

**Title 9**

**HEALTH AND SAFETY**

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## Chapter 9.05

### NUISANCES AND ABATEMENT

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#### 9.05.010 Purpose.

The purpose of this chapter to provide a means for the city and individuals to identify nuisances within the city and to provide a means for correcting or abating the nuisances. The city needs the ability to abate nuisances in order to protect the health and safety of the public, to foster neighborhood stability, to preserve the appearance, character and beauty of neighborhoods, to encourage community pride, to preserve the value of property, and to protect the general welfare of the city and its citizens, businesses and visitors. This chapter provides for progressive enforcement measures to abate nuisances; the most aggressive forms of enforcement are generally reserved for the most recalcitrant violators of this chapter.

#### 9.05.020 Definitions.

For the purpose of this chapter, the following terms shall have the meaning herein prescribed:

A. “*Abate*” means to repair, replace, remove, destroy, correct or otherwise remedy a condition which constitutes a nuisance by such means, in such a manner and to such an extent as the city designated representative

determines is necessary in the interest of the general health, safety and welfare of the community.

B. “*Completion date*” means the date by which the responsible person must abate a nuisance. The completion date is originally set by the city designated representative in the voluntary correction agreement or in a notice from the city. The completion date may be modified by the hearing officer.

C. “*Emergency*” means a situation which, in the opinion of the city designated representative, requires immediate action to prevent or eliminate an immediate threat to the health or safety of a person or property.

D. “*Hearing officer*” means the person(s) designated to hear appeals pursuant to this chapter. The hearing officer shall be the mayor or his designee. The designee need not be a city employee.

E. “*Inoperable vehicle*” means a vehicle not currently registered or licensed in this state or another state, or a vehicle that is or has any of the following conditions: dismantled, broken windows, flat tires, no tires, missing doors, missing windows, missing fenders, missing hood, missing trunk, will not start, or is in a condition that would result in the vehicle’s failure to pass state safety inspection pursuant to the Motor Vehicle Act, UTAH CODE ANN. § 41-1a-101, *et seq.*

F. “*Owner*” means any person who, alone or with others, has title or interest in any building or premises, with or without accompanying actual possession thereof. For the purpose of giving notice, the term “*owner*” also includes any person in physical possession.

G. “*Premises*” means a plot of ground, whether occupied or not.

H. “*Property*” means a building or structure, or the premises on which the building or structure is located, or undeveloped land.

I. “*Public place*” means an area generally visible to public view and includes

alleys, bridges, driveways, parking lots, parks, plazas, sidewalks, streets, and buildings open to the general public, including those that serve food or drink or provide entertainment, and the doorways and entrances to buildings or dwellings and the grounds enclosing them.

J. “*Responsible person*” means the person(s) responsible for correcting or abating a nuisance pursuant to this chapter. The responsible person includes the property owner and any person who causes or permits a nuisance to occur or remain upon property in the city, and includes but is not limited to the owner(s), lessor(s), lessee(s), or other person(s) entitled to control, use and/or occupy property where a nuisance occurs. In cases where there are more than one responsible persons, the city may proceed against one, some or all of them.

K. “*Vehicle*” includes, but is not limited to, trailers, travel trailers, semi-trailers, road tractor, recreational vehicle, pick-up truck, motorboat, manufactured home, motor vehicle, motorcycle, off-highway vehicle, farm truck, farm tractor, commercial vehicle, camper, all-terrain type I and type II vehicles, off-highway vehicle, reconstructed vehicle, sailboat, special interest vehicle, specially constructed vehicle, all as defined in the Motor Vehicle Act, UTAH CODE ANN. § 41-1a-101, *et seq.*

#### **9.05.030 Nuisance--Definition.**

A. This section defines “nuisance” by providing five general definitions of what constitutes a nuisance (subsection B), and then providing specific examples of situations, conduct or activities that constitute nuisances (subsection C). The purpose of the general definitions is to allow the city to classify an offending situation, conduct or activity as a nuisance, even though the situation, conduct or activity may not be listed as a nuisance in the specific examples. The first three general definitions are taken directly from Utah state law. The purpose of listing the specific

examples is to identify some of the specific situations, conduct and activities that the city intends to abate as nuisances.

B. *General Definitions of Nuisance.* Any activity that meets any one or more of the five definitions set forth below shall constitute a “nuisance” if it occurs within the city:

1. *Nuisance as Defined in Utah Code Ann. § 78-38-1(1).* Anything which is injurious to health, indecent, offensive to the senses, or an obstruction to the free use of property, so as to interfere with the comfortable enjoyment of life or property.

2. *Nuisance as Defined in Utah Code Ann. § 76-10-801.* Any item, thing, manner, or condition whatsoever that it is dangerous to human life or health or renders soil, air, water, or food impure or unwholesome.

3. *Nuisance as Defined in Utah Code Ann. § 76-10-803.*

(a) Unlawfully doing any act or omitting to perform any duty, which act or omission:

(i) annoys, injures, or endangers the comfort, repose, health, or safety of three or more persons, at separate and distinct addresses in the effected neighborhood of the city;

(ii) offends public decency;

(iii) unlawfully interferes with, obstructs, or tends to obstruct, or renders dangerous for passage, any lake, stream, canal, or basin, or any public park, square, street, or highway; or

(iv) in any way renders three or more persons, at separate and distinct addresses in the effected neighborhood of the city, insecure in life or the use of property.

(b) An act which affects three or more persons, at three separate and distinct addresses in the effected neighborhood of the city, in any of the ways specified in this subsection is still a nuisance regardless of the extent to which the annoyance or damage inflicted on individuals is unequal.

4. *Nuisance.* A condition which:

(a) wrongfully annoys, injures, or endangers the comfort, repose, health or safety of others; or

(b) unlawfully interferes with, obstructs or tends to obstruct, or render dangerous for passage, any public park, square, street or highway, or any other public place; or

(c) in any way renders other persons insecure in life, or in the use of property, and which affects the rights of an entire community or neighborhood, although the extent of the damage may be unequal.

5. Specific Nuisances Listed in Subsection C. Anything specifically listed as a nuisance in subsection (C), below.

*C. Nuisances Enumerated.* Every situation, conduct or activity listed below constitutes a nuisance and may be abated pursuant to this chapter. The listed examples are not exhaustive; a situation, conduct or activity not listed below, but coming within one of the general definitions of nuisance listed above, shall also constitute a nuisance. The first six listed nuisances are also listed as nuisances pursuant to UTAH CODE ANN. § 78-38-9:

1. Drug Houses. Every building or premises where the unlawful sale, manufacture, service, storage, distribution, dispensing, or acquisition of any controlled substance, precursor, or analog specified in Title 57, Chapter 37 (Controlled Substances Act), UTAH CODE ANN., occurs.

2. Gambling. Every building or premises where gambling is permitted to be played, conducted, or dealt upon as prohibited in Title 76, Chapter 10, Part 11, UTAH CODE ANN. (Gambling), which creates the conditions of a nuisance as defined in UTAH CODE ANN. § 78-38-1(2)(b).

3. Gangs. Every building or premises wherein criminal activity is committed in concert with two or more persons as provided in UTAH CODE ANN. § 76-3-203.1.

4. Party Houses. Every building or premises where parties occur frequently which

create the conditions of a nuisance as defined in UTAH CODE ANN. § 78-38-1(1).

5. Prostitution. Every building or premises where prostitution or the promotion of prostitution is regularly carried on by one or more persons as provided in Title 76, Chapter 10, Part 13 (Prostitution), UTAH CODE ANN.

6. Weapons. Every building or premises where a violation of Title 76, Chapter 10, Part 5 (Weapons), UTAH CODE ANN., occurs on the premises.

7. Unsafe Condition. A condition that unreasonably or unlawfully affects the health or safety of one or more persons.

8. Fire Hazard. A fire hazard.

9. Noxious Emanations. Emanation of noxious or unreasonable odors, fumes, gas, smoke, soot or cinders.

10. Noxious Weeds. Noxious weeds located on vacant lots or other property, along public sidewalks or the outer edge of any public street, or weeds in any other location which constitute a fire hazard.

11. Refuse. Keeping or storing of any refuse or waste matter which interferes with the reasonable enjoyment of nearby property.

12. Stagnant Water. Polluted or stagnant water which constitutes an unhealthy or unsafe condition.

13. Improper Accumulations. Accumulation of soil, litter, debris, plant trimmings, or trash, visible from the street or an adjoining property.

14. Accumulation of Junk. Accumulation of used or damaged lumber; junk; scrap metal; machinery or machinery parts; salvage materials; abandoned, discarded or unused furniture; stoves, sinks, toilets, boxes, barrels, bottles, cans, containers, ice boxes, refrigerators, cabinets, or other fixtures or equipment stored so as to be visible from a public street, alley, or adjoining property. However, nothing herein shall preclude the placement of stacked firewood for personal non-commercial use on the premises.

15. Attractive Nuisances. Any attractive nuisance dangerous to children and other persons including, but not limited to, abandoned, broken, or neglected household appliances, equipment and machinery, abandoned foundations or excavations, or improperly maintained or secured pools.

16. Vegetation. Dead, decayed, diseased, or hazardous trees, weeds, hedges, and overgrown or uncultivated vegetation which is in a hazardous condition, is an obstruction to pedestrian or vehicular traffic, or which is likely to harbor rats, vermin or other pests.

17. Dust. Any Premises which causes excessive dust due to construction, lack of landscaping, non-maintenance or other cause.

18. Improper Storage. The keeping, storing, depositing or accumulating on the premises or in the public right-of-way for an unreasonable period of time dirt, sand, gravel, concrete, or other similar materials, or maintenance of such material on public rights-of-way. Material stored as part of an active construction project shall not be considered a nuisance.

19. Garbage Can. The leaving of any garbage can or refuse container in the street, other than on collection day, or for more than 12 hours before or after the collection day or the use of worn-out, rusted or filthy garbage containers.

20. Construction Equipment. Construction equipment or machinery of any type or description parked or stored on property when it is readily visible from a public street, alley or adjoining property, except while excavation, construction or demolition operations covered by an active building permit are in progress on the subject property or an adjoining property, or where the property is zoned for the storage of construction equipment and/or machinery.

21. Improper Sign. Improper maintenance of a sign; or signs which advertise a business that is no longer extant on the property.

22. Hazardous Conditions. Any wall, sign, fence, gate, hedge, or structure maintained in such condition of deterioration or disrepair as to constitute a hazard to persons or property.

23. Graffiti. Graffiti which remains on the exterior of any building, fence, sign, or other structure and is visible from a public street.

