

## **Title 14**

### **HIGHWAYS, SIDEWALKS AND PUBLIC PLACES**

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## Chapter 14.04

### DEFINITIONS

#### Sections:

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**14.04.010 Class C roads.**

“*Class C roads*” means the same as “city road,” defined in this chapter.

**14.04.020 Construction.**

“*Construction*” means the construction, reconstruction, replacement and improvement of the public highways, including the acquisition of rights-of-way and material sites.

**14.04.030 City roads.**

“*City roads*” include all public roads and streets within the city that are not designated as state highways or county roads.

**14.04.040 Curbline.**

“*Curbline*” means a line on either side of the center of a highway ten feet inside the right-of-way line and running parallel to the right-of-way line. Any individual exceptions to this definition must be approved by the city.

**14.04.050 Department.**

“*Department*” means the city’s community and economic development

department or other designee of the city.

**14.04.060 Fenceline.**

“*Fenceline*” means a line on either side of the center of a highway coterminous with the outside boundary or limits of the highway.

**14.04.070 Highway authorities.**

“*Highway authorities*” means the Utah Department of Transportation, the city, or its designated representative.

**14.04.080 Limited-access facility.**

“*Limited-access facility*” means a highway, road or street especially designed for through traffic and over, from or to which neither owners nor occupants of abutting lands, nor other persons, have any right to easement, or have only a limited right or easement of access, light, air or view.

**14.04.090 Maintenance.**

“*Maintenance*” means the performance of all things necessary to keep a public highway in serviceable condition.

**14.04.100 Official map.**

“*Official map*” means the official map(s) of the city, as adopted by the city council in accordance with law, showing the highways, freeways, parks, parkways, and sites for public buildings or works, including subsurface facilities, in the acquisition, financing, or construction of which the city has participated or may be called upon to participate.

**14.04.110 Person.**

“*Person*” includes any individual, firm, company, partnership, limited liability company, corporation, association, other entity, or any group or combination, and the plural as well as the singular, unless the intent to give a more limited meaning is disclosed by the context.

**14.04.120 Public highway.**

“*Public highway*” or “*highway*” means

any road, street, lane, court, place, viaduct, tunnel, culvert, bridge, alley, or other public way situated within the city laid out or erected as such by the public, or dedicated, abandoned or open to the public, or made such in any action for the partition of real property, or such other public property so designated by any ordinance or statute, and includes the entire area within the right-of-way.

**14.04.130 Right-of-way.**

“*Right-of-way*” or “*public way*” means land, property or an interest therein, usually in a strip, acquired for or devoted to use as a public highway.

**14.04.140 Section.**

“*Section*” means a section of this title unless some other section is specifically mentioned.

**14.04.150 Sidewalk.**

“*Sidewalk*” means that area between the curblineline and the fenceline on either side of a highway.

**Chapter 14.08**  
**CITY ROADS**

**Sections:**

- 14.08.010 Jurisdiction and control.**
- 14.08.020 Gifts, bequests and donations to city.**
- 14.08.030 Contributions of property by city.**
- 14.08.040 Determination of width of right-of-way.**
- 14.08.050 Preparation and storage of plats and descriptions.**
- 14.08.060 Agreements with political subdivisions and federal government.**
- 14.08.070 Acquisition of property and property rights for limited-access facilities.**
- 14.08.080 Authority to provide and maintain limited-access facilities.**
- 14.08.090 Restricting use of highway.**
- 14.08.100 Local service roads.**

**14.08.010 Jurisdiction and control.**

A. All highways, roads, paths, and ways within the city that are not designated as federal or state, special highways, roads, paths, or ways shall be under the direction and authority of the city. Such roads shall be constructed and maintained by or under the authority of the city from funds made available for that purpose, and the city shall have the authority to expend, or by contract cause to be expended, such funds as are allocated to the city from the state road fund under rules mutually adopted by the city and the Utah Department of Transportation. The amount used annually from the state road fund for this purpose, together with such other amounts from federal, county or other sources as may be made available, shall constitute the funds to be spent in constructing and maintaining Class “C” roads in the city.

B. When in the opinion of the city

council the funds available for road purposes from sources other than the levy made against tangible property are adequate to properly construct and maintain the Class “C” roads, the city may cease making a levy for city road purposes, or, at its option, may use any portion of the Class “C” road funds provided by UTAH CODE ANN. Title 27, for the construction and maintenance of Class “A” state roads by cooperative agreement with the Utah Department of Transportation.

**14.08.020 Gifts, bequests and donations to the city.**

Gifts, bequests and donations by persons to the city, unless designated for another purpose, shall become part of the city capital improvement fund and shall be expended under the direction of the city council.

**14.08.030 Contribution of property by city.**

The city is authorized to contribute real or personal property to the Utah Department of Transportation for state or federal highway purposes.

**14.08.040 Determination of width of right-of-way.**

The department may, subject to ordinances adopted by the city council, determine the permissible width of rights-of-way for public highways in the city.

**14.08.050 Preparation and storage of plats and descriptions.**

It shall be the duty of the department to provide for the preparation and storage of current plats and descriptions of all city roads and of such other highways as the city council may from time to time locate upon public lands within the city. The plats and descriptions shall be kept on file with the department.

**14.08.060 Agreement with political subdivisions and federal government.**

The city council may enter into agreements with other governmental entities with respect to the financing, planning, establishment, improvement, maintenance, use, regulation or vacation of limited-access facilities or other public ways to facilitate the purposes of this section.

**14.08.070 Acquisition of property and property rights for limited-access facilities.**

The city may acquire private or public property or property rights for limited-access facilities and service roads, including rights of access, air, view and light, by gift, devise, purchase, or condemnation, in the same manner as it now or hereafter may be authorized by law to acquire such property or property rights in connection with highways, roads and streets within the city. All property rights so acquired may be in fee simple or in any lesser estate or interest. In connection with the acquisition of property or property rights for any limited-access facility or portion thereof or service road in connection therewith, the city may, in its discretion, acquire an entire lot, block or tract of land if, by so doing, the interests of the public will be best served, even though said entire lot, block, or tract is not immediately needed for the right-of-way proper.

**14.08.080 Authority to provide and maintain limited-access facilities.**

The highway authorities of the city are authorized to plan, designate, establish, regulate, vacate, alter, improve, maintain and provide limited-access facilities for public use whenever such authorities are of the opinion that traffic conditions, present or future, will justify such special facilities. The highway authorities of the city may also exercise, relative to limited-access facilities, any and all additional authority now or

hereafter vested in them relative to public highways within their respective jurisdictions. Such authorities may regulate, restrict or prohibit the use of such limited access facilities by pedestrians, animals or the various classes of vehicles or traffic.

**14.08.090 Restricting use of highway.**

Whenever it is deemed necessary, because of construction, maintenance work, or emergency, to suspend all or part of the travel on a public highway (or portion thereof) in the city, the department may, subject to ordinances adopted by the city council, restrict the use of or close such highway or portion thereof. Whenever such highway or portion thereof is so restricted or closed to travel, the department shall erect suitable barriers and notices to be posted at the point where the detour road takes off from such closed or restricted highway, and such detour road shall be clearly indicated by signs and adequately maintained.

**14.08.100 Local service roads.**

In connection with the development of any limited-access facility, the department may, subject to city council approval, plan, designate, establish, use, regulate, alter, improve, maintain and vacate local service roads and streets or designate as local service roads and streets any existing roads or streets. The department may exercise jurisdiction over service roads in the same manner as is authorized over limited-access facilities. Such local service roads or streets shall be of appropriate design, and shall be separated from the limited-access facility by means of all devices designated as necessary or desirable by the proper authority.

## Chapter 14.12

### STANDARDS FOR ROADWAYS, SIDEWALKS AND OTHER INFRASTRUCTURE

#### Sections:

- 14.12.010 Definitions.
- 14.12.020 Roadway to comply with standards.
- 14.12.025 Curb ramps, ramps and sidewalks to comply with standards.
- 14.12.030 Policies.
- 14.12.035 Standard plans and specifications for public infrastructure,
- 14.12.040 Clear view of intersecting streets.
- 14.12.050 Landscaping overhanging street pavement.
- 14.12.060 Sidewalks.
- 14.12.065 Curb ramps.
- 14.12.070 Horizontal clearance to obstructions.
- 14.12.080 Cul-de-sacs.
- 14.12.090 Roadway design.
- 14.12.100 Minimum right-of-way and pavement design.
- 14.12.110 Driveway approaches.
- 14.12.120 Intersection design.
- 14.12.130 Private roadways.
- 14.12.140 Street direction and grade.
- 14.12.150 Exceptions.

#### 14.12.010 Definitions.

For the purposes of this chapter, the following definitions shall apply:

“*AASHTO guidelines*” means the engineering and development standards published by AASHTO in the current edition titled “A Policy on Geometric Design of Highways and Streets.”

“*ADA Accessibility Guidelines*” or “*ADAAG*” means the minimum standards set forth in the Federal Register, Volume 56, Number 144, July 26, 1991, or its successor, regarding the accessibility to places of public

accommodation and commercial facilities by persons with disabilities.

“*Arterial*” means generally signalized streets that serve primarily through traffic and provide access to abutting properties as a secondary function.

“*Clear view*” means that portion of the corners at intersections where obstructions are limited to two feet in height in order to preserve a safe sight distance for motorists entering intersections.

“*Collector street*” means a street providing land access and traffic circulation service within residential, commercial and industrial areas. They enable moderate quantities of traffic to move efficiently between local streets and the major street network.

“*Corner lot*” means a lot abutting on two intersecting or intercepting streets, where the interior angle of intersection or interception does not exceed one hundred thirty-five degrees.

