periods; and c) require only that the City present the issuer with a signed draft and a certificate signed by an authorized representative of the City certifying to the City's right to draw funds under the letter of credit; or
 2. **Escrow Account:** Establishment of a cash escrow account in the amount of one hundred twenty percent (120%) of the estimated cost of the improvements. The terms of the escrow account shall only require that the City present the agent with a signed draft and a certificate signed by an authorized representative of the City certifying to the City's right to draw funds on the account to complete the required improvements. Acceptable escrow agents shall be the banks or savings institutions which are federally insured.
 3. **Performance or Subdivision Bond:** A bond in the amount of one hundred twenty percent (120%) of the estimated cost of the improvements shall be submitted. The underwriting limitation is stated in the United States department of treasury circular 570, "Surety Companies Acceptable on Federal Bonds". Only companies listed in the department of treasury circular 570 are acceptable.
 4. **Release of Security:** As portions of the required development improvements are completed in accordance with the improvement agreement, City regulations and the approved development plans, the developer may make application to the City Engineer to reduce the amount of the original letter of credit or cash escrow. If the City is satisfied that such portion of the improvements has been completed in accordance with City standards, they may cause the amount of the letter of credit or cash escrow to be reduced by such amount that they deem appropriate, so that the remaining amount of the letter of credit or cash escrow adequately insures the completion of the remaining required development improvements.
 5. **Governmental Units:** Governmental units to which these contract and security provisions apply may file, in lieu of the security, a certified resolution or ordinance from officers or agencies authorized to act in their behalf, agreeing to comply with the provisions of this chapter.

13-7-9: FAILURE TO COMPLETE REQUIRED DEVELOPMENT IMPROVEMENTS:

For plats or site plans for which no improvement agreement has been executed and no security has been posted, if the required development improvements are not completed within the period specified by the City, the final plat or site plan approval shall be deemed to have lapsed and shall be null and void, and further proceedings on the plat or site plan shall terminate. In those cases where an improvement agreement has been executed and security has been posted and required public improvements have not been installed within the terms of the agreement, the City may:

- A. Declare the agreement to be in default and require that all the required development improvements be installed regardless of the extent of completion of the development at the time the agreement is declared to be in default;
- B. Obtain funds under the security and complete the required development improvements itself or through a third party;
- C. Assign its right to receive funds under the security to any third party, including a subsequent owner of the subdivision for which required development improvements were not constructed, in whole or in part, in exchange for that subsequent owner's promise to complete the public improvements on the tract;
or
- D. Exercise any other rights available under the law.

13-7-10: TEMPORARY IMPROVEMENTS:

The property owner shall build and pay for all costs of temporary improvements required by the City and shall maintain those temporary improvements for the period specified by the City. Prior to construction of any temporary facility or improvement, the owner shall file with the City a separate improvement agreement and escrow, or, where authorized, letter of credit, in an appropriate amount equal to one hundred twenty percent (120%) of the estimated cost of installation and removal of such temporary facilities, which agreement and escrow or letter of credit shall ensure that the temporary facilities will be properly constructed, maintained and removed.

13-7-11: ACCEPTANCE OF DEDICATION OFFERS:

Acceptance of formal offers of dedication of roads, public areas, easements and parks shall be by application to the City and the City Engineer and approval of the City Council by ordinance following a recommendation by the City Planner or designated planning staff member and City Engineer. The approval by the City of a plat or site plan, whether preliminary or final, shall not of itself be deemed to constitute or imply the acceptance by the City of any road, easement or park shown on the plat or site plan.

13-7-12: INSPECTION OF REQUIRED DEVELOPMENT IMPROVEMENTS:

- A. **General Procedure:** The property owner shall be responsible for providing all construction engineering and surveying, materials testing and construction administration. The construction inspection provided by the property owner shall be supervised by the engineer of record and the City Engineer. Construction shall be in accordance with the approved plans, standard specifications and standard details of the City (City design and construction standards are provided under separate cover). Any change in design shall be approved by the City Engineer. If the City Engineer finds upon inspection that any of the required public improvements have not been constructed in accordance with the City construction standards and specifications, the property owner shall be responsible for completing and/or correcting the public improvements.

- B. **Certificate of Satisfactory Completion:** The City will not accept dedication of required development improvements until the applicant's engineer of record or surveyor has certified to the City Engineer, through submission of a detailed as built survey plat of the property, the location, dimensions, materials and other information required by the City Engineer. The as built shall also include a complete set of drawings of the paving, drainage, water, sanitary sewer, or other required development improvements, showing that the layout of the line and grade of all public improvements is in accordance with construction plans for the plat or site plan. Each as built sheet shall show all changes made in the plans during construction and on each sheet there will be an as built stamp bearing the signature of the engineer of record and the City Engineer, and date.

- C. **Engineer to Provide Drawings:** The applicant's engineer shall provide to the City two (2) reproducible drawings and a CAD drawing file compatible with the City's CAD system, of the final plat or site plan and each of the utility plan sheets containing the as built information. When such requirements have been met, and verified by the City Engineer and City Planner or designated planning staff member, the City shall thereafter accept the required development improvements for dedication in accordance with the established procedure as set forth in section 13-6-11 of this chapter. "Acceptance of the development" shall mean that the developer has transferred all rights to all the public improvements to the City for use and maintenance. The City Council may, at their discretion, accept dedication of a portion of the required public improvements, provided adequate surety has been given for the completion of all of the required development improvements.

CHAPTER 8 AMENDMENTS TO THIS TITLE AND ZONE DISTRICT MAP

SECTION CONTENTS:

- 13-8-1: Authority**
- 13-8-2: Initiation of Amendments**
- 13-8-3: Amendment Procedures**

13-8-1: AUTHORITY:

The City Council may from time to time amend, supplement or repeal the provisions and regulations of this Title and the zone district map of Oakley City. No change to the text of this Title which affects a portion or all of the real property regulated by this Title and no rezoning of a specific parcel of real property by a change in zoning classification resulting in a change to the zone district map shall be valid unless approved by the City Council pursuant to the provisions set forth herein, except that an application for amending an approved MPD plan shall be processed pursuant to the provisions of chapter 4 of this Title.

13-8-2: INITIATION OF AMENDMENTS:

Any amendment to the text of this Title or the zone district map may be initiated in the following ways:

- A. By a motion of the City Council;
- B. Upon the request of the Planning Commission;
- C. By the City Planner; or
- D. Upon the request of the individual having deed title of real property within the area to be rezoned.

13-8-3: AMENDMENT PROCEDURES:

- A. **Amendment to Text of Code:** Whenever there is initiated an amendment to the text of this Title, such amendment shall be accomplished in the following manner:
 - 1. A copy of the proposed amendment shall be delivered to the Planning Commission for its review and recommendation. Prior to making a recommendation, the Planning Commission shall hold a public hearing regarding the proposed amendment.
 - 2. The Planning Commission's recommendation shall be delivered to the City Council. The City Council shall hold a public hearing on the proposed

amendment. Following the public hearing, the City Council shall either approve or deny the amendment.

B. Amendment to Zone District Map (Rezoning):

1. If the applicant is a private landowner:
 - a. An application for an amendment to the zone district map shall be submitted to the City Planner or designated planning staff member. The City Council may permit the rezoning of the property only after it has determined that said rezoning is generally consistent with the goals and objectives of the general plan, all other criteria and considerations described in this Title, and said action is necessary to promote the public health, safety and welfare of the residents of Oakley City.
 - b. The application must be authorized by each owner of the real property that is located within the area to be rezoned or a duly authorized representative of each owner.
 - c. Approval of an amendment to the zone district map shall not be granted until both the Planning Commission and City Council have reviewed the specific development proposal, have each held a public hearing, and determined:
 - (1) The amendment is generally consistent with the goals of the General Plan;
 - (2) The amendment is compatible with adjacent land uses and will not be overly burdensome on the local community;
 - (3) The specific development plan is in compliance with all applicable standards and criteria for approval as described in chapter 5 of this Title; and
 - (4) The amendment does not adversely affect the public health, safety and general welfare.
2. The City Council may initiate the action on its own motion or upon request of the Planning Commission or City Council.
 - a. When the amendment is proposed by the City Council, the application shall contain the following:
 - (1) An accurate survey map or other sufficient legal descriptions.
 - (2) The names and addresses of all owners of real property within the area to be rezoned, or if on a large scale, clearly identifiable property lines followed upon the map.
 - (3) The proposed nature of the amendment.
 - b. The Planning Commission shall review the proposed amendment. The Planning Commission must find that the proposed amendment is consistent with the requirements in subsection B1c of this section. Prior to making a recommendation, the Planning

Commission shall hold a public hearing regarding the proposed amendment.

- c. The Planning Commission's recommendation shall be delivered to the City Council. The City Council shall hold a public hearing regarding the proposed amendment. Following the public hearing, the City Council shall either approve or deny the amendment. In order to approve the amendment, the City Council must find that the proposed amendment is consistent with the requirements in subsection B1c of this section.
- C. **Amendments by Ordinance:** All amendments to the text of this Title and to the zone district map shall be authorized by ordinance, in the manner prescribed by state law.

CHAPTER 9 GENERAL REGULATIONS

SECTION CONTENTS:

- 13-9-1: **Public Hearing Requirements**
- 13-9-2: **Nonconforming Uses, Structures and Lots**
- 13-9-3: **Home Occupations**
- 13-9-4: **Signs**
- 13-9-5: **Accessory Dwelling Units**
- 13-9-6: **Equipment Enclosures, Utility Structures and Related Facilities**
- 13-9-7: **Wireless Communications**
- 13-9-8: **Infrastructure Standards**
- 13-9-9: **Development Agreements**
- 13-9-10: **Reapplication Following Denial**
- 13-9-11: **Revocation of Approvals and/or Permits**
- 13-9-12: **Failure to Comply with Conditions**
- 13-9-13: **Effective Period of Approvals**
- 13-9-14: **Issuance of Building Permits**
- 13-9-15: **Project Closure Due to Inaction**
- 13-9-16: **Residential Care Facilities for The Elderly or Disabled**
- 13-9-17: **Hazardous Liquids or Materials Transmission Pipelines**
- 13-9-18: **Lighting and Dark Sky Regulations**
- 13-9-19: **Adaptive Reuse of Historically Significant Structures**
- 13.9.20: **Temporary Homes, Tiny Homes, Tourist Homes, and Nightly Rentals**
- 13.9.21: **Panhandle or Flag Lots**
- 13.9.22: **Pressurized Irrigation Systems**

13-9-1: **PUBLIC HEARING REQUIREMENTS:**

Unless otherwise stated in this Title, all notices required under this section shall be given as follows:

- A. **Published Notice:** All published notices shall be given by publication in a newspaper having general circulation in Oakley City at least ten (10) days before the date of the public hearing and in accordance with State law. Published notice shall state the nature of the request for which the application has been made, and the time, place and date of the public hearing on the matter.

- B. **Mailed Notice to Property Owners:** The City Planner or designated planning staff member will send public hearing notices to all property owners located within one thousand feet (1,000') from any boundary of the property subject to a development application. When properties located within one thousand feet (1,000') are part of an association of property owners, a courtesy notice should be sent to the property owners' association. The addresses for adjacent owners shall be as shown on the most recently available county tax assessment rolls. The notice shall state that an application has been filed affecting the subject property, the nature of the application or action, and the time, place and date set for public hearing on the matter. Failure to notify property owner associations or individual property owners not specifically identified on the most recently available county tax assessment rolls shall not affect or invalidate any hearing or action by any board or commission. The applicant shall pay the cost for the City to provide this service.
- C. **Proof of Notice:** If notice given under authority of this section is not challenged as provided for under State law within thirty (30) days from the date of the hearing for which the challenged notice was given, the notice is considered adequate and proper.

13-9-2: NONCONFORMING USES, STRUCTURES AND LOTS:

- A. **Purpose:** Within the zone districts established in chapter 4 of this Title, there may be existing lots, structures, and uses of land and structures, which were lawfully established before the adoption of this Title, but which are now prohibited, regulated, or restricted. It is the intent of this section to allow these uses and structures to continue until such time as they are removed or otherwise brought into conformance with this Title.
- B. **Burden on Owner to Establish Legality:** The property owner bears the burden of establishing that any nonconforming use or nonconforming structure lawfully exists.
- C. **New Nonconforming Use Structure Prohibited:** No lot, parcel of land, or interest therein, shall be transferred, conveyed, sold, subdivided or acquired either in whole or in part so as to create a new nonconforming use, structure, or lot/parcel, or to avoid or circumvent the requirements of this Title. No building permit will be issued for any lot, parcel, or structure which has been transferred, conveyed, sold, subdivided or acquired in violation of this Title.
- D. **Nonconformance of Area Per Dwelling Unit:** A parcel/lot that was lawfully created but does not conform to the minimum area per dwelling unit requirement of the zone district in which it is located shall be considered a lot of

record and is entitled to one, but no more than one dwelling unit thereon (lot of record) if it can meet the Land Management and Development Code criteria.

- E. **Maintenance and Repair of a Nonconforming Structure:** A nonconforming structure may be repaired, maintained, or improved, provided such repair, maintenance, or improvement is in compliance with the provisions of this Title. A nonconforming structure may be altered to decrease its nonconformity or to be brought into compliance with the provisions of this Title.

- F. **Removal of a Nonconforming Use or Nonconforming Structure:** If any such nonconforming use, nonconforming structure or nonconforming portion thereof is demolished or removed at the will of the property owner, any subsequent use, structure or portion thereof shall thereafter be required to conform to the regulations specified in this Title for the zone district in which the use or structure is located.

- G. **Replacement of a Nonconforming Use or Nonconforming Structure:** If any nonconforming use, nonconforming structure, or nonconforming portion thereof, is destroyed by fire or other natural cause, it may be replaced. If all necessary development permits are not obtained to repair or replace the damaged structure or use within one year from the date of loss, the structure or use may not be reconstructed or replaced, except in conformance with the provisions of this Title. The City Planner or designated planning staff member may grant a onetime, one-year extension upon finding that special circumstances, such as construction schedules, seasonal weather conditions, renewed business demand, or other similar circumstances exist which warrant such an extension. In order to grant an extension, the property owner shall file a written request to the Planning department requesting such extension and be under due diligence in replacing or rebuilding the use or structure, prior to the end of the original one-year period.

- H. **Enlargement of a Nonconforming Residential, Agricultural, or Accessory Structure:** A nonconforming residential, agricultural, or accessory structure may be enlarged according to the following criteria:
 - 1. **Building Permit Required:** Any portion of a nonconforming residential or accessory structure that complies with the setback requirements for the zone district in which the structure is located may be enlarged through the building permit process only, if the enlargement will further comply with all applicable zoning requirements. See figure 1 of this section.

FIGURE 1

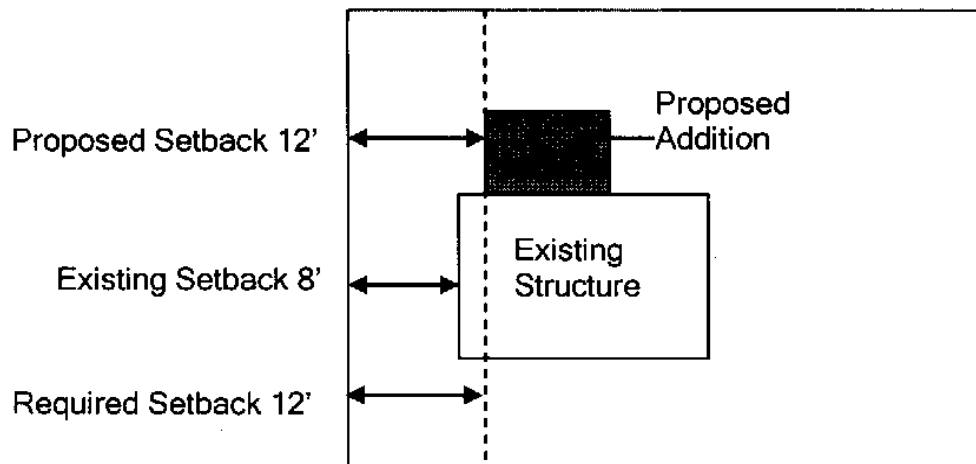


Figure 1: Addition proposed that complies with the zone required setbacks. Building permit required.

2. **Agricultural Structure:** Any portion of a nonconforming agricultural structure that complies with the setback requirements for the zone district in which the structure is located may be enlarged through the building permit process or if applicable, the agricultural use exemption, if the enlargement will further comply with all applicable zoning requirements. See figure 1 of this section.
3. **Low Impact Permit Required:** Any portion of a nonconforming residential, agricultural, or accessory structure that does not comply with the setback requirements for the zone district in which the structure is located may be enlarged through the low impact permit process described in section 13-5-16 of this Title and according to the following criteria:
 - a. At least fifty percent (50%) of the existing structure walls to be expanded, from which the setback is measured, must be nonconforming. See figure 2 of this section.

FIGURE 2

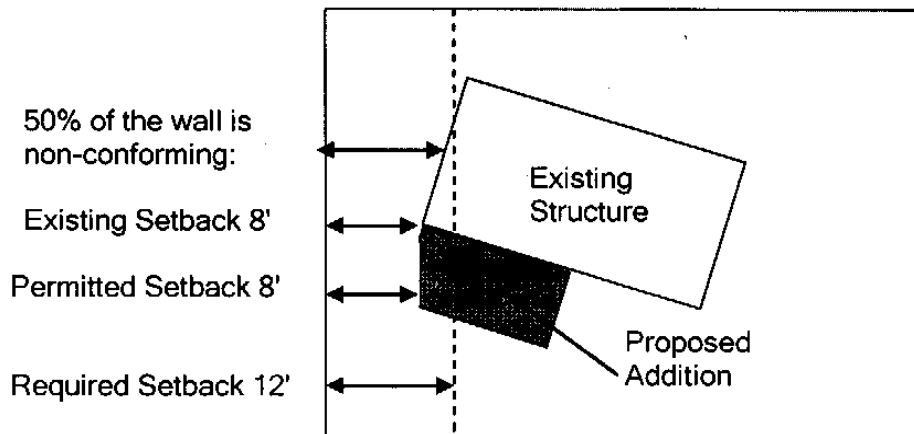


Figure 2: At least fifty percent (50%) of the wall proposed to be enlarged shall be nonconforming. Low impact permit required.

- b. Additions to nonconforming residential, agricultural, or accessory structures may extend to the existing nonconforming setback line, but may not encroach further into the setback. See figure 3 of this section.

FIGURE 3

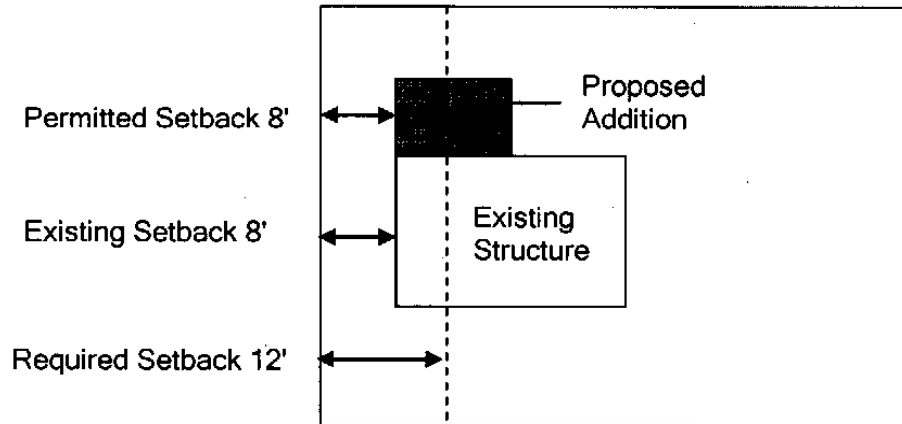


Figure 3: Addition proposed to the existing nonconforming setback line, but not further into the setback. Low impact permit required.

- c. In no case shall the addition be closer than fifty percent (50%) of the zone required setback. See figure 4 of this section.

FIGURE 4

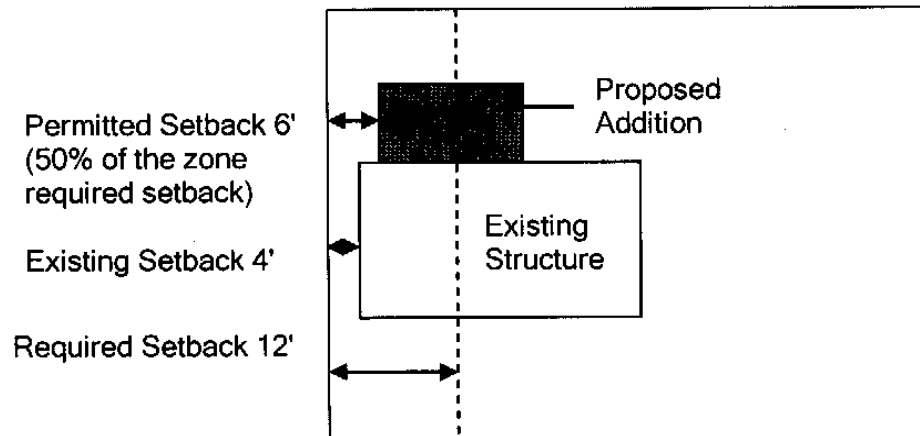


Figure 4: Addition proposed to the existing nonconforming setback line, but not closer than fifty percent (50%) of the zone required setback. Low impact permit required.

- d. Nonconforming residential, agricultural, or accessory structures may not be enlarged for the purpose of increasing density.
- I. **Enlargement of A Nonconforming Commercial or Industrial Structure:** A nonconforming commercial or industrial structure may be enlarged according to the following criteria:
- 1. **Building Permit Required:** Any portion of a nonconforming commercial or industrial structure that does not comply with the setback requirements for the zone district in which the structure is located may be enlarged through the building permit process, only if the enlargement will further comply with all applicable zoning requirements. This provision only applies to commercial or industrial nonconforming structures that contain a conforming use. See figure 1 of this section.
 - 2. **Low Impact Permit Required:** A nonconforming commercial or industrial structure shall not be enlarged in any way that increases the nonconformity, except through the low impact permit process described in section 13-5-16 of this Title and according to the criteria found in this section. A public hearing shall be held before the commission. Following the public hearing, the commission shall make a recommendation to the City Planner regarding an approval, approval with conditions, or denial of the application.
- J. **Enlargement or Conversion of a Nonconforming Commercial or Industrial Use:** A nonconforming commercial or industrial use may be enlarged or converted to another nonconforming use according to the following criteria:
- 1. **Low Impact Permit Required:** A nonconforming commercial or industrial use shall not be enlarged in any way that increases the nonconformity except through the low impact permit process described in section 13-5-16 of this Title and according to the criteria found in this section. A public hearing shall be held before the commission. Following the public hearing, the commission shall make a recommendation to the City Planner regarding an approval, approval with conditions or denial of the application.
 - 2. **Abandonment or Loss of Nonconforming Commercial or Industrial Use:** A nonconforming commercial or industrial use that is discontinued for a continuous period of one year is presumed abandoned and shall not thereafter be reestablished or resumed. The property owner shall have the burden of establishing that any claimed abandonment has not in fact occurred. Any party claiming that a nonconforming use has been abandoned shall have the burden of establishing such abandonment. All evidence either providing non-abandonment or abandonment shall be submitted to the City Planner who shall make a final determination of abandonment status. Any subsequent use of the building, structure, or

land must conform to the regulations specified in this Title for the zone district in which the use is located.

3. **Special Standards that Shall Be Met for Expansions or Conversions of Nonconforming Commercial or Industrial Uses:**

- a. The use does not significantly increase vehicular traffic or interfere with traffic flow;
- b. The use does not significantly increase the demand for parking;
- c. The use does not significantly intensify the likelihood of pedestrian and vehicular conflicts;
- d. The use does not create unsightly conditions or impacts to the environment including, but not limited to, unscreened storage and other environmental concerns;
- e. The use does not significantly intensify noise levels or odors;
- f. The use does not create significant dust and dirt conditions, which cannot be adequately mitigated;
- g. The use does not significantly intensify lighting and glare conditions;
- h. The use does not create a significant change in privacy for adjacent property owners; and
- i. The use will not adversely affect, in a significant manner, the public health, safety, and welfare.

K. **Sensitive Lands:**

1. **Prohibited:** Any portion of a nonconforming residential, agricultural, accessory, or commercial structure or any portion of a nonconforming use that is located within sensitive lands (wetlands, slopes greater than 30 percent, and streams) shall not be enlarged.

13-9-3: HOME OCCUPATIONS:

- A. **Purpose:** The purpose of this section is to ensure that the owners of one-family dwelling units may undertake occupations on the premises, so long as the home occupation is not intrusive to surrounding land uses or will not alter the essential character of the neighborhood. Home occupations may be established, maintained and expanded, so long as they are consistent with the standards described below. Home occupations that meet these standards do not require further approval by the City, but the operator may be required to obtain and maintain a valid business license.
- B. **Standards:** All home occupations shall comply with the following standards:
 1. Home occupation may take place within the residential building, an accessory building, or outside on the parcel/lot. The use of the dwelling

- unit, accessory building or parcel/lot must be clearly incidental and subordinate to its use for residential purposes;
2. The impacts of related activity outside of the dwelling shall create minimum impact on surrounding residential uses. Screened outside storage of materials as viewed from neighboring properties is required. Home occupations shall generate minimal dust, odor, fumes, noise, light, and other similar impacts that are not customary to the permitted dwelling unit alone;
 3. Vehicular traffic associated with the home occupation shall not exceed that which would normally be expected in the residential area in which it is located;
 4. Exterior advertising for home occupations on the premises is not permitted;
 5. Retail sales and rentals shall not be considered home occupations; and
 6. Home occupations shall comply with all applicable development evaluation standards described in chapter 3 of this Title.

13-9-4: SIGNS:

No sign shall be erected, relocated or enlarged until the plan for such sign has been approved and a permit issued by the City Planner or designated planning staff member. Nameplates, property signs, service signs, and temporary signs conforming to the provisions of this Title may be erected without such approval or permit.

A. Number of Freestanding Signs:

1. Lots with less than three hundred feet (300') of street frontage on one street shall be allowed one freestanding sign.
2. Lots with more than three hundred feet (300') of street frontage on one street shall be allowed two (2) freestanding signs.

B. Location of Freestanding Signs: Freestanding signs shall be set back at least five feet (5') from any property or right of way line.

C. Size of Signs:

1. One square foot of sign area shall be permitted for every five feet (5') of continuous linear building frontage upon which such sign is mounted, up to a maximum of thirty (30) square feet.
2. Freestanding signs shall not exceed forty (40) square feet.

D. Lighting of Signs: No spotlight, floodlight, luminous tubes or lighted sign shall be installed in any way which will permit the direct rays of such light to penetrate into any residential zone or onto any property used for residential purposes.