24. Improper Maintenance. Maintenance of buildings and/or structures in such condition as to be deemed defective or in a condition of deterioration or disrepair including, but not limited to:

(a) Any building or structure which is unfit for human habitation, or which is an unreasonable hazard to the health of people residing in the vicinity thereof, or which presents an unreasonable fire hazard in the vicinity where it is located;

(b) Any building or structure set up, erected, constructed, altered, enlarged, converted, moved or maintained contrary to the provisions of city ordinances, or any use of land, buildings or premises in violation of city ordinances;

(c) Buildings which are abandoned, partially destroyed, or left in an unreasonable state of partial construction for a period of six months or longer. An “*unreasonable state of partial construction*” means any unfinished building or structure where the appearance or condition of the building or structure does not meet the requirements for finished buildings or structures as required by applicable city ordinances or building codes. The building or structure shall not be considered to be a nuisance if it is under active construction;

(d) Buildings having dry rot, warping, termite infestation, decay, excessive cracking, peeling, or chalking, as to render the building unsightly and/or in a state of disrepair;

(e) Buildings with missing doors and/or windows containing broken glass and/or no glass at all where the window is of a type which normally contains glass;

(f) Building exteriors, walls, fences, gates, driveways, sidewalks, walkways, signs or ornamentation, or alleys maintained in such condition as to render them unsightly and/or in a state of disrepair; or

(g) Buildings or conditions that violate any building, electrical, plumbing, fire, housing, or other code adopted by the city.

25. City Code Nuisances. Any violation of the city's code of ordinances that expressly declares a specific situation, conduct or activity to be a nuisance.

26. Alcohol. Every property or premises not licensed under applicable state law or city ordinance where any intoxicating liquors or alcohol are kept for unlawful use, sale or distribution.

27. Inappropriate Conduct. Every property or premises where there exists an environment which causes, encourages or allows individuals or groups of individuals to commit one or more of the following acts on the property, premises or adjacent public place, including but not limited to:

(a) Illegally consuming intoxicating liquor or alcohol, and/or drugs;

(b) Publicly urinating or defecating;

(c) By physical action, intentionally causing or attempting to cause another person to reasonably fear imminent bodily injury or the commission of a criminal act upon their person or upon property in their immediate possession;

(d) Engaging in acts of violence, including fighting amongst themselves;

(e) Discharging a firearm or explosive in violation of city ordinance or state law;

(f) Creating unreasonable noise which disturbs others;

(g) Intentionally obstructing pedestrian or vehicular traffic; or

(h) Soliciting acts of prostitution.

28. Dangerous Conditions. Any fence, wall, shed, deck, house, garage, building, structure or any part of any of the aforesaid; or any tree, pole, smokestack; or any excavation,

hole, open well, pit, basement, cellar, sidewalk, subspace, dock, or loading dock; or any lot, land, yard, premises or location which in its entirety, or in any part thereof, by reason of the condition in which the same is found or permitted to be or remain, shall or may endanger the health, safety, life, limb or property, or cause any hurt, harm, inconvenience, discomfort, damage or injury to any one or more individuals in the city, in any one or more of the following particulars:

(a) By reason of being a menace, threat and/or hazard to the general health and safety of the community;

(b) By reason of being a fire hazard;

(c) By reason of being unsafe for occupancy, or use on, in, upon, about or around the aforesaid property; or

(d) By reason of lack of sufficient or adequate maintenance of the property, and/or being vacant, any of which depreciates the enjoyment and use of the property in the immediate vicinity to such an extent that it is harmful to the community in which such property is situated or such condition exists.

29. Family. Keeping or allowing people at a premises in violation of the city's single family residence and zoning requirements.

30. Parking on Landscaping. Parking in an area required to be landscaped by city ordinance.

31. Banner and Snipe Signs. Keeping or allowing banner and/or snipe signs in violation of city ordinance.

32. Required Landscaping. Failure to install or maintain landscaping required by city ordinance.

33. Fly Control. Any premises that contains any one of the following unsanitary conditions:

(a) A privy, cesspool, sink, pit or like place that is not securely protected from flies;

(b) Garbage that is not securely protected from flies; or

(c) Vegetable waste, trash, litter, rags or refuse of any kind which flies may breed.

34. Habitat for Insects. Any condition that creates a habitat for mosquitoes or other harmful insects.

35. Weeds and Refuse. Any violation of chapter 9.60 of this code.

36. Rats. Accumulation of garbage or refuse that constitutes a health or safety hazard, consisting of waste, animal or vegetable matter upon which rats may feed.

37. Dead Animals. Any premises that contains any dead animals, animal parts, animal matter of any kind (except fertilizer), or any violation of section 8.32.160 of this title.

38. Nuisance Animal. Any animal that is considered to be a nuisance under title 8 of this title.

#### **9.05.040 Exceptions.**

No act which is done or maintained under the express authority of an authoritative statute, ordinance, conditional use permit or court ruling shall be declared a nuisance.

#### **9.05.050 Responsibility for nuisances.**

The responsible person(s) is responsible for abating nuisances pursuant to this chapter. Any person, whether as owner, agent, or occupant, who creates, aids in creating, or contributes to a nuisance, or who supports, continues, or retains a nuisance, is responsible for the nuisance and is a responsible person pursuant to this chapter. Every successive owner or tenant of a property or premises who fails to abate a continuing nuisance upon or in the use of such property or premises caused by a former owner or tenant is responsible therefore in the same manner as the one who first created it.

#### **9.05.060 Nuisance abatement— Administration.**

This chapter shall be administered and enforced by the city's police department or other designee. In case of nuisances involving dangerous buildings or violations of codes

typically administered and enforced by the health department, this chapter may also be administered and enforced by the city's community development department.

#### **9.05.070 Finding of nuisance.**

If a city designated representative finds that a nuisance exists, the representative will usually attempt to have the responsible person abate the nuisance. Although the representative's first usual step in correcting or abating the nuisance will be to attempt to obtain voluntary compliance, the representative may pursue any remedy or combination of remedies available pursuant to this chapter, state law or common law in order to abate the nuisance. Nothing in this chapter shall be interpreted to prohibit the city from engaging in its standard prosecution or abatement practices. Therefore, the city may prosecute violators of city ordinances or state laws without first attempting to give notice as stated in this chapter. Nothing in this chapter shall be interpreted to prevent the city from enforcing applicable city ordinances, or building codes without first treating the offending conduct, situation or activity as a nuisance pursuant to this chapter.

#### **9.05.080 Voluntary correction.**

This section applies whenever the city designated representative determines that a nuisance exists.

A. Contact. Before taking other steps to abate the nuisance, the city designated representative will usually make a reasonable attempt to secure voluntary correction or abatement of the nuisance by:

1. Contacting the responsible person, where possible;
2. Explaining the nuisance;
3. Requesting the responsible person to abate the nuisance; and
4. Agreeing to terms with the responsible person to abate the nuisance.

B. No Agreement. If the city designated representative and the responsible person cannot agree to terms for correcting or abating the nuisance, the city representative may still abate the nuisance using one or more of the procedures set forth in this chapter, state law, or common law.

C. Voluntary Correction Agreement.

1. If the city representative and the responsible person agree to terms for abating the nuisance, they shall enter into and sign a voluntary correction agreement. The voluntary correction agreement is a contract between the city and the responsible person in which the responsible person agrees to abate the nuisance within a specified time and according to specified conditions. The voluntary correction agreement shall include the following terms:

(a) The name and address of the responsible person;

(b) The street address of the nuisance, or a description sufficient to identify the building, structure, premises, or land upon or within which the nuisance is occurring;

(c) A description of the nuisance;

(d) The necessary corrective action to be taken, and a date or time by which correction must be completed;

(e) An agreement by the responsible person that the city may enter the premises and inspect the premises as may be necessary to determine compliance with the voluntary correction agreement;

(f) An agreement by the responsible person that the city may abate the nuisance and recover its costs and expenses to abate the nuisance, as well as a monetary fine pursuant to this chapter from the responsible person, if terms of the voluntary correction agreement are not met;

(g) An agreement by the responsible person acknowledging that he waives the right to appeal the city representative's finding that a nuisance exists and waives the right to

appeal the specific corrective action required in the voluntary correction agreement; and

(h) An agreement by the responsible person that failure to comply with the voluntary correction agreement may be grounds for criminal prosecution.

2. The city representative may grant an extension of the time limit for correcting or abating the nuisance if the responsible person has shown due diligence and/or substantial progress in correcting or abating the nuisance but unforeseen circumstances render abatement under the original conditions unattainable. If the responsible person complies with the terms of the voluntary correction agreement, the city shall take no further action against the responsible person related to the nuisance described in the voluntary correction agreement unless the nuisance recurs.

**9.05.090. Administrative notice.**

A. Administrative Notice. When the city designated representative determines that a nuisance exists, and is unable to secure voluntary correction pursuant to section 9.05.080 of this chapter, the representative may issue an administrative notice to the responsible person. The representative may issue an administrative notice without having attempted to secure voluntary correction as provided in section 9.05.080 of this chapter under the following circumstances:

1. When an emergency exists; or
2. When the representative is unable to locate or determine the identity of the responsible person.

B. Content of Administrative Notice. The administrative notice shall include the following:

1. The name and address of the responsible person;
2. The street address of the nuisance or a description sufficient for identifying the building, structure, premises, or land upon or within which the nuisance is occurring;
3. A description of the nuisance;

4. The required corrective action;
5. The completion date and a notice that the city may abate the nuisance and charge the responsible person for all abatement costs if the responsible person does not correct the nuisance before a specified completion date;
6. The time for appealing the administrative notice to the hearing officer and the procedure for filing an appeal;
7. A statement indicating that no monetary fine will be assessed if the representative approves the completed, required corrective action prior to the completion date; and
8. A statement that the city may abate the nuisance and assess costs and expenses of abatement and a monetary fine against the responsible person if the correction is not completed by the responsible person and approved by the representative before the completion date.

C. Service of Administrative Notice. The representative shall serve the administrative notice upon the responsible person, either personally or by mailing, certified, return receipt requested, a copy of the administrative notice to the responsible person at his last known address. If the responsible person cannot after due diligence be personally served within Salt Lake County and if an address for mailed service cannot after due diligence be ascertained, notice shall be served by posting a copy of the administrative notice conspicuously on the affected property or structure. Proof of service shall be made by a written declaration under penalty of perjury executed by the person effecting the service, declaring the time and date of service, the manner by which the service was made, and if by posting, the facts showing that due diligence was used in attempting to serve the person personally or by mail.