“*Curb ramps*” means a short ramp cutting through a curb or built up to a curb.

“*Decision sight distance*” means the distance required for a driver to detect an unexpected or otherwise difficult-to-perceive information source or hazard in a roadway environment that may be visually cluttered, recognize the hazard or its threat potential, select appropriate speed and path, and initiate and complete the required safety maneuver safely and efficiently.

“*Developed parcel*” means those land uses other than agricultural.

“*Driveway*” means an access constructed within and adjoining a roadway, connecting the roadway with adjacent property and intended to be used in such a way that the access into the adjacent property will be complete and will not cause the blocking of any sidewalk border area or roadway.

“*Local streets*” means streets primarily providing access to immediately adjacent properties. Through movement may be possible, but is not encouraged.

“*Multifamily driveway*” means a

driveway providing access to more than four dwelling units.

“*Private roadway*” means a roadway in private ownership which is controlled and maintained by the owners and not the city.

“*Public roadway*” means a roadway which has been dedicated, deeded or otherwise conveyed to public use.

“*Roadway*” means the entire width between the boundaries of any highway, street or road which is used for vehicular traffic. The terms “*roadway*,” “*highway*,” “*street*” and “*road*” are used interchangeably in this chapter.

“*Ramp*” means a walking surface which has a running slope greater than 1:20.

“*Sight distance*” means the same as stopping sight distance.

“*Stopping sight distance*” means the minimum sight distance required that will allow motorists traveling at or near the design speed to stop before reaching a stationary object in its path.

“*Sidewalk*” means a facility provided for pedestrian movement, usually segregated from vehicular traffic by a curb or provided on a separate right-of-way.

#### **14.12.020 Roadway to comply with standards.**

All public and private roadway development located within and subject to the jurisdiction of the city shall meet the requirements of this chapter. Where specific elements of design and construction are not addressed in this chapter, roadway design and construction shall comply with the engineering guidelines for design set forth in the AASHTO publication, “A Policy on Geometric Design of Highways and Streets,” 1990, and any successor editions. The department or its designee shall utilize the AASHTO manual in setting safe design requirements.

#### **14.12.025 Curb ramps, ramps and sidewalks to comply with standards.**

All public and private curb ramp, ramp and sidewalk development located within and subject to the jurisdiction of the city shall meet the requirements of this chapter. Where specific elements of design and construction are not addressed in this chapter, curb ramp, ramp and sidewalk construction shall comply with the minimum guidelines for design set forth in the ADAAG, July 26, 1991, and any successor editions. The department shall utilize the ADAAG in setting appropriate design requirements.

#### **14.12.030 Policies.**

The department may adopt policies for use by developers and others in the overall layout and design of streets and adjacent developments. The department will keep and make available to the public copies of the policy.

#### **14.12.035 Standard plans and specifications for public infrastructure,**

All roadways, curb ramps, curbs, sidewalks and other public infrastructure in the city shall be constructed in compliance with the requirements of the “Manual of Standard Plans” and the “Manual of Standard Specifications” published by the Utah LTAP Center (2007 editions, as amended). Exceptions or variances to the requirements of such manuals may be granted in writing by the city’s director of public works in consultation with the city’s engineer, upon their determination that such exception or variance is not detrimental to the public safety or welfare.

#### **14.12.040 Clear view of intersecting streets.**

A. Corner sight distance for local streets as defined in the AASHTO guidelines shall be a minimum of 300 feet. All other locations shall be provided with sight distance in accordance with AASHTO guidelines.

B. No constructed or planted obstruction to view, in excess of two feet in height above the level of the adjacent street pavement (measured at the edge of the pavement) shall be allowed within the clear view of intersecting streets. Exception to this are signs that conform to the applicable zoning code; a reasonable number of trees pruned to ten feet; and pumps at gasoline service stations. In the event the provisions of this subsection conflict with zoning codes, the most restrictive shall apply.

C. Landscaping material or other obstructions which infringes the clear view of intersecting streets creates a safety hazard, after 20 days' notice to property owner by certified mail has been given, may be trimmed or removed by city employees or by any other person or entity designated by the city.

D. The city shall be entitled to reimbursement of the costs incurred by it in trimming or removing landscaping or obstructions under this section, and may seek such reimbursement by sending an itemized invoice by certified mail to the property owner at its last known address. If the property owner fails to pay such costs to the city within 20 days after the date of mailing such invoice, the city may cause suit to be brought in an appropriate court of law seeking such payment, interest thereto at the statutory rate, and the city's attorney's fees and costs of suit.

#### **14.12.050 Landscaping overhanging street pavement.**

Trees and landscaping which overhang the street pavement shall be trimmed to a minimum height of thirteen and one-half feet above the street pavement. Trees and landscaping which violate the requirements of this section may be trimmed or removed by city employees or by any other person or entity designated by the city after 20 days' notice by certified mail to the property owner has been given. The city shall be entitled to reimbursement of the costs incurred by it in

trimming trees and landscaping under this section, and may seek such reimbursement by sending an itemized invoice by certified mail to the property owner at its last known address. If the property owner fails to pay such costs to the city within 20 days after the date of mailing such invoice, the city may cause suit to be brought in an appropriate court of law seeking such payment, interest thereon at the statutory rate, and the city's attorney's fees and costs of suit.

#### **14.12.060 Sidewalks.**

A. Sidewalks shall be located as far as practical from travel lanes. As the minimum standard, concrete sidewalks shall be four feet in width with a five foot utility strip between the roadway edge of sidewalk and back of curb.

B. A five-foot sidewalk will be allowed integral with the back of curb where exceptional topographic conditions exist or where specifically approved by the city. Where integral sidewalk is permitted, the right-of-way may be reduced accordingly.

C. When properties are adjacent, but do not access or front on public right-of-way, a stamped brick pavement in the utility strip or other suitable approved finishing material shall be required to reduce maintenance in these areas unless an exception is granted by the city.

D. In developments which have a minimum lot area of one acre, aesthetic alternatives may be approved in lieu of standard concrete, except areas along collectors and arterials. The department or its designee shall review and approve all design and geometric standards for such requests.

E. Sidewalks shall remain unobstructed from vegetation and other obstructions to a minimum height of seven feet. Landscaping or other obstructions which violate the requirements of this section may be trimmed or removed by city employees or by any other person or entity designated by the city after 20 days' notice by certified mail to the property owner has been given. The city shall



be entitled to reimbursement of the costs incurred by it in trimming or removing landscaping or obstructions under this section, and may seek such reimbursement by sending an itemized invoice by certified mail to the property owner at its last known address. If the property owner fails to pay such costs to the city within 20 days after the date of mailing such invoice, the city may cause suit to be brought in an appropriate court of law seeking such payment, interest thereon at the statutory rate, and the city's attorney's fees and costs of suit.

#### **14.12.065 Curb ramps.**

A. Curb ramps shall be provided wherever an accessible route crosses a curb.

B. The least possible slope shall be used for any curb ramp. Slope shall be measured by: Slope equals Y:X, where X is a level plane.

C. The maximum slope of a curb ramp in new construction shall be 1:12. Curb ramps to be constructed on existing sites or in existing buildings or facilities may have slopes and rises less than 1:12 as follows:

1. A slope between 1:10 and 1:12 is allowed for a maximum rise of six inches;

2. A slope between 1:8 and 1:10 is allowed for a maximum rise of three inches; and

3. A slope steeper than 1:8 is not allowed.

D. The minimum width of a curb ramp shall be 36 inches, exclusive of flared sides.

E. Surfaces or curb ramps shall be stable, firm and slip-resistant.

F. If a curb ramp is located where pedestrians must walk across the ramp, or where it is not protected by handrails or guardrails, it shall have flared sides, the maximum slope of the flare shall be 1:10. Curb ramps with returned curbs may be used where pedestrians would not normally walk across the ramp.

G. Built-up curb ramps shall be located so that they do not project into vehicular traffic lanes.

H. Curb ramps shall be located or protected to prevent their obstruction by parked vehicles.

I. Curb ramps at marked crossings shall be wholly contained within the markings, excluding any flared sides.

J. If diagonal (or corner type) curb ramps have returned curbs or other well-defined edges, such edges shall be parallel to the direction of pedestrian flow. The bottom of diagonal curb ramps shall have 48 inches minimum clear space. If diagonal curb ramps are provided at marked crossings, the 48-inch clear space shall be within the markings. If diagonal curb ramps have flared sides, they shall also have at least a 24-inch long segment of straight curb located on each side of the curb ramp and within the marked crossing.

K. Any raised islands in crossings shall be cut through level with the street or have curb ramps at both sides and a level area at least 40 inches long between the curb ramps in the part of the island intersected by the crossings.

#### **14.12.070 Horizontal clearance to obstructions.**

On all streets a minimum clearance of 24 inches shall be provided between the curb face or shoulder edge and obstructions such as utility poles, fire hydrants, etc., except standard mailboxes approved by the U.S. Postal Service.

#### **14.12.080 Cul-de-sacs.**

A. Cul-de-sacs and turnarounds shall have a minimum right-of-way radius of 50 feet in residential areas and 60 feet in commercial and industrial areas. A circular left hand offset is desirable.

B. Hammerhead, "L," "Y" and "T" turnarounds shall only be allowed when approved by the city's planning commission upon written recommendation and design review of the department.

C. A temporary turnaround for stub streets in excess of 150 feet long shall be

provided where the extension of a street is planned and anticipated.

D. The length of a cul-de-sac shall vary inversely with density to accommodate a maximum of 25 lots and shall not be longer than 1,000 feet.