- E. **General Restrictions:** No light, sign or other advertising structure shall be erected at the intersection of any streets in such a manner as to obstruct free and clear vision or at any location where, by reason of the position, shape or color, it may interfere with, obstruct the view of, or be confused with any authorized traffic sign, signal or device; or which makes use of the words "stop", "look", "danger", or any word, phrase, symbol, or character in such a manner as to interfere with, mislead or confuse traffic.
- F. **Signs on Public Property:** No sign shall be erected on or project over publicly owned land, except signs erected by a public agency for the direction and safety of the general public.
- G. **Real Estate Signs:** No real estate sales sign shall be located within thirty feet (30') of the edge of an adjacent road surface or no closer than an existing fence line that is parallel to the road, whichever distance is less.
- H. **Campaign Signs:** Campaign signs are exempt from obtaining a sign permit; however, they must still comply with the following guidelines. Campaign signs shall not exceed three (3) square feet of area and four feet (4') in height, measured from the top of the sign to the grade directly below the sign. Campaign signs are permitted in any zone district, provided they are located a minimum of ten feet (10') back from the edge of the curb or edge of pavement, where there is no curb on the street which the sign fronts. If the ten-foot (10') distance would be within a structure, the sign may be within three feet (3') of the front of the structure. Illumination of campaign signs is prohibited. These signs shall only be permitted on private property with the permission of the property owner and are not permitted in the public right of way. City personnel may remove and impound these signs if notice to remove the signs has been sent to the property owner or candidate and they have failed to comply with that notice.
- I. **Off Premises Signs Prohibited:** No sign shall be erected or maintained on a parcel, lot or project area other than the specific lot or parcel on which the use or activity advertised on the sign is located.
- J. **Nonconforming Signs:** Nonconforming signs, excluding billboards, shall be required to conform or be removed as follows. On the happening of any of the events described below, or where any of the following conditions apply, the sign or signs shall be brought into compliance within one year after the effective date hereof, and a new permit shall be secured therefor, or shall be removed.
1. The cost of the nonconforming sign is valued at less than one hundred dollars (\$100.00). Sign value shall be determined based on an actual sales receipt for the sign or a cost estimate for the replacement cost provided by a qualified professional.
 2. When a nonconforming sign is destroyed or damaged to an extent in excess of fifty percent (50%) of the sign value.

3. The sign is relocated in any manner.
4. If the sign is altered structurally, or if more than fifty percent (50%) of the copy, as measured by the sign area, is altered, except for changeable copy signs and maintenance.
5. If the business or service for which the nonconforming sign was installed is expanded or modified. All improvements to a single business or use within any twelve (12) month period shall be treated cumulatively in the administration of this subsection.
6. Nothing in this section shall be deemed to prohibit the City from removing a billboard without providing just compensation in accordance with the procedures set forth in this subsection if the City Council provides reasonable notice of the proceedings and, following a public hearing, finds:
 - a. The applicant made a false or misleading statement in any application to the City necessary to establish or change the billboard;
 - b. The billboard is unsafe or presents a hazard to persons or property;
 - c. The billboard is in a state of disrepair; or
 - d. The billboard has been abandoned for at least twelve (12) months.

13-9-5: ACCESSORY DWELLING UNITS:

- A. **Scope:** When designated in section 13-4-19 of this Title, an accessory dwelling unit or an agricultural employee dwelling unit may be approved by the City. When approved through the conditional use process, both an accessory dwelling unit and an agricultural employee dwelling unit may be approved on the same parcel/lot.
- B. **Accessory Dwelling Unit:**
 1. An accessory dwelling unit shall not exceed one thousand (1,000) square feet of gross square footage, as measured from exterior wall to exterior wall of the dwelling unit itself.
 2. An accessory dwelling unit may be placed within or attached to a larger accessory structure (such as a barn or garage), but the dwelling unit itself shall be limited to one thousand (1,000) square feet.
 3. If permitted by subdivision CCR's, one accessory dwelling may be allowed within or attached to an existing home, i.e. basement apartment in the Community Residential (CR) zones. Detached accessory dwelling units are not allowed in subdivisions in the CR zones. Low impact permits and building permits are required for indoor accessory dwelling units.
 4. Building permits and other provisions of this Title will apply to the size and permitting of any detached accessory dwelling unit structure.

- C. **Agricultural Employee Dwelling Unit:** An agricultural employee dwelling unit is a one-family dwelling unit of up to but not to exceed two thousand (2,000) square feet. Before an agricultural employee dwelling unit is approved, it must be demonstrated that the property on which the dwelling will be located contains a viable "agricultural operation", as defined in appendix A of this Title. An agricultural employee dwelling unit shall be located in reasonable proximity to the primary residential dwelling unit as determined through the conditional use review. An agricultural employee dwelling unit can be constructed prior to the primary structure as long as the low impact permit or conditional use criteria is satisfied.

- D. **Deed or Restrictive Use Covenant Required:** An accessory dwelling unit and an agricultural employee dwelling unit shall be connected by deed or restrictive use covenant to the principal dwelling unit or structure on the parcel/lot, and shall not be eligible for subdivision or condominiumization and conveyance to another person.

- E. **Nightly Rental Units:** If an accessory dwelling unit is to be used at any time (as declared in the application) as a nightly rental unit, further regulations and approvals will be necessary as per this chapter.

13-9-6: EQUIPMENT ENCLOSURES, UTILITY STRUCTURES AND RELATED FACILITIES:

Equipment enclosures, utility structures, and related facilities shall address the following issues: screening, noise level, odors/air quality, lighting, landscaping, architectural screening/buffering, proximity, etc. The length, size, and architectural character of the proposed structure must be compatible with the residential uses in the area and must comply with the setback requirements for the zone in which it is located.

- A. **Purpose:** The purpose of this section is to ensure that all utility facilities/structures are located, installed, buffered/screened and maintained in a manner that will minimize the impact of such facilities/structures on nearby landowners and will not adversely affect the rural, agricultural, small town character and scenic beauty of Oakley City.

- B. **Application:** All applicants wishing to submit an application to construct utility facilities/structures shall: 1) submit to staff the latitude and longitude of proposed utility facilities/structures; 2) meet or exceed the following criteria in addition to the conditional use criteria in section 13-5-7 of this Title:
 - 1. **Site Location/Proximity:** The equipment enclosures and facilities/structures shall be located in a manner that reduces, to the maximum extent possible, the visibility from any major highway, roadway and/or adjacent development. Such facilities and related uses shall also be required to be consistent with the aesthetics of the neighborhood, and

particular care shall be taken to reduce all potential impacts on adjacent residential uses.

2. **Site Layout and Design:** Such development shall be integrated into the site in a manner that is sensitive to the existing topography, vegetation and any nearby structures, and which utilizes the existing site features, to the maximum extent possible, to screen the facilities from nearby landowners and sensitive view corridors.
 - a. Fencing shall be within five feet (5') or less from structures and allowance of two (2) parking stalls for temporary parking and maintenance requirements within enclosure. Fence setbacks from structures can be varied upon review of application if there are site limitations or applicant maintenance requirements.
 - b. Hard surface and gravel areas outside of proposed structures shall not extend to property boundaries, but shall instead be minimized, to the greatest extent possible, with appropriate landscape buffering as described in subsection B4 of this section.
3. **Architectural Screening:** When appropriate and/or necessary to meet the requirements of subsection A of this section, architectural screening shall be utilized to disguise the facilities/structures as typical farm type outbuildings which are consistent with the rural, agricultural character of the area. Long, unbroken facades and rooflines shall be avoided as well as the use of industrial type material and finishes.
4. **Landscape Buffering:** When appropriate and/or necessary to meet the requirements of subsection A of this section, landscaping and/or berming techniques shall be utilized to mitigate the visual and other related impacts of utility facilities/structures. Such landscaping and berming shall emulate the natural, rural landscape. All disturbed areas shall be revegetated with appropriate plant materials. Temporary irrigation shall be required for initial establishment and long term support of new landscaping and revegetation of disturbed areas.
5. **Lighting:** Lighting shall be the minimum required for maintenance and security purposes. Fixtures shall be fully shielded with light directed down and shall be controlled by motion detectors such that the lights are off unless needed for maintenance access or tripped on by motion detectors. Flood type area lighting is prohibited. Wall mounted fixtures shall be installed no higher than eight feet (8') above the finished grade immediately below the fixture.
6. **Noise:** The development shall not generate noise which would result in materially adverse impacts to the adjacent land or its occupants. A noise study may be required to make this determination.
7. **Security Fencing:** Security fencing shall be as unobtrusive as possible and shall blend in with the surrounding environment.
8. **Fuel Storage/Handling:** On site fuel storage (for backup generator, etc.) shall be designed for full, backup containment in the event of primary tank failure and/or spillage during refueling. Any and all fuel spills or spills of

any hazardous materials shall be immediately cleaned up, removed from the site and disposed of in accordance with all federal, state and local regulations.

9. **Outdoor Storage:** Outdoor storage of materials and equipment shall be prohibited.
10. **Maintenance:** At all times, all site improvements, including any required landscaping, fencing, buildings, finishes, etc., shall be maintained to an acceptable standard such that the facilities and related site improvements shall not adversely affect, in a significant manner, the public health, safety and welfare.

13-9-7: WIRELESS COMMUNICATIONS:

A. **Purposes:** The purpose of this section is:

1. To ensure that all telecommunications facilities comply with federal, state and City regulations.
2. To regulate telecommunications services, antennas and support structures, and related electronic equipment and equipment enclosures.
3. To provide for the orderly establishment of telecommunications facilities in the City.
4. To minimize the number of antenna support structures by encouraging the collocation of multiple antennas on a single structure, and by encouraging the location of antennas on preexisting support structures.
5. To establish siting, appearance and safety standards that will help mitigate potential impacts related to the construction, use and maintenance of telecommunications facilities.
6. To comply with the telecommunications act of 1996 by establishing regulations that:
 - a. Do not unreasonably discriminate among providers of functionally equivalent services.
 - b. Do not prohibit or have the effect of prohibiting the provision of telecommunications services.
 - c. Are not based on any claimed environmental effects of radio frequency emissions to the extent that such facilities comply with the federal communication commission's regulations concerning such emissions.
 - d. Ensure that all utility facilities/structures are located, installed, buffered/screened and maintained in a manner that will minimize the impact of such facilities/structures on nearby landowners and will not adversely affect the rural, agricultural, small town character and scenic beauty of Oakley City.

B. **General Provisions:**

1. **Independent Review:** The City may, if it deems necessary, cause the applicant to submit an impact study from a qualified, third party radio frequency engineer, to ensure that the proposed telecommunications facility will not interfere with existing radio, television, and emergency signals. The purpose of this review shall be to determine if other sites are available which can achieve an equivalent signal distribution without significantly affecting the existing telecommunications operations within the City. Such review may be required when an applicant indicates that no other acceptable site exists. The cost for such review shall be borne by the applicant.
 2. **Permitted:** Telecommunications facilities applications shall be permitted in accordance with section 13-4-19 of this Title.
- C. **Construction Standards:**
1. **Building Codes and Safety Standards:** To ensure the structural integrity of telecommunications facilities, the owner of a telecommunications facility shall ensure that it is maintained in compliance with the standards contained in applicable Building Codes and application standards for such telecommunications facility, as amended.
 2. **Letter of Intent:** All applicants who apply to build a tower shall provide one letter of intent from a telecommunications company that will locate on the tower.
- D. **General Requirements:**
1. **Setbacks:** A telecommunications facility shall be set back one hundred fifteen percent (135%) of the tower's height from the property line, or such facility shall meet the zone required setback, whichever is greater. The telecommunications facility shall be at least one hundred feet (100') from any public trail, park or outdoor recreation area. Guywire anchors shall be set back at least twenty feet (20') from any property line. The City Planner or designated planning staff member can approve varied setbacks if the telecommunications facility can be screened more appropriately by topography, vegetation or existing structures; however, the adjacent landowner(s) must sign a written agreement authorizing the decreased setback(s) from their property line(s). If telecommunications facilities are located in commercial or industrial zones or on City owned property, they shall only be allowed in the rear yard.
 2. **Signage:** Signs shall be limited to nonilluminated warning and equipment identification signs, unless additional signs are warranted by the FAA, FCC, or any other agency of the State or Federal government with the authority to regulate telecommunications facilities.
 3. **Access Roads:** Access roads shall be limited to ten feet (10') in width, unless otherwise approved by the fire district or Oakley City Engineering Office because of safety considerations. Access roads shall contain gravel

or other nonpaved surface. Existing roads shall, whenever possible, be upgraded the minimum amount necessary.

4. **Collocation:** An applicant proposing to erect a new telecommunications facility shall provide documentary evidence that a legitimate attempt has been made to locate the new telecommunications facility on existing buildings or structures or as a collocation on an existing antenna support structure. Such evidence shall include a radio frequency engineering analysis of the potential suitability of existing buildings or structures or collocation sites in the radio frequency coverage area for the proposed telecommunications facility. Efforts to secure such locations may be documented through correspondence between the applicant and the property owner(s) of the existing buildings, structures or collocation sites.
5. **Equipment Enclosures:** Every effort shall be made so that equipment enclosures or other structures are designed whereby the incorporation of stealth design technology or other visual screening (topography or vegetation) is utilized that readily conceals the appearance of the structure.
6. **Master Plan Requirements:** A master plan shall be completed by each company submitting an application for a development review. The master plan shall include:
 - a. Where the applicant's proposed, existing and future telecommunications facilities are within the City. The master plan may be amended as needed by the carrier for future site applications.
 - b. The number of possible collocations that can be obtained on the proposed tower.
 - c. A copy of the applicant's current FCC license.
 - d. A signed agreement, stating that the applicant will:
 - (1) Allow collocation with other users, provided all safety, structural and technological requirements are met. This agreement shall also state that any future owners or operators will allow collocation on the tower;
 - (2) Restore site to its former condition. (See non-maintained or abandoned facilities.)
 - e. A security program or system that addresses unauthorized access and vandalism.
7. **Non-maintained or Abandoned Facilities:** The director or designated planning staff member may require each non-maintained or abandoned telecommunications facility to be removed when such a telecommunications facility has not been repaired or put into use by the owner, person having control, or person receiving benefit of such structure within six (6) months after written notice of non-maintenance or abandonment is given to the owner, person having control, or person receiving the benefit of such structure.

13-9-8: INFRASTRUCTURE STANDARDS:

A. Fire Protection Standards:

1. All development, including a single-family dwelling on an individual lot or parcel, which does not have year-round access or is located within the wildland fire urban interface zone, is subject to the fire protection measures required by the 2006 Utah wildland fire urban interface code and the respective fire district and/or fire warden.

The wildland urban interface (WUI) zone map was developed using the roads to the outside of the valley floors as a simplified boundary. The areas within the valley floors typically have a water supply or are in areas with irrigated fields/modified vegetation and are in the vicinity of maintained roads that lower the wildland fire potential, and are therefore excluded from the WUI zone. Areas within two hundred fifty feet (250') of these road centerlines are also excluded from the WUI zone, as fire equipment can typically access these buildings within National Fire Protection Association (NFPA) requirements for hose length. The two hundred fifty foot (250') buffer is to be measured from centerline of the road across the ground to the build(s) by way of the normal access provided.

For wildland/urban fire requirement purposes, the following criteria shall be used by the applicable Fire District when reviewing development applications in Oakley City:

- a. Location of building with respect to designated wildland urban interface (WUI) area based on the City and state approved map.
- b. Response time for responding fire units.
- c. Access, including road and bridge weight limits.
- d. Space at the building for sufficient fire equipment to adequately and safely fight or defend the building(s).
- e. Type and density of vegetation around the buildings.
- f. Separation of buildings from vegetation as to prevent a building fire from spreading to wildland.
- g. Type of road or driveway, length, and grade, as well as type of access (seasonal versus year-round).
- h. Distance from established water supply and the ability to get that water to the fire based on pump capacity, access, and space at the building and turnarounds.
- i. Other criteria that shall be used are the following state adopted laws and rules:
 - (1) The state fire code adoption act.

- (2) Utah code subsection 65A-8-203(3)a (re: cooperative fire protection agreements with counties).
- (3) Utah administrative code R652-122-200 minimum standards for wildland fire ordinance.
- (4) Utah administrative code R309-550-5 water main design.
- (5) 2006 Utah wildland urban interface code.
- (6) Other provisions of this Title.
- (7) The 2009 international fire code (IFC) or newer as adopted by the state of Utah.

Based on this review, applicants may be required to enact a variety of measures to minimize the level of fire hazard. The fire protection measures may include the following:

- a. Connection to a community or private water system, well or spring with a minimum five thousand (5,000) gallon water storage tank, pond, or other accessible water body with a dry hydrant.
- b. Defensible space around each dwelling.
- c. Noncombustible roofing materials.
- d. Internal fire sprinkler systems.

Based upon specific site characteristics (e.g., a meadow or irrigated field within the WUI zone) and the applicant's ability to provide an adequate combination of the above listed building or on-site improvements, the fire district may waive certain requirements.

All applicants for new development shall, at the time of application, acknowledge that they have reviewed the "Summit County Living with Fire" information pamphlet and consulted the building department, insurance companies, builders and fire districts/fire warden regarding fire protection.

B. Wildfire Hazard Guidelines:

1. All proposed developments within the High Risk zone of the Fire Hazard Zone map of the current General Plan shall be analyzed and rated on its wildfire risk using the fire hazard severity scale developed by the state, division of state lands and forestry. A development shall be rated based on the following criteria. The composite score will categorize the hazard level of the proposed development as moderate, high, or extreme. This rating, based on the following, shall be submitted to the City as part of any sketch plan:
 - a. Slope of the site on which the development is proposed;

- b. Aspect, or the general direction in which the surface of the ground faces;
 - c. Response time of the responsible fire agency as measured in minutes;
 - d. Vegetation density to measure the fuel loading of the area; and
 - e. Type of vegetation to identify rates of spread, resistance to control and other factors.
2. Hazardous fuels in the form of native vegetation will be cleared around structures and around the perimeter of subdivisions where appropriate to assist in wildfire prevention. Fuel breaks are not intended as complete vegetation removal; but rather, they shall serve as a change in fuel continuity, type of fuel, and degree of flammability of fuel in a strategically located area to reduce or hinder the rate of fire spread. The amount of vegetation to be removed/left within a fuel break area shall be recommended by the appropriate fire district. Fuel breaks around residential dwelling units shall be in place before the issuance of a certificate of occupancy.
 3. Fuel break clearing limits shall be as follows:

Type	Moderate	High	Extreme
Structures	30 feet	50 feet	75 feet
Development perimeter	None	75 feet	100 feet

4. As part of a recorded plat for a subdivision in the high risk fire zone areas, fuel break easement shall be identified, and a note shall be placed on the plat stating the following:

The fuel break easement is granted for the benefit of the Utah state area forester. Fuel breaks shall be maintained by the landowner or homeowners' association. Failure of the landowner to maintain the fuel break shall cause the area forester to cause the maintenance of the fuel break and charge the landowner for costs incurred.

- C. **Road Standards:** Public and private roads in subdivisions shall meet the following minimum right of way, surface and shoulder width standards. Road surfaces shall be capable of providing all weather, year around access as approved by the Fire District and the City:

1. **Width of Surface:**

	Design Volume
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Design Speed	<25	25-250	251-699	700-999	1,000-2,499	2,500-5,000	5,001+
20 mph	14	16	20	22	22	24	24
30 mph	16	18	20	22	22	24	24
40 mph	18	20	22	22	22	24	24
50 mph	—	20	22	22	22	24	24+

Roads designed to carry a large traffic volume per day at higher speeds may be required to be wider than described. This will be based on a determination of the specific design volume, speed, terrain and other characteristics to be calculated at the time of development application. Public roads, to be owned and maintained by the City, shall be a minimum of twenty-four feet (24') of paved surface width. In special circumstances, providing safety standards are met, the City Engineer and Planning Commission may reduce this width standard on a case-by-case basis to protect sensitive lands, hill sides, reduce visibility, or minimize maintenance.

2. **Width of Shoulder:**

Design Speed	Design Volume						
	<25	25-250	251-699	700-999	1,000-2,499	2,500-5,000	5,001+
All Speeds	1' – 2'	1' – 4'	2' – 4'	2' – 6'	2' – 6'	2' – 6'	2' – 8'

Shoulders may be required to be compacted road base, asphalt or other suitable hard surface, or a combination thereof.

3. **Width of Right-Of-Way:** The minimum right-of-way width for a public road shall be sixty feet (60'). The requirements may increase as the paved surface width increases due to traffic volumes, as described above. The minimum right-of-way for private roads shall be double the driving surface of the road.

D. **Road Grades:** The maximum road grade of an arterial road shall be eight percent (8%). On all other roads, a grade of less than eight percent (8%) is encouraged and preferred. However, road grades in excess of eight percent (8%), up to a maximum of ten percent (10%), may be allowed for short distances when, in the opinion of the City, it is in the best interest of preserving the natural environment and when approved by the appropriate fire district. Short distances shall not exceed five hundred feet (500') within any one-thousand-foot (1,000') segment.

- E. **Intersections:** The road grade at an intersection shall not exceed four percent (4%) for a minimum distance of one hundred feet (100') on each leg of the intersection, and flatter grades are desired.
- F. **Turnaround/Cul-De-Sacs:** Cul-de-sacs will be a maximum of one thousand three hundred feet (1,300') in length for developments with a moderate fire hazard rating, nine hundred feet (900') in high fire hazard rated areas, and five hundred feet (500') in areas of extreme fire hazard. No cul-de-sac shall have a driving surface width of less than twenty feet (20'), and twenty-four feet (24') from public roads. All cul-de-sacs shall have a turnaround of not less than sixty feet (60') in diameter, or as otherwise approved by the fire district, and ninety feet (90') from public roads. All cul-de-sacs must have a sign indicating that the road is a "dead end" road, to be located within one hundred feet (100') of the outlet.
- G. **Bridges and Culverts:** Bridges and culverts on public roads shall be designed to support an HS-20 highway loading requirement. Permanent culverts will be installed at all intermittent and perennial stream crossings. Specifications for bridges, culverts and other stream crossings shall take into account at least the 100-year frequency storm for bridges and the 25-year frequency storm for culverts.
- H. **Driveway Access:** The maximum grade of a driveway shall not exceed ten percent (10%). Twelve percent (12%) grades may be allowed for up to but not to exceed two hundred fifty (250) linear feet. The minimum width of a driveway shall be twelve feet (12').
- I. **Irrigation Ditch Easements:** An unobstructed easement at least sixteen feet (16') in width shall be provided and shown on the subdivision plats or site plans, to ensure proper access and maintenance of irrigation ditches and canals.
- J. **Water Storage for Firefighting Purposes:** New development shall be required to meet the minimum water storage requirements for firefighting purposes as established by the fire district.
- K. **Revised Standards Applicable:** Development is subject to revised general engineering standards and ordinances which are in effect at the time the application is submitted for review and approval by the City.
- L. **Appeals:** Appeals of requirements imposed by the South Summit Fire District are made to the South Summit Fire Commission.

13-9-9: DEVELOPMENT AGREEMENTS:

- A. **Authority:** The City may, but under no circumstances is it required to, enter into a development agreement with a property owner or applicant for development approval. The City, at its sole discretion, may opt to use a development agreement when it determines that such an approach to development promotes and protects the public health, safety and general welfare. Development agreements shall be used to implement a specific plan under an MPD development or zoning designation, as indicated in section 13-5 of this Title.
- B. **Binding Agreement:** Whenever the City opts to enter into a development agreement, the agreement shall constitute a binding contract between the applicant and the City. It shall contain those terms and conditions agreed to by the applicant and the City. The agreement shall describe all limitations, restrictions and parameters associated with the development of the subject property. The agreement shall describe all processes and procedures for obtaining final approval and building permits. The agreement shall not allow the sale or transfer of individual parcels or components of the entire project unless specifically provided for in the agreement or as otherwise allowed under state law.
- C. **Effect of Approval:** Upon approval of the development agreement, it shall constitute a vested right in the specific terms and proposals for a period of five (5) years from the date of the approval, or longer when specifically allowed in the agreement, subject to any conditions agreed to and incorporated into the agreement.
- D. **Criteria for Approval:** The criteria for approval are as follows:
1. The development agreement has been duly adopted in accordance with the provisions stated in this section.
 2. The development agreement includes written consent by each landowner whose properties are included within the area described.
 3. The City Council, after receipt of a recommendation from the Planning Commission and review and consideration of the development agreement, finds that the specific proposals, terms and conditions contained in the agreement are consistent with the intent of the general plan, result in benefits to the general public that would not otherwise occur under the literal application of this Title, and provides a more flexible way to more effectively protect the health, safety and general welfare of the public.
 4. Development allowed under a development agreement shall comply with the development evaluation standards in chapter 3 of this Title, the infrastructure standards in this chapter, and all other criteria described in pertinent sections of this Title.
 5. When appropriate, based on the size of the project, the landowner or applicant agrees to, at a minimum, contribute all capital improvements

and facilities necessary to mitigate the impacts of the project on the City and special districts.

6. The landowner or applicant will mitigate all fiscal impacts on the general public.
7. Development shall not be permitted to create unacceptable construction management impacts.
8. While a creative approach to the development and use of the land and related physical facilities may be allowed by a development agreement, all development approved in the agreement shall meet or exceed development quality objectives of this Title.
9. The development shall be consistent with the goal of orderly growth and minimize construction impacts on public infrastructure within Oakley City.
10. The development shall protect life and property from natural and manmade hazards.
11. The development shall prevent harm to neighboring properties and lands, including nuisances.

- E. **Procedure for Approving Agreements:** All development agreements shall be reviewed and approved in accordance with the procedures for a MPD, as described in section 13-5 of this Title.

13-9-10: REAPPLICATION FOLLOWING DENIAL:

If any application for development approval is denied for failure to meet the substantive requirements of this Title, an application for all or a part of the same property shall not be considered for a period of one year from the date of denial unless the subsequent application for development is substantially different from the previously denied proposal.

13-9-11: REVOCATION OF APPROVALS AND/OR PERMITS:

- A. **Authority:** An approval or permit may be reconsidered and revoked by the land use authority that granted the permit in accordance with the procedures set forth herein if it is determined that the application, decision, approval or permit was based on materially inaccurate or incomplete information, or where the applicant is in violation of the issued permit or approval.
- B. **Duties of City Planner; Hearing:** If the City Planner determines, based on inspection by City staff, that there are reasonable grounds for revocation of a development permit approval authorized by this Title, the City Planner shall set a hearing before the land use authority that granted the permit.

- C. **Notice and Public Hearing:** Reasonable notice of the proceeding to revoke the development permit or approval shall be given to the applicant.
- D. **Required Findings:** The land use authority may revoke the development permit upon making one or more of the following findings:
 1. That the development permit was issued on the basis of erroneous or misleading information or misrepresentation provided by the applicant;
 2. That the terms or conditions of approval of the permit relating to establishment or operation of the use approved have been violated or that other laws or regulations of the City, state, federal or regional agencies applicable to the development have been violated.
- E. **Decision and Notice:** Within ten (10) working days of the conclusion of the hearing, the land use authority shall render a decision, and shall notify the holder of the permit and any other person who has filed a written request for such notice in the manner provided herein.
- F. **Effect:** A decision to revoke a development permit shall become final ten (10) days after the date notice of the decision was given. After such effective date, all activities pursuant to such permit thereafter shall be deemed in violation of this Title.
- G. **Right Cumulative:** The City's right to revoke a development permit, as provided in this section, shall be cumulative to any other remedy allowed by law. Where an applicant is in violation of his permit, the City may deem it a violation of this Title and proceed under section 13-1-14 of this Title.

13-9-12: FAILURE TO COMPLY WITH CONDITIONS:

Approval of any development may be made with or without conditions, and the failure to fully abide by the terms of any conditional approval will result in a forfeiture of any vested property right associated with the development approval.