D. No Extension. No extension of the time specified in the administrative notice for correction of the nuisance may be granted, except by order of the hearing officer.

#### **9.05.100 Other remedies.**

The city may take one or more of the following actions against any responsible person who fails to comply with the terms of a voluntary consent agreement, an administrative notice, or an order of the hearing officer:

A. Abatement by the City.

1. The city may abate a nuisance when:

(a) The terms of a voluntary correction agreement have not been met;

(b) The requirements of an administrative notice have not been complied with, or, if the administrative notice is appealed to a hearing officer and the terms of the administrative notice are amended by the hearing officer, the terms of the hearing officer's order have not been complied with; or

(c) The condition is subject to summary abatement as provided for in subsection 2, below.

2. Whenever a nuisance is occurring which constitutes an immediate and emergent threat to the public health, safety or welfare or to the environment, the city may summarily and without prior notice abate the condition. Notice of such abatement, including the reason for it, shall be given to the responsible person as soon as reasonably possible after the abatement.

3. Using any lawful means, the city may enter upon the subject property and may remove or correct the condition which is subject to abatement. The city may seek, but is not required to seek, such judicial process as it deems necessary to effect the removal or correction of such condition.

4. The costs, including incidental expenses, of correcting or abating the violation shall be billed to the responsible person and/or the owner, lessor, tenant or other person entitled to control, use and/or occupy the property and shall become due and payable to the city within ten days of actual receipt of the bill (within 15 days of the mailing date if the bill is mailed). The term

“*incidental expenses*” includes but is not limited to:

- (a) Personnel costs, both direct and indirect, including attorneys’ fees and costs;
- (b) Costs incurred in documenting the violation;
- (c) Hauling, storage and disposal expenses;
- (d) Actual expenses and costs for the city in preparing notices, specifications and contracts, and in accomplishing and/or contracting and inspecting the work; and
- (e) The costs of any required printing and mailing.

B. Monetary Fine.

1. The responsible person shall pay the city a monetary fine for each day the nuisance continues after the specified completion date. The nuisance shall be considered to continue until the representative approves the responsible person’s actions to correct or abate the nuisance. The amount of the monetary fine shall be as follows:

- (a) \$100.00 per day for each day during the first week that the nuisance remains uncorrected or unabated after the completion date; and
- (b) \$200.00 per day for each day thereafter until the nuisance is corrected or abated according to the terms set forth in the administrative notice.

2. The monetary fine shall be cumulative and may not be waived by the representative. Payment of a monetary fine pursuant to this section does not relieve the responsible person from the duty to abate the nuisance as required by the voluntary consent agreement or the administrative notice. The monetary fine constitutes a personal obligation of the responsible person. Any monetary fine assessed must be paid to the city within ten calendar days from the date of mailing of the hearing officer’s decision and order or a notice from the city that the fine is due. The city attorney or designee is authorized to take appropriate action to collect the monetary fine,

plus reasonable attorneys’ fees and costs incurred in collecting said monetary fine.

C. Civil Actions. Either the city or any private person directly affected by a nuisance may bring a civil action to abate or enjoin the nuisance, or for damages for causing or maintaining the nuisance (including the cost, if any, of cleaning the subject property). The civil action may be brought pursuant to this chapter or pursuant to state law.

D. Criminal Actions. Criminal actions may be initiated by criminal citation or by information.

1. Any person who maintains or assists in maintaining a nuisance is guilty of a Class C misdemeanor. No person shall be prosecuted under this subsection (1) unless the city designated representative attempted to obtain voluntary correction as provided in section 9.05.080 of this chapter.

2. If the alleged nuisance is also a violation of a provision of city code (other than this nuisance ordinance) or Utah state law, the responsible person may be charged under the specific provision of city code or state law, even if the city designated representative did not first attempt to obtain voluntary correction as provided herein.

3. Any person who knowingly obstructs, impedes, or interferes with the city or its agents, or with the responsible person, in the performance of duties imposed by this chapter, or a decision and order issued by the hearing officer, or a voluntary correction agreement, is guilty of a Class B misdemeanor.

E. Abatement by Eviction. Whenever there is reason to believe that a nuisance under this chapter is kept, maintained, or exists in the city, the city attorney or any citizen(s) residing in the city, or any person or entity doing business in the city, in his or their own names, or the city attorney in the name of the city, may maintain an action in a court of competent jurisdiction to abate the nuisance and obtain an order for the automatic eviction

of the tenant of the property harboring the nuisance. The eviction shall take place in accordance with Utah law.

F. Lien for Costs. If a person fails to pay any fines or costs related to nuisance abatement when due, the city may record a lien on the property or premises for the full amount of the unpaid fines and costs.

G. Non-exclusive Remedies. Notwithstanding anything contained herein to the contrary, the city may proceed pursuant to UTAH CODE ANN. § 10-11-1 through 4 without complying with any of the provisions of this chapter. In addition, the city may take any or all of the above-mentioned remedies (administrative, civil or criminal) to abate a nuisance and/or to punish any person or entity who creates, causes or allows a nuisance to exist. The abatement of a nuisance does not prejudice the right of the city or any person to recover damages or penalties for its past existence.

H. Buildings Closure. Whenever conditions inside or under occupied business buildings provide extensive harborage for rats, in the opinion of the city, the city is empowered, after due notification in accordance with this chapter, to close the business buildings until such time as the conditions are abated by rat-proofing and harborage removal including, if necessary, the installation of suitable concrete floors in basements or replacement of wooden ground floors with concrete or other major repairs necessary to facilitate rat eradication.

I. Buildings Destruction. Whenever conditions inside or under unoccupied business buildings provide extensive harborage for rats, in the opinion of the city, the city is empowered, after due notification in accordance with this chapter, to institute condemnation and destruction proceedings.

### **9.05.110 Appeals.**

A. Grounds. Any person receiving an administrative notice may appeal the

administrative notice to the hearing officer. Only the following issues may be appealed to the hearing officer:

1. The person charged in the administrative notice as the responsible person is not the responsible person as defined by this chapter;

2. The condition described as a nuisance in the administrative notice is not a nuisance as defined by this chapter;

3. The method required by the administrative notice to abate the nuisance is inappropriate or is not the most cost effective method of effectively correcting or abating the nuisance;

4. The time period given to abate the nuisance in the administrative notice is unreasonable;

5. The monetary fine set forth in the administrative notice is unreasonable;

6. The city designated representative refused to approve a corrective action that met the requirements of the administrative notice; or

7. The responsible person claims that the requirement(s) of the administrative notice violates their constitutional rights.

B. Filing. The person desiring to appeal must file a notice of appeal with the city within ten days of receipt of the administrative notice (within 15 days after the mailing date if the administrative notice is mailed).

C. Hearing. The hearing before the hearing officer shall be informal according to rules and procedures established by the hearing officer. The appellant may, but is not required to, bring an attorney or other representative to assist him or her. The appellant and the representative may each call witnesses at the hearing. The hearing officer may, with or without the parties present, visit the site of the alleged nuisance. If the hearing officer allows the parties at the site visit, both parties must be given the opportunity to be present. The hearing shall be scheduled by the

hearing officer within 30 days after the notice of appeal is filed with the city.

D. Burden of Proof. The appellant shall have the burden of proof to demonstrate by a preponderance of the evidence that they had legitimate grounds for an appeal. The determination of the representative as to the need for the required corrective action shall be accorded substantial weight by the hearing officer in determining the reasonableness of the corrective action.

E. Authority of Hearing Officer.

1. The hearing officer shall have authority to affirm or vacate the administrative notice, or to modify or waive specific provisions of the administrative notice. If the appellant fails to attend the hearing, the hearing officer shall affirm the administrative notice. The hearing officer shall not vacate the administrative notice unless they find that no nuisance exists. The hearing officer shall modify the administrative notice if they find that a nuisance exists, but that one or more of the requirements of the administrative notice is improper or inappropriate. A requirement is improper if it is contrary to this chapter. A requirement is inappropriate if the hearing officer finds that there is a better means of resolving the problem or that the proposed solution is inappropriate given the nature or severity of the problem. When determining whether to waive or modify a requirement of the administrative notice, the hearing officer may also consider:

(a) Whether the appellant responded to the representative's attempts to contact the appellant and cooperated with efforts to correct the nuisance;

(b) Whether the appellant has shown due diligence and/or substantial progress in correcting the nuisance;

(c) The financial ability of the appellant and the amount, if any, that the appellant has benefited financially by maintaining the nuisance; and

(d) Any other relevant factors.

2. If the appellant appeals the city designated representative's refusal to approve appellant's corrective action, the hearing officer shall visit the site and determine if the appellant complied with the requirements of the administrative notice.

F. Order. The hearing officer shall issue a written order to the appellant and the city notifying them of their decision. The order shall include the hearing officer's findings of fact conclusion of law, and an ultimate decision. If the hearing officer modifies or waives provisions of the administrative notice, the order shall specify which portions are modified and how they are modified. The hearing officer shall mail a copy of the order to the appellant and the city within five working days of the close of the hearing.

G. Appeal to District Court. Either the city or the appellant may appeal the hearing officer's order by filing a petition for review of the order. The petition must be filed in the district court within 30 calendar days from the date the hearing officer's order was mailed to the appellant. In the petition, the plaintiff may only allege that the hearing officer's order was arbitrary, capricious, or illegal. The hearing officer shall transmit to the reviewing court the record of its proceedings, including any minutes, findings, orders and, if available, a true and correct transcript of its proceedings. If, in the opinion of the district court, there is a sufficient record to review the hearing officer's order, the court's review is limited to the record provided by the hearing officer. The district court may not accept or consider any evidence outside of the hearing officer's record unless the evidence was offered to the hearing officer and the court determines that it was improperly excluded by the hearing officer. If, in the opinion of the district court, there is not a sufficient record to review the hearing officer's order, the court may call witnesses and take evidence. No petition or appeal may be filed in district court unless the responsible person first appeals to the hearing

officer pursuant to the terms set forth in this chapter.

## Chapter 9.20

### HELICOPTER FLIGHTS

#### Sections:

**9.20.010 Permit required for helicopter flights.**

**9.20.020 Permit—Application—Contents.**

**9.20.030 Altitude restrictions.**

**9.20.010 Permit required for helicopter flights.**

It is unlawful for any person, except in an emergency, to take off or land a helicopter within the limits of the city, without first making application for and obtaining the required permit from the city.