**14.12.090 Roadway design.**

A. All vertical grades shall be a maximum of ten percent.

B. A minimum vertical grade of four-tenths of one percent and a minimum crown slope of two percent shall be provided for adequate drainage of runoff.

C. All approach legs of intersections shall provide vertical crest grades not to exceed two percent for a distance of at least 50 feet from right-of-way line of intersecting streets.

D. The length of crest and sag vertical curbs shall be designed in accordance with AASHTO guidelines.

E. Vertical and horizontal curves shall be designed to provide a minimum stopping sight distance in accordance with AASHTO guidelines using the design speeds listed below. Decision sight distances, however, may be required as outlined in AASHTO’s guidelines where more complex driver information error is likely to occur.

F. All roadways shall be designed in accordance with the following design speeds using AASHTO’s guidelines, principles, and practices:

1. Local: 25 mph;
2. Collector: 40 mph;
3. Arterial: 50 mph.

G. Superelevation rates above 0.06 ft./ft. shall be prohibited to minimize slipping across a roadway when stopped or attempting to slowly gain momentum from a stopped position. Superelevation will not be allowed on local residential streets.

H. Where a centerline deflection angle of more than ten degrees occurs, a circular curve shall be introduced. There shall be a tangent of at least 50 feet on local streets and 100 feet for collectors and arterials between reverse

curves.

**14.12.100 Minimum right-of-way and pavement design.**

A. The minimum pavement width and pavement design standards shall be provided as follows:

	<b>Right-of-way Width</b>	<b>Pavement Width</b>	<b>Minimum Design Section</b>
Local	42'	25'	8" base 3" asph.
Local	50'	25'	8" base 3" asph.
Collector	60'	35'	8" base 3" asph.
Collector	66'	41'	8" base 3" asph.
Collector	80'	55'	10" base 4" asph.
Arterial	106'	55' – 81'	12" base 6" asph.

B. All roadway sections shall be designed in accordance with specific geotechnical specifications acceptable to the city. Such geotechnical specifications shall be paid for by the applicant. The city shall required analysis and additional design requirements when unusual site or traffic conditions exist.

**14.12.110 Driveway approaches.**

A. Requirements for commercial, industrial, manufacturing, and multiple family uses requiring motor vehicle access shall meet the requirements as hereinafter provided:

1. Access shall not be by more than one driveway approach for each 100 feet of frontage on any street. The city’s planning commission, or staff where specifically delegated, may modify this requirement when considering a particular site plan in those cases where the commission or staff determines that the safety and convenience of the general public would be better served by more or less driveway approaches.

2. Wherever possible, adjacent sites should share driveway approaches.

3. Additional driveway approaches may be warranted by the following table 3-A for on-center spacing of driveway approaches.

Table 3-A

Recommended Driveway Approach Spacing

Median Barrier	Principal Arterial	Arterial	Collector
No	250 ft.	200 ft.	175 ft.
Yes	185 ft.	115 ft.	85 ft.

4. No two of said driveway approaches shall be closer to each other than 50 feet.

5. No driveway approach shall be closer than 100 feet to the point of intersection of the two property lines at any corner. If there is not 100 feet of frontage then the driveway approach will be placed five feet from the property line furthest from the intersection of the property lines, if the nearest existing driveway approach is 50 feet or further away. In no instance shall a driveway approach be closer than 60 feet from the projected intersection right-of-way lines with a minimum of five-foot flared section. Flared driveway approaches are required for distinction from intersection corners.

6. The minimum width of a driveway approach shall be 12 feet and the maximum shall be 30 feet.

7. The community development director may approve a driveway approach up to a maximum of 50 feet wide.

B. Single-family dwellings shall meet the following requirements as hereinafter provided:

1. Single-family dwellings shall be permitted only one access unless a circular driveway approach is utilized.

2. There shall be a minimum of 35 feet between the entrances of circular driveway approaches and the two closest edges of the driveway approach.

3. Corner lots will be allowed to have one driveway approach per street frontage.

4. There shall be a minimum ten feet distance between all approved driveway approaches except on cul-de-sacs.

5. The minimum street driveway approach width at the property line shall be ten feet and the maximum shall be 25 feet.

6. A minimum five-foot radius or flared

section shall be used.

7. No radius or flare portion of a driveway approach shall intersect the adjacent projected property line except where shared approaches are utilized.

8. On corner lots, driveway approaches shall be set back a minimum of 25 feet from the point of intersection of the right-of-way lines.

C. All driveway approach grades shall not exceed 4% within 20 feet of the roadway boundary.

D. Approaches shall be a minimum of five feet from any line except on cul-de-sacs.

**14.12.120 Intersection design.**

A. The minimum radius of curb return on local streets in residential areas shall be 25 feet. A larger radius shall be used in industrial areas or higher functional classification streets as approved by the department or its designee in accordance with AASHTO guidelines.

B. Streets shall intersect at an angle of ninety degrees where possible, but in no case shall the angle of intersection be less than eighty degrees.

C. Offset intersections shall be avoided whenever possible and offsets shall be provided with minimum distances as follows:

1. Local streets: 150 feet;
2. Collectors: 500 feet;
3. Arterials: 800 feet.

D. Left turns shall be prohibited within 200 feet of major intersections either by signs or concrete medians.

**14.12.130 Private roadways.**

A. The width of all private roadways shall consist of a minimum of 25 feet of unobstructed travel surface. Roadways shall be 25 feet wide where they form cul-de-sacs greater than 500 feet in length. Short sections may be reduced to preserve trees or other features as approved by the fire department.

B. All surfaces shall consist of an approved design capable of carrying 24-ton vehicles.

C. Except as modified by subsections A and B of this section, all private roadways shall comply with the requirements of this chapter.

D. Each and every owner of any interest in a private roadway shall be jointly and severally responsible for the maintenance and repairs to the roadway. The city shall have no responsibility or liability for the maintenance of or repair to any private roadway. Each private roadway shall be maintained in a manner which allows easy access and passage of emergency vehicles throughout the entire length of the roadway.

E. Any building lot that is located outside a planned unit development, which fronts on a private roadway with at least 25 feet of paved surface, shall have a minimum lot area of one-half acre. The minimum distance from the center of such roadway to the front building line on such a lot shall be 50 feet.

F. Gated access to private roadways is subject to prior city approval, and shall be considered by the city's planning commission on a case-by-case basis. Proposed gated access shall be subject to any minimum standards for such gateways adopted by the city, and to design review by the city's architectural review commission.

#### **14.12.140 Street direction and grade.**

No street shall vary from the direction and grade of other city streets unless an exception in the direction and grade is obtained from the city council.

#### **14.12.150 Exceptions.**

In cases where unusual topographical, aesthetic, or other exceptional conditions or circumstances exist, variations or exceptions to the requirements of this chapter may be approved by the city council after receiving recommendations from the city's planning commission and the department, provided that the variation or exceptions are not detrimental to the public safety or welfare.

## Chapter 14.14

### DEDICATION OF PRIVATE ROADS

#### Sections:

#### 14.14.010 Purpose.

#### 14.14.020 Petition contents; Processing fee.

#### 14.14.030 Petition compliance.

#### 14.14.040 Conforming road.

#### 14.14.050 Nonconforming road.

#### 14.14.060 Dedication procedures and requirements.

#### 14.14.010 Purpose.

This chapter establishes the standards and procedures for the dedication and acceptance of private roads in the city of Cottonwood Heights which are directly connected to improved public state, county or city roads.

#### 14.14.020 Petition contents; Processing fee.

A. The process for dedicating a private road is commenced by the filing with the city recorder of a written petition by owners the property abutting or adjoining the private road requesting the city to accept dedication of the private road as a public road. The petition shall be printed or typed and shall contain the names, addresses, telephone numbers and signatures of the owners of a minimum of 51% (measured by current assessed value) of the real property abutting, adjoining or accessed from the private road (“*affected property*”), and also shall designate at least one of such signers as the “Contact Petitioner,” who shall be deemed authorized to receive notices from the city concerning the petition.

B. The petition shall contain the approximate road frontage, in linear feet, of each and every parcel of affected property, whether or not its owner signs the petition. A current full size survey, plat or tax map shall be attached showing the location of each and all parcels of affected property, as well as the name of each affected owner and the lot and

block and road frontage set forth on the mapped parcel.

C. The dedication petition shall be accompanied by the petitioner’s nonrefundable processing fee as specified in the consolidated fee schedule to defray the city’s costs of verifying title, engineering matters, and the like. The city’s community development director shall require the processing fee to be augmented from time to time throughout the dedication process described in this chapter, as needed to fully cover the city’s out-of-pocket costs incurred in connection with the proposed dedication, including costs of verifying title, determining the construction and condition of the subject road, and the like.

D. The percentage of signatures on the dedication petition shall be verified by the city recorder, with assistance of such other city personnel as the city manager deems appropriate, within 45 days after the city’s receipt of the petition and application fee.

#### 14.14.030 Petition compliance.

A. If the petition does not comply with the signature or any other requirements of section 14.14.020, then the recorder shall so notify the Contact Petitioner and the petition shall not be further considered by the city until such time as a corrected, complete petition is re-filed.

B. If the petition complies with the signature and all other requirements of section 14.14.020, then the recorder shall certify to the city council that the petition is compliant with those requirements, and the city council thereafter may authorize and direct the city engineer, the engineer’s geotechnical consultants and other experts to inspect the road under petition and to submit a report regarding the condition of same and the preliminary cost estimate (the “*Cost Estimate*”) to bring the subject road to current city standards under chapter 14.12 and all other applicable provisions of this code, including, without limitation, the following:

1. All necessary signage shall comply with the city's requirements.

2. Curb, gutter, sidewalk, pavement width, curvature (vertical and horizontal), visibility, and other attributes of the subject road shall comply with the city's requirements; and

3. The subject road shall meet all applicable standards for access (including turnarounds) to firefighting equipment and other emergency services vehicles, as certified in writing by the city's fire and emergency services provider.