13-9-13: EFFECTIVE PERIOD OF APPROVALS:

- A. **Sketch Plan Review:** Upon the completion of a sketch plan review, a formal development application, as required in this Title, shall be submitted within six (6) months from the completion of the sketch plan review.
- B. **Preliminary Plan:** The approval of a preliminary plan, when required in this Title, shall be effective for a period of one year from the date of its approval. At the end of the one-year period, the applicant shall have submitted a complete application for final development review. If a complete final plan application is not submitted

within one year, the preliminary approval shall be considered null and void, and the applicant shall be required to submit a new sketch plan and development application in accordance with the provisions of this Title in effect at that time.

- C. **Final Plan; Vested Right:** Upon approval of any final plan/plat, it shall constitute a vested right in the specific terms and proposals identified in the approval for a period of one year from the date of the approval, at which time the final plat shall be recorded in the office of the Summit County recorder. This provision reflects the City Council's position that no developer has a vested right in perpetuity, and that in the interest of the health, safety and general welfare, developers must proceed with development approvals with due diligence. Therefore, development projects, including subdivision plats and site plans, which were approved before Oakley City adopted its first Zoning Ordinance in ____, in which no development has taken place, are not entitled to vested rights under this Title. The establishment of a vested right does not exempt the property owner from requirements for building permits or other necessary permits. The establishment of a vested right shall not preclude the application from the requirements of the building code, fire code, plumbing code, electrical code, mechanical code or other requirements necessary for the protection of the public health, safety and welfare.

- D. **Development Permit Extension:** One 6-month extension of a development permit may be granted by the City Planner upon his finding that special circumstances exist which warrant such an extension, including, but not limited to, a delay caused by a government review agency or natural disaster.

13-9-14: ISSUANCE OF BUILDING PERMITS:

- A. **Water, Sewer and Access Requirements:** A building permit will not be issued for a new dwelling unit or commercial or industrial structure until all water, sewer/septic and access requirements are met.

- B. **Address:** An address in conformance with the City and/or County addressing system must be assigned before issuance of a building permit.

- C. **Lot Conformance:** Before a building permit can be granted to any property, the parcel/lot shall lawfully conform to all applicable provisions of this Title (lot of record). There are parcels/lots within Oakley City that, while their existence may be recorded in the office of the Summit County recorder, were not lawfully created in accordance with the laws of the City. The City will not issue a building permit for such parcels/lots.

- D. **Prior To Completion and Acceptance of Improvements:** Building permits may be issued for construction in subdivisions and other projects prior to the completion

and acceptance by the City of the required property improvements, provided minimum access and safety standards can be met and a bond or escrow fund is estimated and established for the required infrastructure. In such cases, the City Planner or designated planning staff member may require that the applicant for building permit sign a statement indicating the following:

1. The applicant is aware of the terms of the bond or escrow account established to guarantee completion of required improvements to the satisfaction of the City.
2. There may be private infrastructure improvements required in the subdivision or project area, which may not be complete, over which the City has no influence or authority regarding completion of work and that the applicant accepts the associated risk.
3. The applicant releases the City from liability for installation, maintenance or repair of the required public improvements until the same have been completed by the developer or under the terms of the escrow agreement, and accepted by the City.
4. The applicant assumes all risk in connection with construction on the subject property.

E. **Site Plan Requirements:** Three (3) copies of a site plan, a minimum size of eleven inches by seventeen inches (11"x17") (must be legible) and a maximum size of thirty-six inches by forty-eight inches (36"x48") shall be submitted with all building permit applications for all new construction, including additions, accessory buildings, and garages.

1. **Preparation of Site Plan:** If any of the following criteria apply, the site plan shall be prepared by a licensed surveyor, architect, landscape architect, or engineer, registered in the state of Utah:
 - a. Parcels/lots that contain a designated building pad identified on a subdivision plat.
 - b. Building areas or building pads having an average grade steeper than five percent (5%) (some elevation information may be required to verify grade).
 - c. Proposed structure heights greater than twenty-eight feet (28').
 - d. Proposed structure setbacks closer than three feet (3') to the required setback line, excluding decks, lean-tos, or other similar structures.
 - (1) Agricultural exempt buildings that comply with section 17-27a-605 of the Utah Code Annotated are excluded from these site plan requirements. However, agricultural exempt buildings closer than three feet (3') to the required setback line or are greater than twenty-eight feet (28') in height will require an inspection by the Planning department to ensure that setback and height requirements for the zone district in which they are located are being met.

- e. Parcels/lots that do not have existing property corners set by a licensed surveyor.
2. **Site Plan Information Required:** When the site plan is required to be prepared by a licensed surveyor, architect, landscape architect, or engineer, each copy shall be wet stamped by each professional involved in its preparation. Redline corrections/additions to the site plan or elevation page items may be accepted if determined by staff to be minor in nature. All corrections shall be approved by the person who stamped the site plan. The site plan shall contain the following information:
- a. Scale.
 - b. North arrow.
 - c. Information box showing the name of the applicant, subdivision and lot number or parcel number (tax identification number), address, section, township, and range, acreage (or square footage) of the lot or parcel.
 - d. Map of the parcel. For parcels larger than one acre, provide large scale drawing of the entire parcel (i.e., vicinity map, 1 inch=100 feet), with bearing and distance calls, and a smaller scale (1 inch=20 feet), detailed map of the area of the parcel being developed. The map shall contain the following minimum information:
 - (1) Property lines, designated building pad, platted setback lines, rights of way and easements, all adjacent streets/roadways.
 - (2) Proposed setbacks of all new structures to the property lines.
 - (3) A topographical map prepared by a licensed surveyor including both existing and proposed contours. Two foot (2') minimum contour intervals are required for all parcels/lots which have an average grade greater than five percent (5%) (some elevation information may be required to verify grade) and/or structure heights that exceed twenty-eight feet (28') (measure from the ridgeline to existing grade). Existing contours must be shown through the proposed structures.
 - (A) For lots/parcels one acre or less in size, contours are required for the entire lot/parcel.
 - (B) For lots/parcels greater than one acre in size, contours are required one hundred feet (100') on each side of all proposed structures and all other areas of disturbance proposed for the lot/parcel, such as the driveway, accessory structures and yard areas. The contour map must include the opposite side of any existing roadway adjacent to the property.

- (4) One fixed point near the proposed construction labeled "Benchmark" showing the elevation. The point may be a manhole cover, fire hydrant, or survey pin set so that it cannot be removed. The elevation of the point must be identified on a stake placed at or near the point.
- (5) All elevations for the structure and driveway shall be referenced from the benchmark.
- (6) All existing and proposed improvements including structures, driveways, and retaining walls.
- (7) All drainageways, ditches, streams, and wetlands within two hundred feet (200') of any proposed structure, area of disturbance and driveway, even if located on an adjoining parcel/lot.
- (8) The footprint of proposed structures. The footprint shall show roof ridgelines and their elevations.
- (9) The proposed driveway width.
- (10) Proposed elevations, including:
 - (A) Top of the foundation walls at four (4) major corners.
 - (B) Roof ridge elevation(s) from existing grade.
 - (C) Garage floor elevations.
 - (D) Center of the driveway at the street, at twenty feet (20') from the street, at each grade break and at the edge of the "flat" parking area outside the garage.
- (13) An erosion control plan including:
 - (A) Perimeter controls (straw wattle, straw bales, silt fence) on the downhill side of all disturbed areas when required by this Title.
 - (B) Stabilized construction access.
 - (C) Protection measures of adjoining drainage features including storm drain, ditches, streams, etc.
- (12) Construction mitigation plan that identifies the location of dumpster(s), portable toilet(s), material storage, and parking. The following notes shall be on the plan:
 - (A) Construction parking/traffic may not block the street without a permit.
 - (B) Mud tracked onto the street must be cleaned prior to the end of the workday.
 - (C) The construction site must be maintained in a neat manner. Trash and other debris may not accumulate outside the dumpster.
 - (D) Roadside parking is not allowed from November 1 through April 1.

3. **Site Plan Certification:** When a site plan is prepared by a licensed surveyor in conjunction with an architect, landscape architect, and/or engineer, the site plan must be certified by each of the professionals preparing the site plan for that portion of the plan that is their responsibility. The parcel/lot survey prepared and certified by the licensed surveyor, including topography may be submitted on a separate sheet from the site plan prepared by the architect, landscape architect, and/or engineer; however, all survey information from the parcel/lot survey shall be included on the site plan.
- a. A form of the following certifications must appear on the parcel/lot survey and/or site plan:

Surveyor Certificate

I, do hereby certify that I am a licensed Professional Land Surveyor registered in the State of Utah, license no. _____, as prescribed under the laws of Utah. I further certify that a survey of the land shown and described herein, and that the representation shown on the site plan is a correct representation of the land surveyed and has been prepared on conformity with the minimum standard and requirements of the Law.

Signature (over seal)

Date

Architect/Landscape Architect/Engineer Certificate

I, do hereby certify that I am a licensed Architect/Landscape Architect/Engineer registered in the State of Utah, license no. _____, as prescribed under the laws of Utah. I further certify that I am fully responsible for the design of the structure(s), structure location(s), driveway, drainage, and other improvements/development to the land shown on the site plan.

Signature (over seal)

Date

4. **Building Elevations Pages:** Two (2) copies of the building elevations pages must be submitted with all building permit applications. Plans shall provide elevation views of all four (4) sides of the building. These views shall identify where the existing and proposed grade lines will strike the building wall line. Top of foundation, floor lines, eave lines, and ridgelines shall be shown and referenced to the known point on the site plan.
5. **Certificate of Survey/Elevation:** A certificate of survey/elevation of the structure shall be submitted whenever a site plan is required to be

prepared and certified by a licensed surveyor under the criteria set forth above. The certificate of survey/elevation must be prepared by a licensed surveyor registered in the state of Utah. The certificate must be submitted prior to receiving an inspection of the shear wall or the "four-way".

- a. The certificate must verify the elevations of the top of foundation walls/roof ridge elevations with respect to the existing grades and the structure location, with respect to setbacks and shall contain the following information:
 - (1) All property lines and building envelope (if applicable) when the parcel is one acre or less. When the parcel is larger than one acre, the two (2) closest property lines and building envelope (if applicable).
 - (2) Required setback lines.
 - (3) Structure footprint.
 - (4) Dimension lines from the structure to all shown property lines (see subsection F5a(1) of this section).
 - (5) "As constructed" top of foundation elevations or top of roof ridge elevations.
- b. An original wet stamped copy of the certificate of survey/elevation must be submitted to the building department and engineering department prior to requesting a shear wall inspection.
- c. A form of the following certification must appear on the survey:

Certificate of Survey/Elevation

I, do hereby certify that I am a licensed Professional Land Surveyor/Engineer registered in the State of Utah, license no. _____, as prescribed under the laws of Utah. I further certify that I have reviewed the plans for Permit No. _____, located at (street address) - _____ on Lot _____ of the _____ Subdivision and have surveyed the property to verify that the structure is situated on the lot as shown on this map. I further certify that the elevations of the foundation walls and roof ridges are as shown on this map.

Signature (over seal)

Date

13-9-15: PROJECT CLOSURE DUE TO INACTION:

- A. Recognizing the length of the planning review process will vary with the size and complexity of each proposal, applicants must move their applications either to approval or denial in a reasonably expeditious manner. The City may close applications which remain inactive for nine (9) months or longer due to acts of omissions by the applicant.

1. When the City Planner or designated planning staff member determines an application inactive, he/she may close the files with respect to the application. No application may be closed on the basis of inaction without giving twenty-one (21) calendar days' certified written notice to the applicant. Such notice must state the intent of the City Planner or designated planning staff member to have the project closed because of inaction and what the applicant must submit in order to maintain an active file status.
2. An application shall be deemed inactive and subject to closure on the basis of inactivity if, through the act or omission of the applicant and not the City:
 - a. More than nine (9) months have passed since the last meeting of staff and the applicant.
 - b. More than nine (9) months have passed since a request for additional information was made by staff, which request has not been complied with or reasons for noncompliance are not stated or indicated by the applicant.
 - c. The applicant is more than thirty (30) days in default of the payment of any fee assessed by ordinance.
 - d. The applicant has stated intent to abandon the project.

Delays caused entirely by internal delays of the City Planner or designated planning staff member, City Engineer, Planning Commission, City Mayor, City Council, or Board of Adjustment shall not be a cause for file closure.

13-9-16: RESIDENTIAL CARE FACILITIES FOR THE ELDERLY OR DISABLED:

- A. A residential care facility for the elderly or disabled may not be established unless:
 1. A conditional use permit has been issued;
 2. Development review and approval of a final site plan has occurred and a building permit has been issued.
- B. Residential care facilities shall be permitted in accordance with the chart of allowed and conditional uses provided they are:
 1. Licensed or certified by the Utah State department of human services;
 2. Reasonably dispersed throughout the City and the facility is not within three-fourths (3/4) of a mile of another residential care facility for elderly persons or disabled;
 3. Limited by the number of occupants with a minimum of four (4) occupants. The maximum number of occupants shall be determined by the amount of bedrooms with no more than two (2) occupants per bedroom;

4. The facility is capable of use as a residential care facility without structural alterations to an existing building or landscaping that would change the structure's residential character or impose adverse impacts to the residential neighborhood;
5. The traffic flow will not negatively impact the existing residential neighborhood and adequate off-street parking space has been provided in accordance with the provisions of this Title;
6. No person being treated for alcoholism or drug abuse will be placed in a residential care facility for elderly persons;
7. Placement in a residential care facility for disabled and elderly persons is on a strictly voluntary basis and is not part of, or in lieu of, confinement, rehabilitation or treatment in a correctional facility.

13-9-17: HAZARDOUS LIQUIDS OR MATERIALS TRANSMISSION PIPELINES:

- A. **Purpose:** The purpose of this section is to mitigate the aesthetic and environmental impacts while minimizing potential damage to essential public facilities from hazardous liquids or materials transmission pipelines by:
 1. Minimizing the likelihood of inadvertent or accidental damage from and to hazardous liquids or materials transmission pipelines due to external forces, such as construction activity, by ensuring early communication between those developing property and hazardous liquids or materials transmission pipeline operators.
 2. Minimizing the risk of injury or damage to essential public facilities in the event of a hazardous liquids or materials transmission pipeline failure.
 3. Mitigating potential adverse aesthetic impacts from the siting, construction, operation, and maintenance of a hazardous liquids or materials transmission pipeline.
 4. Ensuring adequate protection of the environment in the event of a hazardous liquids or materials transmission pipeline failure.
 5. Ensuring there is adequate protection of existing hazardous liquids or materials transmission pipelines from damage.
 6. Limiting the exposure of land uses with on-site populations that are difficult to evacuate, as well as land uses that serve emergency functions from the effects of a pipeline failure.
 7. Supplementing existing federal and state regulations related to transmission pipeline corridor management.
- B. **Applicability:** Regulations in this section apply to all proposed pipelines. Applications to install hazardous liquids or materials transmission pipelines shall be processed as conditional uses in all zone districts. To the extent any regulations within this section conflict with state or federal regulations or laws regulating hazardous liquids or materials transmission pipelines, those state or federal regulations and laws shall take precedence over these regulations. The

City adopts by reference the definitions set forth in the hazardous liquid pipeline safety act of 1979, as amended, and recodified in 49 USC 601 and 49 CFR 190-199.

C. **Definitions:**

ESSENTIAL PUBLIC FACILITIES: Those public facilities which are required in order to provide basic health and safety services to residents and visitors of Oakley City, including, without limitation, water sanitation plants, water treatment plants, sewer treatment plants, water storage facilities, telecommunication towers, police stations, fire stations, jails, courthouses, public health facilities, and emergency operations centers.

HAZARDOUS LIQUIDS OR MATERIALS: Any hazardous or toxic waste, substance or material, including petroleum, petroleum products, and anhydrous ammonia as defined by the comprehensive environmental response, compensation and liability act, 42 USCA section 9601 et seq.; the hazardous materials transportation act, 49 USCA section 5101 et seq.; the resource conservation and recovery act, 42 USCA section 6901 et seq.; the toxic substances control act, 15 USCA section 2601 et seq.; the federal water pollution control act, 33 USCA section 1251 et seq.; the hazardous liquid pipeline safety act, 49 USCA section 60101 et seq.; the Utah safe drinking water act, Utah Code Annotated section 19-4-101 et seq.; the Utah water quality act, Utah Code Annotated section 19-5-101 et seq.; the Utah solid and hazardous waste act, Utah Code Annotated section 19-6-101 et seq.; 49 CFR 195.2, and any successor state or federal environmental laws which define hazardous substances. Hazardous material, without limiting the scope of the foregoing, shall include, without limitation, hazardous liquids as defined by 49 CFR part 195.2, but shall not include natural gas, including liquefied natural gas.

HAZARDOUS LIQUIDS OR MATERIALS TRANSMISSION PIPELINE CORRIDOR OR TRANSMISSION PIPELINE CORRIDOR: The pipeline pathway defined by rights of way and easements in which the pipelines and facilities of a hazardous liquids or materials transmission pipeline are located, including rights of way and easements over and through public or private property.

HAZARDOUS LIQUIDS OR MATERIALS TRANSMISSION PIPELINE OR TRANSMISSION PIPELINE: A pipeline, whether above or below ground, which transports or is designed to transport hazardous liquids or materials. As used herein, a transmission pipeline includes all parts of those physical facilities through which hazardous material moves in transportation, including pipes, valves, and other appurtenances attached to pipes, compressor units, pumping stations, metering stations, regulator stations, delivery stations, holders, breakout tanks, fabricated assemblies, and other surface pipeline appurtenances. A hazardous liquids or materials transmission pipeline includes a "hazardous liquid pipeline".

HIGH CONSEQUENCE LAND USE: A land use that if located in the vicinity of a hazardous materials transmission pipeline represents an unusually high risk to life in the event of a transmission pipeline failure due to the characteristics of the inhabitants or functions of the use. High consequence land uses include:

1. Commercial childcare;
2. Houses of worship, including churches and other religious institutions;
3. Hospitals;
4. Residential care facilities;
5. Institutional uses including private schools and public or quasi-public buildings; and
6. Essential public facilities.

JURISDICTIONAL WETLANDS: An area delineated and approved as a wetland by the United States army corps of engineers consistent with Utah Code Annotated section 17-27a-520.

MANMADE OR NATURAL RESERVOIR: A natural or artificial water body where water is collected and stored for use.

QUASI-PUBLIC BUILDINGS: Buildings that are open to the general public.

SOURCE PROTECTION ZONE: The surface water source protection zones designated as water source protection zone 1, zone 2 and/or zone 3, as set forth in Utah Department of Environmental Quality, Division of Drinking Water Rules.

TRANSMISSION PIPELINE OPERATOR: The company or person responsible for the operation, maintenance and management of the transmission pipeline.

D. Development Standards for the Construction of New Hazardous Liquids or Materials Transmission Pipelines:

1. **Hazardous Liquids or Materials Transmission Pipeline Corridor:** A fifty-foot (50') easement or right of way (or such other widths as shall be approved and accepted by the City Planner and City Engineer for any given property along the course of the transmission pipeline, based upon individual topographical and/or site condition requirements) shall be recorded in the office of the Summit County Recorder for all new hazardous liquids or materials transmission pipelines.
2. **Setbacks:** In order to mitigate the aesthetic and environmental impacts of hazardous liquids or materials transmission pipelines, while minimizing potential damage or interruption to essential public facilities caused by transmission pipelines, the following setbacks shall be observed:

- a. Except as set forth in subsection D3 of this section or unless approved by the City Engineer as part of the conditional use permit process, where adequate mitigation measures have been demonstrated by the applicant to the satisfaction of the City engineer, hazardous liquids or materials transmission pipeline corridors shall not be located closer than two thousand five hundred feet (2,500') in zone 1, one thousand feet (1,000') in zone 2, and five hundred feet (500') in zone 3, from the Weber River and its tributaries, as set forth in the established source protection zone. However, conditions such as slope and terrain may require additional mitigation as identified in the conditional use permit process.
 - b. Except as set forth in subsection D3 of this section, hazardous liquids or materials transmission pipelines shall not be located closer than one hundred feet (100') from: 1) any jurisdictional wetland, and 2) any year-round naturally occurring creek, stream, river, private or public well, or pond, unless approved by the City Engineer as part of the conditional use permit process where adequate mitigation measures have been demonstrated by the applicant.
 - c. An aboveground hazardous liquids or materials transmission pipeline facility or appurtenance shall not be located closer than one thousand feet (1,000') from any high consequence land use structure or essential public facility structure, unless otherwise approved by the City engineer based upon independent modeling.
3. **Basis of Conditional Use Permits:** Crossings of jurisdictional wetlands, year-round naturally occurring creeks, streams, ponds, the Weber River and its tributaries, or manmade or natural reservoirs along the Weber River may be allowed as part of the conditional use permit process, on the following basis:
- a. Open cut trench excavation of jurisdictional wetlands, and year-round naturally occurring creeks, streams, rivers or ponds (except for the Weber River, and natural or manmade reservoirs along the Weber River) based upon the best engineering practices is permitted at the discretion of the City Engineer. However, if in the opinion of the City Engineer, circumstances warrant, horizontal directional drilling or jack and bore construction methods as set forth in subsection D3b of this section may be required.
 - b. Crossing of the Weber River, or natural or manmade reservoirs along the Weber River, unless otherwise approved by the City Engineer, shall be by horizontal directional drilling or jack and bore construction methods. Jack and bore sending and receiving pits must be located outside of the 10-year frequency storm limits and/or the required clearance distances from the thalweg, whichever is greater, and must have the approval of the FEMA

floodplain administrator if within the one percent (1%) chance annual floodplain (100-year storm). Directional drilling pits shall be constructed well beyond the top of the bank. A soils engineering report and/or engineering geology report may be required at the discretion of the City Engineer. Armoring of the pipeline may be required as determined by hydraulic modeling and approved by the City Engineer. The consultant designing the crossing shall assure proper depth of utility to prevent exposure from localized scouring caused by improvements in the stream corridor. Applicant shall coordinate with the local floodplain administrator to determine appropriate scour protection depths. Pipeline minimum depth is ten feet (10') under channel grade to the top of the pipeline.

- c. City Engineer shall review the engineering spill analysis and associated hydraulic reports and may require additional isolation valves immediately adjacent to both sides of jurisdictional wetlands, year-round naturally occurring creeks, streams, rivers, ponds, the Weber River, or manmade or natural reservoir crossings in order to minimize spills or leaks.
4. **Design Techniques:** Every effort shall be made so that pipeline related equipment enclosures and other structures shall be appropriately designed to mitigate their visual impact on the natural environment. This may include stealth design techniques and/or other visual screening methods as approved by the City.
5. **Applicability:** Unless otherwise modified by this section, all criteria set forth in section 13-3-4, "Natural Resources" and section 13-3-5, "City Infrastructure, Facilities and Services", of this Title shall apply to hazardous liquids or materials transmission pipelines.
 - a. In the event that it becomes necessary for a hazardous liquids or materials transmission pipeline to traverse a hillside or natural grade slope of greater than thirty percent (30%), adequate mitigation shall be required to ensure the alignment is sensitively sited so as to encourage stabilization of the disturbed slopes, minimize excavation, and the conservation of the natural appearance and grade of the hillside. The transmission pipeline alignment shall be integrated into the site, using topography, vegetation and other reasonable techniques, in a manner that causes it to blend into the hillside.

13-9-18: LIGHTING AND DARK SKY REGULATIONS:

- A. **Purpose:** The purpose of this section is:
 1. To protect dark sky resources and prevent the degradation of the nighttime visual environment by production of unsightly and dangerous glare;

2. To create lighting practices that promote the health and safety of Oakley City's citizens and visitors;
 3. To prevent unnecessary waste of energy and resources in the production of excessive light or wasted light;
 4. To prevent interference in the use or enjoyment of property which is not intended to be illuminated at night and the loss of the scenic view of the night sky due to increased urban sky-glow.
- B. **Applicability:** All exterior outdoor lighting installed after the effective date of this section in all zones in Oakley City shall conform to the requirements established by this section.
1. This section does not apply to indoor lighting.
 2. All existing outdoor lighting that does not meet the requirements of this section and is not exempted by this section shall be considered a nonconforming use and as such shall be regulated as outlined in section 13-9-2 of this chapter.
 3. Should this section be found to be in conflict with other sections of this Code, the more restrictive shall apply.
- C. **Application and Review Procedures:** All development permit applications or submittals that propose street lighting or other outdoor lights shall include a lighting plan that shows evidence that the proposed lighting fixtures and light sources shall comply with this Code and shall include the following:
1. Plans or drawings indicating the proposed location of lighting fixtures, height of lighting fixtures on the premises, and type of illumination devices, lamps, supports, shielding and reflectors used and installation and electrical details.
- D. **Full Cutoff Fixture Requirements:**
1. **Outdoor Lighting:** Unless specifically exempted by this section, all outdoor lighting shall use full cutoff fixtures and shall be installed so light is directed downward with no light emitted above the horizontal plane of the fixture.
 2. **Location:** Lighting must not be placed at a location, angle, or height that directs illumination or horizontal trespass outside the property boundaries where the light fixtures are located.
 3. **Qualification:** In order to qualify as a "full cutoff" fixture, a light fixture must have the top and sides made of completely opaque material so that light only escapes through the bottom of the fixture. Fixtures with translucent or transparent sides, or sides with perforations or slits, do not qualify as full cutoff. Any glass or diffuser on the bottom of the fixture must be flush with the fixture (no drop lenses). Merely placing a light fixture under an eave, canopy, patio cover, or other similar cover does not qualify as full cutoff.

4. **Exemptions to Full Cutoff Fixture Requirements:**
- a. Fixtures having a total light output less than one thousand (1,000) lumens (allowing a maximum of a 60-watt incandescent, a 15-watt compact fluorescent bulb or LED equivalent) are exempted from the full cutoff requirement provided:
 - (1) The fixture has a top that is completely opaque such that no light is directed upwards.
 - (2) The fixture has sides that completely cover the light source and are made of opaque or semi opaque material. Fixtures with opaque sides may have incidental decorative perforations that emit small amounts of light.
 - (3) Semi opaque material such as dark tinted glass or translucent plastic may be used if the light source is not discernable behind the material.
 - (4) Completely transparent materials, such as clear glass, are not allowed.
 - (5) The bulb or lamp must not be visible from any point outside the property on which the fixture is located.

E. **Exemptions:** The following types of lighting installations shall be exempt from the provisions, requirements and review standards of this section, including those requirements pertaining to City Planner review.

- 1. **Agricultural Lighting:** Lighting for agricultural activities or agricultural buildings as defined in appendix A of this Title is exempt from the requirements of this section, provided such lighting is down directed and shielded to prevent glare to the level of a nuisance on adjacent streets or properties.
- 2. **Holiday Lighting:** Winter holiday lighting which is temporary in nature and which is illuminated only between and including November 15 and February 1 shall be exempt from the provisions of this section, provided that such lighting does not create glare to the level of a nuisance on adjacent streets or properties, is maintained in an attractive condition and does not constitute a fire hazard.
- 3. **Traffic:** Traffic control signals and devices.
- 4. **Emergency:** Temporary emergency lighting in use by law enforcement or government agencies or at their direction.
- 5. **Flags:** The lighting of Federal or State flags, per the regulations for lighting a flag in the United States Code Title 36, chapter 10.
- 6. **Low Voltage and Solar Lights:** Low voltage lights and solar lights used to illuminate pathways in residential areas, provided the lights are installed no more than eighteen inches (18") above the adjacent ground level.