**9.20.020 Permit—Application—Contents.**

Application for a permit to take off or land a helicopter within the limits of the city shall be made in writing to the city. Each application shall state the name of the business; the name of the applicant; the location to be used for such take off and landing; the name and address of the business agent who is authorized to receive service of process and any communication regarding such application; evidence of participation in a Federal Aviation Administration approved drug testing program; evidence of compliance with all applicable Federal Aviation Administration rules and regulations; evidence of proposed compliance with noise control ordinances adopted pursuant to section 9.85.020; and such additional information as may be needed for the purpose of guidance of the city officials in issuing such permit.

**9.20.030 Altitude restrictions.**

Except when necessary for take off or landing, no person may operate a helicopter below the following altitudes:

A. An altitude allowing, if power unit fails, emergency landing without undue hazard to person or property on the surface.

B. An altitude of 1,000 feet above the highest obstacle within a horizontal radius of 2,000 feet of the helicopter.

## Chapter 9.25

### PARACHUTE JUMPING

**Sections:**

**9.25.010 Written permission required for parachute jumping.**

**9.25.020 Jumps to be in compliance with law.**

**9.25.010 Written permission required for parachute jumping.**

It is unlawful for any person, except in an emergency, to make a parachute jump, or for any pilot in command of an aircraft to allow a parachute jump to be made from that aircraft, within the limits of the city, unless prior permission in writing is first had and obtained from the city council.

**9.25.020 Jumps to be in compliance with law.**

Any such approved parachute jump shall be made strictly in compliance with all pertinent federal, state and local rules and regulations.

## Chapter 9.30

### SEWERS

#### Sections:

**9.30.010 Connection to public sewer required.**

**9.30.020 Opening manhole covers— Restrictions.**

**9.30.030 Discharging surface water into public sewers.**

**9.30.040 Obstruction of sewers— Prohibited discharges.**

**9.30.010 Connection to public sewer required.**

Connection with the public sewer must be made, unless proper vents and traps are installed and approved by an authorized representative of the city or the applicable sewer district.

**9.30.020 Opening manhole covers— Restrictions.**

It is unlawful for any person to open any sewer manhole without permission from an authorized representative of the city or the entity having ownership of such manhole.

**9.30.030 Discharging surface water into sewers.**

It is unlawful for any person to connect any drain that discharges rainwater or surface water, or the contents of any spring, creek, ditch or other watercourse, with the public sewer without a permit to do the same from the entity having ownership of such sewer.

**9.30.040 Obstruction of sewers— Prohibited discharges.**

It is unlawful for any person to empty or discharge into the public sewers any solids, garbage, or other similar matter, or any matter or thing likely to obstruct the sewer.

## Chapter 9.35

### SCAVENGING

#### Sections:

#### 9.35.010 Definition.

#### 9.35.020 Scavenging prohibited.

#### 9.35.010 Definition.

Whenever used in this chapter, “*scavenge*” means the taking or gathering by a private entity or individual of something usable or saleable from discarded material located in a bin, can, dumpster or other refuse container located in the public right of way. “*Scavenge*” does not include:

A. The taking of any such material by Wasatch Front Waste & Recycling District or any other governmental entity; or

B. The retrieval of any such material by the person who originally placed it in such refuse container.

#### 9.35.020 Scavenging prohibited.

Scavenging is unlawful in the city. Any person who violates this chapter shall be guilty of a misdemeanor as provided in section 1.08.020 of this code.

## Chapter 9.40

### COLLECTION AND TRANSPORTATION OF SOLID WASTE

#### Sections:

- 9.40.010 Garbage hauling—Covering of vehicles.**
- 9.40.020 Damaging containers.**
- 9.40.025 Waste disposal—Rules and regulations.**
- 9.40.030 Waste disposal—Dumping restrictions.**
- 9.40.035 Loaded vehicles on streets.**
- 9.40.040 Spilling refuse from vehicles.**
- 9.40.050 Solid waste storage and disposal facilities—New building.**
- 9.40.060 Household solid waste.**
- 9.40.070 Litter—Deposit in containers.**
- 9.40.075 Litter—Commercial handbills and advertising—Restrictions.**
- 9.40.080 Public Waste Containers – Use required.**

#### **9.40.010 Garbage hauling—Covering of vehicles.**

It is unlawful for any person to haul, convey or transport through or upon any of the public streets, any garbage, ashes, market wastes, trade wastes, manure, night soil, loose paper, scrap lumber, excelsior, tree limbs, bush clippings, lawn clippings, house refuse, yard refuse, liquid wastes, or any other refuse materials, in open trucks, open trailers or other open conveyances, unless covered completely with a heavy-duty canvas or other heavy acceptable material at all times when the vehicle is being used for the collection of, or carrying, transporting or hauling of such refuse.

#### **9.40.020 Damaging containers.**

It is unlawful for any person to willfully or negligently break, deface or injure any receptacle used to contain garbage or other refuse, or to do or permit to be done in

connection with such receptacles anything which shall be damaging to the property of another.

#### **9.40.025 Waste disposal—Rules and regulations.**

It is unlawful for any person to make collections of or to haul or transport garbage, market waste or trade waste in or from any part of the city, except as provided by the rules and regulations of the board of health and/or Wasatch Front Waste & Recycling District.

#### **9.40.030 Waste disposal—Dumping restrictions.**

It is unlawful to dump or dispose of any refuse or garbage of any description anywhere in the city.

#### **9.40.035 Loaded vehicles on streets.**

It is unlawful for any person to suffer, permit or allow any vehicle loaded with garbage, manure, slop, swill, market waste or other refuse to be or remain standing upon any public street within the city any longer than may be necessary for the purpose of loading and transporting the same.

#### **9.40.040 Spilling refuse from vehicles.**

It is unlawful to deposit or permit to fall from any vehicle, any garbage, refuse or ashes on any public street or alley in the city; provided, that this section shall not be construed to prohibit placing garbage, refuse or ashes for collection in a manner complying with the prescribed rules and regulations of the Wasatch Front Waste & Recycling District.

#### **9.40.050 Solid waste storage and disposal facilities—New building.**

A. Before building permits shall be issued for construction of commercial buildings and multiple-dwelling units, plans for the adequacy, location and accessibility of solid

waste containers and storage facilities must be approved by the city.

B. No certificate of occupancy shall be issued for such premises until the city approves such facilities.

**9.40.060 Household solid waste.**

All residents located in the city shall comply with the rules and regulations of the Wasatch Front Waste & Recycling District in all matters pertaining to containers and removal of solid wastes.

**9.40.070 Litter—Deposit in containers.**

It is unlawful for any person to throw, discard, place or deposit litter in any manner or amount on any public or private property within the city except in containers or areas lawfully provided therefore.

**9.40.075 Litter--Commercial handbills and advertising—Restrictions.**

It shall be unlawful for any person or business to post or cause to be posted or otherwise affixed, any handbills, leaflets, flyers, advertising devises, notices, unsolicited newspapers, papers, information material, or circulars on vehicles, utility poles, signs, fences, doors, trees, or any public property. If any of the above items are found upon public property contrary to the provisions of this section, the item may be removed by any city employee. This section shall not apply to official government documents, election materials, or materials specifically allowed elsewhere in this code.

**9.40.080 Public waste containers—Use required.**

It is unlawful for any person to throw, discard, place or deposit litter in any manner or amount on any public or private property within the city except in containers or areas lawfully provided therefore.

## Chapter 9.50

### WEEDS AND REFUSE

**Sections:**

**9.50.010 Responsibility to keep property clean.**

**9.50.020 Weed control standards.**

**9.50.030 Examination of property for compliance.**

**9.50.010 Responsibility to keep property clean.**

It is unlawful for any owner or occupant of real property in the city to let the height of weeds on such property to grow beyond the maximum permitted, or to fail to remove from such property any injurious and noxious weeds, garbage or refuse, unsightly or deleterious objects or structures, after having been given notice pursuant to UTAH CODE ANN. § 10-11-2.

**9.50.020 Weed control standards.**

Weeds shall be maintained at a height of not more than six inches at any time, and shall be cleared from all real property in the city.

**9.50.030 Examination of property for compliance.**

The city may abate weeds, garbage, refuse and unsightly objects pursuant to UTAH CODE ANN. § 10-11-1 to 4 and this code.

## **Chapter 9.55**

### **FUMIGATION**

#### **Sections:**

#### **9.55.010 Fumigation.**

No person shall for commercial purposes use in any building, vessel or any place in the city a fumigant exterminator or an insecticide for the destruction or control of insects, vermin, rodents or other pests or engage in any business of such fumigation or extermination without a permit issued by the state of Utah.

## Chapter 9.60

### AIR POLLUTION CONTROL

#### Sections:

- 9.60.010 Title for citation.
- 9.60.020 Purpose of provisions.
- 9.60.030 Definitions.
- 9.60.040 Health department powers and duties.
- 9.60.050 Exemptions.
- 9.60.060 Air pollution nuisance prohibited.
- 9.60.070 New construction--Notice—Exemptions.
- 9.60.080 Operations resulting in air pollution—Notice.
- 9.60.090 Equipment malfunction--Report requirements.
- 9.60.100 Inspections--Right of entry.
- 9.60.110 Emissions--Approved method for compliance.
- 9.60.120 Visible emissions--Limitations.
- 9.60.130 Open burning--Community waste disposal.
- 9.60.140 Open burning-General prohibitions.
- 9.60.150 Open burning—Without permit.
- 9.60.160 Open burning—With permit.
- 9.60.170 Fugitive dust.
- 9.60.180 Odor control.
- 9.60.190 Violation-Penalty.

#### 9.60.010 Title for citation.

This chapter shall be known and may be cited as the “Cottonwood Heights Air Pollution Control Ordinance.”

#### 9.60.020 Purpose of provisions.

The purpose of this chapter is to preserve, protect and improve the air resources of the city so as to promote health, safety and welfare; prevent injury to human health, plant and animal life and property; foster the comfort and convenience of its inhabitants; and, to the greatest degree practicable,

facilitate the enjoyment of the city’s natural attractions.

#### 9.60.030 Definitions.

For the purpose of this chapter, the following terms, phrases and words shall have the meanings given in this section:

A. “*Aerosols*” means any dispersed matter, solid or liquid, in which the individual aggregates are larger than single molecules but smaller than five hundred (500) microns in diameter (a micron is 1/1,000,000 of a meter).

B. “*Agricultural burning*” means open burning, in rural areas, essential to agricultural operations, including the growing of crops, the raising of fowl, animals or bees, when conducted on the premises where produced.

C. “*Air contaminant*” means any particulate matter, or any gas, vapor, odorous substance, suspended solid or any combination thereof, excluding steam and water vapors.