C. The city council also may authorize and direct the public works director to submit a report regarding the estimate for prospective road maintenance and snow removal. Said reports shall be submitted to the city council within 45 days from the date of the council's direction.

#### **14.14.040 Conforming road.**

If the city engineer certifies that the subject road meets current city standards, the city council may, in its sole and absolute discretion, continue the process to accept dedication of the road. If the city council decides to so proceed, then the city recorder shall notify the Contact Petitioner of the council's decision.

#### **14.14.050 Non-conforming road.**

A. If the city engineer reports to the city council that the subject road is noncompliant with any current city standards, the city council may, in its sole and absolute discretion, reject the petition and direct the city recorder to so notify the Contact Petitioner.

B. As an alternative, the city council may cause the city recorder to notify the Contact Petitioner of the unacceptable condition of the road and supply to the Contact Petitioner a copy of the engineer's report and Cost Estimate. No further action need be taken by the city concerning the subject petition unless the city recorder receives, within 30 days after such notice to

the Contact Petitioner, a written certification from the owners of at least 51% of the affected property affirming their desire to continue with the dedication and acceptance process and their commitment to either reconstruct or repair the road to city standards at their cost within the following 180 days, or immediately complete the dedication and, contemporaneously therewith, tender to city the full amount specified in the Cost Estimate needed to bring the road to city standards (the "*Repair Cost*"). Upon receipt of such notification, the city council may, in its sole and absolute discretion, proceed to accept dedication of the road:

1. After it is repaired, reconstructed or otherwise modified by the petitioners at their cost, provided that (i) the road is confirmed to the city council by the city engineer to be fully compliant with all current city standards; and (ii) the petitioners contemporaneously provide to the city a performance guaranty in such amount, and in such form, as the city may require, to assure the prompt repair at petitioners' cost of any defects in the road arising within two years from the date of acceptance by the city; or

2. Upon conveyance of the road to the city, accompanied by petitioners' payment (in cash or such other cash-equivalent payment form as the city council may direct) of the full Repair Cost.

C. As a second alternative, the city council may decide, in its sole and absolute discretion, to accept dedication of the non-conforming private road, but to thereafter assess the affected property with the cost of bringing the road into compliance with city standards. Any such assessment shall be in compliance with the Assessment Area Act (UTAH CODE ANN. § 11-42-101 et seq.) and any other applicable law. Funds for the Repair Cost shall be appropriated, at the sole discretion of the city council, from either the city's capital expenditure budget or by bonding pursuant to state statute. The city shall advertise for bids, award the contract(s), and proceed with construction by the selected

contractor(s) in full compliance with applicable law. Upon completion of the construction, the city engineer shall certify completion of the project and present the cost certification to the city council. The city thereafter may proceed with the assessment of the project costs pursuant to applicable law.

#### **14.14.060 Dedication procedures and requirements.**

A. Under no circumstances may the city be required to accept dedication of any private road, notwithstanding prior commencement and/or completion of any requirement(s) for dedication under this chapter. Until such time as the city council adopts its authorizing resolution under 14.14.060(B) below, the city council may at any time, with or without cause, terminate any pending process for dedication and acceptance of a private road.

B. If the council decides, in its sole and absolute discretion, to accept dedication of a private road as provided in this chapter, then the council shall adopt a written resolution to that effect. Thereafter, dedication of such road to city shall be accomplished on such timetable, and utilizing such procedures and safeguards, as the city council may specify in its authorizing resolution.

C. The city shall not be deemed to have accepted dedication of a private road hereunder unless and until each of the following has been fully completed to city's satisfaction:

1. The city engineer shall prepare a survey of the subject road with metes and bounds description, prepare plans and specifications for the improvements and necessary rights of way and, if the road is to be conveyed to city before it is brought to city standards, determine a final estimate of the Repair Cost.

2. Execution and delivery to the city of a general warranty deed in such form as the city reasonably may require conveying to the city unencumbered fee simple absolute title

to the entire road, as described in the city engineer's survey.

3. The city's contemporaneous receipt of an extended coverage title insurance policy from a licensed title insurance company reasonably acceptable to the city, in such coverage amount as the city council may specify, insuring that upon recording the dedication deed, the city will be the owner of good and marketable fee simple absolute title to the entire road, free and clear of all liens and encumbrances. The cost of the title policy shall be paid by the petitioners. Before conveyance of the conveyance deed under 14.14.060(C)(2) above, the city attorney shall review the commitment for such title insurance and confirm that the final title policy will insure that the subject road will be conveyed to the city free and clear of all liens and encumbrances.

4. Execution and delivery of such other documents and instruments, and performance of such additional actions, as the city may deem necessary or appropriate to assure that the city receives fee simple absolute title to the entire road, free and clear of all liens and encumbrances.

C. All of said documents must be acceptable to the city attorney, who shall complete his review and advise the council at such time as the council may direct.

- D. To reduce the city's out-of-pocket costs in connection with a proposed road dedication, or for any other reasons deemed appropriate by the city, the city council may authorize any or all of the surveys, studies and other professional services to be performed under this chapter 14.14 by the city engineer and its consultants to instead be performed by the petitioners' engineer and consultants under direction of, and in consultation with, the city engineer.

## Chapter 14.16

### EXCAVATIONS

#### Sections:

- 14.16.010 Definitions.
- 14.16.015 Annual plan.
- 14.16.020 Permit application requirements.
- 14.16.030 Emergency work.
- 14.16.040 Fees.
- 14.16.050 Permit—Contents—Duration and extensions.
- 14.16.060 Permit—No transfer or assignment.
- 14.16.070 Compliance with specifications, standards, traffic-control regulations; site permittee identification.
- 14.16.080 Other highway permits.
- 14.16.090 Relocation of structures in public ways.
- 14.16.100 Impact of excavation on existing improvements.
- 14.16.110 Restoration of public property.
- 14.16.120 Insurance requirements.
- 14.16.130 Bond—When required, conditions, warranty.
- 14.16.140 Hold harmless agreement; limitations on city liability.
- 14.16.150 Work without permit—Penalty.
- 14.16.160 Failure to comply; default in performance.
- 14.16.170 Failure to conform to design standards—Penalty.
- 14.16.180 Appeal of suspension, revocation or stop order.
- 14.16.190 Tampering with traffic barricades.
- 14.16.200 Conflict with governing provisions.
- 14.16.210 Violation—Penalty.
- 14.16.220 Collection of expenses by lawsuit.
- 14.16.010 Definitions.
  - A. As used in this chapter:

1. “*Annual plan*” means a proposed schedule with regard to the construction, maintenance or other similar activities planned by a proposed permittee within city limits for the then-current calendar year which is submitted to the city in writing on or before January 31<sup>st</sup> of such calendar year.

2. “*Annual plan permittee*” means a permittee who has filed with the city an approved annual plan; who is performing the work under the permit in accordance with such approved annual plan; and who is not otherwise in violation of any aspect of such approved annual plan.

3. “*Applicant*” means any person who makes application for a permit.

4. “*Appurtenances*” means miscellaneous concrete surfaces within the public way such as parking bays.

5. “*Emergency*” means any unforeseen circumstances or occurrence, the existence of which constitutes a clear and immediate danger to persons or property, or which causes interruption of utility or public services. “*Emergency*” shall include, without limitation, any war, general strike, earthquake, tornado, mudslide, avalanche or other Act of God. “*Emergency*” shall not include, without limitation, any economic or financial concern (such as, for example, any projected increase in labor or material costs) facing the permittee from time to time.

6. “*Engineering design and construction standards*” mean the standards set forth in the latest version of the city’s construction standards manual published by the city engineer.

7. “*Failure*” means a work site restoration which fails to meet engineering design and construction standards, or which results in a deteriorated or substandard condition within the duration of the warranty period. Failure may be settlement of surfaces, deterioration of materials, or other surface irregularities. Measurement of failure shall be further defined in the engineering design and construction standards.

8. “*Permittee*” means any person who



has been issued a permit and thereby has agreed to fulfill the requirements of this chapter.

9. “*Pipe driveway*” means a driveway approach which uses a pipe or other means to bridge the gutter.

10. “*Property owner*” means person or persons who have legal title to property and/or equitable interest in the property, or the ranking official or agent of a company having legal title to property and/or equitable interest in the property.

11. “*Public utility company*” means any company subject to the jurisdiction of the Utah State Public Service Commission, or any business entity providing gas, electricity, water, telephone, communication or other utility product or services for use by the general public.

12. “*Public way*” means and includes all public rights-of-way and easements, public footpaths, walkways and sidewalks, public streets, public roads, public highways, public alleys, and public drainage ways. It does not, however, include utility easements not within public ways of the city.

13. “*Private drain line*” means a pipe installed solely for the transmission of water collected or generated on private property such as drainage, spring, or storm water, or condensate into the public drainage system.

14. “*Resident*” means the person or persons currently making their home at a particular dwelling.

15. “*Storm drain*” means a dedicated pipe, conduit, waterway, or ditch installed in a right-of-way or easement for the transmission of storm and drainage water. This term does not include private drain lines.

16. “*Traffic barricade manual*” means the Manual of Uniform Traffic Control Devices (“*MUTCD*”).

17. “*Work site restoration*” means and includes the restoring of the original ground or paved hard surface area to comply with engineering design and construction standards, and includes but is not limited to repair, cleanup, backfilling, compaction,

stabilization, paving and other work necessary to place the site in acceptable condition following the conclusion of the work, or the expiration or revocation of the permit.