F. **Light Trespass Standard:** All light fixtures, including security lighting, shall be aimed and shielded so that the direct illumination shall be confined to the

property boundaries of the source. Motion sensing light fixtures shall be fully shielded and properly adjusted, according to the manufacturer's instructions, to turn off when detected motion ceases.

G. **Prohibited Lighting:** The following are prohibited:

1. Floodlights or spotlights affixed to buildings or poles for the purpose of lighting parking lots or sales display lot areas.
2. Architectural lighting intended to accent or draw attention to architectural features of a building.
3. Landscape lighting intended to accent or draw attention to landscape elements on the property.
4. Search lights, laser source lights or any similar high intensity lighting is prohibited except in emergencies by police and fire personnel or at their direction.
5. Up lighting to illuminate buildings and other structures.
6. Flashing, blinking, intermittent or other lights that move or give the impression of movement.

H. **Amortization of Nonconforming Outdoor Lighting:**

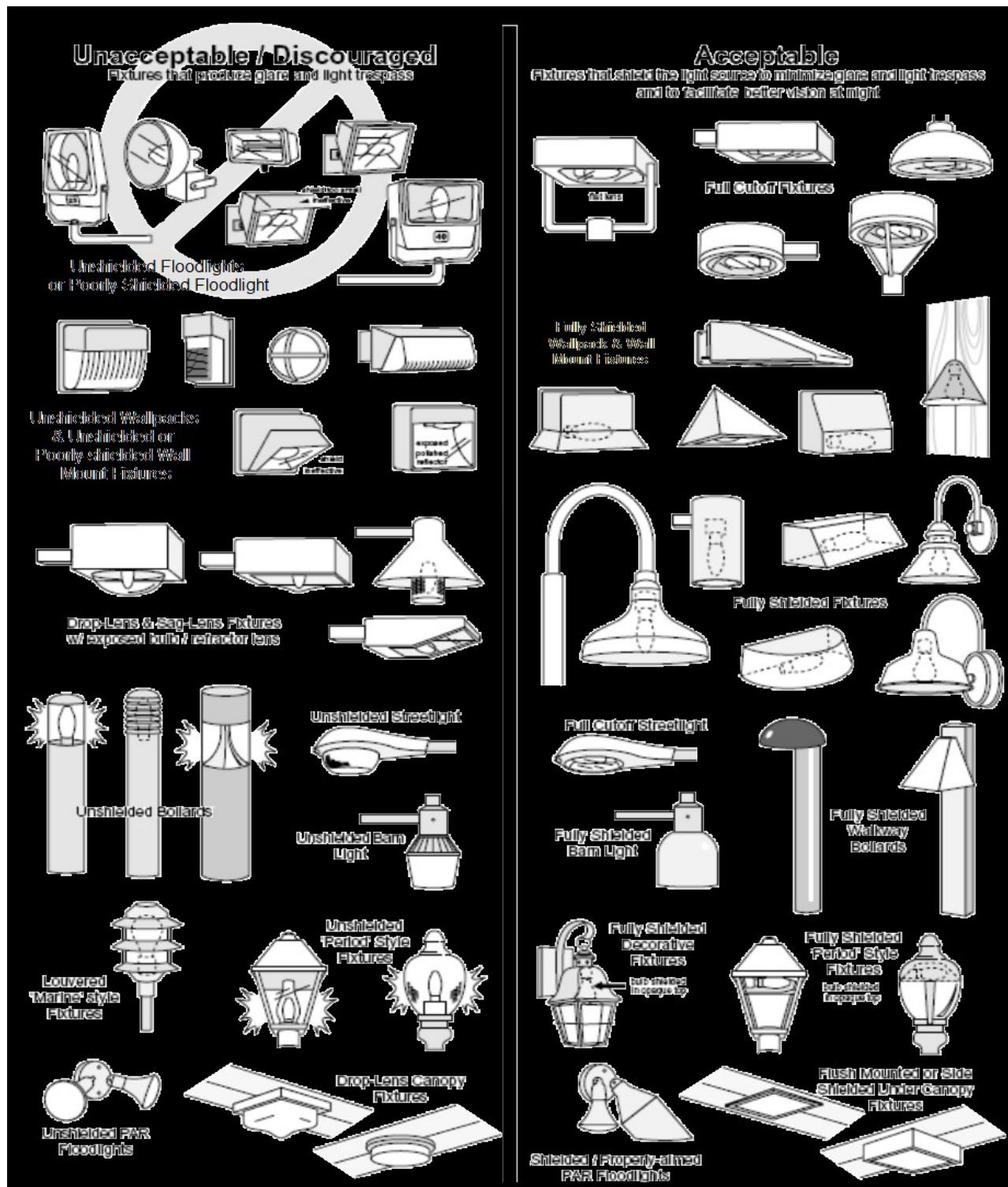
1. **Amortization:** The City shall require the termination of use of any and all nonconforming outdoor lighting fixtures, structures, lamps, bulbs or other devices that emit or generate light which are not otherwise exempted by this section, pursuant to the amortization schedule contained in this section.
2. **Schedule of Amortization:** All outdoor lighting legally existing and installed prior to the effective date of this section and which is not exempted shall be considered nonconforming and shall be brought into compliance by the property owner as follows:
 - a. Immediate abatement as a condition for approval upon application for a building permit, sign permit, conditional use permit, design development review or similar City permit or review when said site improvements, construction, reconstruction, expansion, alteration or modification of existing sites, structures, or uses individually or cumulatively equal or exceed one thousand five hundred (1,500) square feet. Projects less than one thousand five hundred (1,500) square feet will not be subject to immediate abatement.
 - b. All damaged or inoperative nonconforming lighting shall be replaced or repaired only with lighting equipment and fixtures compliant with this chapter.
 - c. All outdoor lighting not previously scheduled for amortization or otherwise exempted shall be brought into conformance with this section within seven (7) years from the effective date of this section.

I. **Requirements for Lighting Non-Motorized Commercial/Private Recreation**

Facilities: All requests for new outdoor non-motorized commercial/private recreation facilities lighting fixtures shall meet the following requirements:

1. The recreational lighting has provisions for minimizing glare, spill light and up light by the use of louvers, hoods, or shielding.
2. The recreational lighting will only illuminate the field or court area with no direct illumination falling outside of those areas.
3. Pole mounted recreational lighting shall be limited to eighteen feet (18') in height.
4. Pole mounted recreational lighting must be set back a minimum of sixty feet (60') from adjacent residential properties.
5. Lighting for sports fields shall be shut off no later than eleven o'clock (11:00) P.M.
6. The lighting for non-field and non-court areas shall conform to all provisions of this section.
7. **Recreation Exemption:** Because of their unique requirements for nighttime visibility and their limited hours of operation, lighting fixtures for baseball diamonds, playing fields, rodeo grounds, tennis courts or other similar uses may exceed the eighteen-foot (18') height limit subject to the following:
 - a. **Planning Commission Review:** All applications for pole height greater than eighteen feet (18') shall be reviewed by the Oakley City Planning Commission.
 - b. **Maximum Height:** In no case shall any lighting fixture exceed seventy feet (70') in height as measured from the top of the fixture to the adjacent grade or the horizontal plane being lit by the fixture.
 - c. **Fixtures:** Lighting fixtures shall be subject to all other requirements in this section.

J. **Lighting Figures:**



13-9-19: ADAPTIVE REUSE OF HISTORICALLY SIGNIFICANT STRUCTURES:

Historically significant buildings are valued in Oakley City based upon their contribution to the general welfare, aesthetics and values of property and historical education of

Oakley City. Historically significant buildings tell the story of Oakley City and provide architectural and/or cultural significance. The purpose of these regulations is to provide for the adaptive reuse of a historically significant building with a new use that meets the criteria set forth in this Code.

- A. **No Increase in Density:** No increase in density above those uses in the underlying zoning district is or shall be granted through these provisions except as provided for by this section.

- B. **Use Must Be Contained Within the Historic Structure:** The adaptive reuse of a historically significant building must be confined to the building itself.
 - 1. **Exception:** The adaptive reuse may include exterior patios and decks, provided they are associated with the use, and the patios and decks do not detract from the historical character of the building.

- C. **Determination of Historic Significance Required:** Prior to any review for an adaptive reuse of the property, the property owner must demonstrate that the structure is "historically significant". Determinations of historical significance shall be made by the Planning Commission, who must find that the structure or building meets at least one of the following definitions set forth in subsection D of this section.

- D. **Historically Significant Within Oakley City Is Defined As:**
 - 1. The building or structure is identified with important events of Oakley City history, or exemplifies significant contributions to the broad cultural, economic or social history of Oakley City;
 - 2. Is associated with the lives of historic personages important to Oakley City history; or
 - 3. Embodies the distinctive characteristics of a style, type, period, or method of construction; or represents a notable work of a master designer, builder, or architect whose individual genius broadly influenced Oakley City.

- E. **Additional Uses Allowed:** In addition to the allowed, conditional and low impact uses designated in the underlying zoning district, the following uses may be approved as a conditional use in a historically significant building in any zoning district:
 - 1. Professional office;
 - 2. Restaurant; and
 - 3. Retail commercial establishments.

- F. **Qualifying Provisions:** In order to qualify for conditional use review under section 13-5-7, "Conditional Use Permits", of this Title, the applicant must first demonstrate compliance with all of the following to the Planning Commission:

1. The building is designated as historically significant by the Planning Commission. The designation process must be completed prior to the City accepting a conditional use permit application for the structure unless the City Planner determines that it is in the best interest of the City to process the designation and conditional use permit applications together.
2. The adaptive reuse will require minimal physical change to the building as these features are important in defining the overall historic character of the building and environment.
3. The adaptive reuse is contained entirely within the historically significant structure, unless specifically excepted in subsection B1 of this section.
4. If applicable, significant archaeological resources affected by the project shall be protected and preserved. If such resources, for the adaptive reuse, must be disturbed, mitigation measures may be undertaken and approved by the City Planner. Disturbances to archaeological resources shall be kept to a minimum.
5. Distinctive features, finishes, and construction techniques or examples of craftsmanship that characterize the property shall be preserved.
6. The adaptive reuse will not have a material net cumulative adverse impact on the neighborhood or the City due to:
 - a. Traffic;
 - b. Parking;
 - c. Signs;
 - d. Lighting;
 - e. Removal of landscaping; and
 - f. Noise, fumes or odors.

- G. **Deed or Restrictive Use Covenant Required:** As a condition of the adaptive reuse of a historically significant structure conditional use permit, the property owner shall record a deed or restrictive use covenant to benefit the City, which protects the historical structure from demolition and changes contrary to the intent of the preservation of historical structures provision herein.

13.9.20: TEMPORARY HOMES, TINY HOMES, TOURIST HOMES, AND NIGHTLY RENTALS:

This section addresses non-typical dwellings and the commercial short-term nightly rental of units for periods less than one month at a time.

A. **Definitions:**

MANAGING AGENCY OR AGENT: A local person, firm or agency, whether local, distant, or online, representing a tourist or nightly homeowner. The responsible party must be available by telephone twenty-four (24) hours per day for contact by renter, emergency services, and applicable Oakley City representatives.

PARK MODEL RECREATIONAL VEHICLES (PMRV): Transportable enclosed structure built on a single chassis, mounted on axel(s) and wheels. Generally designed and constructed as temporary human occupancy housing accommodation for recreation, camping or seasonal use. They do not meet HUD standards for construction and manufacturing. PMRV's are typically a "Tiny Home", or stick-built structure constructed on a single chassis and mounted on axel(s) and wheels. A PMRV is not permitted as an accessory dwelling. They may be approved as a conditional use permit or temporary use for campgrounds in an approved rural recreation grounds and facilities.

RECREATIONAL VEHICLE (RV): A vehicle, regardless of size, which is not designed to be used as a permanent dwelling, and in which the plumbing, heating and electrical systems contained therein may be operated without connection to outside utilities and which are self-propelled or towed by a light duty vehicle. Designed for recreational use, camping or temporary occupancy. An RV is not permitted as an accessory dwelling or rented as nightly rentals. RV's require a conditional use permit for long-term occupancy within City owned or privately permitted campgrounds in the City.

RECREATION, COMMERCIAL OUTDOOR: Any business, group or individual that receives monetary gain for providing specialized equipment, guided tours, access to private land, and outdoor activities and adventure. Including but not limited to skiing, boating, fishing, canoeing, rafting, climbing, canyoneering, horse rides, ATV riding, mountain biking and four wheeling.

RURAL RECREATION GROUNDS AND FACILITES: Facilities for use by owner, operating organization, members and/ or paying or non-paying guest. Facilities may include amenities such as cabins, lodges, reception centers, social halls, campgrounds, swimming pools, tennis and pickle ball courts, golf course, petting zoos, fishing ponds, recreational vehicle pads, temporary structures or enclosures such as tents, park models, yurts or other facilities designed for short term stays. Facilities may include single-family dwellings if the dwellings are under the same ownership or operating organization.

TEMPORARY STRUCTURE OR ENCLOSURE: Any moveable, tent-like structure or enclosure intended as a temporary dwelling such as a tent, yurt, tepee, RV, trailer, park models; or any moveable structure intended to provide protection from the elements such as a temporary garage or storage unit. Such temporary enclosures are considered structures under this definition, and as such are governed by the same setback requirements as other structures. Tent set up for special occasions, screenhouses, and other such seasonal, recreational enclosures are specifically exempted from this definition unless used for storage as listed above. Allowed under a Low Impact Permit use in Open Space, Commercial, Agricultural Zones, Rural Residential Zones, Forestry Zone, Public Facilities Zones,

and in approved campgrounds and where rural recreation grounds and facilities have been approved.

TINY HOME: A tiny home is any home which is 400 square feet or less of living space, mounted on a permanent foundation, connected to permanent utilities, provided with essential sanitation facilities, and meet applicable building codes and regulations. Tiny homes are permitted under a Low Impact Permit as an accessory dwelling unit (wherever accessory dwelling units are allowed), provided they blend into the architecture and landscapes of the adjoining residence as much as possible. Tiny homes may not be less than 140 square feet of living space.

TOURIST HOME: An establishment used for short term dwelling purposes in which the entire dwelling or rooms within a dwelling, with or without meals, are rented or otherwise made available to transient guests for compensation; including establishments listed, or advertised online, or known as bed and breakfasts or nightly rentals. Some accessory dwelling units may be permitted as a tourist home. All tourist homes shall be required to register with the state, obtain a business license and complete the tourist home rental application with the City. The license or permit for such use may specify conditions, such as the maximum number of guests or vehicles allowed, etc. The licensee for tourist homes shall be the homeowner who shall be deemed the responsible party for the tourist home. All tourist homes must have an on-site or off-site managing agent, approved by the City and with full contact information on file with the City, who will serve as the primary contact for the tourist home. All tourist homes shall be properly managed by a readily accessible managing agent or live-in proprietor. As a condition to holding a valid business license for a tourist home, or homes, the licensee agrees to provide or arrange for adequate property management services including: housekeeping, yard maintenance, structural maintenance and compliance with general building health and safety requirements, trash collection which ensures that trash cans are not left on the street for any period in excess of twenty-four (24) hours, and assurance and enforcement of guest meeting the requirements of good neighbor practices. Good neighbor practices include: no loud music, unruly parties, guest vehicles shall be parked on off street parking and be courteous to neighbors. Failure to comply by the above-mentioned rules may result in a citation, fines and/or the business license being revoked.

- B. **Regulation of Nightly Rentals:** All nightly rental Units must be inspected by the Building Department and issued a license before being offered for rent.
1. **Licensee:** The licensee for rentals under this Section shall be the owner. The local representative shall be deemed the responsible party.
 2. **Management Standards:** The authorized lodging must be properly managed. As a condition to holding a valid license, the licensee agrees to provide or arrange for adequate property management services. In the event an owner's association exists, it shall be responsible for property

maintenance. In the event an owner agrees to be responsible for property maintenance, the licensee must present a statement to that effect signed by the owner. The minimum services and management regulations required include:

- a. Snow removal during winter months to a level that allows safe access to the building over the normal pedestrian access to the Unit;
- b. Snow removal service to off-street parking facilities associated with the rental property so that off-street parking is at all times available for occupant use;
- c. Summer yard maintenance, including landscaping, weed control, and irrigation to a level that is consistent with the level of landscaping and maintenance on adjoining and nearby properties;
- d. Structural maintenance to preserve substantial code compliance as described herein is required;
- e. Routine upkeep, including painting and repair to a level that is consistent with the level of maintenance on adjoining or nearby properties;
- f. Trash collection which ensures that trash cans are not left at the curb for any period in excess of twenty-four (24) hours; the property must be kept free from accumulated garbage and refuse;
- g. Housekeeping service as a part of hotel or property management company included in property management license;
- h. On-street parking for nightly rental uses shall not result in an obstruction to traffic and pedestrian circulation or public safety;
- i. No outdoor display of goods and merchandise shall be permitted as part of any nightly rental use;
- j. Unless expressly permitted under the Sign Code of this Title, no signs will be permitted for nightly rental uses;
- k. Nightly rentals may not be used for commercial uses not otherwise permitted in the zone. Nightly rentals 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. A Corporate Sponsor is any Business enterprise or combination of Business enterprises which provide funding for any special event in the amount of fifty percent (50%) or more of the funds necessary to promote the event or account for fifty percent (50%) or more of the event operating expenditure budget.

3. **Noise and Occupancy Control:** The licensee and the owner of rentals under this Section are responsible for regulating the occupancy of the Unit and noise created by the occupants of the Unit. Violation of the Noise Ordinance, violation of occupancy loads, failure to use designated off-

street parking, illegal conduct, or any other abuse, which violates any law regarding use or occupancy of the premises, is grounds for revocation. Failure to collect and deposit sales tax is also a violation of the license and grounds for revocation.

4. **Review Criteria:** In determining whether or not a Business license for rental authorized under this Section shall be issued, the application shall be reviewed to see if, in addition to standards and conditions applicable to issuance of all Business licenses, the following conditions and standards are met:
 - a. The Unit is located within a zone and subzone designated as allowing rentals for the period which the license is applied for. The City may adopt and amend at any time a map specifying zones or areas where nightly rentals are permitted.
 - b. The City is allowed under this section to adopt a limit on the amount of nightly rental units allowed in the City. If a limit is set, the license issued must fall under such limits currently established.
 - c. The access to the rental Unit and the layout of the Unit is such that noise and physical trespass from the proposed rental Unit is not likely to be a substantial intrusion to the adjoining properties. If the proposed rental Unit is a single-family home or duplex and shares an access, hallway, common wall, or driveway with another dwelling, written consent of the owner of the other dwelling is required.
 - d. The applicant must designate a responsible party if other than an on-premises caretaker. The responsible party must be a property management company, realtor, lawyer, owner, or other individual, who resides within a 1-hour drive of the property, or, in the case of a company, has offices in Summit County. The responsible party is personally liable for the failure to properly manage the rental. The responsible party must be available by telephone, or otherwise, twenty-four (24) hours per day, and must be able to respond to telephone inquiries within twenty (20) minutes of receipt of such inquiries. The responsible party is also designated as the agent for receiving all official communications under this Title from Oakley City. If the licensee is a property management company or individual other than the owner, such company or individual must comply with applicable state law, including the Securities Division Real Estate Division in the Utah Code, as amended, which requires those who receive valuable consideration to lease property to have a Utah State license;
 - e. The application must bear a sales tax collection and accounting number for the rental operation. This number may be the sales tax accounting number used by the property management company responsible for that Unit, or may be specific to the Unit, but no license will be effective until the sales tax number is provided.

13.9.21: PANHANDLE OR FLAG LOTS:

“Panhandle” or “Flag” type lots can have their place in certain developments and if planned properly can reduce impact on public infrastructure, increase affordability, and reduce the visibility of dwellings. However, they can also pose problems by creating the potential for a proximity impact on adjacent residents. These types of lots are allowed within Oakley City under certain circumstances provided the following issues can be addressed and satisfied:

- A. Residential and other accessory dwellings or structures can only be constructed within the “flag” or “pan” portion of the lot through a Low Impact approval process and must be situated in an envelope approved by the City Planner. An approved site plan establishing this envelope will be recorded with the property.
- B. No structure will be allowed within the “pole” or “handle” portion of the lot.
- C. All utilities, including water and sewer laterals will be paid for and installed in the “pole” or “handle” section of the lot, to be ready for connection concurrently with the completion of any foundation excavation work.
- D. There must be constructed a viable access drive which is approved by the City Planner and City Engineer which is in compliance with Chapter 10 of this Title. This drive shall have a width no less than twenty (20) feet (as per minimum fire protection codes) and will be fully usable to access the approved envelope prior to issuance of a building permit. This access will be established prior to any excavation or construction on the site and will be subject to the City's building inspection process.
- E. Before issuance of an occupancy permit, the drive must be inspected and have a finished surface as per approved plans and specifications.

13.9.22 PRESSURIZED IRRIGATION SYSTEMS:

To conserve City culinary water sources and reduce the impacts upon the water distribution system, any new commercial development, MPD, or subdivision consisting of 4 or more lots which develops agricultural property serviced by an existing unpressurized or pressurized irrigation system may be required to connect to and irrigate all landscaping with either an existing or a newly developed pressurized irrigation system. If there are plans to service the area with a new larger or regional pressure system in the foreseeable future, secondary piping and appurtenant facilities will be installed and maintained to be utilized in the future when a proper connection can be made. Bonus density in an MPD (as described in Appendix B) may be available for developments serviced by sustainable secondary irrigation systems.

CHAPTER 10 EXCAVATIONS, DRIVEWAYS, ENCROACHMENTS, AND STRUCTURES

SECTION CONTENTS:

13-10-1:	Permits Required
13-10-2:	Emergency Conditions
13-10-3:	Winter Season
13-10-4:	Applications
13-10-5:	Permits
13-10-6:	Fees
13-10-7:	Completion Bond
13-10-8:	Supervision and Inspection
13-10-9:	Failure to Comply
13-10-10:	Penalty
13-10-11:	Specific Requirements

13-10-1: PERMITS 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 for any City road without complying with the provisions of this chapter 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 City 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.
- C. A permit shall not be required for the replacement of existing structures or utilities, provided a similar structure or utility is placed in the same location.

13-10-2: EMERGENCY CONDITIONS:

Emergency excavations and encroachments may be made 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 City 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.

13-10-3: WINTER SEASON:

No permits for road excavations or other excavations within five feet (5') of the edge of a City road 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 1 of the succeeding year.

13-10-4: APPLICATIONS:

Applications shall be made by the person, firm, public utility or corporation actually doing the work. Applications for all permits shall be made to the City office as provided and shall describe the excavation or encroachment and shall have a drawing of the location of the intended excavation, encroachment or structure, 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 Oakley City and the state of Utah 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 the City road right of way. The application shall also provide for an agreement that the applicant shall indemnify the City 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 or structure.

13-10-5: PERMITS:

All permits issued pursuant to this chapter shall be valid for a period of sixty (60) days except that no permit shall extend into the winter season as outlined in section 13-10-3 of this chapter. A copy of the permit issued shall be available at all times when work is under way.

13-10-6: FEES:

A review fee, in the current amount as set by resolution of the City Council shall accompany each application for a permit. Fees must accompany the application unless other fee payment arrangements have been approved by the City.

13-10-7: COMPLETION BOND:

Applicants shall file a completion bond with the City in the amount as set by resolution of the City Council 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 conditions of any permit together with any restorative work is completed properly. The bond will be released upon recommendation of the City engineer and/or the City road inspector.

Applicants for permits may request permission from the City Council to 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 or as determined by the City Council.

Those public entities which are regulated by the state of Utah public service commission, and local public utilities are exempt from the bonding requirements of this chapter, but shall still be required to obtain a road excavation permit prior to making excavation.

13-10-8: SUPERVISION AND INSPECTION:

The City engineer or road inspector shall from time to time inspect or cause to be inspected, all work done pursuant to permits to ensure the enforcement of the provisions of this chapter. Notification shall be given to the City engineer or road inspector at least twenty-four (24) hours prior to the commencement of any work. The completion bond shall not be released without an inspection made to determine satisfaction of all applicable provisions of this chapter. Driveway encroachments require the following inspections to ensure compliance with the standards set out in this chapter:

- A. **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 stakes. This inspection is required prior to the encroachment permit being approved. The City must receive at least twenty-four (24) hours' notice prior to requested inspections.

- B. **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 this chapter and the development code. The footing elevation/garage floor elevation must be established prior to requesting an inspection. The City must receive at least twenty four (24) hours' notice prior to requested inspections.

- C. **Pre-surfacing Inspection:** An inspection of the driveway is required prior to surfacing (soft or hard) the driveway to determine compliance with this chapter

and the development 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 development code.

13-10-9: 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 this chapter, the City is authorized to:

- A. Initiate action by citation or information under section 13-10-10 of this chapter and/or proceed to forfeit bond; or
- B. Remove such installation 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 installation 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 installation for a period of ten (10) days. If such installation 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 installation, 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 C of this section. See UCA 27-12-135.

13-10-10: PENALTY:

Any person who violates the provisions of this chapter is guilty of a class C misdemeanor. Each day a continuing violation occurs shall be deemed a separate offense.

13-10-11: SPECIFIC REQUIREMENTS:

Specific engineering standards and requirements for the enforcement of this chapter may be adopted from time to time by the City and are made a part of this chapter by reference.

CHAPTER 11 EXCAVATION, GRADING AND FILLING ON PRIVATE PROPERTY

SECTION CONTENTS:

- 13-11-1: Permit Required**
- 13-11-2: Emergency Conditions**
- 13-11-3: Applications**
- 13-11-4: Permits**
- 13-11-5: Exemptions**
- 13-11-6: Fees**
- 13-11-7: Completion Bond**
- 13-11-8: Supervision and Inspection**
- 13-11-9: Appeals**
- 13-11-10: Failure to Comply**
- 13-11-11: Penalty**
- 13-11-12: Specific Requirements**

13-11-1: PERMIT REQUIRED:

- A. It shall be unlawful for any person, firm, public utility or corporation to place, make, enlarge or change any excavation, regrade existing contours or place fill on private property without complying with the provisions of this chapter 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 fill on private property 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.
- C. Whenever the City engineer determines that any existing excavation, embankment or fill on private property has become a hazard to life and limb, or endangers property, or adversely affects the safety, use or stability of a public way or drainage channel, the owner of the property upon which the excavation or

fill is located, or other person or agent in control of said property, upon receipt of notice in writing from the City engineer, shall within the period specified therein repair or eliminate such excavation or embankment so as to eliminate the hazard and be in conformance with the requirements of this chapter.

13-11-2: EMERGENCY CONDITIONS:

Emergency excavations, grading or placement of fill may be made without prior permit approval if the reason for the excavation or grading or placement fill 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, grading or placement of fill must contact the county 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.

13-11-3: APPLICATIONS:

Applications shall be made by the owner of the property, their agents or assigns, on which the work is being done. Applications for all permits shall be made to the City office on forms provided and shall describe the:

- A. Excavation, grading, or placement of fill.
- B. Site plan of the intended excavation fill and/or grading.
- C. Site plan containing pertinent dimensions thereof.
- D. Purpose thereof.

List 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.

The application shall contain an agreement that the applicant will comply with all ordinances and laws of Oakley City and the state of Utah relating to the work to be done. The application shall also provide for an agreement that the applicant shall indemnify the City 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, grading, or placement of fill.