D. “*Air contaminant source*” means any and all places where an air contaminant originates.

E. “*Air pollution*” means the presence in the ambient air of one or more air contaminants in quantities sufficient to be excessive or objectionable, as determined by the standards, rules and regulations adopted by the Salt Lake County health department.

F. “*Air quality section*” means air quality section of the Salt Lake County health department.

G. “*Ambient air*” means the surrounding or outside air.

H. “*Atmosphere*” means the air that envelops or surrounds the earth, and includes all space outside of buildings, stacks or exterior ducts.

I. “*Board*” means the Salt Lake County board of health.

J. “*BTU*” means British thermal unit, the quantity of heat necessary to raise the temperature of one pound of water one degree Fahrenheit.

K. “*Clearing index*” means a number indicating the predicted rate of clearance of ground-level pollutants from a given area. This number is calculated by the U.S. Weather Bureau, from daily measurement of temperature lapse rates and wind speed, and directions from ground level to ten thousand feet.

L. “*Control equipment*” means any equipment which has the function of controlling the emissions from a process, fuel burning, or refuse burning equipment, and thus reduces the creation of or the emission of air contaminants into the atmosphere, or both.

M. “*Department*” means the Salt Lake County health department.

N. “*Director*” means the Salt Lake County director of health.

O. “*Emission*” means the act of discharging into the atmosphere an air contaminant or an effluent which contains or may contain an air contaminant, or the effluent so discharged, into the atmosphere.

P. “*Equivalent opacity*” means the relationship of opaqueness or percent obscuration of light to the Ringelmann chart for shades other than black and is approximately equal to the following:

**Opacity Percent Ringelmann**

10 .....	0.5
20 .....	1.0
30 .....	1.5
40 .....	2.0
60 .....	3.0
80 .....	4.0
100.....	5.0

Q. “*Existing installation*” means a plant, process, process equipment or a device, construction of which began prior to the effective date of any regulation having application to it.

R. “*Facility*” means machinery, equipment, structures or any part of accessories thereof, installed or acquired for

the primary purpose of controlling or disposing of air pollution.

S. “*Fugitive dust*” means solid airborne particulate matter emitted from any source other than through a stack or chimney.

T. “*Garbage*” means the animal and vegetable waste and food refuse resulting from handling, preparing, cooking and consumption of food.

U. “*Heavy fuel oil*” means a petroleum product or similar material heavier than diesel fuel.

V. “*Household waste*” means any solid or liquid material normally generated by a person or persons in a residence in the course of ordinary day to day living, including, but not limited to, garbage, paper products, rags, leaves and garden trash.

W. “*Incinerator*” means any device used for the destruction of garbage, rubbish or other wastes by burning, or to process salvageable material by burning.

X. “*LPG*” means liquid petroleum gas, such as propane or butane.

Y. “*Multiple chamber incinerator*” means any device used to dispose of combustible refuse by burning, consisting of three or more refractory lined combustion furnaces in series, physically separated by refractory walls, interconnected by gas passage ports or ducts, and employing adequate parameters necessary for maximum combustion of material to be burned.

Z. “*New installation*” means a plant, process or process equipment, construction of which began following the effective date of the regulation concerned. A modified process unit or system shall be construed as a new installation if a physical change in, or change in the method of a process unit system, increases the amount of any air pollutant not previously emitted. An increase in either production rate or hours of operation alone shall not be considered a change in method of operation.

AA. “*Odor*” means property of an air contaminant that affects the sense of smell.

BB. “*Open burning*” means a fire from which the products of combustion are emitted directly into the open air without passing through a stack or chimney.

CC. “*Particulate*” means any gas borne material, except uncombined water, which exists as a liquid or solid and which is capable of being suspended in a gaseous system.

DD. “*Person*” means any individual, public or private corporation, partnership, association, firm, trust, estate, the state, or any department, institution, bureau or agency thereof, any municipal corporation, county, city and county or other political subdivision of the state, or any legal entity whatsoever which is recognized by the law as being subject to rights and duties.

EE. “*Public nuisance*” means any nuisance, as defined in section 9.05.030 of this title, or its successor.

FF. “*Recreational fire*” means a campfire which can be safely confined to a fire ring no larger than eight feet in diameter.

GG. “*Refuse*” means any solid waste, including garbage and trash.

HH. “*Ringelmann chart*” means the chart published by the U.S. Bureau of Mines (Information Circular 9333, as amended) which illustrates graduated shades of gray to black for use in determining the light obscuring capability of particulate matter.

II. “*Salvage operation*” means any business, trade or industry engaged in whole or part in salvaging or reclaiming any product or material, including, but not limited to, metals, chemicals, and shipping containers or drums.

JJ. “*Sandblasting*” means the use of a mixture of sand and air at high pressures for cleaning and/or polishing any type of surface.

KK. “*Stack*” means any chimney, flue, conduit or duct arranged to conduct emissions to the ambient air.

LL. “*Trash*” means solids not considered to be highly flammable or explosive, including, but not limited to, clothing, rags, leather, plastic, rubber, floor coverings, excelsior, tree leaves, yard trimmings, and other similar material.

MM. “*Waste*” means all solid, liquid or gaseous material, including, but not limited to, garbage, trash, household waste, construction or demolition debris, or other refuse, including that resulting from the prosecution of any business, trade or industry

#### **9.60.040 Health department powers and duties.**

In addition to any other powers vested in it by law, the department shall:

A. Conduct studies, investigations and research relating to air pollution and its prevention, abatement and control;

B. Issue such orders as may be necessary to effect the purpose of this chapter and enforce the same by all appropriate administrative and judicial proceedings;

C. Secure necessary scientific, technical, administrative and operational services, including laboratory facilities, by contract or otherwise, through the authority of city;

D. Prepare and develop a comprehensive plan or plans for the prevention, abatement and control of air pollution;

E. Advise, consult and cooperate with other local government units, agencies of the state, industries, interstate or interlocal agencies and the federal government, and with interested persons and groups;

F. Review those matters having a bearing upon air pollution referred by other agencies (such as the planning, zoning and building offices and the fire department) and make reports, including recommendations, to the referring agencies with respect thereto;

G. Collect and disseminate information and conduct educational and training programs relating to air pollution;

H. Encourage voluntary cooperation by persons or affected groups to achieve the purposes of this chapter;

I. Receive and administer grants or other funds or gifts from public and private agencies, including the state and federal government, for the purpose of carrying out any of the functions of this chapter;

J. Do any and all acts which may be necessary for the successful prosecution of the purpose of this chapter within the purview of all city ordinances as established, and such other acts as may be specifically enumerated herein.

#### **9.60.050 Exemptions.**

The provisions of this chapter shall not apply to any person who is in compliance with state or federal air pollution control regulations or who has applied for or is operating under an approved compliance schedule, exemption, variance or approval order issued by the Utah Department of Environmental Quality or the United States Environmental Protection Agency.

#### **9.60.060 Air pollution nuisance prohibited.**

A. No person shall cause or permit the discharge from any source whatsoever such quantities of air contaminants or other materials which cause a nuisance to any person or to the public.

B. Nothing in this chapter concerning emissions of air contaminants or any other regulations relating to air pollution shall in any manner be construed as authorization or legalizing the creation or maintenance of a nuisance.

#### **9.60.070 New construction--Notice to city—Exemptions.**

A. Except for the exemptions listed in this chapter, any person planning to construct a new installation which will or might reasonably be expected to become a source of

air pollution, or to make modifications to an existing installation which will or might reasonably be expected to increase the amount or change the effect of or the character of air contaminants discharged, so that such installation may be expected to become a source of air pollution, or any person planning to install control equipment or other equipment intended to control emission of air contaminants, shall submit to the air quality section a notice of intent to construct prior to initiation of construction.

B. The following information shall be submitted with the notice of construction:

1. A description of the nature of the process(es) involved; the nature, procedure for handling, and the quantities of raw materials; the type and quantity of fuels employed; and the nature and quantity of finished product;

2. Expected composition of effluent stream, both before and after treatment by any control equipment, including emission rate, volume, temperature and contaminants;

3. Expected physical characteristics of aerosols;

4. Size, type and performance characteristics of control equipment;

5. Location and elevation of the emission point and other factors relating to dispersion and diffusion of the air contaminant in the outer air, the relation of the emission to nearby structures and window openings, and other information necessary to appraise the possible effects of the effluent;

6. The location of planned sampling points, and the tests to be made of the completed installation by the owner, when necessary to ascertain compliance.

C. The following types of installations are exempt from the notice requirements:

1. Comfort heating equipment, boilers, water heaters, air heaters and steam generators with the rated capacity of less than five hundred thousand BTUs per hour;

2. Comfort ventilating systems not designed to remove air contaminants generated by or released from equipment;

3. Unit space heaters;

4. Vacuum cleaning systems used exclusively for commercial or residential housekeeping;

5. Exhaust systems for controlling steam and heat which do not contain combustion products;

6. Fuel burning equipment using no other fuel than natural gas or LPG, or other mixed gas distributed by a utility in accordance with the rules of the state public service commission.

#### **9.60.080 Operations resulting in air pollution—Notice.**

Persons engaged in operations which may result in air pollution shall, if so required, file with the air quality section reports containing information as to:

A. Location and description of source;

B. Rate, duration and composition of contaminant emission;

C. A schedule whereby an unlawful activity will be brought into compliance over a specified period of time;

D. Progress in achieving compliance; and

E. Such other information as the air quality section may require.

#### **9.60.090 Equipment malfunction--Report requirements.**

##### **A. Equipment Shutdown.**

1. In the case of shutdown of air pollution control equipment for necessary scheduled maintenance, the intent to shut down such equipment shall be reported to the air quality section at least 24 hours prior to the planned shutdown.

2. Such prior notice shall include, without limitation, the following:

(a) Identification of the specific facility to be taken out of service as well as its location;

(b) The expected length of time that the air pollution control equipment will be out of service;

(c) The nature and quantity of emissions of air pollutants likely to be emitted during the shutdown period;

(d) Measures, such as the use of off shift labor and equipment, that will be taken to minimize the length of the shutdown period or minimize the quantity of emissions;

(e) The reasons why it would be impossible or impractical to shut down the source operation during the maintenance period; and

(f) Approval from the department to continue operations during the period of shutdown.

B. Equipment Malfunction. Excessive emissions resulting from unavoidable breakdown of equipment or procedures must be reported immediately (within 24 hours) to the air quality section. Within five days after the beginning of such an incident, a written report shall be submitted to the air quality section which shall include the cause and nature of the event, estimated quantity of pollutant, time of emissions, and steps taken to control the emission and to prevent recurrence. Such emission shall not be deemed in violation providing this report is considered acceptable to the air quality section.