#### **14.16.015 Annual plan.**

The annual plan will be used by the city to coordinate proposed excavation projects with the city’s pending public works projects, construction/maintenance activities within city limits proposed by other proposed permittees, etc., in order to minimize disturbances to the citizenry and to protect the city’s infrastructure investment. On or before February 25<sup>th</sup> of such year the city will either approve such annual plan or will provide the proposed permittee with any suggested revisions. The proposed permittee shall then have ten days to object to the city in writing to any such proposed revisions to the annual plan as originally filed with the city. If the proposed permittee so objects, then the city and such permittee shall cooperate to formulate a mutually-acceptable annual plan. The city acknowledges, however, (A) the legal obligation of certain public utility providers to provide service to new developments, and (B) that such a public utility may not have knowledge of proposed new developments in adequate time to include such work in the utility’s annual plan for that calendar year. The failure by any such public utility provider to include such work in its annual plan shall not constitute a violation of its annual plan if the utility notifies the city immediately upon learning of the need to deliver its services to a new development.

#### **14.16.020 Permit application requirements.**

A. No public way of the city shall be dug up or excavated and no approach, road, driveway, pole, pipeline, conduit, sewer, ditch culvert, billboard, advertising sign, or other structure or object of any kind or character shall be placed, constructed or maintained

within any such public way except as permitted by and in accordance with the city's ordinances and regulations.

B. Any person desiring to perform work of any kind in a public way within the city shall make application for a permit prior to beginning such work. Such application shall be filed with the department on a form or forms to be furnished by the city. Property owners and/or tenants for whom work is being done shall be responsible for obtaining the permits, provided, however, contractors may obtain the permit in the contractor's name.

C. No person shall be eligible to apply for or receive permits to do work within the public ways of the city, save and except the following:

1. Contractors licensed by the state as general contractors;
2. Public utility companies;
3. Property owners installing, replacing, or maintaining less than five hundred square feet or one hundred linear feet of sidewalk, curb, and gutter, or driveway approach, or other work approved by the department, upon a portion of the public way adjacent to their residence; or
4. Persons offering a service which requires occupation of the public way, such as scaffold or staging, staging of a crane, installation or maintenance of electric signs, glass, awnings, and painting or cleaning of buildings or sign boards or other structures.

D. The department may deny the issuance of permits to contractors, public utility companies, or other permit applicants who have shown by past performance that in the department's opinion will not consistently conform to the engineering design and construction standards or the requirements of this chapter.

E. When the department determines that it is necessary to fully determine the relationship of the work proposed to existing or proposed facilities within the public ways, or to determine whether the work proposed complies with the engineering design and

construction standards, the city may require the filing of engineering plans, specifications and sketches showing the proposed work in sufficient detail to permit determination of such relationship or compliance, or both, and the application shall be deemed suspended until such plans and sketches are filed and approved. The city shall endeavor to review and respond to the permittee concerning such plans and sketches within five business days after filing.

F. It shall be unlawful for any person to commence work upon any public way until the department has approved the application and until a permit has been issued for such work, except as specifically otherwise approved in this chapter.

G. The disapproval or denial of an application by the department may be appealed by the applicant to the city council or its designee by filing of a written notice of appeal within ten days of the date of the denial. The city council or its designee may hear such appeal, if written request therefor be timely filed as soon as practicable, and render its decision within a reasonable time following such appeal.

H. In approving or disapproving work within any public way, or permits therefor, in the inspection of such work; in reviewing plans, sketches or specifications; and generally in the exercise of the authority conferred hereunder, the department shall act in such manner as to preserve and protect the public way and the use thereof, but shall have no authority to govern the actions or inaction of permittees and applicants or other persons which have no relationship to the use, preservation or protection of the public way.

I. A permit is not required from the department for a city, county, state, federal, or other government employee to perform routine maintenance work, not involving excavations.

J. A permit is not required from the department for hand digging excavations for installation or repair of sprinkler systems and landscaping within the non-paved areas of

the public way. However, conformance to the engineering design and construction standards is required.

**14.16.030 Emergency work.**

A. Any person maintaining pipes, lines, or facilities in the public way may proceed with work upon existing facilities without a permit when emergency circumstances demand the work to be done immediately; provided a permit could not reasonably and practicably have been obtained beforehand.

B. In the event that emergency work is commenced on or within any public way of the city during regular business hours, the department shall be notified within one-half hour from the time the work is commenced. The person commencing and conducting such work shall take all necessary safety precautions for the protection of the public and the direction and control of traffic, and shall insure that work is accomplished according to the traffic barricade manual and other applicable laws, regulations, or generally recognized practices in the industry.

C. Any person commencing emergency work in the public way during other than business hours without a permit shall immediately thereafter apply for a permit or give notice during the first hour of the first regular business day on which city offices are open for business after such work is commenced. A permit for such emergency work may be issued which shall be retroactive to the date when the work was begun, at the discretion of the department.

**14.16.040 Fees.**

A. The city shall charge and the applicant shall pay with the application for a permit, a fee in the amount set forth in chart 14.16.040. The fees may be amended from time to time by the city council.

B. The city council may waive the fees or penalties or portion thereof provided for in this chapter, when it determines that such fee or penalty:

1. Pertains to construction or rehabilitation of housing for persons whose income is below the median income level for the city; or

2. Pertains to an encroachment on the public way involving a beautification project which furthers specific goals and objectives set forth in the city's strategic plan, general plans, or other official documents, including decorative street lighting, building facade lighting, flower and planter boxes, and landscaping.

C. Additional charges to cover the reasonable cost and expenses of any required engineering review, inspection, and work site restoration associated with each undertaking may be charged by the city to each Applicant, in addition to the fee described above.

**14.16.050 Permit—Contents—Duration and extensions.**

A. Each permit application shall state the starting date and estimated completion date. Work shall be completed within thirty (30) days from the starting date or as directed by the department. The department shall be notified by the permittee of commencement of the work at least two business days prior to commencing work. The permit shall be valid for the time period specified in the permit.

B. If the work is not completed during such period, prior to the expiration of the permit, the permittee may apply to the department for an additional permit or an extension, which may be granted by the department for good cause shown.

C. The length of the extension requested by the permittee shall be subject to the approval of the department in its discretion.

**14.16.060 Permit—No transfer or assignment.**

Permits shall not be transferable or assignable, and work shall not be performed under a permit in any place other than that specified in the permit. Nothing herein contained shall prevent a permittee from subcontracting the work to be performed

under a permit; provided, however, that the holder of the permit shall be and remain responsible for the performance of the work under the permit, and for all bonding, insurance and other requirements of this chapter and under said permit.

**14.16.070 Compliance with specifications, standards, traffic-control regulations; site permittee identification.**

A. The work performed in the public way shall conform to the requirements of the then-current (a) OSHA standards; (b) Salt Lake County “Standard Plans for Public Works Construction,” the “City of Cottonwood Heights Road Cut Standards” or other applicable engineering design and construction standards from time to time adopted by the department; and (c) the city’s traffic barricade manual, copies of which shall be available from the department.

B. Where a job site is left unattended, before completion of the work, signage with minimum two inch high letters shall be attached to a barricade or otherwise posted at the site, indicating the permittee’s name, or company name, local telephone number of a responsible party, and after hours local telephone number of a responsible party.

C. All excavations shall be conducted in a manner resulting in a minimum amount of interference or interruption of street or pedestrian traffic. Inconvenience to residents and businesses fronting on the public way shall be minimized. Suitable, adequate and sufficient barricades and/or other structures will be available and used where necessary to prevent accidents involving property or persons. Barricades must be in place until all of the permittee’s equipment is removed from the site and the excavation has been backfilled and proper temporary gravel surface is in place, except where backfilling and resurfacing is to be done by the city; in which case the barricades, together with any necessary lights, flares or reflective markers, must remain in place until the backfill work

is actually commenced by the city. From sunset to sunrise, all barricades and excavations must be clearly outlined by adequate signal lights, flares, reflective markers, etc. The permittee shall notify (a) the city’s law enforcement services provider; (b) Utah Transit Authority; (c) every public school district operating a school within the city; (d) the U.S. Mail Service; (e) the city’s public works service provider; and (f) the fire department, at least 24 hours in advance of any planned excavation requiring street closure or traffic detour.

**14.16.080 Other highway permits.**

A. Holders of permits for work on highways owned or under the jurisdiction of other government entities, but located within the city limits, shall not be required to obtain permits from the city under the provisions of this chapter, unless the work extends beyond the back side of the curb, or beyond any other designated jurisdictional boundary. Any city permit shall not be construed to permit or allow work on a county road or a state highway within the city without an applicable county or state permit.

B. The department shall have the right and authority to regulate work under permits issued by other governmental entities with respect to hours and days of work, and measures required to be taken by the permittee of said governmental entity for the protection of traffic and safety of persons and property. Notwithstanding the foregoing, nothing in this chapter shall be construed to impose any duty, implied or express, on the city or its employees, officers, agents or assigns, relative to the protection of traffic and safety of persons or property, arising out of the issuance of any permit issued by government entities other than the city, or arising out of any work performed on any public way owned or within the jurisdiction of the city.

**14.16.090 Relocation of structures in public ways.**

A. The department may direct any person owning or maintaining facilities or structures in the public way to alter, modify or relocate such facilities or structures as the department may require. Sewers, pipes, drains, tunnels, conduits, pipe driveways, vaults, trash receptacles and overhead and underground gas, electric, telephone, telecommunication and communication facilities shall specifically be subject to such directives.