No application shall be accepted when the intended work is for, or includes the excavation or construction of a footing or foundation for a structure regulated by the Oakley City building department, or for underground utilities requiring a low impact permit from the City Planner of Oakley City.

13-11-4: PERMITS:

All permits issued pursuant to this chapter shall be valid for a period of one hundred eighty (180) days. A copy of the permit issued shall be posted on the property in a location that is visible from the adjacent street and be available at all times when work is under way.

13-11-5: EXEMPTIONS:

The following activities are exempt from obtaining a permit and from the requirements of this chapter:

- A. Actions by a public agency or utility, the City, the county, or other governmental agency, to remove or alleviate an emergency condition, restore utility service, or reopen a public thoroughfare to traffic.
- B. Action by any person when the City determines, and documents in writing, that the actions are necessary to remove or alleviate an emergency condition, restore utility service, or reopen a public thoroughfare to traffic.
- C. Bona fide agricultural and farming operations which constitute the principal use of any parcel or tract of land located in the county and which meet the requirements of the zoning for that portion of the City in which the operation is located.

13-11-6: FEES:

A review fee, in the current amount as set by resolution of the City Council, shall accompany each application for a permit. Fees must accompany the application.

13-11-7: COMPLETION BOND:

Applicants shall file a completion bond with the City in the amount as set by resolution of the City council 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 until all work shown in the permit is completed to guarantee that the conditions of any permit, together with any restoration work, is completed properly. The bond will be released upon recommendation of the City engineer.

13-11-8: SUPERVISION AND INSPECTION:

The City engineer or other authorized representative shall from time to time inspect all work done pursuant to permits to ensure the enforcement of the provisions of this chapter. Notification shall be given to the City at least twenty four (24) hours prior to the

commencement of any work. The completion bond shall not be released without an inspection made to determine satisfaction of all applicable provisions of this chapter.

13-11-9: APPEALS:

An applicant whose application has been denied or approved with conditions, may appeal the denied or imposed conditions to the City council. A notice of appeal must be filed with the City office within ten (10) days of the denial or imposition of conditions of the permit. The notice of appeal shall contain the following information:

- A. An application with applicant's name, address and daytime telephone number;
- B. A statement describing the basis for the appeal; and
- C. The relief sought by the applicant.

The appeal shall be scheduled on the next available City council meeting.

13-11-10: 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 this chapter, the City is authorized to:

- A. Initiate criminal action by citation or information under section 13-11-11 of this chapter and/or proceed to forfeit bond; or
- B. Remove such installation 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 restore the property to its original condition. Such notice may be served either by personal service or by mailing the notice to the person, firm, public utility or corporation by certified mail and posting a copy thereof on such installation for a period of ten (10) days. If the restoration work is not implemented or restored within ten (10) days after the notice is complete, said authorities may implement the restoration 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 property is not restored after notice was complete, in an action for that purpose; or
- D. If such person, firm, public utility or corporation refuses to restore the property, 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 cost of action and the sum of one hundred dollars (\$100.00) for every day such nuisance remained after notice was given for its implementation in the manner provided in subsection C of this section. See UCA 27-12-135.

13-11-11: PENALTY:

- A. Any person who violates the provisions of this chapter is guilty of a class C misdemeanor, punishable by a fine not to exceed seven hundred fifty dollars (\$750.00) per day, or a jail term of up to ninety (90) days, or by both such fine and jail term.
- B. Violators of this chapter are also subject to any penalties that may be imposed by the state of Utah or the federal government.
- C. In addition to any criminal fines and/or penalties which may be assessed for a violation of this chapter, the City shall have the right to issue a stop work order on the entire construction site, and/or take measures to restore the property to its original condition and to implement any measures necessary to bring the property into compliance with all local, state or federal requirements required by this chapter. The City shall have the right to have such work completed and/or maintained by City personnel or to hire a private contractor to perform such work at the expense of the permittee, property owner, developer or contractor responsible for such violation. The City may assess said expenses against the bond posted by the permittee or to lien the property for such expenses.
- D. It is unlawful for any person, firm, public utility, public agency, or corporation to continue any further work on the construction site after a stop work order has been issued. A violation of a stop work order is punishable as a class C misdemeanor.
- E. The City may also pursue civil remedies for a violation of this chapter.

13-11-12: SPECIFIC REQUIREMENTS:

Specific standards and requirements for the enforcement of this chapter may be adopted from time to time by the City and are made a part of this chapter by reference.

CHAPTER 12 CONSTRUCTION IMPACT MITIGATION FOR DEVELOPMENT PROJECTS

SECTION CONTENTS:

- 13-12-1: Requirements for Preparing A Construction Mitigation Plan**
- 13-12-2: Emergency Conditions**
- 13-12-3: Applications**
- 13-12-4: Construction Mitigation Plans**
- 13-12-5: Exemptions**
- 13-12-6: Fees**
- 13-12-7: Supervision and Inspection**
- 13-12-8: Appeals**
- 13-12-9: Failure to Comply**
- 13-12-10: Penalty**
- 13-12-11: Specific Requirements**

13-12-1: REQUIREMENTS FOR PREPARING A CONSTRUCTION MITIGATION PLAN:

It shall be unlawful and punishable as a class C misdemeanor for any person, firm, public utility, public agency, corporation, or other type of entity, to engage in any construction activity without complying with the provisions of this chapter and preparing for approval by the City, a construction mitigation plan, hereinafter referred to as "CMP". It shall also be unlawful for any person hiring or directing another person, firm, entity, or corporation to perform the work without complying with the provisions of this chapter.

13-12-2: EMERGENCY CONDITIONS:

Emergency construction activity may be started without obtaining an approved CMP from the county if the reason for the construction activity is to prevent loss of life or damage to property which appears to be imminent if the action is delayed by waiting to receive approval of a CMP. In such emergency situations, those performing the work must contact the City office at the earliest possible time, but in no case later than the first working day following the emergency work. None of the provisions of this chapter are waived for emergency situations except for the requirement of obtaining an approved CMP in advance.

13-12-3: APPLICATIONS:

The CMP shall be executed by the owner or agents or assigns of the owner of the property on which the work is being done. In the case of work within a public right of way, the CMP shall be executed by an authorized officer of the firm, public utility, public agency or corporation actually doing the work. In the case of work within a private road or private road right of way, the CMP shall be executed by an authorized officer of the association responsible for the maintenance of the road.

13-12-4: CONSTRUCTION MITIGATION PLANS:

All CMPs approved pursuant to this chapter shall be valid for a period not to exceed the permit issued in conjunction with the CMP. A copy of the CMP shall be available on site at all times when work is under way.

13-12-5: EXEMPTIONS:

The following activities are exempt from the requirements of this chapter:

- A. Actions by a public agency or utility, the City, the county, or other governmental agency to remove or alleviate an emergency condition, restore utility service, or reopen a public thoroughfare to traffic;
- B. Actions by any person when the county determines, and documents in writing, that the actions are necessary to remove or alleviate an emergency condition, restore utility service, or reopen a public thoroughfare to traffic; and
- C. Bona fide agricultural and farming operations which constitute the principal use of any parcel or tract of ground located in the county.

13-12-6: FEES:

A review fee and inspection fee, in the current amount as set by resolution of the City council, shall accompany each CMP for approval. Fees must accompany the initial draft of the CMP.

13-12-7: SUPERVISION AND INSPECTION:

The City engineer or the City Planner shall from time to time inspect or cause to be inspected, all work done pursuant to permits to ensure the enforcement of the provisions of this chapter. The applicant shall implement all recommendations of the inspector, to correct any construction impact not being mitigated per the approved CMP, or any impact not addressed or contemplated in the approved CMP.

13-12-8: APPEALS:

An applicant submitting a CMP, whose application has been denied or approved with conditions, may appeal the denied or imposed conditions to the City council. A notice of appeal must be filed with the office of the City or City Planner within ten (10) days of the denial or imposition of conditions of the permit. The notice of appeal shall contain the following information:

- A. An application with applicant's name, address and daytime telephone number;
- B. A statement describing the basis for the appeal; and
- C. The relief sought by the applicant.

The appeal shall be scheduled on the next available county council meeting.

13-12-9: FAILURE TO COMPLY:

In the event of failure on the part of any person, firm, public utility, entity, or corporation to comply fully with the provisions of this chapter, law enforcement authorities of Oakley City are authorized to:

- A. Initiate criminal action by citation or information under section 13-12-10 of this chapter and/or proceed to forfeit bond; or
- B. Proceed to forfeit bond; or
- C. Give written notice to such person, firm, public utility, entity, or corporation to restore the CMP. Such notice may be served either by personal service or by mailing the notice to the person, firm, public utility, entity, or corporation by certified mail and posting a copy thereof on such installation for a period of ten (10) days. If the CMP is not implemented or restored within ten (10) days after the notice is complete, said authorities may implement the CMP at the expense of the person, firm, entity, or corporation and recover costs and expenses, and also the sum of one hundred dollars (\$100.00) for each day the CMP was not in effective operation after notice was complete, in an action for that purpose; or
- D. If such person, firm, public utility, entity, or corporation refuses to implement a CMP, 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 cost of action and the sum of one hundred dollars (\$100.00) for every day such nuisance remained after written notice prescribed in subsection C of this section.

13-12-10: PENALTY:

- A. Any person who violates the provisions of this chapter is guilty of a class C misdemeanor, punishable by a fine not to exceed seven hundred fifty dollars

(\$750.00) per day, or a jail term of up to ninety (90) days, or by both such fine and jail term.

- B. Violators of this chapter are also subject to any penalties that may be imposed by the state of Utah, or the federal government.
- C. In addition to any criminal fines and/or penalties which may be assessed for a violation of this chapter, Oakley City shall have the right to issue a stop work order on the entire construction site, and/or install or maintain appropriate CMP measures on any site which is required to have such measures in the event that construction activity is commenced or continued without such measures having been installed or required by this chapter. Oakley City shall have the right to have such measures installed and maintained by county personnel or to hire a private contractor to perform such work at the expense of the permittee, property owner, developer or contractor responsible for such measures. The City may assess said expenses against the bond posted by the permittee.
- D. It is unlawful for any person, firm, public utility, public agency, entity, or corporation to continue any further work on the construction site after a stop work order has been issued. A violation of a stop work order is punishable as a class C misdemeanor.
- E. Oakley City may also pursue civil remedies for violations of this chapter.

13-12-11: SPECIFIC REQUIREMENTS:

Specific standards and requirements for the enforcement of this chapter are as follows:

A. General:

1. **Purpose:** The purpose of this section is to provide a construction mitigation plan (CMP) instruction manual. The manual is designed to provide a consistent policy under which certain physical aspects of construction mitigation will be implemented to minimize project impacts to the public. The elements contained in this document are related to the development process, however, it is intended that they apply to both public and private work designated herein.

These standards cannot anticipate all situations. They are intended to assist, but not be a substitute for competent work by design and construction professionals. All construction management practices must be consistent with all development project and construction "permit" approvals. It is not the intent to limit any innovative or creative efforts that could result in better quality, greater cost savings, or both. Any proposed departure from the manual will be judged on the likelihood that

such variance will produce a comparable result, adequate for the user and City resident over the duration of the improvement/project.

If the project changes ownership or contracting services change, the City engineer and City Planning department must be notified and an amended CMP submitted and signed by the new owner/contractor. Any other departures from the approved CMP must be submitted in writing and approved by the City engineer and Planning department. The approved CMP must be kept on site.

2. **Applicability:** This chapter applies to all development projects and construction projects requiring a development, construction or building permit from the City and which is within the limits specified in Table 1 of this subsection. All such projects must submit a construction management plan in accordance with these instructions prior to project approval or permit issuance.

TABLE 1

Category of Work	Parcels Less Than 1/2 Acre	Parcels Between 1/2 And 1 Acre	Parcels Greater Than 1 Acre
On site excavation	500 cu. yds.	750 cu. yds.	1,000 cu. yds.
Imported fill	100 cu. yds.	250 cu. yds.	500 cu. yds.
Area of disturbance	Up to 0.5 acre	Up to 1 acre	Over 1 acre
Size of commercial and residential additions and/or renovations	Over 1,000 sq. ft.	Over 1,500 sq. ft.	Over 2,000 sq. ft.
New commercial and multi-family construction	All	All	All
New residential construction	All	All	All

3. **Definitions and Terms:**
BEST MANAGEMENT PRACTICES (BMPs): Schedules of activities, prohibitions of practices, maintenance procedures, and other management practices to prevent or reduce the pollution of waters of the state. BMPs also include treatment requirements, operating procedures, and practices to control site runoff, spillage or leaks, waste disposal, or drainage from material storage.

CODE ENFORCEMENT OFFICER: Enforces this code and his/her duties include assisting with the CMP implementation and may include building and public works inspectors.

COMMERCIAL: An enterprise or use that is carried on for profit by the owner, lessee or licensee.

CONSTRUCTION MITIGATION OFFICER: A designated employee of the City whose charge is to ensure that all aspects of a CMP are followed, and to further ensure that the impacts associated with construction activities within the City are effectively managed and impacts associated with those projects are the least necessary to accomplish the project.

CONSTRUCTION MITIGATION PLAN ("CMP"): A combination of diagrams, documents, drawings, and specifications that clearly define the steps that will be taken to demonstrate how the construction impacts to the community and the environment will be minimized and managed.

DISTURBANCE AREA: A portion of land where vegetation, topsoil or other native soils have been removed for purposes of construction or development.

FINAL STABILIZATION: Uniform vegetative cover that has been established with a density of at least seventy percent (70%) of pre-disturbed levels.

MULTI-FAMILY RESIDENTIAL: Building or structure intended as a dwelling for three (3) or more units.

RESIDENTIAL: Building or structure intended as a dwelling for less than three (3) units.

SITE PLAN: A drawing that depicts the existing and future condition of the parcel or property, including, but not limited to, topography, drainage, floodplains, wetlands, waterways, roads or accesses, and structures.

B. Project Description:

1. **Description:** The CMP shall include a brief overview of the construction project including background information, proposed development type, and general project information. The CMP shall also describe any possible adverse effects to the public, such as interruptions to utilities, traffic impacts or impacts to the general environment.
2. **Project Location:** A project vicinity map shall be included in the CMP. The map should accurately depict general project location. The approved project site plan shall be considered a part of the CMP. The relevant parts of the CMP shall be included on the site plan.

3. **Disturbance Area:** The project site plan shall graphically describe the limits of disturbance and include a summary of the project disturbance area (shown by construction phase). Soil disturbance shall be kept to a minimum. Construction staging and phasing shall occur, where applicable, to minimize soil disturbance time. All disturbed areas shall be revegetated as soon as possible.

C. **Project Documentation:**

1. **Permits:** The contractor shall maintain all applicable local, state and federal licenses and permits that apply to the construction project. Applicant shall provide a list of all related permits both applied for and received.
2. **Public Notification:** For all nonresidential projects exceeding the limits set forth in table 1 of this section, the contractor shall develop a neighborhood notification plan. Public notification shall be sent to or delivered to all property owners within one thousand feet (1,000') of the proposed project. The notice shall address project phasing, schedule, traffic and/or pedestrian concerns, and hauling/staging operations. Neighborhood notifications shall take place periodically, throughout the duration of the project, in the event that there are any changes to the CMP, or as may be required by the county. The neighborhood notification shall contain the following information:
 - a. Project name and address.
 - b. Name, address and phone number of the project supervisor/manager responsible for the project. Include name and phone number of the party to call in case of an emergency if different than project supervisor/manager.
 - c. Project description (a brief summary).
 - d. Anticipated schedule, including beginning and completion dates.
 - e. Project phasing, if applicable.
 - f. Traffic/pedestrian and staging impacts.

For all nonresidential projects that require a CMP, or if otherwise requested by the county, a preconstruction meeting shall occur. The purpose of the meeting is to discuss the project CMP. The developer, project engineer, contractor and applicable subcontractors shall be required to attend the meeting.

3. **Project Information Sign:** For all nonresidential projects exceeding the limits set forth in table 1 of this section, and if the anticipated project duration will be greater than thirty (30) days, a project sign shall be constructed and posted on the project site and include:
 - a. Project name and address.
 - b. Building permit number or development permit number.
 - c. Name, address and phone number of the general contractor.

- d. Name, address and phone number of the project supervisor/manager responsible for the project.
- e. Name and phone number of the party to call in case of an emergency.

The sign shall be posted on the subject property, in a location outside the street right of way, where the sign is readable from the street. The proposed sign location shall be shown on the project site plan. The sign shall not exceed twenty (20) square feet in size and six feet (6') in total height. The sign must be legible from the street, however, the lettering shall not exceed six inches (6") in height.

- 4. **Contact Designation:** The plan shall have a contact list with associated phone numbers located at the front of the document. The list will include, but not be limited to: the owner, contractor, designated overall site supervisor, a safety supervisor, a traffic control supervisor, and an erosion control supervisor. Other information shall include applicable City phone numbers, fire department, sheriff's department, school district, Blue Stake Center, and all applicable utility company contact information. The contact list should also include hospital contact information and the emergency 911 reminder.

D. Project Implementation:

- 1. **Dates of Construction:** An anticipated project schedule, including dates, shall be specified in the CMP and include all project phasing, with itemized project details and specific item completion dates.
- 2. **Hours of Construction:** Construction hours shall be limited to seven o'clock (7:00) A.M. to nine o'clock (9:00) P.M. Monday through Saturday and nine o'clock (9:00) A.M. to nine o'clock (9:00) P.M. on Sundays.
- 3. **Adjoining Properties:** No person shall excavate on land close enough to a property line to endanger any adjacent public street, sidewalk, other public or private property, or easement, without supporting and protecting the property from any damage that might result from construction operations. Any work being performed within the City right of way shall comply with this code.
- 4. **Project Fencing:** To the extent that a building or development envelope is designated on a recorded subdivision plat, the building or development envelope shall be staked on the ground prior to any construction activity. The corners of the building or development envelope shall be staked with a four-foot (4') steel fence post. Appropriate construction fencing shall be installed around the perimeter of the building or development envelope. Fencing shall remain in place until the certificate of occupancy is issued, and/or the site is fully revegetated or otherwise permanently stabilized. Road construction or reconstruction projects shall not be required to install construction fencing around the perimeter of the project, however appropriate sediment control measures shall be installed and all areas of disturbance shall be revegetated as soon as possible. Any staging area

established during the course of a road construction project shall be appropriately fenced as described above.

5. **Natural Environment:** Project construction shall be designed to minimize impacts to the natural environment. All riparian and wetland areas shall be identified on the site plan which is part of the CMP, and the CMP shall identify the measures proposed to be taken to protect such riparian and wetland areas. All required protection measures shall be in place prior to the commencement of any construction or demolition activities. The proposed CMP shall be consistent with all land use approvals and the desired character of existing land use in the surrounding area, including, but not limited to, land form, slope, plant materials and berming.

E. **Parking Management:**

1. **Emergency Vehicle Access:** The contractor shall maintain continuous emergency vehicle access, on and around the project site, including, but not limited to, police, fire, ambulance and snowplow services.
2. **Construction Parking Details:** Except where on street parking is specifically approved by a development agreement and is so designated on an approved site plan or subdivision plat, there is no parking allowed on City roads or within the City right of way from November 15 through April 15. From April 16 through November 14, vehicles shall not be parked in such a manner as to obstruct the flow of traffic. Two-way traffic shall be maintained at all times unless an approved lane/road closure permit is obtained from the City engineer. If a lane/road closure is anticipated for any phase of construction, a traffic control plan shall be submitted in the CMP. These parking requirements shall be noted in the CMP. Realistic and sufficient on-site parking locations shall be designated and made continually available for all craftsmen, laborers, subcontractors, and contractors involved in the construction process. The City encourages use of public transportation, vanpooling and careful staging of subcontractors as a means to eliminate impacts of the project construction upon the public and private streets.
3. **Staging Areas:** The CMP shall specify construction staging area locations. All staging must occur within the approved development envelope(s). On site staging areas shall be shown on the project site plan. The CMP shall address delivery and construction vehicle staging for the duration of the project. The staging plan shall estimate the number of truckloads, number of heavy equipment deliveries, etc., expected and their timing and duration for each stage of the project. Deliveries and heavy equipment that may negatively impact public or private streets shall be subject to timing management and traffic directing personnel. City personnel may limit project staging locations, number of trucks, and duration of operations depending on project location, site surroundings and negative impact upon the community. The CMP shall include the staging location of any cranes, concrete pump trucks or other equipment. All applicable

county right of way permits for the staging of cranes, concrete pump trucks or other equipment in the right of way, however temporary they might be, shall be obtained from the City office prior to arriving on the project site.

4. **Construction Trailer, Materials Storage, And Waste Management:**

Construction trailers, job materials storage, portable/temporary restrooms, concrete wash-out area(s), and waste management and recycling container locations shall be clearly designated on the project site plan. All construction related equipment must remain within any designated building envelope. All nonresidential construction sites are required to have a recycling plan and shall have recycling receptacles for cans, bottles, and also for cardboard and other recyclable materials per the approved recycling plan. All construction sites are required to have a separate dumpster/receptacle for all "municipal garbage" and nonrecyclable items intended for the landfill. All construction waste and recycling containers shall be adequately covered at all times until transferred to the landfill or recycling center. The applicant shall prevent any accumulated debris, litter, or trash on any construction site or to allow the same to blow or scatter onto adjoining properties. The CMP shall specify a minimum interval for general site cleanup. Recycle Utah has a recycling bin lease program that may be utilized for construction projects. For details, contact Recycle Utah, or visit http://www.recycleutah.org/lend-a-bin_program.html.

F. **Traffic Control:**

1. **General:** All traffic control operations shall be governed by the most current edition of the "Manual on Uniform Traffic Control Devices for Streets And Highways" (MUTCD) and managed by the designated traffic control supervisor. Traffic control personnel shall wear clothing designating them as traffic control, per the MUTCD, and shall be able to successfully converse with the public.
2. **Haul Routes:** The CMP shall specify all public or private streets which may pose a potential challenge to the delivery of materials and/or equipment and which would have an impact on normal traffic flow. The CMP shall identify how these challenges will be mitigated.
3. **Vehicle Limitations:** Maximum vehicle weights and sizes shall be specified in the CMP and be in compliance with Utah state law (may reference the Utah motor carriers website at http://www.utahmc.com/trucking_guide/) and as may be otherwise restricted by this code.
4. **Delivery Requirements:** The CMP shall address the maximum number of delivery vehicles on site at any one time, along with the hours the deliveries will occur, staging locations, and any exceptions to the delivery schedule. The CMP shall address any traffic management challenges related to building material deliveries, such as multiple deliveries of concrete, earth, aggregate, lumber, etc.

5. **Traffic Control Plan:** When applicable, or when required by the City, a complete traffic control plan (TCP) shall be submitted as part of the CMP. The TCP shall be completed by a certified traffic control supervisor and must conform to the most current edition of the "Manual on Uniform Traffic Control Devices for Streets And Highways" (MUTCD).

- G. **Pedestrian Protection:** The CMP shall address pedestrian safety utilizing the MUTCD (chapter 6D), the Americans with disabilities act, and IBC chapter 33. If the proposed development is affecting open space and/or public trails, the appropriate agencies shall be notified and all required signage shall be installed.

- H. **Sediment and Erosion Control Plan:** A stormwater pollution prevention plan (SWP3) and erosion control plan (ECP), in accordance with chapter 13 of this Title, must be submitted with all projects involving the disturbance of existing soils or vegetation. The SWP3 and/or ECP must be maintained until revegetation surface coverage is at least seventy percent (70%) of pre-disturbance levels, or until permanent physical erosion reduction methods have been employed. If the area of disturbance is equal to or greater than one acre a Utah state stormwater permit (SWMP) is required.

- I. **Sanitary Facility Plan:** Portable toilets shall be provided during construction. The toilets will be located outside the adjacent road right of way in a manner that will prevent tipping. The toilets will comply with OSHA standards and regulations for the construction usage demand for the site. A licensed sanitary contractor will provide regular servicing of the portable toilets. All spills will be cleaned up and removed from the site by a licensed sanitary contractor. Portable toilets will be available on site until there is no longer a construction demand for them.

- J. **Fugitive Dust Control Plan:** If the project has the potential to degrade air quality or to create a nuisance for adjacent properties or roadways as a result of blowing dust, a dust control plan shall be included in the CMP. In addition, certain activities are regulated by the Utah division of air quality, and may be subject to a permit from the state of Utah. Contact the Utah division of air quality for details and requirements.

- K. **Noise Control Plan:** All construction activity shall comply with applicable noise regulations of this code. All construction equipment shall be adequately muffled and maintained to minimize project noise. Any noise above sixty-five (65) decibels violates this code, as well as any excessive or unusually loud noise that is plainly audible beyond the property line or outside the hours of operation. The City engineer or the building official may authorize extended hours, upon written request, for construction operations or procedures which, by their nature require continuous operations. Such operations or procedures should be contemplated and addressed in the CMP.

- L. **Temporary Lighting Plan:** If the project anticipates working during nighttime hours and temporary lighting is required to facilitate safe construction activity, a temporary lighting plan shall be submitted. The plan shall propose the minimum amount of light necessary for safe operations. All lighting shall be directed away from existing residential areas and from any public or private street to the maximum extent practicable.
- M. **Snow Storage Plan:** Adequate area(s) for the snow storage (i.e., snow that accumulates on the property and which needs to be removed to facilitate winter construction) shall be identified and used on the property within any designated building or development envelope(s). Snow may not be removed to the public or private street right of way.
- N. **Enforcement:**
1. **Construction Mitigation Officer:** A construction mitigation officer shall complete random site visits to determine if the project is following the approved CMP and requirements.
 2. **City Code Enforcement:** The City Planner, his/her appointee, the City building official, his/her appointee or the City engineer, his/her appointee, shall complete random site inspections to determine if a project is meeting its conditions of approval. These inspections are not intended to substitute for standard building code or other county code compliance inspections.
 3. **Inspection Reports:** The construction mitigation officer and/or other county enforcement personnel shall complete construction inspection reports. All reports are available for public review and will be located in City offices.

CHAPTER 13 STORMWATER POLLUTION PREVENTION AND EROSION CONTROL

SECTION CONTENTS:

- 13-13-1: Requirements for Permit**
- 13-13-2: Emergency Conditions**
- 13-13-3: Application for Permit**
- 13-13-4: Permits**
- 13-13-5: Exemptions**
- 13-13-6: Fees**
- 13-13-7: Completion Bond**
- 13-13-8: Supervision and Inspection**
- 13-13-9: Appeals**
- 13-13-10: Failure to Comply**
- 13-13-11: Specific Requirements**
- 13-13-12: Penalty**

13-13-1: REQUIREMENTS FOR PERMIT:

- A. It shall be unlawful and punishable as a class C misdemeanor provided for any person, firm, public utility, public agency, or corporation, to make, enlarge or change any excavation, regrade existing contours, place fill or strip vegetation without complying with the provisions of this chapter and obtaining a stormwater pollution prevention plan (SWP3) and erosion control plan (ECP) permit as provided for herein. It shall also be unlawful for any person hiring or directing another person, firm, or corporation to perform the work without obtaining an SWP3 and ECP permit.

- B. It shall be unlawful and punishable as provided to change or expand the excavation, regrading of existing contours, placement of fill or stripping of vegetation without first requesting a modification of the SWP3 and ECP permit issued for the work.