#### **9.60.100 Inspections--Right of entry.**

A. Any duly-authorized officer, employee or representative of the department may, with the consent of the person(s) in control of an air contaminant source, enter and inspect any property, premises or place on or at which such an air contaminant source is located or is being constructed, installed or established, at any reasonable time, for the purpose of ascertaining the state of compliance with this chapter and rules and regulations in force pursuant thereto.

B. A suitably restricted search warrant, upon a showing of probable cause in writing

and upon oath or affirmation, may be issued by a court of competent jurisdiction to such officer, employee or representative of the department for the purpose of enabling him to make such inspection.

C. No person shall refuse entry or access to any authorized representative of the department who requests entry for purposes of inspection, and who presents appropriate credentials and warrant, nor shall any person obstruct, hamper or interfere with any such inspection. Nothing in this section shall be construed to prevent prompt inspection without consent or appropriate warrant in emergency situations. If requested, the owner or operator of the premises shall receive a report setting forth all facts found which relate to compliance status.

#### **9.60.110 Emissions--Approved method for compliance.**

Emissions shall be brought into compliance with the requirements of this chapter by reduction of the total weight of contaminants discharged per unit of time, rather than by dilution of emissions with clean air.

#### **9.60.120 Visible emissions--Limitations.**

A. Single sources of emissions from existing installations, except incinerators and internal combustion engines, shall be of a shade or density no darker than a Number 2 Ringelmann Chart (forty percent black) or an equivalent opacity, except as provided in subsection F of this section, or its successor.

B. Single sources of emission from any incinerator or any other new installation, except internal combustion engines, shall be of a shade or density no darker than a Number 1/2 Ringelmann (ten percent black) or an equivalent opacity, except as provided in subsection F of this section, or its successor.

C. Gasoline engine emissions shall not be visible, except for a starting motion, no farther than one hundred yards, or for stationary

operation not exceeding three minutes in any hour.

D. Emissions from diesel engines manufactured after January 1, 1973, shall be of a shade or density no darker than a Number 1/2 Ringelmann (ten percent black) or an equivalent opacity, except for starting motion, no farther than one hundred yards or for stationary operation not exceeding three minutes in any hour.

E. Emissions from diesel engines manufactured before January 1, 1973, shall be of a shade or density no darker than a Number 2 Ringelmann (forty percent black) or equivalent opacity, except for starting motion, no farther than one hundred yards or for stationary operation not exceeding three minutes in any hour.

#### **F. *Exceptions.***

1. When conducting a procedure or using equipment necessary to the operation of a process such as, but not limited to, building a new fire, tube blowing, initial warmup or startup of locomotives, or cleaning grates, the limits specified in these regulations may be exceeded when it can be demonstrated to be unavoidable.

2. An emission failing to meet the standard because of the effect of uncombined water shall not be in violation.

#### **9.60.130 Open burning--Community waste disposal.**

No open burning shall be done at sites used for disposal of community trash, garbage or other wastes except when authorized for specific periods of time by the department on the basis of justifiable circumstances reviewed and weighed in terms of pollution effects and other relevant considerations following written application.

#### **9.60.140 Open burning-General prohibitions.**

No person shall burn any trash, garbage or other wastes, nor shall conduct any salvage

operations, in any open fire except in conformity with the provisions of sections 9.60.150 and 9.60.160 of this chapter, or their successors.

**9.60.150 Open burning—Without permit.**

When not prohibited by other laws or by other officials having jurisdiction, and provided that a public nuisance is not created, the following types of open burning are permissible without the necessity of securing a permit:

A. In devices for the primary purpose of preparing food, such as outdoor grills and fireplaces;

B. Campfires and fires used solely for recreational purposes where such fires are under the control of a responsible person. Anyone planning a fire larger than a recreation fire, as defined above, will be required to obtain a special permit. Bonfires, fires built to burn Christmas trees, rally fires and similar fires are prohibited;

C. Indoor fireplaces;

D. Properly operated industrial flares for combustion of flammable gases;

E. Burning, on the premises, of combustible household wastes generated by occupants of dwellings of four family units or less in those areas only where no public or duly licensed disposal service is available.

**9.60.160 Open burning—With permit.**

A.

1. When not prohibited by other laws or other officials having jurisdiction, and when a public nuisance is not created, the types of open burning listed in paragraphs 1 through 6 of subsection B of this section are permissible:

(a) Under the terms of individual permits issued by the department, under a clearing index system approved and coordinated by the Utah State Division of Health; or

(b) When specifically exempted by the department in writing following written application and appropriate consultation;

2. Application may be made by a political subdivision of the state, as well as by an individual citizen. All burning permitted under this section shall occur during the hours specified by the department.

B. Subject to the foregoing, the following types of open burning are permissible:

1. Agricultural burning, including on-premises orchard prunings, field stubble, weeds, and open burning to clear irrigation ditches;

2. Open burning of tree cuttings and slash in forest areas where the cuttings accrue from pulping, lumbering and similar operations, but excluding waste from sawmill operations such as sawdust and scrap lumber;

3. Open burning of trees and bushes within railroad and public road rights-of-way, provided that dirt is removed from stumps before burning, and that tires, heavy fuel oil or other materials that cause severe air pollution are not used to start the fires or keep fires burning;

4. Open burning of solid or liquid fuels or structures, for the removal of hazards or eyesores or for firemen training purposes, when conducted under the direct control and supervision of organized fire departments;

5. Open burning in remote areas of highly explosive or other dangerous materials for which there is no other known practical method of disposal; or

6. Open burning for special purposes, or under unusual circumstances, when approved by the health department following formal request.

**9.60.170 Fugitive dust.**

A. No person shall cause, suffer, allow or permit the emission of fugitive particulate matter from any process, including any material handling or storage activity, that is visible beyond the property line of the emission source.

B. No person shall cause, suffer, allow or permit a building or its appurtenances or open

areas to be used, constructed, repaired, altered or demolished without taking reasonable precautions to prevent particulate matter from becoming airborne. Dust and other types of particulates shall be kept to a minimum by such measures as wetting down, covering, landscaping, paving, treating, or by other reasonable means.

C. No person shall cause, suffer, allow or permit the repair, construction or reconstruction of a roadway or an alley without taking reasonable precautions to prevent particulate matter from becoming airborne. Dust and other particulates shall be kept to a minimum by employing temporary paving, dust palliatives, wetting down, detouring, or by other reasonable means. Earth or other material shall be promptly removed which has been transported onto paved streets by trucking or earth-moving equipment, erosion by water, or by other means.

D. The owner or operator of a commercial establishment or industrial plant shall maintain control of the establishment premises or plant premises and establishment-owned or plant-owned, leased or controlled access roads by paving, oil treatment, or other suitable measures.

E. No person shall cause, suffer, allow or permit crushing, screening, drying, handling, conveying of materials, stockpiling or other operations likely to give rise to airborne dust without taking reasonable precautions to prevent particulate matter from becoming airborne. Dust and other types of particulates shall be kept to a minimum by such means as spray bars, wetting agents, enclosures, structural barriers, or other suitable means.

F. No person shall cause, suffer, allow or permit sandblasting or related abrasion operations unless sufficient containment measures are taken to prevent the sand and/or abrasive material from traveling beyond the property line where the operation is being conducted.

G. No owner, operator or lessee, of any real property located or situated within the city shall, after the topsoil has been disturbed or the natural cover removed, allow the same to remain unoccupied, unused, vacant or undeveloped, without taking all reasonable precautions to prevent fugitive dust from becoming airborne. Dust and other particulates shall be controlled by compacting, chemical sealers, resin sealers, asphalt sealer, planting of vegetation, or other reasonable means.

#### **9.60.180 Odor control.**

A. No person shall cause, suffer, allow or permit, at any time, any emission from those processes listed in subdivisions 1 through 10 of this subsection unless the emissions are incinerated at a temperature of not less than 1,200 degrees Fahrenheit for a period of not less than 0.3 seconds, or processed in a manner acceptable to the air quality section to be equally or more effective for the purpose of air pollution control:

1. Animal-blood dryers;
2. Meat processing;
3. Animal reduction and rendering cookers;
4. Meat smokehouses;
5. Asphalt roofing manufacturing;
6. Varnish cookers;
7. Paint bake ovens;
8. Plastic curing ovens;
9. Fiberglassing;
10. Sources of hydrogen sulfide and mercaptans.

B. A person incinerating or processing gases, vapors, or gas-entrained effluents pursuant to this regulation shall provide, properly installed and maintained, in good working order and in operation, devices acceptable to the department for indicating temperature, pressure or other operating conditions.

C. Whenever dust, fumes, gases, mist, odorous matter, vapors or any combination

thereof escape from a building used for any process including those mentioned in subsection A of this section, in such a manner and amount as to cause a violation of this regulation, the department may order that the building or buildings in which the processing, handling or storage are done be tightly closed and ventilated in such a way that all air and gases and air or gas-borne materials leaving the building are treated by incineration or other effective means for removal or destruction of odorous matter or other air contaminants before discharging into the open air.

D. Control of Odors.

1. When as many as three complaints of an objectionable odor situation are registered with the air quality section, or earlier, at the option of the air quality section, it shall be the responsibility of the air quality section to investigate the complaints by interview with the complainants and/or other occupants of the area of concern to determine the source or sources of odorous matter and the circumstances surrounding its emission.

2. When it is necessary to ascertain the presence or absence of an objectionable odor, the determination shall be made by the air quality section, using a panel as provided in subdivision 3 of this subsection D. The panel of five shall be appointed by the director, and shall consist of not more than two members of the air quality section.

3. An odor shall be deemed "*objectionable*" for the purpose of this regulation when a majority of the members of the panel exposed to the odor determine that it is or tends to annoy, injure or endanger the comfort, repose, health or safety of a person, or which in any way renders a person insecure in life or the use of property.

4. If the panel determines that a person is causing or permitting the emission of an objectionable odor, that person shall take all steps required by the air quality section to control the objectionable odor.

5. Odor-producing materials shall be stored and handled in a manner such that odors produced from such materials are confined. Accumulation of odor-producing materials resulting from spillage or other escape is prohibited.

**9.60.190 Violation--Penalty.**

Any person who violates this chapter shall be guilty of a misdemeanor as provided in section 1.08.020 of this code. Each and every day that a violation of this chapter continues shall constitute a separate offense.