B. Any directive by the department shall be based upon the following:

1. The facility or structure was installed, erected or is being maintained contrary to law, or determined by the department to be structurally unsound or defective;

2. The facility or structure constitutes a nuisance as defined under state statute or city ordinance. (This section shall not, however, be deemed to diminish the vehicle impound authority of the city's police department);

3. The authority under which the facility or structure was installed has expired or has been revoked;

4. The facility or structure is not in conformity with public improvements proposed for the area; or

5. The public way is about to be repaired or improved and such facilities or structures may pose a hindrance to construction.

C. Any person owning or maintaining facilities or structures in the public way who fails to alter, modify or relocate such facilities or structures upon notice to do so by the department shall be guilty of a misdemeanor, and promptly shall perform such alterations, modifications or relocation. All costs of alteration, modification or relocation shall be borne by the person owning or maintaining the facilities or structures involved.

**14.16.100 Impact of excavation on existing improvements.**

A. If any sidewalk or curb ramp is blocked by excavation work, a temporary

sidewalk or curb ramp shall be constructed or provided. Said temporary improvement shall be safe for travel and convenient for users, and consistent with applicable standards for such.

B. Where excavations are made in paved areas, the surface shall be replaced with a temporary gravel surface until such time as the permanent repairs are completed.

C. At any time a permittee disturbs the yard, residence or the real or personal property of a private property owner or the city, such permittee shall insure that such property is returned, replaced and/or restored to a condition that is comparable to the condition that existed prior to the commencement of the work.

2. The costs associated with the disturbance and the return, replacement and/or restoration shall be borne by the permittee. Further, a permittee shall reimburse a property owner or the city, for any actual damage caused by the permittee, its subcontractor, or its independent contractor, in connection with the disturbance of such property. However, nothing in this subsection shall require the permittee to pay a subscriber or private property owner when that subscriber or private property owner requests that the permittee remove, replace or relocate improvements associated with the service provided by the permittee to the property owner and when the permittee exercises due care in the performance of that service, or when the subscriber or private property owner provided false information to the permittee on which the permittee relied to its detriment.

D. Examples of types of acts specifically included in this section are the following:

1. Removal of sod, lawn, shrubbery, flowers, trees, driveways, or fence, to install, trench, repair, replace, remove or locate equipment, sprinkler systems, cable or other appurtenances of the permittee;

2. Installation or removal of equipment or other appurtenances of the permittee's

system within a private property owner's property or residence which requires drilling, excavating, plastering, or the like on the part of the permittee;

3. Temporarily relocating or moving a piece of personal property or a fixture of a private property owner (such as a motor vehicle, fence, air conditioning, heating unit, or the like) in order to perform some sort of construction, maintenance or repair by the permittee; or

4. Permanently removing a permittee's equipment or other appurtenances due to the revocation, termination or non-renewal of the franchise (if applicable).

E. Existing drainage channels, such as gutters or ditches, shall be kept free of dirt or other debris so that natural flow will not be interrupted. When it is necessary to block or otherwise interrupt flow of the drainage channel, a method of rerouting the flow must be submitted for approval by the department prior to the blockage of the channel.

F. The requirements imposed upon the permittee extend to any subcontractor or independent contractor that the permittee might employ to perform the tasks pursuant to the permit.

G. The requirements of this section shall not apply to the removal by a permittee of a permanent structure placed by a property owner in a public way, unless such property owner has received prior written permission from the department granting the property owner the right to install a permanent structure on a public way, and such written permission has been recorded in the office of the county recorder.

H. No permit shall be granted to excavate any road or highway that has been resurfaced within two years prior to the date of the application for permit except in cases of emergency or as approved by the city council upon such terms and conditions as the city council deems appropriate and subject to section 14.16.110. The city shall make available upon request a schedule of the planned dates that roads in the city will be

resurfaced.

I. Any permittee shall immediately notify the city of any emergency situations (including, without limitation, damages to pipes, lines or other underground apparatus of electrical, telephone, water or other utility service providers) caused by or resulting from such permittee's activities on a public way.

J. Any permittee marking the asphalt or concrete surfaces of any public way shall, subject to any applicable Utah state law, (1) make such markings as unobtrusive as possible, and (2) use only paint or another marking material that disintegrates or otherwise is obliterated as soon as possible.

#### **14.16.110 Restoration of public property.**

A. The permittee and any other person making any excavation or tunnel in or under any public way shall, at its own expense, restore the surface of any public way to its original condition and replace any removed or damaged pavement with the same type and depth of pavement as that which is adjoining, including the gravel base material. Refills shall be properly tamped down, and any bracing in such tunnel or excavation shall be left in the ground. All restoration shall conform to the engineering design and construction standards and specifications required in this chapter or otherwise adopted by the department and shall be accomplished within the time limits set forth in the permit, unless additional time is granted in writing by the department. There shall be a penalty of \$150 per day for each day after the time limits set forth in the permit that restoration is not accomplished.

B. If, within the preceding two years, the pavement to be excavated has been (1) repaved with asphalt, then the permittee shall be responsible for replacing with three inches of asphalt the entire width of the excavated pavement from road edge to road edge and to a distance of five feet from each side of the excavation; or (2) resurfaced with slurry seal or chip seal, then, in addition to its other

pavement restoration obligations under this chapter, the permittee shall be responsible for resurfacing the entire width of the pavement surrounding the excavation from road edge to road edge and to a distance of twenty-five feet from each side of the excavation.

C. The director of the department has authority to suspend operations under excavation permits where, in his opinion based on standards from time to time adopted by the American Association of State Highway and Transportation Officials (AASHTO), climatic changes would prevent proper restoration of pavement surfaces.

D. If the permittee fails to restore the surface of any public right of way to its original condition in accordance with the standards required in this chapter, the department may authorize and employ the necessary assistance to restore the surface to its original condition. The permittee promptly shall pay all expenses incurred to restore the surface. The department shall prepare an itemized statement of all expenses incurred in such restoration and shall deliver a copy thereof to the permittee and/or the bondholder.

E. All work by a permittee to restore the surface of any public right of way to its original condition shall be deemed guaranteed by the permittee for a period of two years after such restoration is completed. If the city discovers defects in such restoration at any time within such guaranty period, then the city shall so notify the permittee and the permittee shall perform all necessary repairs within seven business days after its receipt of such notice of defects from the city. If the permittee fails to so act, then the department may authorize and employ the necessary assistance to restore the surface to the required condition. The department shall prepare an itemized statement of all expenses incurred in such restoration and shall deliver a copy thereof to the permittee. The permittee promptly shall pay all expenses incurred by the city to restore the surface.

#### **14.16.120 Insurance requirements.**

A. Before a permit is issued, the applicant shall furnish to the department evidence that such applicant has a comprehensive general liability and property damage policy that includes contractual liability coverage endorsed with the following limits and provisions:

1. A minimum of one million dollars combined single limit per occurrence for bodily injury, personal injury, and property damage and not less than one million dollars in the aggregate. The general aggregate limit shall apply separately to the permit, or the general aggregate limit shall be two times the required occurrence limit. The coverage shall be in the nature of broad form commercial general liability coverage. The city may increase or decrease minimum insurance limits, depending on the potential liability of any project.

2. All policies shall include the city, its employees, officers, officials, agents, volunteers and assigns, as insureds. Any reference to the "city" shall include the city, its employees, officers, officials, agents, volunteers and assigns.

3. The coverage shall be primary insurance as respects the city, its employees, officers, officials, agents, volunteers, and assigns. Any insurance or self-insurance maintained by the city, its employees, officers, officials, agents, volunteers, and assigns shall be in excess of the permittee's insurance and shall not contribute to or with it.

4. Any failure to comply with reporting provisions of the policy shall not affect coverage provided to the city, its employees, officers, officials, agents, volunteers, and assigns.

5. Coverage shall state that the permittee's insurance shall apply separately to each insured against whom claim is made or suit is brought, except with respect to the limits of the insurer's liability.

6. Underwriters shall have no right of recovery or subrogation against the city, it

being the intent of the parties that the insurance policy so affected shall protect both parties and be primary coverage for any and all losses covered by the described insurance.

7. The insurance companies issuing the policy or policies shall have no recourse against the city for payment of any premiums due or for any assessments under any form of any policy.

8. Each insurance policy shall be endorsed to state that the coverage shall not be suspended, voided, canceled, or reduced in coverage or in limits, except after thirty (30) days' prior written notice by certified mail, return receipt requested sent to the city with a copy to the city attorney.

9. Each policy shall be endorsed to indemnify, save harmless and defend the city and its officers and employees against any claim or loss, damage or expense sustained on account of damages to persons or property occurring by reason of permit work done by the permittee, his/her subcontractor or agent, whether or not the work has been completed and whether or not the right-of-way has been opened to public travel.

10. Each policy shall be endorsed to indemnify, hold harmless and defend the city and its officers and employees against any claim or loss, damage or expense sustained by any person occurring by reason of doing any work pursuant to the permit including, but not limited to falling objects or failure to maintain proper barricades and/or lights as required from the time work begins until the work is completed and right-of-way is opened for public use.

B. Insurance is to be placed with insurers with an AM Best rating of no less than an A carrier, with a rating of "7" or higher.

C. The permittee shall furnish the department with certificates of insurance and original endorsements affecting coverage required by the permit. The certificates and endorsements for each insurance policy are to be signed by a person authorized by that insurer to bind coverage on its behalf. The

city expressly reserves the right to require complete, certified copies of all required insurance policies at any time. Consequently, the permittee shall be prepared to provide such copies prior to the issuance of the permit.