- C. An SWP3 and ECP permit shall be required for any project which requires a permit under any other ordinance, development code or building permit issued by Oakley City.

- D. An SWP3 and ECP permit shall be required for commercial and industrial uses occupying a site of one acre or more, and which are found to be discharging sediment off site, into a waterway, or tracking onto a road or street

13-13-2: EMERGENCY CONDITIONS:

Emergency excavations, grading, or placement of fill may be made without a permit if the reason for the excavation or grading or placement of fill 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, grading or placement of fill must contact the City 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 this chapter are waived for emergency situations except for the prior permit requirement.

13-13-3: APPLICATION FOR PERMIT:

Applications shall be made by the owner of the property on which the work is being done. In the case of work within a public right of way, by the firm, public utility, public agency or corporation actually doing the work, or in the case of work within a private road or private road right of way, by the owner of the road or association responsible for the maintenance of the road. Applications for all permits shall be made to the City office as provided, and state 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 Oakley City, the state of Utah, and the federal government relating to the work to be done. The application shall also provide for an agreement that the applicant shall indemnify the county 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. The application shall be accompanied by a stormwater pollution prevention plan and erosion control plan (SWP3 and ECP). Said plan shall have a drawing of the location of the intended excavation, grading, filling or stripping of vegetation, and the pertinent dimensions thereof. The SWP3 and ECP plan shall employ best management practices (BMPs) and shall contain the layout, typical sections and details of the erosion control and sediment control measures to be used in the plan.

13-13-4: PERMITS:

- A. All permits issued pursuant to this chapter shall be valid for a period not to exceed the development permit, "grading" permit or "excavation" permit issued in conjunction with the SWP3 and ECP permit. A copy of the permit issued shall be available on site at all times when work is under way.

- B. Excavations, grading, or filling of sites which are one acre or more, are required by state and federal regulations to file a "notice of intent" with the Utah division of water quality, stormwater permits section (<http://waterquality.utah.gov/updes/stormwater.htm>). A copy of the notice of intent shall be submitted with the application as provided herein.

13-13-5: EXEMPTIONS:

The following activities are exempt from the requirements of this chapter:

- A. Actions by a public agency or utility, the City, county or other governmental agency to remove or alleviate an emergency condition, restore utility service, or reopen a public thoroughfare to traffic; or
- B. Actions by any person when the county determines, and documents in writing, that the actions are necessary to remove or alleviate an emergency condition, restore utility service, or reopen a public thoroughfare to traffic.
- C. Landscape maintenance activities on fully developed property.
- D. Bona fide agricultural and farming operations which constitute the principal use of any parcel or tract of ground located in the county and which meet the requirements of the zoning for that portion of the county in which the operation is located.

13-13-6: FEES:

A review fee and inspection fee, in the current amount as set by resolution of the City council, shall accompany each application for a permit. Fees must accompany the application.

13-13-7: COMPLETION BOND:

Applicants shall file a completion bond with the City in an amount set by the City engineer 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 until one year after all work shown in the permit is completed to guarantee that the conditions of the permit together with any restorative work is completed properly. The bond will be released by the City engineer.

13-13-8: SUPERVISION AND INSPECTION:

- A. The City engineer shall from time to time inspect, or cause to be inspected, all work done pursuant to permits to ensure the enforcement of the provisions of this chapter. Notification shall be given to the City at least twenty-four (24) hours prior to the commencement of any work and within twenty-four (24) hours after implementing the SWP3 and ECP. The completion bond shall not be released without an inspection made to determine satisfaction of all applicable provisions of this chapter.
- B. For construction sites whose area of disturbance is one acre or more, the applicant shall retain qualified personnel to inspect the sediment control measures: 1) at least once each two (2) and after a storm event which precipitated 0.5 inch of water or more within twenty-four (24) hours. The inspector shall prepare written reports of each inspection and make recommendations for correcting any sediment control measure (BMP) found not performing as intended. A copy of each inspection shall be kept on site until such time as the disturbed area has been permanently stabilized. A copy of the report shall also be submitted to the office of the City.
- C. The applicant shall implement all recommendations of the inspector, or the City engineer, to correct any sediment control measure (BMP) found not performing as intended.

13-13-9: APPEALS:

An applicant for an SWP3 and ECP, whose application has been denied or approved with conditions, may appeal the denied or imposed conditions to the Board of Adjustment. A notice of appeal must be filed with the office of the City within ten (10) days of the denial or imposition of conditions of the permit. The notice of appeal shall contain the following information:

- A. An application with applicant's name, address and daytime telephone number;
- B. A statement describing the basis for the appeal; and
- C. The relief sought by the applicant.

The appeal shall be scheduled on the next available Board of Adjustment meeting.

13-13-10: 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 this chapter, Oakley City is authorized to:

- A. Initiate criminal action by citation or information under section 13-13-12 of this chapter and/or proceed to forfeit bond; or
- B. Proceed to forfeit bond; or

- C. Install or repair such erosion control and sediment control measures as required to restore the SWP3 and ECP; or
- D. Give written notice to such person, firm, public utility, or corporation to restore such BMPs as required to restore or implement the SWP3 and ECP. Such notice may be served either by personal service or by mailing the notice to the person, firm, public utility, or corporation by certified mail and posting a copy thereof on such installation for a period of ten (10) days. If the SWP3 and ECP is not implemented or restored within ten (10) days after the notice is complete, said authorities may implement the SWP3 and ECP at the expense of the person, firm, public utility, or corporation and recover costs and expenses, and also the sum of one hundred dollars (\$100.00) for each day the SWP3 and ECP were not in effective operation after notice was complete, in an action for that purpose; or
- E. If such person, firm, public utility, or corporation refuses to implement an SWP3 and ECP, 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 cost of action and the sum of one hundred dollars (\$100.00) for every day such nuisance remained after notice was given for its implementation in the manner provided in subsection D of this section. See UCA § 27-12-135.

13-13-11: SPECIFIC REQUIREMENTS:

Specific standards and requirements for the enforcement of this chapter may be adopted from time to time by the City and are made a part of this chapter by reference.

13-13-12: PENALTY:

Any person who violates the provisions of this chapter is guilty of a class C misdemeanor, punishable by a fine not to exceed seven hundred fifty dollars (\$750.00), or a jail term of up to ninety (90) days, or by both such fine and jail term.

Violators of this chapter are also subject to any penalties that may be imposed by the state of Utah, or the federal government, under the clean water act.

In addition to any criminal fines and/or penalties which may be assessed for a violation of this chapter, Oakley City shall have the right to issue a stop work order on the entire construction site, and/or install or maintain appropriate erosion control and sediment control measures on any site which is required to have such measures in the event that construction activity is commenced or continued without such measures having been installed or required by this chapter. Oakley City shall have the right to have such

measures installed and maintained by City personnel or to hire a private contractor to perform such work at the expense of the permittee, property owner, developer or contractor responsible for such measures. The City may assess said expenses against the bond posted by the permittee.

It is unlawful for any person, firm, public utility, public agency, or corporation to continue any further work on the construction site after a stop work order has been issued. A violation of a stop work order is punishable as a class C misdemeanor.

Oakley City may also pursue civil remedies for a violation of this chapter.

CHAPTER 14 NONSTORMWATER DISCHARGES

SECTION CONTENTS:

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 - 13-14-3: Applicability**
 - 13-14-4: Responsibility for Administration**
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 - 13-14-18: Compensatory Action**
 - 13-14-19: Remedies Not Exclusive**
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- 13-14-1: PURPOSE; INTENT:**

The purpose of this chapter is to provide for the health, safety, and general welfare of the citizens of Oakley City, Utah, as well as the protection of the Weber River and its tributaries, through the regulation of non-stormwater discharges to the storm drainage system, waterway or any natural body of water to the maximum extent practicable as required by federal and state law. This chapter establishes methods for controlling the introduction of pollutants into the City storm sewer system in order to comply with requirements of the national pollutant discharge elimination system (NPDES) permit process. The objectives of this chapter are:

- A. To regulate the contribution of pollutants to the storm sewer system by stormwater discharges by any user,
- B. To prohibit illicit connections and discharges to the storm drain system, waterway or any natural body of water, and
- C. To establish legal authority to carry out all inspection, surveillance and monitoring procedures necessary to ensure compliance with this chapter.

13-14-2: DEFINITIONS:

For the purposes of this chapter, the following terms shall mean:

AUTHORIZED ENFORCEMENT AGENCY: Employees or designees of the director of the municipal agency designated to enforce this chapter.

BEST MANAGEMENT PRACTICES (BMPs): Schedules of activities, prohibitions of practices, maintenance procedures, and other management practices to prevent or reduce the pollution of waters of the state. BMPs also include treatment practices, operating procedures, and practices to control site runoff, spillage or leaks, sludge or waste disposal, or drainage from raw material storage.

CLEAN WATER ACT: The federal water pollution control act (33 USC section 1251 et seq.), and any subsequent amendments thereto.

CONSTRUCTION ACTIVITY: Excavation, grading, filling, or otherwise disturbing the natural environment.

ILLEGAL DISCHARGE: Any direct or indirect non-stormwater discharge to the storm drain system, waterway or any natural body of water, except as exempted in section 13-15-6 of this chapter.

ILLICIT CONNECTIONS: Is defined as either of the following:

- A. Any drain or conveyance, whether on the surface or subsurface, which allows an illegal discharge to enter the storm drain system including, but not limited to, any conveyances which allow any non-stormwater discharge including sewage, process wastewater, and wash water to enter the storm drain system and any connections to the storm drain system from indoor drains and sinks, regardless of whether said drain or connection had been previously allowed, permitted, or approved by an authorized enforcement agency, or
- B. Any drain or conveyance connected from a commercial or industrial land use to the storm drain system which has not been documented in plans, maps, or equivalent records and approved by Oakley City.

INDUSTRIAL ACTIVITY: Activities subject to NPDES industrial permits as defined in 40 CFR, section 122.26 (b)(14).

NATIONAL POLLUTANT DISCHARGE ELIMINATION SYSTEM (NPDES) STORMWATER DISCHARGE PERMIT: A permit issued by the EPA (or by a state under authority delegated pursuant to 33 USC section 1342(b)) that authorizes the discharge of pollutants to waters of the United States, whether the permit is applicable on an individual, group, or general areawide basis.

NONSTORMWATER DISCHARGE: Any discharge to the storm drain system that is not composed entirely of stormwater.

PERSON: Any individual, corporation, partnership, association, company or body politic, including any agency of the state of Utah and the United States government.

POLLUTANT: Anything which causes or contributes to pollution. Pollutants may include, but are not limited to, paints, varnishes, and solvents; oil and other automotive fluids; nonhazardous liquid and solid wastes and yard wastes; refuse, rubbish, garbage, litter, or other discarded or abandoned objects, ordnances, and accumulations, so that same may cause or contribute to pollution; floatables; pesticides, herbicides, and fertilizers; hazardous substances and wastes; sewage, fecal coliform and pathogens; dissolved and particulate metals; animal wastes; wastes and residues that result from constructing a building or structure; and noxious or offensive matter of any kind.

PREMISES: Any building, lot, parcel of land, or portion of land whether improved or unimproved including adjacent sidewalks and parking strips.

STORM DRAINAGE SYSTEM: Public or privately owned facilities by which stormwater is collected and/or conveyed, including, but not limited to, any roads with drainage systems, municipal streets, gutters, curbs, inlets, piped storm drains, pumping facilities, retention and detention basins, natural water bodies and human made or altered drainage channels, reservoirs, and other drainage structures.

STORMWATER: Stormwater runoff, snowmelt runoff, and surface runoff and drainage.

STORMWATER POLLUTION PREVENTION PLAN (SWP3): The plan required by Oakley City ordinance that describes BMPs and activities to be implemented to eliminate or reduce pollutant discharges to stormwater.

WASTEWATER: Any water or other liquid, other than uncontaminated stormwater, discharged from a facility.

13-14-3: APPLICABILITY:

This chapter shall apply to all water entering the storm drain system generated on any developed and undeveloped lands unless explicitly exempted by an authorized enforcement agency.

13-14-4: RESPONSIBILITY FOR ADMINISTRATION:

The Oakley City Engineer and County health department shall administer, implement, and enforce the provisions of this chapter. Any powers granted or duties imposed upon the authorized enforcement agencies may be delegated in writing by the director of the authorized enforcement agencies to persons or entities acting in the beneficial interest of or in the employ of the agency.

13-14-5: ULTIMATE RESPONSIBILITY:

The standards set forth herein and promulgated pursuant to this chapter are minimum standards; therefore this chapter does not intend nor imply that compliance by any person will ensure that there will be no contamination, pollution, nor unauthorized discharge of pollutants.

13-14-6: DISCHARGE PROHIBITIONS:

A. **Prohibition of Illegal Discharges:** It shall be unlawful and punishable as a class C misdemeanor for any person who discharges or causes to be discharged into the storm drain system or watercourses any materials, including, but not limited to, pollutants or waters containing any pollutants that cause or contribute to a violation of applicable water quality standards, other than stormwater. The commencement, conduct or continuance of any illegal discharge to the storm drain system is prohibited except as described as follows:

1. The following discharges are exempt from discharge prohibitions established by this chapter: water line flushing or other potable water sources, landscape irrigation or lawn watering, diverted stream flows,

rising ground water, ground water infiltration to storm drains, uncontaminated pumped ground water, foundation or footing drains (not including active ground water dewatering systems), crawl space pumps, air conditioning condensation, springs, noncommercial washing of vehicles, natural riparian habitat or wetland flows, swimming pools (if dechlorinated, typically less than 1 ppm chlorine), firefighting activities, and any other water source not containing pollutants.

2. Discharges specified in writing by the authorized enforcement agency as being necessary to protect public health and safety.
3. Dye testing is an allowable discharge, but requires a verbal notification to the authorized enforcement agency prior to the time of the test.
4. The prohibition shall not apply to any non-stormwater discharge permitted under an NPDES permit, waiver, or waste discharge order issued to the discharger and administered under the authority of the federal environmental protection agency, provided that the discharger is in full compliance with all requirements of the permit, waiver, or order and other applicable laws and regulations, and provided that written approval has been granted for any discharge to the storm drain system.

B. Prohibition of Illicit Connections:

1. The construction, use, maintenance or continued existence of illicit connections to the storm drain system is prohibited.
2. This prohibition expressly includes, without limitation, illicit connections made in the past, regardless of whether the connection was permissible under law or practices applicable or prevailing at the time of connection.
3. It is unlawful for any person to connect a line conveying sewage to the storm drainage system, or allow such a connection to continue.

13-14-7: SUSPENSION OF STORM DRAINAGE SYSTEM ACCESS:

A. Suspension Due to Illicit Discharges in Emergency Situations: The authorized enforcement agency may, without prior notice, suspend discharge access to a person when such suspension is necessary to stop an actual or threatened discharge which presents or may present imminent and substantial danger to the environment, or to the health or welfare of persons, or to the storm drainage system or waters of the United States. If the violator fails to comply with a suspension order issued in an emergency, the authorized enforcement agency may take such steps as deemed necessary to prevent or minimize damage to the storm drainage system or waters of the United States, or to minimize danger to persons.

B. Suspension Due to The Detection of Illicit Discharge:

1. Any person discharging to the storm drainage system in violation of this chapter may have their storm drainage system access terminated if such

termination would abate or reduce an illicit discharge. The authorized enforcement agency will notify a violator of the proposed termination of its storm drainage system access. The violator may petition the authorized enforcement agency for a reconsideration and hearing.

2. A person commits an offense if the person reinstates storm drainage system access to premises terminated pursuant to this section, without the prior approval of the authorized enforcement agency.

13-14-8: INDUSTRIAL OR CONSTRUCTION ACTIVITY DISCHARGES:

Any person subject to an industrial or construction activity SWP3 or ECP permit and/or NPDES stormwater discharge permit shall comply with all provisions of such permit. Proof of compliance with said permit may be required in a form acceptable to the authorized enforcement agency prior to the allowing of discharges to the storm drainage system.

13-14-9: MONITORING OF DISCHARGES:

A. **Applicability:** This section applies to all facilities that have stormwater discharges associated with industrial activity, including construction activity.

B. **Access to Facilities:**

1. The authorized enforcement agency shall be permitted to enter and inspect facilities subject to regulation under this chapter as often as may be necessary to determine compliance with this chapter. If a discharger has security measures in force which require proper identification and clearance before entry into its premises, the discharger shall make the necessary arrangements to allow access to representatives of the authorized enforcement agency.
2. Facility operators shall allow the authorized enforcement agency ready access to all parts of the premises for the purposes of inspection, sampling, examination and copying of records that must be kept under the conditions of an NPDES permit to discharge stormwater, and the performance of any additional duties as defined by state and federal law.
3. The authorized enforcement agency shall have the right to set up on any permitted facility such devices as are necessary in the opinion of the authorized enforcement agency to conduct monitoring and/or sampling of the facility's stormwater discharge.
4. The authorized enforcement agency has the right to require the discharger to install monitoring equipment as necessary. The facility's sampling and monitoring equipment shall be maintained at all times in a safe and proper operating condition by the discharger at its own expense. All devices used to measure stormwater flow and quality shall be calibrated to ensure their accuracy.

5. Any temporary or permanent obstruction to safe and easy access to the facility to be inspected and/or sampled shall be promptly removed by the operator at the written or oral request of the authorized enforcement agency and shall not be replaced. The costs of clearing such access shall be borne by the operator.
6. Unreasonable delays in allowing the authorized enforcement agency access to a permitted facility is a violation of a stormwater discharge permit and of this chapter. A person who is the operator of a facility with an SWP3 or ECP and/or an NPDES permit to discharge stormwater associated with industrial activity commits an offense if the person denies the authorized enforcement agency reasonable access to the permitted facility for the purpose of conducting any activity authorized or required by this chapter.
7. If the authorized enforcement agency has been refused access to any part of the premises from which stormwater is discharged, and he/she is able to demonstrate probable cause to believe that there may be a violation of this chapter, or that there is a need to inspect and/or sample as part of a routine inspection and sampling program designed to verify compliance with this chapter or any order issued hereunder, or to protect the overall public health, safety, and welfare of the community, then the authorized enforcement agency may seek issuance of a search warrant from any court of competent jurisdiction.

13-14-10: BEST MANAGEMENT PRACTICES:

Oakley City's stormwater pollution prevention ordinance outlines requirements identifying best management practices for activities, operations, or facilities which may cause or contribute to pollution or contamination of stormwater, the storm drain system, or waters of the U.S. The owner or operator of a commercial or industrial establishment shall provide, at their own expense, reasonable protection from accidental discharge of prohibited materials or other wastes into the municipal storm drain system or watercourses through the use of these structural and nonstructural BMPs. Further, any person responsible for a property or premises, which is, or may be, the source of an illicit discharge, may be required to implement, at said person's expense, additional structural and nonstructural BMPs to prevent the further discharge of pollutants to the stormwater system. Compliance with all terms and conditions of a valid SWP3 or ECP permit and/or NPDES permit authorizing the discharge of stormwater associated with industrial activity, to the extent practicable, shall be deemed in compliance with the provisions of this section.

13-14-11: WATERCOURSE PROTECTION:

It is unlawful for any person owning property through which a watercourse passes, or such person's lessee, to not keep and maintain that part of the watercourse within the property free of trash, debris, excessive vegetation, and other obstacles that would

pollute, contaminate, or significantly retard the flow of water through the watercourse. In addition, it is unlawful for the person owning or the lessee to not maintain existing privately owned structures within or adjacent to a watercourse, so that such structures will not become a hazard to the use, function, or physical integrity of the watercourse.

13-14-12: NOTIFICATION OF SPILLS:

Notwithstanding other requirements of law, as soon as any person responsible for a facility or operation, or responsible person for emergency response for a facility or operation has information of any known or suspected release of materials which are resulting or may result in illegal discharges or pollutants discharging into stormwater, the storm drain system, or waters of the U.S. said person shall take all necessary steps to ensure the discovery, containment, and cleanup of such release. In the event of such a release of hazardous materials said person shall immediately notify emergency response agencies of the occurrence via emergency dispatch services. In the event of a release of nonhazardous materials, said person shall notify the authorized enforcement agency in person or by phone or facsimile no later than the next business day. Notifications in person or by phone shall be confirmed by written notice addressed and mailed to the Oakley City, or the Summit County Health Department [insert addresses] within three (3) business days of the phone notice. If the discharge of prohibited materials emanates from a commercial or industrial establishment, the owner or operator of such establishment shall also retain an on-site written record of the discharge and the actions taken to prevent its recurrence. Such records shall be retained for at least three (3) years.

13-14-13: ENFORCEMENT:

- A. **Notice of Violation:** Whenever the authorized enforcement agency finds that a person has violated a prohibition or failed to meet a requirement of this chapter, the authorized enforcement agency may order compliance by written notice of violation to the responsible person. Such notice may require, without limitation:
 - 1. The performance of monitoring, analyses, and reporting;
 - 2. The elimination of illicit connections or discharges;
 - 3. That violating discharges, practices, or operations shall cease and desist;
 - 4. The abatement or remediation of stormwater pollution or contamination hazards and the restoration of any affected property; and
 - 5. The implementation of source control or treatment BMPs.

- B. **Timelines for Remediation or Restoration:** If abatement of a violation and/or restoration of affected property is required, the notice shall set forth a deadline within which such remediation or restoration must be completed. Said notice shall further advise that, should the violator fail to remediate or restore within the established deadline, the work will be done by a designated governmental

agency or a contractor and the expense thereof shall be charged to the violator. Failure to correct a notice of violation is punishable as a class C misdemeanor.

13-14-14: APPEAL OF NOTICE OF VIOLATION:

Any person receiving a notice of violation may appeal the determination of the authorized enforcement agency pursuant to the administrative code enforcement hearing program. A notice of appeal must be filed with the administrative law judge within ten (10) calendar days of the denial or imposition of conditions of the permit. The notice of appeal shall contain the following information:

- A. An application with applicant's name, address and daytime telephone number;
- B. A statement describing the basis for the appeal; and
- C. The relief sought by the applicant.

13-14-15: 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 this chapter, Oakley City is authorized to:

- A. Initiate criminal action by citation or information under section 13-14-16 of this chapter; or
- B. Give written notice to such person, firm, public utility, or corporation to abate the violation and/or restore the property. Such notice may be served either by personal service or by mailing the notice to the person, firm, public utility, or corporation by certified mail and posting a copy thereof on such installation for a period of ten (10) days. If the violation is not abated or restored within ten (10) days after the notice is complete, said authorities may abate 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 violation continues after the notice was complete, in an action for that purpose; or
- C. If such person, firm, public utility, or corporation refuses to abate the violation and/or restore the property, 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 cost of action and the sum of one hundred dollars (\$100.00) for every day such nuisance remained after notice was given for its implementation in the manner provided in subsection B of this section. See UCA § 27-12-135
- D. It shall be unlawful for any person, owner, agent or person in possession of any premises to refuse to allow the government agency or designated contractor to enter upon the premises for the purposes set forth above.

13-14-16: PENALTY:

Any person who violates the provisions of this chapter is guilty of a class C misdemeanor, punishable by a fine not to exceed seven hundred fifty dollars (\$750.00), or a jail term of up to ninety (90) days, or by both such fine and jail term. Violators of this chapter are also subject to any penalties that may be imposed by the state of Utah, or the federal government, under the clean water act.

13-14-17: INJUNCTIVE RELIEF:

It shall be unlawful for any person to violate any provision or fail to comply with any of the requirements of this chapter. If a person has violated or continues to violate the provisions of this chapter, the authorized enforcement agency may petition for a preliminary or permanent injunction restraining the person from activities which would create further violations or compelling the person to perform abatement or remediation of the violation.

13-14-18: COMPENSATORY ACTION:

In lieu of enforcement proceedings, penalties, and remedies authorized by this chapter, the authorized enforcement agency may impose upon a violator alternative compensatory actions, such as storm drain stenciling, attendance at compliance workshops, creek cleanup, etc.

13-14-19: REMEDIES NOT EXCLUSIVE:

The remedies listed in this chapter are not exclusive of any other remedies available under any applicable federal, state or local law and it is within the discretion of the authorized enforcement agency to seek cumulative remedies.

APPENDIX A DEFINITIONS

For the purpose of these regulations, certain numbers, abbreviations, terms and words used herein shall be used, interpreted and defined as set forth in this appendix. Where definitions are given in another chapter or section of this Title that apply to only that section or chapter, those definitions shall apply first.

Capitalized terms in this Code have the meanings as stated in this section. If the term starts a sentence and is intended to have the meaning ascribed to it in these definitions, then term must be followed by its initial letter in parentheses in caps to denote the meaning, e.g., "Structures (S) are not allowed in wetlands". When terms are not capitalized then they have the meaning that is conferred by common usage and the context in which they are used. "Shall" is always mandatory.

Unless the context clearly indicates to the contrary, words used in the present tense include the future tense; words used in the plural number include singular; the word "herein" means "in these regulations"; the word "regulation" means "these regulations"; the word "Code" means "the Oakley City Land Management and Development Code" or "this Title" unless the context indicates it is referring specifically to a different regulation, code, statute, ordinance or law.

ACCESS: The provision of vehicular and/or pedestrian ingress and egress to structures, facilities, land or parcel.

ACCESSORY BUILDING: A building upon the same lot (or in a contiguous lot under the same ownership) as the principal building and is: a) clearly incidental to, and customarily found in connection with, such principal building or use; and b) is operated and maintained for the benefit or convenience of the owners, occupants, employees, customers or visitors of the lot with the principal use.

ADMINISTRATIVE PERMIT: A permit issued by the planning staff, City Planner or building official for specified uses after compliance with applicable zoning or Land Management and Development Code regulations is determined.

ADULT/SEXUALLY ORIENTED BUSINESS: Defined according to section _____ of the City Code.

AFFECTED ENTITY: A City, municipality, local district, special service district, school district, interlocal cooperation entity, property owners association, public utility, or the Utah Department of Transportation, as set forth in Utah Code Annotated section 17-27a-103(1) or successor law.

AGRICULTURAL ACTIVITY: The tilling of the soil, raising of crops (including timber), forage, grazing and raising of animals/fish for agricultural purposes.

AGRICULTURAL BUILDING: A building or structure on agricultural land designed, constructed, and used to house farm implements, livestock, or agricultural produce or products used by the person(s) engaged in agriculture. [Agricultural buildings do not include dwelling units.]

AGRICULTURAL EXEMPTION: An exemption from the building permit requirements of this Title for structures used for agricultural activities.

ANTENNA: Any system of wires, poles, rods, arms, reflecting discs or similar devices of various sizes, materials and shapes, including, but not limited to, solid or wire mesh dish, cone, spherical or bar configurations used for wireless transmission. Types of antennas include, but are not limited to, the following:

Roof Mounted Antenna: An antenna mounted directly to the roof of a building, mechanical penthouse or parapet enclosure wall which is on the rooftop of a building.

Top Hat Antenna: Spatial array of antennas, generally located on a freestanding structure, where the visible width of antennas and antenna mounting structures are more than two feet (2') in width as viewed looking directly at the structure.

Wall Mounted Antenna: Any antenna mounted directly to the fascia or outside walls of a structure, existing parapet walls, penthouses, or mechanical equipment rooms, with no portion of the antenna extending above the roofline of such structures.

ANTENNA SUPPORT STRUCTURE: A structure, the principal purpose of which is for location of antennas. Types of antenna support structures may include:

Lattice Tower: A multiple sided, open steel frame structure used to support one (1) or more antennas.