## Chapter 9.65

### INTERNATIONAL FIRE CODE

#### Sections:

- 9.65.010 Adoption of International Fire Code.**
- 9.65.020 Amendments to IFC.**
- 9.65.030 Storage of hazardous materials.**
- 9.65.040 Fees.**
- 9.65.050 Interpretation.**

#### **9.65.010 Adoption of International Fire Code.**

A. The edition of the International Fire Code (including the International Fire Code Standards) from time to time adopted in UTAH CODE ANN. Title 15A, Chapter 5, with amendments, or any successor provision, is hereby adopted by the city as the fire code ordinance, rules and regulations of the city in order to prescribe regulations governing conditions hazardous to life and property from fire and explosion. Appendices "B," "C," "D," "E," "F," "G," "H" and "I" are specifically adopted as part of the city's fire code. Hereafter, all references in this code to the fire code, the international fire code or the "IFC" shall mean the edition adopted from time to time in UTAH CODE ANN. Title 15A, Chapter 5, or any successor provision, together with its appendices.

B. Pursuant to UTAH CODE ANN. 10-3-711, a copy of the IFC shall be filed in the office of the city recorder for use and examination by the public.

#### **9.65.020 Amendments to IFC.**

A. The City hereby adopts by reference and incorporates herein the additions and amendments to the IFC adopted by the Utah State Legislature from time to time.

B. Section 903.4.2 of the IFC is amended to read as follows:

903.4.2 Alarms. *Approved audible devices shall be connected to every automatic*

*sprinkler system serving more than 20 fire sprinkler heads. Such sprinkler water flow alarm devices shall be activated by water flow equivalent to the flow of a single sprinkler of the smallest orifice size installed in the system. Alarm devices shall be provided on the exterior of the building and interior spaces per NFPA 72 in an approved location. With the exception of R-3 occupancies where a fire alarm system is installed, activation of the automatic sprinkler system shall activate the building fire alarm system.*

C. Section 310.8 of the IFC is amended to read as follows:

*310.8 Hazardous environmental conditions. When the fire code official determines that hazardous environmental conditions necessitate controlled use of any ignition source, including fireworks, lighters, matches, sky lanterns, and smoking materials:*

*(i) the legislative body of a municipality within which the hazardous environmental conditions exist may prohibit only the ignition or use of the ignition source in mountainous, brush-covered areas or the wildland urban interface area, which means the line, area, development meet or intermingle with undeveloped wildland or land being used for an agricultural purpose; and*

*(ii) where hazardous environmental conditions exist in unincorporated areas that meet the description in Subsection 1(c)(i), the state forester may prohibit the ignition or use of the ignition source in all or part of these areas, after consulting with the county fire code official having jurisdiction over that area.*

D. As authorized by UTAH CODE ANN. 15A-5-203, Chapter 5 of the IFC concerning fire service features is amended to include the following provisions related to fire safety, building and site requirements:

*The city requires an automatic fire sprinkler system for a structure built in accordance with the International Residential Code if any of the following conditions exist:*

*(1) The structure:*

*(a) is located in an urban-wildland interface area as provided in the Utah Wildland Urban Interface Code adopted as a construction code under the State Construction Code; and*

*(b) does not meet the requirements described in UTAH CODE ANN. 65A-8-203(4)(a), as amended, and UTAH ADMINISTRATIVE CODE R652-122-200, Minimum Standards for Wildland Fire Ordinance, as amended;*

*(2) the structure is in an area where a public water distribution system with fire hydrants does not exist as required in UTAH ADMINISTRATIVE CODE R309-550-5, Water Main Design, as amended;*

*(3) the only fire apparatus access road has a grade greater than 10% for more than 500 continual feet;*

*(4) the total floor area of all floor levels within the exterior walls of the dwelling exceeds 10,000 square feet; or*

*(5) the total floor area of all floor levels within the exterior walls of the dwelling unit is double the average of the total floor area of all floor levels of un-sprinkled homes in the subdivision that are no larger than 10,000 square feet.*

Fire Watch, Re-inspection—Delay in Preparation at Work Site, and Blasting Permitting as set forth below. All fees set forth below shall be collected by and paid to the Unified Fire Authority (or other fire and emergency services provider for the city) at the time, the permit, inspection, re-inspection, or fire watch staffing is requested and shall be a condition for issuance of the permit and scheduling of the inspection, re-inspection or fire watch staffing.

#### **9.65.030 Storage of hazardous materials.**

The storage of Class I and Class II hazardous materials in above-ground or below-ground tanks, inside and outside of buildings is prohibited unless allowed by the zoning provisions applicable to the location in which the proposed tanks are to be located. In addition, the storage of Class I and Class II hazardous materials pursuant to this section is subject to the provisions of NFPA 30, 58 and 59A.

#### **9.65.040 Fees.**

In accordance with IFC Section 113, the city adopts the fees for Hazardous Materials Permitting and Inspection, Fire Inspection,

**Fee Schedule**

<b><u>Material</u></b>	<b><u>Solid Lbs.</u></b>	<b><u>Liquid Gal.</u></b>	<b><u>Gas Cub. Ft.</u></b>	<b><u>Fees</u></b>
Hazardous Materials (Annually)	500 lbs. or less	55 gal. or less	200 cu. ft. or less Corrosive or Oxidizer, or 504 cu. ft. or less Oxygen	*\$195.00 Annually
Hazardous Materials (Annually)	Over 500 lbs.	Over 55 gal.	Over 200 cu. ft. Corrosive or Oxidizer, or over 504 cu. ft. Oxygen	*\$240.00 Annually
“H” Occupancy Backup Generator (Annually)				*\$145.00 Annually
“H” Occupancy Hazardous Materials Permit Dispense and Use. (Annually)		500 gal. or less tank	500 cu. ft. or less	*\$195.00 Annually
“H” Occupancy Hazardous Materials Permit Dispense and Use. (Annually)		Over 500 gal. tank	Over 500 cu. ft. or any highly toxic gas	*\$485.00 Annually
Other Occupancy Hazardous Materials Permit Dispense and Use. (Annually)		500 gal. or more tank	500 cu. ft. or more	**\$195.00 Annually
Aerosol products (Annually)			Over 500 lbs. Level 2 or 3 Aggregate Qty.	*\$195.00 Annually
Flammable Cryogenic Fluid (Annually)		Indoors 1 gal. or more, Outdoors 60 gal. or more		**\$195.00 Annually
Above Ground Tanks Installation (Flammable)			500 cu. ft. or less R-3 Occup. Exempt.	*\$195.00 **\$75.00 per hour

Below Ground Tanks Installation (Flammable)			500 cu. ft. or less R-3 Occup. Exempt.	*\$195.00 **\$75.00 per hour
Above Ground Tanks Installation (Flammable)		500 gal. or more		*\$395.00 **\$75.00 per hour
Below Ground Tanks Installation (Flammable)		500 gal. or more		*\$395.00 **\$75.00 per hour
Pyroxylin plastics. Cellulose nitrate (pyroxylin) plastics (Annually)	25 lbs. or more			\$195.00 (Annually)
Body Shop/Garage Under 5,000 sq. ft. (Annually)				\$195.00 (Annually)
Fireworks – Outdoor Public Display (per event). Cities, County Exempt				*\$485.00 (Per Event) **\$75.00 per hour per inspector
Open Flame Proximal Audience Indoor Approved Fireworks (Per Event)				*\$195.00 (Per Event) **\$75.00 per hour
Application of Flammable Finishes, Spray, or Dip	More than 9 sq. ft. for flammable liquid spray application or 55 or more gallons for dip tank operations.			**\$195.00
Blasting permit				\$75.00 per site, \$350.00 annually
Fire Standby Special Events				**\$75.00 per hour per fire inspector
Re-inspection fee, delay in preparation at worksite				**\$75.00 first hour, doubles every hour thereafter.

\* Fees are assessed separately.

\*\* Fees are assessed cumulatively (added to baseline permit fee).

**Authorization by code:**

IFC 105.1.1 Permits required, fees can be assessed

IFC 105.2.2 Inspections authorized

IFC 105.1.2 Types of permits

IFC 113.1 Permit Fees

**9.65.050 Interpretation.**

In the event of any conflict between the provisions of the applicable fire code and the provisions of any other applicable ordinance, statute, rule or regulation, the more restrictive provisions shall apply.

## **Chapter 9.70**

### **INSPECTION**

**Sections:**

**9.70.010 Inspection.**

**9.70.020 Fees.**

**9.70.010 Inspection.**

All nursing, convalescent and group homes, nurseries, daycare centers, hospitals, retirement centers, preschools and all other occupancies which require annual fire clearance certificates for city, county, state and federal purposes shall be inspected annually by the city's fire department, who shall be authorized to assess and collect fees.

**9.70.020 Fees.**

The fee schedule for fire inspections and permits shall be as recommended by the city's fire department and approved by the city.

## Chapter 9.75

### PYROTECHNICS, EXPLOSIVES AND FIREWORKS

#### Sections:

**9.75.010 Public display—Permit required—Fee.**

**9.75.020 Public display—Permit—Application.**

**9.75.030 Fees and bonds.**

**9.75.040 Unauthorized discharge of fireworks on public property prohibited.**

**9.75.010 Public display—Permit required—Fee.**

The city may, upon written application and the posting of a suitable bond or the filing of a public liability insurance policy in form and amounts specified by the city, grant a permit to discharge display fireworks by religious, educational, fraternal or civic organizations, fair associations, amusement parks, or other organizations or groups of individuals. After such permit shall have been granted, sales, possession, use and distribution of pyrotechnics for such display shall be lawful for that purpose only.

**9.75.020 Public display—Permit—Application.**

All applications for permission to discharge a display of fireworks shall be in writing and shall include:

A. The name of the organization or person sponsoring the display;

B. The date and time of day at which the display is to be held;

C. The exact location planned for the display;

D. The manner and place of storage of fireworks prior to the display; and

E. Evidence that the display operator who will set up and discharge the display of fireworks has a current display operator's

license from the state of Utah.

**9.75.030 Fees and bonds.**

The fee schedule and bond amounts for permits under this chapter shall be as recommended by the city's fire department and approved by the city.

**9.75.040 Unauthorized discharge of fireworks on public property prohibited.**

Discharge of fireworks (as defined in UTAH CODE ANN. 53-7-202[10]) on or over any publicly-owned property in the city is prohibited unless such discharge is otherwise permitted by applicable state or federal law and the owner of such public property gives its prior written approval of such discharge.