D. If any of the required policies are, or at any time become, unsatisfactory to the city as to form or substance, or if a company issuing any such policy is, or at any time becomes, unsatisfactory to the city, the permittee shall promptly obtain a new policy, submit the same to the city for approval, and thereafter submit verification of coverage as required by the city. Upon failure to furnish, deliver and maintain such insurance as provided herein, the city may declare the permit to be in default and pursue any and all remedies the city may have at law or in equity, including those actions outlined in this chapter.

E. The permittee shall include all subcontractors as insured under its policies or shall furnish separate certificates and endorsements for each subcontractor. All coverages for subcontractors shall be subject to all of the requirements stated herein.

F. Any deductibles or self-insured retentions shall be declared to and approved by the city. At the option of the city, either the insurer shall reduce or eliminate such deductibles or self-insured retentions as respects the city, its employees, officers, officials, agents, volunteers or assigns, or the permittee shall procure a bond, in a form acceptable to the city, guaranteeing payment of losses and related investigations, claim administration, and defense expenses.

G. A property owner personally performing work adjacent to his residence may submit proof of a homeowner's insurance policy in lieu of the insurance requirements of this section.

H. A public utility company may be relieved of the obligation of submitting certificates of insurance if such company shall submit satisfactory evidence in advance that:



1. It is insured in the amounts set forth in this chapter, or has complied with state requirements to become self-insured. Public utilities may submit annually evidence of insurance coverage in lieu of individual submissions for each permit; and

2. Said coverage provides to the city the same scope of coverage that would otherwise be provided by a separate policy as required by this chapter.

**14.16.130 Bond—When required, conditions, warranty.**

A. Except as noted in this chapter, each applicant, before being issued a permit, shall provide the city with a cash deposit, escrow agreement or an irrevocable letter of credit in the amount set forth in the fee schedule adopted pursuant to section 14.16.040 to guarantee faithful performance of the work authorized by a permit granted pursuant to this chapter. The amount of the bond required may be increased or decreased at the discretion of the department whenever it appears that the amount and cost of the work to be performed, and not satisfactorily completed, may vary from the amount of bond otherwise required under this chapter. The form of the irrevocable letter of credit or bond and the entity issuing the same shall be subject to the approval of the city attorney.

B. Public utilities franchised by the city shall not be required to file a cash deposit, irrevocable letter of credit or corporate surety bond if such requirement is expressly waived or otherwise provided for in the franchise documents.

C. The bond required by this section shall be conditioned as follows:

1. That the permittee shall fully comply with the requirements of the city ordinances and regulations, specifications and standards promulgated by the city relative to work in the public way, and respond to the city in damages for failure to conform therewith

2. That after work is commenced, the permittee shall proceed with diligence and expedition and shall promptly complete such

work and restore the public way to engineering design and construction standards, so as not to obstruct the public place or travel thereon more than is reasonably necessary;

3. That the permittee shall guarantee the materials and workmanship for a period of two years from completion of such work, with reasonable wear and tear excepted; and

4. That unless authorized by the department on the permit, all paving, resurfacing or replacement of street facilities on major or collector streets shall be done in conformance with the regulations contained herein within three calendar days, and within seven calendar days from the time the excavation commences on all other streets, except as provided for during excavation in winter or during weather conditions which do not allow paving according to the engineering design and construction standards. In winter, a temporary patch must be provided. In all excavations, restoration or pavement surfaces shall be made immediately after backfilling is completed or concrete is cured. If work is expected to exceed the above duration, the permittee shall submit a detailed construction schedule for approval. The schedule will address means and methods to minimize traffic disruption and complete the construction as soon as reasonably possible.

**14.16.140 Hold harmless agreement; limitations on city liability.**

A. The permittee agrees to save the city, its officers, employees and agents harmless from any and all costs, damages and liabilities which may accrue or be claimed to accrue by reason of any work performed under the permit. The issuance and acceptance of any permit under this chapter shall constitute such a hold harmless agreement by the permittee to this section.

B. This chapter shall neither be construed as imposing upon the city, its officers, employees and agents, any liability or responsibility for damages to any person

injured by or by reason of the performance of any work within the public way, or under a permit issued pursuant to this chapter; nor shall the city, its officers, officials, employees, agents, volunteers or assigns thereof be deemed to have assumed any such liability or responsibility by reason of inspection authorized hereunder, the issuance of any permit, or the approval of any work.

**14.16.150 Work without permit—**

**Penalty.**

A. It shall be unlawful for any person(s) to do or cause to be done any work in the public way without first obtaining a permit.

B. In addition, a stop order may be issued by the city directed to any person or persons doing or causing any work to be done in the public way without a permit.

**14.16.160 Failure to comply; default in performance.**

A. Any permit may be revoked or suspended and a stop order issued by the department, after notice to the permittee for:

1. Violation of any condition of the permit, the bond, or of any provision of this chapter;

2. Violation of any provision of any other ordinance of the city or law relating to the work; or

3. Existence of any condition or the doing of any act which does constitute, may constitute, or cause a condition endangering life or property.

B. A suspension or revocation by the department, and a stop order, shall take effect immediately upon entry thereof by the department and notice to the person performing the work in the public way. Notice to the person performing the work shall be accomplished when the department has posted a stop work order at the location of the work and written notice has been mailed, return receipt requested, to the address indicated by the permittee on the permit.

C. Whenever the department finds that a

default has occurred in the performance of any term or condition of the permit, written notice thereof may be given to the principal and to the surety on the bond, if there is a surety bond. Such notice shall state the work to be done, the estimated cost thereof, and the period of time deemed by the department to be reasonably necessary for the completion of the work.

D. In the event that the surety (or principal), within a reasonable time following the giving of such notice (taking into consideration the exigencies of the situation, the nature of the work, the requirements of public safety and for the protection of persons and property), fails either to commence and cause the required work to be performed with due diligence, or to indemnify the city for the cost of doing the work, as set forth in the notice, the city may perform the work, at the discretion of the department, with city forces or contract forces or both, and suit may be commenced by the city attorney against the contractor and bonding company, if necessary, and such other persons as may be liable, to recover the entire amount due to the city, including attorney fees, on account thereof. In the event that cash or irrevocable letter of credit has been deposited, the cost of performing the work may be charged against the amount deposited, and suit brought for the balance due, if any.

**14.16.170 Failure to conform to design standards—Penalty.**

A. For failure to conform to the engineering design and construction standards, the department may:

1. Suspend or revoke the permit;
2. Issue a stop order;
3. Order removal and replacement of faulty work;
4. Require an extended warranty period; and/or
5. Negotiate a cash settlement to be applied toward future maintenance costs.

**14.16.180 Appeal of suspension, revocation, or stop order.**

Any suspension, revocation or stop order by the department may be appealed by the permittee to the city council or its designee by filing a written notice of appeal within ten days of the action of the department. The city council or its designee may hear such appeal, if written request therefor be timely filed, as soon as practicable, and render their decision within a reasonable time following filing such appeal.

expenses under this chapter becomes necessary, then the city shall be entitled to judgment for all expenses incurred in the restoration of the public way or other property, together with interest thereon and the city's court costs and reasonable attorney's fees. The city shall be entitled to execution on such judgment as provided by law.

**14.16.190 Tampering with traffic barricades.**

It shall be unlawful for any person to maliciously or wantonly or without authorization and legal cause, extinguish, remove or diminish any light illuminating any barricade or excavation, or to tear down, remove or in any manner alter any rail, fence or barricade protecting any excavation or other construction site.

**14.16.200 Conflict with governing provisions.**

Should there be a conflict between the provisions of this chapter and the provisions of any other ordinance, agreement, franchise, or other document governing the excavation of a public way, the more restrictive provisions of the aforesaid documents shall apply.

**14.16.210 Violation—Penalty.**

Unless otherwise specified in this chapter, a violation of any provision of this chapter, or failure to comply with an order of suspension, revocation or stop work, shall be guilty of a Class B misdemeanor. Each day the violation exists shall be a separate offense. No criminal conviction shall excuse the person from otherwise complying with the provisions of this chapter.

**14.16.220 Collection of expenses by lawsuit.**

If collection by lawsuit of the city's

## Chapter 14.20

### ENCROACHMENTS AND OBSTRUCTIONS

#### Sections:

**14.20.010 Encroachments prohibited.**

**14.20.015 Temporary closure of highway without permit prohibited.**

**14.20.020 Conformance to grade required.**

**14.20.030 Improvements on or near sidewalk or curb ramp.**

**14.20.040 Obstructing traffic on sidewalk, curb ramp or highway prohibited.**

**14.20.050 Unattended animals on highway prohibited.**

**14.20.060 Impoundment of animals.**

**14.20.070 Removal of unlawful installations.**

**14.20.080 Advertising—Permit required.**

**14.20.090 Confining and securing loads on vehicles required.**

**14.20.100 Water upon highway prohibited.**

**14.20.105 Placing snow upon highway prohibited.**

**14.20.110 Encroachments deemed obstructions.**

**14.20.120 Revocable license for certain pre-incorporation encroachments.**

**14.20.010 Encroachments prohibited.**

It is unlawful to extend or construct any sidewalks or curb ramps so as to encroach upon any highway, nearer to the center thereof than the curblines as designated in this title, or to encroach upon any sidewalk or curb ramp with any building, fence, wall, post or other obstruction nearer than the fence line, so as to make the sidewalk narrower than the widths approved by the department.

**14.20.015 Temporary closing of highway without permit prohibited.**

A. It is unlawful to fully or partially close one or more traffic lanes of any highway in the city in connection with any excavation, maintenance, or for any other purpose, except as permitted by and in accordance with the city's ordinances and regulations.

B. Except as otherwise provided in this code, any person desiring to temporarily close any portion of a highway within the city shall first make application for a closure permit. Such application shall be filed with the department on a form to be furnished by the city. Permits shall not be transferable or assignable. Each permit application shall state the starting date and estimated ending date. The permit shall be valid only for the time period specified in the permit.