Monopole: A standing antenna support structure placed directly on the ground to support one (1) or more antennas.

APPEALS PROCEDURES: The procedures set forth in section 13-1-16 of this Title which are to be followed for administrative appeals of any and all decisions made pursuant to this Title.

APPLICANT: The owner of land and/or his/her representative seeking formal City action.

APPLICATION: A form or checklist supplied by the Planning Department, indicating the data and information necessary to process the applicant's proposed project.

ARTERIAL: Any road intended to provide direct year-round connection to other jurisdictions, or which links such roads, and is intended or used primarily for free-flowing traffic movement. Traffic velocity is generally greatest on arterial roads, due primarily to road design.

ATTACHED BUILDING: Units connected on one (1) or more sides to an adjacent unit or units by a common party wall with separate exterior entrance for all units.

AUTO IMPOUNDMENT YARD AND ASSOCIATED TOWING SERVICES: An outdoor storage facility for impound of automobiles brought there by a towing service.

AUTO WRECKING YARD: The dismantling or wrecking of used motor vehicles or trailers, or the storage, sale, or dumping of dismantled or wrecked vehicles or their parts.

AUTOMOTIVE REPAIR, SERVICE AND DETAILING: An establishment primarily engaged in the repair of automobiles, trucks, motorcycles, motor homes, recreational vehicles, or boats, including the sale, installation, and servicing of equipment and parts. Typical uses include muffler shops, auto repair garages, tire sales and installation, wheel and brake shops, body and fender shops, and similar repair and service activities, but excluding dismantling or salvage.

AUTOMOTIVE SALES: An establishment primarily engaged in the sale or rental of automobiles, trucks, motorcycles, motor homes, recreational vehicles, or boats, including incidental storage, maintenance, and servicing. Typical uses include new and used car dealerships, motorcycle dealerships, and boat, trailer, or recreational vehicle dealerships.

BANKS AND FINANCIAL SERVICES: An establishment primarily engaged in the provision of financial and banking services. Typical uses include banks, savings and loan institutions, stock and bond broker's loan and lending activities.

BARS, TAVERNS, NIGHTCLUBS: An establishment serving alcoholic beverages for consumption on the premises.

BED AND BREAKFAST INNS: An owner-occupied dwelling, including those dwellings of historical significance, in which two (2) to eight (8) rooms are rented out by the day, offering overnight lodging to travelers, and where one (1) or more meals are provided to the guests only, the price of which may be included in the room rate (see definition of hotel, motel, or inn).

BOARD OF ADJUSTMENT: The quasi-judicial body who hears and decides zoning variances.

BUILDING: Any structure built for the support, shelter or enclosure of persons, animals, or movable property.

BUILDING, ACCESSORY: A building upon the same lot (or on a contiguous lot under the same ownership) as the principal building and which is: a) clearly incidental to, and customarily found in connection with, such principal building or use; and b) is operated and maintained for the benefit or convenience of the owners, occupants, employees, customers or visitors of the lot with the principal use; and c) is associated with a principal commercial or industrial use which is permitted within the zone.

BUILDING CODE: The International Building Code (IBC) as adopted by the State.

BUILDING ENVELOPE: That area within which a structure must be located. A building envelope is designated by building setback lines or can be shown specifically on a subdivision plat.

BUILDING OFFICIAL: As defined in the IBC.

BUILDING PERMIT: An official document or certification that is issued by the building official and which authorizes the construction, enlargement, alteration, conversion, reconstruction, remodeling, rehabilitation, erection, demolition, moving, or repair of a building or structure.

BUSINESS: Any lawful enterprise, profession, occupation or activity engaged in by a person with the objective of profit, gain, benefit or advantage, direct or indirect, which is conducted within Oakley City.

BUTCHER, RETAIL: A commercial establishment for the processing of animals, including the sale of meat and related products.

BUTCHER WITH SLAUGHTERING, RETAIL: A commercial establishment for small-scale slaughtering and processing of animals, including the sale of meat and related products.

CAMPGROUND: Any area that is occupied or intended or designed or improved for occupancy by transients using recreational vehicles, motor homes, tents, mobile trailers, and other temporary housing for dwelling, lodging, or sleeping purposes on a temporary recreational basis. Does not include manufactured housing communities or similar long-term housing developments or trailer parks.

CARWASH: The use of a site for washing and cleaning of vehicles in a commercial operation open to the public. Does not include facilities that are accessory uses to the principal permitted use.

CELL ON WHEELS (COW): A mobile temporary telecommunications facility which is located on a trailer. COWs are subject to temporary use permits (see use chart).

CEMETERY: Land used or dedicated to the burial or interment of the dead, including crematoriums and mausoleums.

CERTIFICATE: A document which conforms to the requirements of Utah Code Annotated section 17-27a-605(1) or successor law.

CERTIFICATE OF CONSENT: The owner's dedication on a final subdivision plat or Final Site Plan; or the lienholder's consent on a final subdivision plat.

CHILD CARE, COMMERCIAL: Providing child care services within a commercial establishment that is licensed by the State wherein are received children under seventeen (17) years of age.

CHILD CARE, FAMILY (FEWER THAN 9 CHILDREN): A child care facility operated by a party who resides at the premises used for child care services, which provides service for fewer than nine (9) children.

CHILD CARE, FAMILY (WITH 9-16 CHILDREN): Providing child care services within a dwelling that is licensed by the State wherein are received nine (9) or more children under seventeen (17) years of age who are not related to such person and whose parents or guardians are not residents in the same house with such person responsible for the control and care of children enrolled therein.

CHILD CARE, IN-HOME (4 CHILDREN OR LESS): Providing child care services within a dwelling home for four (4) or less children.

CHURCHES/HOUSES OF WORSHIP: A building used for non-profit purposes by a recognized and legally established sect, primarily for the purpose of worship.

CITY: Oakley City, Utah.

CITY ATTORNEY: Attorney of Oakley City or his/her designee.

CITY COUNCIL: The Legislative Body of Oakley City, Utah.

CITY ENGINEER: The Engineer for Oakley City, who is appointed by the City Council.

CITY MAYOR: The Chief Executive Officer of Oakley City, Utah.

CITY PUBLIC WORKS DEPARTMENT: The Oakley City Public Works Department under the direction of the City Mayor.

CODE: This Title 13, or any other Title of the Oakley City Code.

COLLECTOR ROAD: A road intended to move traffic from local roads to arterial roads. Collector roads typically collect traffic from a neighborhood or large subdivision and provide a connection to the arterial road system.

COLOCATION: A telecommunications facility includes a single antenna support structure, but more than one (1) telecommunications provider's antennas and telecommunication equipment.

COMMERCIAL USE: The act of selling goods or services, including leasing and other transactions under a business license as required by the City, including non-profit enterprises and 501 C3 operations.

CITY PLANNER: The Director of the Planning Department, with overall administrative control of the planning, building and zoning functions of the City, under the direction of the City Mayor.

CONDITIONAL USE: Land uses that because of their unique characteristics or potential for detrimental impacts on the City, surrounding neighbors, or adjacent land uses, may require mitigation in order to be permitted under this Code. Conditional uses are allowed in a zone only if the reasonably anticipated detrimental effects of the use can be substantially mitigated through the imposition of reasonable conditions.

CONDITIONAL USE PERMIT: A development permit which approves a conditional use.

CONDITIONAL USE PERMIT, MAJOR AMENDMENT: An amendment to a conditional use permit as set forth in subsection 13-5-7G2 of this Title.

CONDITIONAL USE PERMIT, MINOR AMENDMENT: An amendment to a conditional use permit as set forth in subsection 13-5-7G1 of this Title.

CONDOMINIUM: The ownership of a single unit in a multiunit project together with an undivided interest in common in the common areas and facilities of the property.

CONDOMINIUM PLAT: A plat of land and units prepared in accordance with Utah Code Annotated section 57-8-13 or successor law.

CONSTRUCTION PLAN: The maps or drawings accompanying a final subdivision plat and showing the specific location and design of improvements to be installed in the subdivision in accordance with the requirements of the Planning Commission or City Engineer as a condition of the approval of the plat.

CONTRACTOR'S OFFICE: A room or group of rooms used for conducting business affairs that does not use any exterior storage area.

CONTRACTOR'S YARD: Any land or buildings used primarily for the storage of equipment, vehicles, machinery (new or used), building materials, paints, pipe, or electrical components used by the owner or occupant of the premises in the conduct of any building trades or building craft.

CORNER LOT: A lot located at the intersection of two (2) roads/streets.

COUNTY ASSESSOR: In accordance with Utah Code Annotated Title 17, chapter 17, the duly elected Assessor of Summit County or his/her designee.

COUNTY HEALTH DEPARTMENT: The Summit County Health Department created pursuant to Utah Code Annotated Title 26A.

COUNTY RECORDER: In accordance with Utah Code Annotated Title 17, chapter 21, the duly elected Recorder of Summit County or his/her designee.

COUNTY WILDLAND FIRE MARSHAL: The Fire Marshal appointed by the Summit County Wildland Fire Service Area.

COVENANTS, CONDITIONS AND RESTRICTIONS (CC&Rs): Private regulations imposed upon owners of lots within a subdivision or condominium plat. The City does not enforce CC&Rs.

CRITICAL AREA: Fish and wildlife habitat conservation areas, frequently flooded areas, geologically hazardous areas, streams and wetlands.

CUL-DE-SAC: A local street with only one (1) outlet and having an appropriate terminal for the safe and convenient reversal of traffic movement as well as firefighting and other public safety equipment.

DENSITY: The sum of all dwelling units or floor area permitted on any parcel. Often expressed in units per acre.

DENSITY, BASE: The maximum number of dwelling units or floor area permitted per acre(s) of land by a zone district.

DENSITY, BONUS: Incentive density awarded to a parcel or final subdivision plat in excess of base density as set forth in appendix B of this Title.

DENSITY, COMMERCIAL, INDUSTRIAL, INSTITUTIONAL: The floor area of a structure within a lot or parcel calculated as a ratio of floor area to the lot or parcel area.

DEVELOPABLE AREA: The land area remaining after the removal of all deed restricted open space, which is available for development.

DEVELOPER: The person, persons, corporation, firm or partnership proposing to engage, or who is engaged, in development.

DEVELOPMENT AGREEMENT: A quasi-legislative agreement between a developer or property owners and the City pursuant to the provisions of this Title adopted in connection with a legislative act.

DEVELOPMENT EVALUATION STANDARDS: Those land use regulations set forth in chapter 3 of this Title.

DEVELOPMENT OR DEVELOPMENT ACTIVITY: Any of the following activities:

- A. Change in use.
- B. Construction, clearing, filling, excavating, grading, paving, dredging, mining, drilling or otherwise significantly disturbing the soil of a site.
- C. Building, installing, enlarging, replacing or substantially restoring a structure, impervious surface or central water system, and including the long-term storage of materials.
- D. Erection of a sign.
- E. Any activity increasing the need for parking or generating additional traffic.
- F. Construction, elimination or alteration of a driveway onto a public road.
- G. Demolition of existing structures.

Development or development activity does not include agricultural activities.

DEVELOPMENT PERMIT: A land use permit issued by the City which allows development.

DISTILLERY: A place where liquor is manufactured.

DIVISIONS OF LAND FOR NON-DEVELOPMENT PURPOSES: The processes set forth in subsection 13-5-5G of this Title.

DRIVEWAY: A means of access to one (1) but not more than five (5) one-family dwelling units. Without assurances that only five (5) dwellings will use a driveway, it shall otherwise be designated as a local road.

DWELLING UNIT: A building or portion thereof containing living facilities, including provisions for sleeping, eating, cooking and sanitation, and is intended for occupancy by a family and its guests, independent of other families.

DWELLING UNIT, ACCESSORY: An area used by the owner of the primary residence or primary tenant/business as a dwelling unit for the private use of the property owner's relatives, domestic help, caretakers, nursing staff, or similar users. An accessory dwelling unit shall contain cooking, sanitation and sleeping facilities.

DWELLING UNIT, AGRICULTURAL EMPLOYEE: A one-family dwelling unit located on a lot or parcel used for an agricultural activity. The dwelling unit must be an accessory use to the principal dwelling unit and agricultural activity on the property. An agricultural employee dwelling unit shall contain cooking, sanitation and sleeping facilities.

DWELLING UNIT, MULTI-FAMILY: A dwelling unit in a structure containing three (3) or more dwelling units sharing common vertical walls or floors/ceilings, but not including hotels, lodges and other similar uses.

DWELLING UNIT, ONE-FAMILY: A detached principal building, other than a mobile home, designed for and used as a dwelling unit exclusively by one (1) family and its guests. May be referred to as a single-family dwelling unit.

DWELLING UNIT, SINGLE-FAMILY ATTACHED: A dwelling unit in a structure containing two (2) or more dwelling units sharing one (1) or more vertical and no horizontal common walls, each of which is designed for and used as a dwelling unit exclusively by one (1) family and its guests. May also be referred to as a townhouse.

EASEMENT: A quantity of land set aside over which a liberty, privilege, burden or advantage in land without profit exists distinct from the ownership of land, which is granted to the public, another party, or some particular person or part of the public.

EQUIPMENT RENTAL, HEAVY: The temporary leasing of a movable or transportable vehicle or other apparatus commonly used in commercial, industrial, or construction enterprises, such as but not limited to trucks, trailers, bulldozers, cranes, backhoes, rollers, loaders or lifts having a gross weight of 2.5 tons or more.

EQUIPMENT RENTAL, LIGHT: The temporary leasing of tools, lawn and garden equipment, recreation equipment, party supplies and similar goods and equipment, including storage and incidental maintenance. This term does not include a motor vehicle rental facility.

EROSION: The process of eroding or being eroded by wind, water, or other natural agents.

ESCROW: A deposit of cash with the City or approved alternate entity in lieu of an amount required and still in force on a performance or maintenance guarantee.

EVENT CENTER: An establishment which is rented by individuals or groups to accommodate private functions including, but not limited to banquets, weddings, anniversaries and other similar celebrations. Such a use may or may not include: a) kitchen facilities for the preparation or catering of food; b) the sale of alcoholic beverages for on premises consumption, only during scheduled events and not open to the public; and c) outdoor gardens or reception facilities.

FAMILY: An individual, or two (2) or more persons related by blood, marriage or adoption, or a group of not more than four (4) persons who are not related, occupying the same dwelling unit on a continuous basis.

FENCE: A structure constructed for reasons of privacy, security or aesthetics which is located in such a manner as to separate or divide areas. Includes hedges and masonry walls.

FINAL ACTION: Final decision by the City Mayor, City Council, Planning Commission, Board of Adjustment or City Planner approving, approving with conditions, or denying a plan, project,

rezone, use, activity or other action at the conclusion of the appropriate review process set forth in chapter 5 of this Title.

FINAL SITE PLAN: A map establishing detailed development layout, and other development details as set forth in section 13-5-6 of this Title.

FIRE CODE: The International Fire Code adopted by the State.

FLOODPLAIN: An area adjoining a river, stream or watercourse, or other body of standing water, in which a potential flood hazard exists due to inundation or overflow of water having sufficient volume and velocity to transport or deposit debris, scour the surface soil, dislodge or damage buildings, or erode the banks of watercourses designated as a floodplain by the Federal Emergency Management Agency.

FLOOR AREA: The total of all square footage of floor space within all floors of a building as measured from the inside of the exterior walls. Does not include attics, crawl spaces, attached garages, loading areas, breezeways, enclosed or unenclosed porches, elevator or stair bulk heads, and decks within a structure.

FLOOR AREA RATIO: The percentage of the floor area divided by the sum of the square feet of the lot or parcel on which it sits.

FOOD PROCESSING, COMMERCIAL: An establishment that transforms raw ingredients into food or transforms food into other forms for consumption. Does not include butcher with slaughtering.

FORESTRY: The use of land for the raising and harvesting of timber, pulp woods, and other forestry products for commercial purposes. Does not include the temporary or long-term operation of a sawmill.

FUNERAL SERVICES: An establishment engaged in undertaking services such as preparing the human dead for burial and arranging and managing funerals. Typical uses include funeral home, crematoriums, or mortuaries.

GAS AND FUEL, STORAGE AND SALES: Bulk storage tanks of flammable and combustible liquids, compressed gases or liquefied petroleum gas (LP gas) for business use, retail sale, wholesale, or wholesale distributing.

GASOLINE SERVICE STATION WITH OR WITHOUT CONVENIENCE STORE: A place where gasoline, motor oil, lubricants, or other minor accessories are retailed directly to the public on the premises, often in combination with the retailing of items typically found in a convenience market or supermarket.

GENERAL PLAN: The General Plan for the Oakley City, prepared by the Planning Commission and adopted by the City Council, pursuant to State law.

GEOLOGIC HAZARD: The hazard presented by surficial or deep geological instabilities including, a surface fault rupture, shallow groundwater, a debris flow, unstable soil, landslides, rapid erosion, rock fall, liquefaction, earthquakes, and any other geologic condition that presents a risk: a) to life, b) of substantial loss of real property, or c) of substantial damage to real property.

GEOLOGICAL HAZARD AREA: A site where risk of harm from one (1) or more geological hazards is present.

GOVERNMENT LOTS: A subpart of a section which is not described as an aliquot part of the section by a cadastral survey, but which is designated by number, for example, Lot 3. A government lot may be regular or irregular in shape, and its acreage may vary from that of regular aliquot parts. An aliquot part is the standard subdivisions of a section, such as a half section, quarter section, or quarter-quarter section, as established through a cadastral survey.

GRADE, FINISHED: The finished or resulting grade where the surface of the ground meets the building after the completion of development.

GRADE, NATURAL: The existing profile of the surface of the land prior to any ground disturbance resulting in a change to the topography. When existing grade does not exist due to excavation, landslide or other disturbances regardless of cause, natural grade will be established by the City Planner based on best available information. Such designation is subject to appeal to the Planning Commission.

GUEST RANCH OR LODGE: A commercial use consisting of recreational activities that may include, but are not limited to, horseback riding, fishing, hunting, skiing and snowmobiling. The guest ranch may include overnight lodging, food service, meeting and conference facilities as well as other uses.

HEALTH CARE FACILITIES: A facility or clinic, whether public or private, principally engaged in providing services for health maintenance, diagnosis, and treatment. Services are provided on an outpatient basis only, and of a smaller scale than a hospital.

HEIGHT: For the purpose of measuring the height of any building from natural grade, the measurement shall be the vertical distance from natural grade to the highest point of a flat or pitched roof or other portion of a structure. This measurement shall occur at any point within the exterior walls of the building or structure. Vertical architectural features on houses of worship, such as steeples which are associated with the religious function of the building, may be constructed two and one-half (2 1/2) times the height of the building.

HILLSIDE DEVELOPMENT: Development which is defined by subsection 13-3-4C of this Title.

HOME OCCUPATIONS: Those occupations or professions which may be conducted within a dwelling unit or on the premises thereof and is clearly incidental and secondary to the use of the dwelling unit for residential purposes.

HORSE BOARDING, COMMERCIAL: An establishment providing for the housing, breeding, raising, or care of horses owned by person(s) other than the property owner or occupant, for a fee.

HOSPITAL: An establishment providing primary health services and medical or surgical care to persons, primarily inpatients, suffering from illness, disease, injury, deformity, and other abnormal physical or mental conditions and including, as an integral part of the institution, related facilities, such as laboratories, emergency treatment facilities, diagnostic services, out-patient facilities, training facilities, medical offices, or staff residences.

HOTEL, MOTEL OR INN: An establishment containing sleeping rooms for the temporary occupancy of guests. Accessory facilities may include a lobby, meeting rooms, recreation facilities, group dining facilities and/or other facilities or activities customarily associated with hotels, but not including lock-outs or boarding houses. Motels are generally an establishment containing guest rooms or dwelling units, some or all of which have a separate entrance leading directly from the outside of the building with garage or parking space located on the lot and designed, used, or intended wholly or in part for the accommodation of automobile transients. Motel includes motor courts, motor lodges and tourist courts, but not mobile home parks or travel trailer parks.

HOUSING, MODERATE INCOME: Housing that is affordable, either for rent or for sale, to households that earn no more than eighty percent (80%) of the area median wage.

INDOOR ENTERTAINMENT: An establishment providing entertainment or recreational activities within an enclosed building, such as motion picture theaters, live theaters, roller skating, bowling, ice skating and similar uses.

INDUSTRIAL USES: Operations which include the storage, manufacturing and processing of agricultural or timber products, minerals extraction and production, treatment, packaging, wholesaling, fabrication, assembly and warehousing.

INSTITUTIONAL USES: A use operated by a private or public non- profit educational, recreational, charitable or public service organization, such as having the purpose primarily of serving the general public, but not including houses of worship.

KENNEL, COMMERCIAL: Any premises, except where accessory to an agricultural activity, where five (5) or more domestic animals, over four (4) months of age are boarded, trained, groomed, bred, and/or offered for sale for commercial use.

LAKE: A large body of still water formed naturally that is surrounded by land.

LAND SURVEYOR: A surveyor who is registered and licensed within the State of Utah.

LAND USE AUTHORITY: The City Planner, Planning Commission, Board of Adjustment, City Mayor or City Council, as the case may be, who is empowered under this Title to make land use decisions on behalf of Oakley City.

LOGGING CAMP: An establishment engaged in cutting down trees for commercial purposes, including transportation to a sawmill. A logging camp does not include cutting or alteration of trees incidental to construction activities.

LOT: A parcel that is described within a recorded final subdivision plat. A lot is a conforming parcel.

LOT COVERAGE: The combined area of the footprint of all structures, exterior impervious surface associated with the use of the property (including storage areas, parking lots, driveways and similar areas) in a commercial or industrial use. Coverage does not include building eave overhangs or pervious decks or similar coverings that do not directly impose an impervious covering on the ground.

LOT LINE, FRONT: The property line dividing a lot or parcel from a road, whether public or private, or located adjacent to the principal means of access.

LOT LINE, REAR: The property line opposite the front lot or parcel line.

LOT LINE, SIDE: Any lot line other than a front or rear lot or parcel line.

LOT OF RECORD: See definition of parcel, grandfathered.

LOT WIDTH: The minimum distance between the side property lines.

LOW IMPACT PERMIT: A development permit which approves a low impact use.

MAINTENANCE AND CONSTRUCTION SERVICES: An establishment providing services relating to the maintenance or repair of commercial and dwelling structures, such as plumbing/heating/air conditioning, painting, electrical services, masonry, landscaping, carpentry, roofing/sheet metal, concrete services, and well drilling.

MANUFACTURING, CUSTOM: A use that may be home-based that is engaged in the on-site production of goods and the incidental direct sale to customers of only those goods produced on-site. Typical uses include cabinet shops, ceramic studios, candle-making shops, custom jewelry manufacturing, bakeries, decorative art or uses of a similar scale.

MANUFACTURING, HEAVY: The converting of raw or partially processed materials into a product used for further processing or distribution. Examples of heavy manufacturing include lumber and paper mills, stone, clay, glass product manufacturing, asphalt and concrete batch plants, and similar operations. These uses may be conducted partially or wholly outdoors and usually create noxious byproducts such as dust, fumes, hazardous waste products, noise, vibration, and glare.

MANUFACTURING, LIGHT: An establishment engaged in the manufacture, predominantly from previously prepared materials, of finished products or parts, including processing, fabrication, assembly, treatment, and packaging of such products, and incidental storage, sales, and distribution of such products, but excluding basic industrial processing.

MASTER PLANNED DEVELOPMENT (MPD): A development process set forth in section 13-5-12 of this Title whereby comprehensive project design is accomplished through development strategies, efficiencies in land resources, and flexibility and innovation in design.

MPD, Major Amendment: An amendment to an MPD as set forth in subsection 13-5-12D5b of this Title.

MPD, Minor Amendment: An amendment to an MPD as set forth in subsection 13-5-12D5a of this Title.

MICROBREWERY: A facility for the production and packaging of malt beverages of low alcoholic content for distribution, retail or wholesale, on or off premises, with a capacity of not more than fifteen thousand (15,000) barrels per year. The development may include other uses such as a standard restaurant, bar or live entertainment as otherwise permitted in the zoning district.

MINING OR RESOURCE EXTRACTION: The extraction of a mineral or resource from its natural occurrence on or under the ground.

MOBILE HOME: Any vehicle or object intended for occupancy by an individual or family that was originally constructed in total so as to be portable or mobile, whether presently affixed to the ground or not, and which is intended to be connected to on site utilities.

MOBILE HOME PARK: A parcel or lot under one ownership that has been planned, improved, and approved for the placement of two (2) or more mobile homes intended for occupancy.

MUNICIPAL LANDFILL: A government facility intended for the disposal, dumping, and/or burial of garbage, sewage, trash, refuse, junk, discarded machinery, vehicles or vehicle parts, and other non-toxic waste material. A municipal landfill may also include recycling facilities.

NON-COMPLYING USE: The use of a building, structure or activity which does not conform to current use regulations for the zone in which it is situated, and which did not conform to all regulations at time of its establishment.

NON-CONFORMING STRUCTURES: A building or structure that does not conform to the existing zone (including size, setbacks, height, and architecture). Non-conforming structures can only be expanded if the expansion does not increase the building or structure's non-conformity.

NON-CONFORMING USE: The present use of a structure or land which does not conform to current regulations stated in this Title, but which conformed to all regulations at time of its establishment or which was in existence prior to the adoption of the current zoning regulations.

NURSERY/GREENHOUSE: An enterprise that conducts the retail or wholesale of plants grown on or off the premises, as well as related accessory equipment.

OFF-STREET PARKING: A location for the parking of vehicles off of private or public roads.

OFFICES: A room or suite of rooms used for conducting the affairs of a business, profession, service industry, or government.

OPEN SPACE: Land that is left undeveloped. Open space does not include open areas in private individual residential lots, public roads, private roads, parking spaces and drive aisles in parking lots, land covered by structures not designated for active civic recreational use, and outdoor storage areas.

OPEN SPACE, COMMON: Facilities, land and yard areas identified within a subdivision for the use and enjoyment of all the residents and maintained and operated by an organization of property owners.

OPEN SPACE, DEED RESTRICTED: Land which is deed restricted for public or private agricultural, scenic, or recreational purposes. This has reference to the bonus density set forth in subsection 13-5-12E2 of this Title.

ORDINANCE: Any legislative action, however denominated, of the City which has the force of law, including any amendment or repeal of any ordinance.

ORDINARY HIGH-WATER MARK: The mark along water bodies that is evident by examining the bed and banks where the presence and action of waters and riparian vegetation boundaries are common in ordinary years, as to mark upon the soil a distinct character from that of the abutting upland. Where the ordinary high-water mark cannot be found, the top of the channel bank shall be substituted.

OVERLAY ZONE: A zone which encompasses one or more underlying zones and imposes additional requirements or special regulations and allows special flexibility in planning the use, site layout and infrastructure design above that required by the underlying zone. These special requirements shall take precedence over the provisions of the underlying zone.

OWNER: Any person, group of persons, firm or firms, corporation or corporations, or any other legal entity having legal title to or sufficient proprietary interest in the land sought to be developed or subdivided under this Title.

PARCEL: A tract of land.

PARCEL BOUNDARY ADJUSTMENT: An adjustment to property boundaries as set forth in Utah Code Annotated section 17-27a-522, 17-27a-523, or 57-1-45.

PARCEL, CONFORMING: A parcel which meets the requirements of subsection 13-5-2A of this Title.