## Chapter 9.77

### FIRE RESTRICTIONS IN WILDLAND INTERFACE AREAS

#### Sections:

**9.77.010 Findings.**

**9.77.020 Definitions.**

**9.77.030 Fire restrictions.**

**9.77.040 Exemptions.**

**9.77.050 Penalty.**

#### Chart 9.77--Wildland Interface Areas

#### 9.77.010 Findings.

Based on, *inter alia*, recommendations of Unified Fire Authority, the city's fire enforcement authority, the city council finds that certain wildland interface areas exist in the city and that preservation of public health, safety and welfare requires the restriction of fireworks, smoking and other fires in such areas, and certain surrounding areas as specified below, to reduce the risk of potentially devastating wildfires in the city.

#### 9.77.020 Definitions.

As used in this chapter, the term "*wildland interface areas*" shall mean ravines, gullies, hillsides, vacant land, or mountainous areas where natural vegetation (oak brush, conifers, sage brush, and other indigenous trees and plants) exist such that a distinct fire hazard is clearly evident to a reasonable person. Without in any way limiting the generality of the foregoing, the following specific geographical areas in the city (which also are shown on Chart 9.77) shall be considered wildland interface areas:

A. All areas in the city located to the East of Wasatch Boulevard;

B. Little Cottonwood Park, located at approximately 1763 East Siesta Drive;

C. The undeveloped McGhie Springs area currently owned by Murray City, located at approximately 3575 East Big Cottonwood Canyon Road as shown on Chart 9.77;

D. The undeveloped area surrounding the proposed Old Mill Pond project currently owned by Salt Lake County and under development by the City as an urban fishery and related amenities, located at approximately 6660 South Big Cottonwood Canyon Road shown on Chart 9.77;

E. The undeveloped hillside area at approximately 7000 South, and running from 3000 East, on the West, to Wasatch Blvd., on the East, above Old Mill Estates as shown on Chart 9.77;

F. The undeveloped area comprising approximately 30 acres located West of Wasatch Blvd. at approximately 8282 South that currently is owned by Property Reserve, Inc. or another affiliate of the Church of Jesus Christ of Latter-Day Saints, as shown on Chart 9.77;

G. The undeveloped area comprising approximately 40 acres located to the East of the Memorial Estates cemetery located at approximately 3115 East Bengal Blvd.;

H. West half of parcel defined as 7246 S Milne Lane and all of 7380 Milne Lane. Area located Southeast of the Waterside Condominiums and Southwest of Milne Lane at 7380 South;

I. Hillside area located NE of Milne Lane and East of the Shadow Ridge condominiums, turning East behind the Park Centre commercial complex and the Sante Fe apartments, turning North along the East side of the Sante Fe apartments;

J. Hillside area between Little Cottonwood Park and Highland Drive and along the West side of Highland Drive within the Forrest Creek Cove PUD;

K. Hillside area located below Brighton High School and Southland Terrace 8 and Southland Terrace 9 subdivisions;

L. Hillside area between Danish Road and Creek Road Northwest of Willowcreek East Plat A subdivision;

M. Hillside area below Finlandia subdivision, about 2950 E and 8150 South;

N. Hillside area wrapping around Danish Way within the Danish Hills PUD;

O. Undeveloped area located South of Scottish Drive and East of Danish Road at about 8450 South and 3300 East;

P. Hillside area along the West city boundary from 8450 South to 8700 South and the gully between Scottish Drive and Sugarloaf Drive;

Q. Underdeveloped area located in the Southern tip of the city addressed as 9280 and 9310 South Wasatch Boulevard;

R. Hillside area west of Wasatch Boulevard at about 7450 South;

S. Hillside and underdeveloped area West of Wasatch Boulevard from the North city boundary to about 7100 South;

T. Hillside area located South and East of Hollow Mill Drive and Hollow Mill Park; and

U. All other wildland interface areas in the city as defined in this section.

#### **9.77.030 Fire restrictions.**

A. The following restrictions on open flames and smoking are imposed on and over, and within 300 feet of, all wildland interface areas in the city:

1. Setting, building, maintaining, attending or using open flames of any kind is prohibited, except campfires built within the facilities provided for them in improved campgrounds, picnic areas or permanently improved places of habitation; and

2. Smoking is prohibited, except within an enclosed vehicle or building, a developed recreation site or while stopped in the center of an area of at least ten feet in diameter that is barren or cleared to mineral soil.

B. The following restrictions on fireworks, tracer ammunition or other pyrotechnic devices are imposed:

1. Discharging or using any kind of “aerial device” firework, tracer ammunition or other pyrotechnic devices on, over, or within 300 feet of, any wildland interface area in the city is prohibited; and

2. Discharging or using any kind of class C common state approved explosives on, over, or within 50 feet of, any wildland interface area in the city is prohibited.

C. The following definitions are applicable to this section:

1. “*Class C common state approved explosives*” is as defined in UTAH CODE ANN. 53-7-202(5), as amended.

2. “*Aerial device*” firework is as defined in UTAH ADMINISTRATIVE RULES R710-2-2(2.2) AND R710-2-6(6.3.1), as amended.

#### **9.77.040 Exemptions.**

The following persons are exempt from the prohibitions in section 9.77.030:

A. Persons with a permit from the city, from the state of Utah or the United States of America, specifically authorizing the prohibited act at the specific location; and

B. Any city, state or federal fire officer or firefighting forces (including, without limitation, the Unified Fire Authority) in the performance of an official duty.

#### **9.77.050 Penalty.**

Each violation of this chapter shall be a Class B misdemeanor.

## Chapter 9.80

### COST RECOVERY—FIRE DEPARTMENT

#### Sections:

**9.80.010 Purpose.**

**9.80.020 Definitions.**

**9.80.030 Recovery authorization and procedure.**

**9.80.040 No admission of liability.**

**9.80.050 Action to recover expenses.**

#### **9.80.010 Purpose.**

This chapter shall provide procedures for recovering costs incurred by the city or the fire department for assistance rendered by the city or the fire department in responding to hazardous materials emergencies, aggravated fire emergencies and aggravated emergency medical responses.

#### **9.80.020 Definitions.**

As used in this chapter:

A. “*Hazardous materials emergency*” means a sudden or unexpected release of any substance that, because of its quantity, concentration or physical, chemical or infectious characteristics, presents a direct and immediate threat to public safety or the environment and requires immediate action to mitigate the threat.

B. “*Aggravated fire emergency*” means:

1. A fire proximately caused by the owner or occupier of property or a structure, which presents a direct and immediate threat to public safety and requires immediate action to mitigate the threat, and the fire:

a. Is caused or contributed to by the failure to comply with an order from any city agency, department or official;

b. Occurs as a direct result of a deliberate act in violation of the ordinances or regulations of the city; or

c. Is caused by arson.

2. An alarm that results in a fire unit

being dispatched, and the person transmitting, or causing the transmission of, the alarm, knows at the time of said transmission that no fire or fire related emergency exists.

C. “*Aggravated medical emergency*” means an alarm that results in a fire unit or an emergency medical unit being dispatched, and the person transmitting, or causing the transmission of, the alarm, knows at the time of said transmission that there are no reasonable grounds for believing that a medical emergency exists.

D. “*Expenses*” means the actual costs of government and volunteer personnel including worker’s compensation benefits, fringe benefits, administrative overhead, costs of equipment operation, costs of materials, costs of disposal and the cost of any contract labor and materials.

E. “*Fire department*” means the Unified Fire Authority or other entity providing fire protection services to the city.

#### **9.80.030 Recovery authorization and procedure.**

The city is hereby empowered to recover expenses incurred by virtue of the city’s or the fire department’s response to a hazardous materials emergency, aggravated fire emergency or an aggravated medical emergency from any person, corporation, partnership or other individual or entity who caused such an emergency, pursuant to the following procedure:

1. The fire department shall determine responsibility for the emergency or response as defined above, and the city shall notify the responsible party by mail of the fire department’s determination of responsibility and the expenses to be recovered;

2. The notice shall specify that the determined responsible party may appeal the fire department’s decision;

3. In the event the determined responsible party appeals the determination, a hearing officer shall hold a hearing to consider any

issues raised by the appeal, at which hearing the appealing party and the city shall be entitled to present evidence in support of their respective positions. The hearing officer shall be appointed by the city council; and

4. After the hearing, the hearing officer shall make a recommendation to the city council which shall issue a decision determining responsibility and assessing expenses. The city council may adopt, modify or remand the recommendation of the hearing examiner for further proceedings. The city council may, in its sole discretion, hear additional evidence prior to issuing its decision.

**9.80.040 No admission of liability.**

The payment of expenses determined owing under this chapter does not constitute:

- A. An admission of liability or negligence in any legal action for damages; or
- B. A criminal fine.

**9.80.050 Action to recover expenses.**

In the event the parties determined to be responsible for the repayment of expenses incurred due to the city's or the fire department's response to such an emergency fail to make payment to the city within 30 days after issuance of the order or 30 days from the deadline for appeal in the event no appeal is filed, the city may initiate legal action to recover from the determined responsible parties the expenses determined to be owing, including the city's reasonable attorney fees.

## Chapter 9.85

### ADOPTION OF SALT LAKE COUNTY HEALTH DEPARTMENT REGULATIONS BY REFERENCE

#### Sections:

#### **9.85.010 Purpose.**

#### **9.85.020 Regulations adopted.**

#### **9.85.030 Interpretation.**

#### **9.85.040 Copies on file.**

#### **9.85.010 Purpose.**

The city council finds that it is in the best interest of the citizens of the city to adopt the health department regulations to clarify the authority of the city to enforce provisions of such regulations for violations occurring within the city.

#### **9.85.020 Regulations adopted.**

The Salt Lake County Health Department regulations, and amendments thereto from time to time in effect, are hereby adopted in their entirety. The regulations shall be construed to apply only to the incorporated areas of the city and references in the regulations including reference to personnel and officers of the health department shall be interpreted and construed, where necessary to carry out the intent of this chapter and title, to personnel and officers of the city.

#### **9.85.030 Interpretation.**

In the event of any conflict between the provisions of the health department regulations and the provisions of any other applicable ordinance, statute, rule or regulation, the more restrictive provision shall apply.

#### **9.85.040 Copies on file.**

Copies of the health department regulations shall be filed for use and examination by the public in the offices of the city recorder.

## **Chapter 9.90**

### **PENALTY FOR VIOLATION**

Any person who violates any provision or provisions of this title shall be deemed guilty of a misdemeanor, and punished by imprisonment in the county jail not exceeding six months, or by a fine in any sum not exceeding \$1,000, or both, except that in all cases where a corporation is convicted of an offense for the commission of which a natural person would be punishable as for a misdemeanor, such corporation is punishable by a fine not exceeding \$5,000.