PARCEL, GRANDFATHERED: A parcel created prior to May 6, 1996. A grandfathered parcel is entitled to one dwelling unit of density.

PARCEL, NON-CONFORMING: A parcel not meeting the definition of a conforming parcel as set forth in subsection 13-5-2B of this Title.

PARCEL, REMAINDER: A parcel of land that is the remnant of a subdivision process and conforms to subsection 13-5-5B4 or C4 of this Title.

PARCEL, REMNANT: A parcel of land that does not conform to the minimum size requirements of the applicable zone and shall be included within the boundaries of a final subdivision plat in accordance with subsection 13-5-5B4 or C4 of this Title.

PARK: An area reserved for recreational, educational, or scenic purposes and may include small-scale recreational facilities such as playground equipment.

PERSON: A corporation, a partnership, a limited company, a limited liability company, and an incorporated association of persons such as a club.

PETROLEUM REFINERY: A facility involved in producing petroleum distillates from crude oil.

PLANNING COMMISSION: The Oakley City Planning Commission of Oakley City, Utah, as established in this Title.

PLAT: A map of lands being laid out and prepared in accordance with State and City requirements that, once approved, is recorded. See definitions of subdivision or subdivision plat, final.

PLAT NOTE: A statement on a recorded plat used to identify restrictions, setbacks, disclaimers, and other appropriate information.

POND, ARTIFICIAL: A small body of still water created by excavating and/or diking dry land and used exclusively for such purposes as stock watering, irrigation, settling basins, recreation purposes, aesthetic ornamentation or as a landscape/architectural feature.

POND, NATURAL: A small body of still water that is surrounded by land. Natural ponds may arise naturally in floodplains, wetlands, as part of a river system, or may be created specifically for habitat restoration.

PREFABRICATED HOME: A home constructed with steel frame may be considered a mobile home for the purpose of this Title.

PROFESSIONAL OFFICES: A building or space used by persons such as accountants, architects, engineers, artists, dentists, designers, lawyers, physicians, realtors, and others by virtue of their training and/or license, are qualified to perform services of a professional nature.

PUBLIC FACILITY: A use, facility, or building owned or managed by the City, or a quasi-public entity, that provides a function, activity, or service for public benefit.

PUBLIC HEALTH OFFICER: The Director of the Summit County Health Department or his/her designee.

PUBLIC HEARING: A meeting noticed and advertised in advance and open to the public, in which members of the public have an opportunity to participate prior to formal action by the City.

PUBLIC IMPROVEMENT: Any drainage ditch or system, roadway, parkway, sidewalk, pedestrian way, tree, lawn, off street parking area, lot improvement, water or sewer system, or other facility for which the City may ultimately assume the responsibility for maintenance and operation, or which may affect an improvement for which City responsibility is established. All such improvements shall be properly guaranteed and installed pursuant to City codes, specifications and regulations.

RAILROAD INDUSTRIAL USES: Industrial uses and activities associated with the railroad including shipping and distribution of agricultural, timber products, minerals and other materials.

RECORD OF SURVEY: A survey consisting of a metes and bounds property description which includes an appropriate narrative as to its purposes and is certified by a registered land surveyor.

RECREATION, COMMERCIAL/PUBLIC (MOTORIZED): The use of land for commercial and promotional outdoor recreational activities and recreational activities made available to members of the public (not including private uses but including private and public facilities made available on a membership-type basis), including facilities such as those used for automobile tracks and race courses, motocross and motorcycle tracks and race courses, snowmobile tracks

and snowmobile race courses, snowmobile tours, all-terrain vehicle tracks and race courses, all-terrain vehicle tours, and other similar activities as determined by the City Planner. The use of land for motorized recreation events and activities which generate traffic, parking, and/or staging beyond those typically associated with private activities, or which includes activities in violation of the Oakley City noise ordinance shall be deemed to be subject to this definition.

RECREATION, COMMERCIAL/PUBLIC (NON-MOTORIZED): The use of land for commercial and promotional outdoor recreational activities and recreational activities made available to members of the public (not including private uses but including private and public facilities made available on a membership-type basis) including facilities such as: a) neighborhood/community playgrounds, campgrounds, golf courses, tennis courts, and community pools, and b) facilities associated with outdoor recreational activities such as mountain biking, horseback riding, skiing, snowshoeing, dog sledding, and other similar activities as determined by the City Planner.

RECYCLING FACILITY, CLASS I: A building, structure or designated area with recycling containers totaling up to sixty (60) cubic yards of capacity per lot or residential/business development used for the collection and temporary storage of recyclable materials such as glass, plastic, aluminum, mixed metals, fiber, and cardboard. These facilities are generally, limited to the use by a specific residential neighborhood, civic facility, or commercial business park.

RECYCLING FACILITY, CLASS II: A building, structure or designated area with recycling containers totaling over sixty (60) cubic yards of capacity per lot or residential/business development used for the collection, processing, composting, and temporary storage or transfer of recyclable materials such as glass, plastic, aluminum, mixed metals, fiber, and cardboard that may be for the use of the entire community.

REGISTERED ENGINEER: An engineer properly licensed and registered in the State.

REGISTERED LAND SURVEYOR: A land surveyor properly licensed and registered in the State of Utah.

REHEARSAL OR TEACHING STUDIO FOR CREATIVE, PERFORMING AND/OR MARTIAL ARTS WITH NO PUBLIC PERFORMANCES: A recreation facility operated as a business on private or public property and open to the public for a fee, such as a dance studio, gymnastics studio, music studio, or substantially similar use, and support facilities customarily associated with the development.

RESERVOIR: An artificial lake or pond used as a source of water supply, for recreation or aesthetic purposes.

RESIDENTIAL CARE FACILITY: A 24-hour group living environment for four (4) or more individuals that offers room and board and specialized care and treatment for the elderly or persons with disabilities.

RESTAURANT: A commercial establishment for preparation, consumption and sale of food and beverages on the premises or for take away consumption.

RETAIL COMMERCIAL ESTABLISHMENTS: An establishment primarily engaged in the sale or rental of commonly used goods and merchandise for personal or household use serving the immediate or surrounding neighborhood. Typical uses include apparel stores, drug stores, grocery stores, bookstores, auto parts stores, and other similar uses.

REZONE: A legislative enactment which changes the zone of a conforming or non-conforming parcel(s).

RIDGELINE: An elongated crest at the mountain's apex or an individual mountain summit or less distinct high points on hillsides/steep slopes.

RIDGELINE DEVELOPMENT: Development on the crest of a hill which has the potential to create a silhouette by extending into the skyline or other substantially adverse impact when viewed from a public road.

RIDING ARENA: A building or structure, the use of which is to board horses and/or conduct recreational activities and events, provide riding lessons, instruction or training and showing of horses or other domesticated animals.

RIDING ARENA, COMMERCIAL: A commercial business for the riding and/or training, boarding, breeding, or rental of horses.

RIGHT-OF-WAY: A strip of land occupied or intended to be occupied by a street, crosswalk, railroad, road, irrigation ditch, electric transmission line, oil or gas pipeline, water main, sanitary or storm sewer main, shade trees, or for another special use. The usage of the term right-of-way for land platting purposes shall mean every right-of-way hereafter established and shown on a final subdivision plat to be separate and distinct from the lots or parcels adjoining such right-of-way and not included within the dimensions or areas of such lots or parcels. Rights-of-way intended for streets, crosswalks, water mains, sanitary sewers, storm drains, shade trees, or any other use involving maintenance by a public agency shall be dedicated to public use by the maker of the plat on which such right-of-way is established.

RIVER: A natural stream of water of fairly large size flowing in a definite course or channel or series of diverging and converging channels. A river is fed along its course by converging tributaries.

ROAD, DEAD END: A local road, private road or public road with only one (1) vehicular traffic outlet.

ROAD, LOCAL: A roadway intended to provide access to and from a local subdivision or a cluster of single-family attached and/or multi-family dwelling units. It provides access to abutting properties.

ROAD, PRIVATE: A private vehicular way consisting of a right-of-way or easement and related improvements for the purpose of vehicular and pedestrian transportation.

ROAD, PUBLIC: Land intended for vehicular travel and transport by the public consisting of a right-of-way or easement and related improvements for the purpose of vehicular transportation. A public road is a Class A, B, C, or D highway, as set forth in State law.

SAWMILL: A facility where logs or partially processed cants are sawn, split, shaved, stripped, chipped or otherwise processed to produce wood products, not including the processing of timber for use on the same lot or parcel by the owner of that lot or parcel. Incidental sales of these products and associated products may occur on site.

SCREENING: A visual barrier.

SERVICE PROVIDER: A public or private entity providing public facilities or private utility services to a proposed use or development.

SETBACK: The distance between a lot line to the foundation of a structure or the finished exterior surface of a structure, whichever is closer to the property line, excluding uncovered stairs, roof eaves that do not extend into the setback more than three feet (3'), and decks that do not exceed one foot (1') in height, measured from the top of the deck to the grade directly below.

SETBACK, FRONT: The setback required for each side of a lot or parcel bordering a public road, private road or other right-of-way.

SHOOTING RANGE, INDOOR: A facility designed or used for archery and/or the discharging of firearms for the purposes of target practice or temporary competitions, which is completely enclosed within a building or structure.

SHOOTING RANGE, OUTDOOR: The use of land for archery and/or the discharging of firearms for the purposes of target practice, skeet and trap shooting, mock war games, or temporary competitions, which is not completely enclosed within a building or structure.

SIGN, FREESTANDING: A sign supported by poles, uprights or braces extending from the ground or from an object on the ground; provided that no part of the sign is attached to any part of a building.

SITE PLAN, FINAL: A document or map that may be required by Oakley City during a preliminary review preceding the issuance of a development permit to demonstrate that an owner's or developer's proposed development activity meets a land use requirement. Final Site Plans shall conform to the requirements of section 13-5-6 of this Title.

SKETCH PLAN: A sketch preparatory to the preparation of a final subdivision plat or Final Site Plan.

SPECIAL EXCEPTION: A legislative exemption from the requirements of the Code.

STAFF: Employees of the Oakley City Planning Department or Oakley City.

STATE: The State of Utah.

STREAM, EPHEMERAL: Ephemeral streams or spring flows are channels that do not flow on a regular annual basis but flow only during major storm events. Their channels lack continuous bed and bank features or appear discontinuous over their reach. If they are not connected to a water of the U.S., they are not afforded any protection under this Code.

STREAM, INTERMITTENT: The natural channel for water, having a continuous bed and bank, and which flows annually but not year-round.

STREAM, PERENNIAL: The natural channel for water having a continuous bed and bank, and which normally flows year-round.

STREET: See definitions of "private road", "local road", "public road".

STRUCTURE: Anything constructed, the use of which requires a fixed location on or in the ground and which projects above the general surface of the ground, or attached to something having a fixed location upon the ground, excluding poles, lines, cables, fences, on grade decks, driveways, and other similar features. All structures must maintain the minimum setbacks for the zone in which they are located, both above and below the ground. This definition includes "building".

SUBDIVISION: Any land that is divided, re-subdivided, or proposed to be divided into two (2) or more lots, parcels, sites, units, plots, 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. Subdivision includes the division or development of land whether by deed, metes and bounds description, devise and testacy, map, plat, or other recorded instrument. Subdivision includes divisions of land for residential and nonresidential uses, including land used or to be used for commercial, agricultural, and industrial purposes. Subdivision does not include a bone fide division or partition of agricultural land for

agricultural purposes or activity, nor does it include any of the specific circumstances designated in Utah Code Annotated section 17-27a-103(62)(c) and (d), as amended.

SUBDIVISION, APPLICATION FEE: The fee pertaining to subdivision approval as set forth in the City's annual master fee resolution.

SUBDIVISION PLAT, AMENDMENT: A change in a map, plan, or plat of an approved or recorded final subdivision plat if such change affects any street layout in such map, plan or plat, or any area reserved thereon for public use, or if it affects any map, plan or plat legally recorded prior to the adoption of any regulations controlling subdivisions. Also referred to as a re-subdivision.

SUBDIVISION PLAT, FINAL: The map, plan or plat of a subdivision and any accompanying material, as described in this Title, that is intended to be recorded in the Office of the County Recorder.

SUBDIVISION PLAT, RE-SUBDIVISION: The process of subdividing within a recorded subdivision.

SURVEYOR'S CERTIFICATE: A certification by a registered land surveyor which appears on a final subdivision plat, record of survey, or final site plan.

TELECOMMUNICATIONS EQUIPMENT: Equipment used in a telecommunications facility other than the antenna, antenna support structure or equipment enclosures. Telecommunications equipment may include, but is not limited to, electronic equipment necessary for processing wireless communication signals, air conditioning, backup power supplies and emergency generators.

TELECOMMUNICATIONS EQUIPMENT ENCLOSURE: A structure, shelter, cabinet or vault used to house and protect telecommunications equipment.

TELECOMMUNICATIONS FACILITY: An unmanned structure which consists of antennas, antenna support structures, telecommunications equipment and equipment enclosures, as defined herein, that transmit and/or receive voice and/or data communications through radio signals such as, but not limited to, cellular or "PCS" (personal communications system) communications and paging systems, whether commercially or privately operated.

TELECOMMUNICATIONS, NONSTEALTH DESIGN: Any antenna or equipment enclosures not camouflaged in a manner to blend with surrounding land uses, features or architecture. Non-stealth design does not conceal the intended use of the telecommunications facility. A monopole with equipment enclosures aboveground and unscreened are non-stealth.

TELECOMMUNICATIONS, STEALTH DESIGN: Antennas, antenna support structures and telecommunication equipment enclosures camouflaged or designed to blend with surrounding land uses, features and architecture, thus minimizing the aesthetic impact on adjacent uses,

thereby concealing the intended use and appearance of the telecommunications facility, such as by heavy landscaping, or installing telecommunications equipment within existing buildings, behind vegetative screening, or placing equipment enclosures underground, thus preserving or striving to maintain the rural aesthetics within Oakley City. A flush wall mount antenna that is painted the same color as the background and located on a building where the telecommunications equipment is located inside the building is an example of stealth design. Other examples of stealth design include, but are not limited to, roof mount antennas, utility pole antennas, light or flag poles, artificial rocks or trees.

TEMPORARY STRUCTURE OR BUILDING: Buildings and structures that meet the definition of temporary under the Building Code.

TITLE: Title 13 of the Oakley City Code.

UNDEVELOPABLE LANDS: Those lands which consist of steep slopes, wetlands or critical lands as set forth in section 13-2-4 of this Title.

UNINCORPORATED: Not part of a city or municipality.

USE: The activity that occurs on the land and/or within a structure.

USE, ACCESSORY: A use conducted on the same lot or parcel as the principal use or structure with which it is associated; and is a use which is clearly incidental to and is customarily found in connection with such principal use and is either in the same ownership as such principal use or is maintained and operated on the same lot or parcel substantially for the benefit or convenience of the owners, occupants, employees, customers or visitors of the principal use. No accessory use shall be allowed on any lot or parcel unless the principal use is being actively utilized.

USE, ALLOWED: Those uses which are permitted by right within a zone, as set forth in section 13-3-16, "Chart Of Allowed And Permitted Uses", of this Title.

USE, CONDITIONAL: Those uses which are conditionally permitted within a zone, as set forth in section 13-3-16, "Chart Of Allowed And Permitted Uses", of this Title.

USE, LOW IMPACT: A low intensity use as identified in section 13-3-16, "Chart Of Allowed And Permitted Uses", of this Title.

USE, PERMITTED: See definition of use, allowed.

USE, PRINCIPAL: A use that is an allowed use, a conditional use, or a low impact use. Does not include an accessory use or a temporary use.

USE, PROHIBITED: Any use that is not an allowed use, conditional use, temporary use, low impact use, or accessory use. A prohibited use cannot be permitted within the zone.

USE, TEMPORARY: A limited duration activity.

UTILITY ANCILLARY SUPPORT BUILDING: A building which is subordinate to a utility tower, necessary for the normal function of the utility tower and located on the same site as the utility tower.

UTILITY LINE, UNDERGROUND: Wires, cables, and pipes placed in the ground to transmit materials, energy services, or communication services.

UTILITY STRUCTURE AND RELATED FACILITIES: May include a building or structure that is constructed so as to provide assistance, benefit and aid, directly or indirectly, to a service such as electrical power, light, and forms of communication including: telephone, telegraph, fiber optic signals, cellular service for both analog and digital signals, and radio and television signals to name a few. This list is not intended to be all inclusive.

UTILITY TOWER: A structure typically higher relative to surrounding structures that provides a service in the form of electrical power, light, or forms of communication, limited to: telephone, telegraph and fiber optic signals. Utility towers do not include towers used exclusively for wireless communications.

VARIANCE, SPECIAL CIRCUMSTANCES: A circumstance which complies with subsection 13-4-10E of this Title.

VARIANCE, UNREASONABLE HARDSHIP: A hardship which complies with subsection 13-4-10D of this Title.

VARIANCE, USE: A variance from the use or density of a zone.

VARIANCE, ZONING: A waiver of specific zone regulations of this Title granted by the Board of Adjustment in accordance with the provisions set forth in this Title and State law for the purpose of assuring that no lot or parcel, because of special circumstances applicable to it, shall be deprived of privileges commonly enjoyed by similar lots or parcels.

VESTED RIGHT: A legal entitlement to a use or structure.

VETERINARIAN CLINIC: A licensed medical establishment for the care and treatment of domestic animals.

WAREHOUSING AND STORAGE: An establishment offering wholesaling, storage, and handling of materials and equipment. May include storage warehouses, wholesale distributors, self-storage facilities, and moving and storage firms.

WATER OR WASTEWATER TREATMENT PLANT: The facility or group of units used for the treatment of industrial or domestic wastewater for sewer systems and for the reduction and handling of solids and gases removed from such wastes, in preparation for the discharge of treated waters into natural waters.

WATER RIGHT: The legal right to use water.

WATER, WET: Actual ability to obtain physical water from a source, such as through a water system or an operational well.

WETLAND: Those areas that are inundated or saturated by surface or ground water at a frequency and duration sufficient to support, and that under normal circumstances do support, a prevalence of vegetation typically adapted for life in saturated soil conditions (hydric soils). Wetlands generally include swamps, marshes, bogs, and similar areas. An area of land can only be determined to be wetlands through designation by the U.S. Army Corps of Engineers.

ZONE: A land use area designated on the Zone District Map.

ZONE DISTRICT MAP: The official Zone District Map for Oakley City, adopted in accordance with State law and this Title.

APPENDIX B MASTER PLANNED DEVELOPMENT OPEN SPACE AND BONUS DENSITY CALCULATIONS

To further the goals and objectives of the Oakley City General Plan, for any MPD proposal, a bonus density above the base density for the appropriate zone may be awarded through a mutually acceptable development agreement and by utilizing one or more of the following incentives. It should be noted that bonus density is not an entitlement or vested right and the calculations listed herein only provide a maximum bonus. This maximum bonus density or a reduction thereof are negotiated in the final development agreement for the MPD based upon the degree in which the City realizes a real and sustainable public benefit.

A. Deed Restricted Open Space:

Deed restricted open space land consists of land in a subdivision or MPD that is left undeveloped and is deed restricted for public or private agricultural, scenic, open greenspace, or recreational purposes. Deed restricted open space does not include open areas in private individual residential lots, public roads, private road, parking spaces and drive aisles in parking lots, land covered by structures not designated for active civic recreational use, and outdoor storage areas.

Deed restricted open space is not a requirement for the development of base density, except in those instances where due to the number of lots an MPD is required.

Deed restricted open space is a requirement for the development of bonus density.

Bonus Density Calculation:

If the number of lots in a proposed subdivision within an MPD is greater than the base density, then so long as: a) the number and configuration of the lots complies with section 13-5-12 of this Title, and b) the greater of either the deed restricted open space required by this appendix or the ten percent (10%) open space minimum requirement of subsection 13-5-12E6 of this Title is set aside, the applicant shall be entitled to such increased number of lots in excess of base density.

The amount of required deed restricted open space is calculated using the following formula:

$$OS = (Z \times L) - (0.7 \times A)$$

Where:

OS - Required deed restricted open space, expressed in acres.

A - Area of parcel(s) being subdivided, expressed in acres.

Z - Zone factor which is the land area required to support a single dwelling unit or lot at base density. Expressed in acres per dwelling unit or lot.

L - Number of dwelling units or lots being proposed.

With the adopted zone districts:

AR-5 Z=5

AR-10 Z=10

AR-20 Z=20

AR-40 Z=40

RR-2 Z=2

RR-1 Z=1

For all CR zones, the Z factor is equal to the established density in dwelling units per acre converted to acres per dwelling unit.

Max number of dwelling units or lots at base density, $L_b = A/Z$.

When the number of dwelling units or lots proposed exceed the base density ($L > L_b$) then deed restricted open space is required.

NOTE: No more than fifty percent (50%) of the required deed restricted open space can consist of undevelopable lands.

Example: For a 40-acre parcel in AR-5 Zone, Z=5 acres per dwelling unit and therefor the base density, $L_b=40/5$ or 8 dwelling units.

If 11 dwelling units are proposed to be developed, then deed restricted open space is required in the amount:

$$OS = (Z \times L) - (0.7 \times A)$$

$$OS = (5 \times 11) - (0.7 \times 40)$$

27 acres of deed restricted open space.

The developable area is thus 40 - 27 or 13 acres for 11 units plus any associated infrastructure.

In this example, no more than 13.5 acres of required deed restricted open space can consist of undevelopable lands (wetlands, steep slopes etc.).

B. Weber River Protection Bonus Density Calculation: For development projects which border or cross the Weber River, an increased density bonus is offered if the dedicated open space encompasses the river corridor in a width which the City determines will provide a realistic buffer of protection to the river (i.e. very limited disturbance, roadless areas, grazing restrictions, etc.) For larger project parcels which have adequate land, the minimum deed restricted protected open space setback shall be 300 feet from the high-water level mark of one or both sides. This section is used as an alternative to section A above and not in addition.

Utilizing the same criteria as specified in section A above, this slight formula adjustment allows for more density within a larger developable parcel acreage.

$$OS = (Z \times L) - (0.8 \times A)$$

NOTE: In this scenario, no more than fifty percent (50%) of the required deed restricted open space can consist of undevelopable lands outside of the river protection corridor which is exempt from this requirement.

Example: For a 40-acre parcel in AR-5 Zone, $Z=5$ acres per dwelling unit and therefor the base density, $L_b=40/5$ or 8 dwelling units. 2 acres will be used to provide the river protection open space, leaving 38 acres for use in the development parcel and the value of "A" in the calculations.

If 11 dwelling units are proposed to be developed, then deed restricted open space is required in the amount:

$$OS = (Z \times L) - (0.8 \times A)$$

$$OS = (5 \times 11) - (0.8 \times 38)$$

24.6 acres of deed restricted open space.

The developable area is thus $38 - 24.6$ or 13.4 acres for 11 units plus any associated infrastructure.

In this example, no more than 12.3 acres of required deed restricted open space in the 38-acre development area can consist of undevelopable lands (wetlands, steep slopes etc.). The 2-acre protected area does not count against this limitation.

C. Public Non-Motorized Trails Bonus Density Calculation: In addition to section A or B above, a bonus density may be achieved through the dedication of a public non-motorized trail access easement. This option is only available if the trail can become

viable (i.e., completed through the property and constructed in a sustainable manner) and is part of an overall City trail plan. In this scenario, a maximum bonus of two lots or dwelling units may be granted for every 300 feet of trail easement across a minimum of a five-acre parcel. A maximum bonus of one lot or dwelling unit may be granted for every 300 feet of trail easement on a minimum of a two-acre parcel. Trail construction, fencing, and upkeep are to be negotiated through the MPD joint development agreement. The type of trail surface and width is dependent upon the City trails plan or immediate transportation objective.

- D. **Water Conserving Landscape Designs and Systems.** In addition to bonuses allowed above developments and subdivisions which construct and implement a sustainable secondary irrigation system for all landscaping and irrigated open space, or as an alternative provide one hundred percent (100%) xeriscaping on non-secondary systems lots, may be granted a special density bonus. Secondary systems must be managed and kept in good and proper working condition by a private entity such as the HOA or contract with an outside entity or the City for the same at homeowner's expense. Up to one quarter additional lot bonus density may be awarded per lot which meets these standards.

- E. **Other Density.** As per a joint development agreement, some development density may be awarded for the contribution to the City of critical public infrastructure and related property beyond the needs of the development. This type of density bonus is critically reviewed by the Planning Staff, the City Engineer, Planning Commission, and City Council. This is not a common source of density, if even allowed, and must present a clear, viable, and sustainable public benefit to the City.

APPENDIX C ADULT/SEX ORIENTED FACILITIES AND BUSINESSES

- A. **Findings:** The City Council finds that the appropriate location for adult/sex oriented facilities and businesses within the City is within concentrated areas of the City where it can be better regulated by City officials and law enforcement, and outside of residential or recreational (park) areas where the quality of life will not be as greatly impacted. Within the City, adult/sex oriented facilities and businesses shall be allowed as a conditional use within the _____ Zone, as specified herein, and shall conform to the criteria mandated under this subsection and Title ____, chapter ____ of the Oakley City Code, governing such activities. This title allows adult/sex oriented facilities and businesses as a conditional use in the _____ Zone and as a prohibited use in all other zone districts.
- B. **Conditional Use Permit Required:** Adult/sex oriented facilities and businesses are conditional uses in the _____ zones and must be approved in accordance with the provisions of this subsection and title _____, chapter ____ of this Oakley City Code. In all cases, a design and site plan diagramming the premises shall be provided as part of the application process. A public hearing shall be required in all cases prior to the issuance of a conditional use permit. The procedures for issuance of conditional use permits, as found in the appropriate title, shall be followed in all cases. A final decision by the City as to the issuance of a conditional use permit for an adult/sex oriented facility or business shall be made within ninety (90) days of receipt of a completed application by the City Planning Development, unless a delay is requested or agreed upon by the applicant or where the applicant is causing the delay by not providing needed information.
- C. **Nonconforming Uses:**
1. **Right to Continue:** Adult/sex oriented facilities and businesses already existing within the City shall have the right to continue in their businesses without a conditional use permit. However, all such businesses shall be subject to compliance with the criteria, mandatory general conditions, and mandatory design of premises conditions, as provided in this subsection and title _____, chapter ____ of the Oakley City Code, within ninety (90) days of the adoption of the ordinance codified herein. A time extension may be granted where the City Council determines, on a case by case basis, that a hardship exists for a business owner/operator.
 2. **Change or Extension/Enlargement of Use:** Any nonconforming use herein may not be materially changed, nor extended/enlarged unless it comes into compliance with the then existing Development Code.
 3. **Cessation of Use:** If active and continuous operations are not carried on in a nonconforming use during a continuous period of one (1) year, the building or land where such nonconforming use previously existed shall thereafter be

occupied and used only for a conforming use. Intent to resume active operations shall not affect the foregoing.

- D. **Right of Appeal:** All appeals from denials by the Planning Commission of conditional use permit applications shall be as provided in this Title, and the Utah Code Annotated, section 17-27a-701, to the District Court within thirty (30) days of the Planning Commission's final action.

- E. **Penalty:** Violations of any of the provisions of this appendix shall subject the offender to the penalties as provided in this title, other applicable State law, or where no penalty is otherwise provided, a fine of not more than seven hundred fifty dollars (\$750.00) and a ninety (90) day jail sentence.