C. No person shall be eligible to apply for or receive permits to do work on the city's highways, save and except the following:

1. Contractors licensed by the state as general contractors;
2. Public utility companies;
3. Property owners installing, replacing, or maintaining less than five hundred square feet or one hundred linear feet of sidewalk, curb, and gutter, or driveway approach, or other work approved by the department, upon a portion of the public way adjacent to their residence; or

4. Persons offering a service which requires occupation of the public way, such as scaffold or staging, staging of a crane, installation or maintenance of electric signs, glass, awnings, and painting or cleaning of buildings or sign boards or other structures.

D. The city may deny the issuance of a permit when, in the city's reasonable judgment, the requested closure is unnecessary. The city also may designate the time and date of any requested closure as necessary to reduce the adverse impact of such closure on public use of the highway. In approving or disapproving closure of any highway, the department shall act in such

manner as to preserve and protect the city's highways and the public use thereof.

E. It shall be unlawful for any person to fully or partially close any portion of a highway in the city until the department has approved the application, the applicant has paid any closure fee required by chapter 3.16 or any other provisions of this code, and until a closure permit has been issued by the department, except as specifically otherwise approved in this code.

F. The disapproval or denial of an application by the department or other designee appointed by the city may be appealed by the applicant to the city council or its designee by filing of a written notice of appeal within ten days after the date of the denial. The city council or its designee may hear such appeal, if written request therefor be timely filed as soon as practicable, and render a decision within a reasonable time following such appeal.

G. A closure permit is not required for a city, county, state, federal, or other government employee to perform routine maintenance work, not involving excavations.

H. Any person maintaining pipes, lines, or facilities in the public way may temporarily close, without a permit, such portion of a highway as reasonably may be necessary when emergency circumstances demand such closure; provided a permit could not reasonably and practicably have been obtained beforehand. If an emergency closure of a highway occurs during regular business hours, the department shall be notified within one-half hour after the time the closure is commenced. If an emergency closure of a highway occurs after regular business hours, then the department shall be notified during the first hour of the next day that the city offices are open for business. The person conducting such closure shall take all necessary safety precautions for the protection of the public and the direction and control of traffic, and shall insure that such closure and any attendant work in the public

way is accomplished according to the traffic barricade manual and other applicable laws, regulations, or generally recognized practices in the industry.

I. Any person undertaking an emergency closure of all or part of a highway shall apply for a permit as soon as possible after such closure commences, but no later than during the first hour of the first regular business day on which city offices are open for business after such closure is commenced. In the department's discretion, a permit for such emergency closure may be issued retroactively to the date when the closure commenced.

#### **14.20.020 Conformance to grade required.**

It is unlawful to lay, build or construct any sidewalk upon any highway in the city where the grade has been fixed by order of the city, except in accordance with such grade, or to lay, build or construct any permanent pavement or sidewalk, except upon specifications furnished by the department or its designee in accordance with such fixed grade; and it is the duty of the department to keep records, plats or maps showing the grades as fixed, for reference, and for furnishing specifications therefrom, the fee provided by law to be charged for such specifications and to be paid into the city treasury.

#### **14.20.030 Improvements on or near sidewalk or curb ramp.**

It is unlawful for any person to construct, place, keep or maintain upon or across any sidewalk or curb ramp in the city any porch, platform or other structure, except as the grade thereof, or any flume, pipe or structure, except at or below the grade thereof. Where any platform, porch, flume, pipe or structure is below the grade, it shall be covered to grade; and such platform, porch, flume, pipe, or structure shall be kept in good repair by the party in whose interest it is constructed or used, so as not to be dangerous to pedestrians

or an obstruction to the safe and ordinary use of the sidewalk or curb ramp.

**14.20.040 Obstructing traffic on sidewalk, curb ramp or highway prohibited.**

A. It is unlawful to construct, place, keep or maintain upon or across any sidewalk, curb ramp or highway in the city any open ditch, flume, conduit, waterway, headgate, log, building material, vehicle, railway, or other obstruction; provided, building materials, vehicles or objects may be placed temporarily in such manner on public highways as not to impede, endanger or obstruct ordinary traffic, but no such building material, vehicles or other objects shall be permitted to remain on such highway contrary to instructions from the city. It is unlawful to pile any dirt or other material, or make any other defacement on any sidewalk, curb ramp or highway so as to interfere with the ordinary use thereof.

B. It is unlawful to drive or place any vehicle, animal or other object upon or along any sidewalk, curb ramp or highway or to permit the same to remain thereon in a manner likely to impede or obstruct the ordinary use thereof.

**14.20.050 Unattended animals on highway prohibited.**

Every person staking, tethering, herding, grazing, pasturing, allowing to run at large, or causing to be staked, tethered, herded, grazed, pastured or allowed to run at large, any horse, cow, mule, sheep, goat, swine or other animal upon any of the public highways of the city shall be guilty of a misdemeanor.

**14.20.060 Impoundment of animals.**

It is the duty of animal control to take into its custody any horse, cow, mule, sheep, goat, swine or other animal found by him staked, tethered, herded, pastured or running at large upon any of the public highways of the city, and to deliver such animal to the city's animal control officials. Those officials shall retain

possession of the animal until the costs of capturing, transporting and maintaining the animal are paid in full.

**14.20.070 Removal of unlawful installations.**

It is unlawful for any person to place, construct or maintain any approach, road, driveway, pole, pipeline, conduit, sewer, ditch, culvert, billboard, advertising sign or any other structure or object of any kind or character within the right-of-way of any city road without complying with the regulations of the department, which may:

A. Remove such installation from the right-of-way or require such person to remove the same; or

B. Give written notice to such person to remove the installation from the right-of-way. The notice may be served either by personal service or by mailing the notice to the person by registered mail and posting a copy thereof on the installation for a period of ten days. If the installation is not removed within ten days after the notice is complete, the department may remove the same and recover costs and expenses, and also the sum of \$10 for each day the same remained within the right-of-way after notice was complete, in an action for that purpose; or

C. Bring an action to abate the same as a nuisance if such person disputes or denies the existence of such installation or refuses to remove or permit its removal. If judgment is recovered by the department, there shall also be recovered, in addition to having the same abated, the costs of action and the sum of \$10 for every day such nuisance remained within the right-of-way after notice was given for its removal.

**14.20.080 Advertising—Permit required.**

It is unlawful for any person to place any form of advertising upon any part of the public domain in the city, or along any city highway within 300 feet of such highway, except upon land in private ownership situated along such highway (subject to the

other requirements of this code), without first receiving a permit to do so from the department, subject to the approval of the city.

**14.20.090 Confining and securing loads on vehicles required.**

A. No vehicle shall be driven or moved on any city highway unless so constructed or loaded as to prevent its contents from dropping, sifting, leaking or otherwise escaping therefrom, except that reasonable amounts of sand, salt or other abrasives may be dropped for the purpose of securing traction, or water or other substance may be sprinkled on a roadway for cleaning or maintaining such roadway.

B. No person shall operate on a public highway any vehicle with a load unless the load and any covering thereon is suitably fastened, secured and confined according to the nature of the load so as to prevent the covering or load from becoming loose, detached or in any manner a hazard to other users of the highway.

**14.20.100 Water upon highway prohibited.**

It is unlawful for any users of water from any ditch, stream or well to willfully or carelessly permit the same to run upon any city highway in such a manner as to damage or interfere with the proper use of same, or to cause pools of water to stand thereon, or to cause anything to be placed or left upon such highway so as to obstruct travel or to endanger property or persons upon the same.

**14.20.105 Placing snow upon highway prohibited.**

It is unlawful for any person removing snow, ice or other material from a sidewalk or driveway to place or deposit said snow, ice or other material upon any city road or highway in such a manner as to interfere with the proper use of the same or so as to obstruct travel or to endanger property or persons upon the same.

**14.20.110 Encroachments deemed obstructions.**

It is the duty of the department to treat as obstructions to public highways all encroachments declared by the terms of this chapter to be unlawful.

**14.20.120 Revocable license for certain pre-incorporation encroachments.**

The city council may, but is not obligated, to grant a revocable license for the maintenance on a public highway of an encroachment or obstruction otherwise declared by the terms of this chapter to be unlawful, provided that (a) the encroachment or obstruction has continually existed in substantially its current state since on or prior to the city's incorporation; and (b) the city council determines, in its sole discretion, that such encroachment or obstruction does not constitute an immediate danger to public health or safety; and (c) the city's grant of such revocable license is effected only by a written license agreement in such form as the city council may from time to time specify by ordinance or by resolution; and (d) the written license agreement is executed and delivered to the city by the owner of the encroachment or obstruction and by all owner(s) of fee title to, or leasehold interests in, the private real property to which the encroachment or obstruction relates; and (e) the written license agreement thereafter is recorded in the office of the Salt Lake County Recorder as an issue affecting title to the private real property to which the

encroachment or obstruction relates.



## Chapter 14.24

### POLES, POSTS AND FENCES

#### Section:

- 14.24.010 Prohibited generally.**
- 14.24.020 Telephone poles.**
- 14.24.030 Electric light poles.**
- 14.24.040 City permission required when.**
- 14.24.050 Mailboxes.**
- 14.24.060 Fences.**
- 14.24.070 Posts on property abutting public highway.**
- 14.24.080 Reservation of poles for city use.**
- 14.24.090 Violation deemed obstruction.**

#### **14.24.010 Prohibited generally.**

It is unlawful for any person to set, place, keep or maintain any pole, post, fence or like obstruction upon or along any public highway, road, street, avenue, lane, alley, trail, curb ramp or sidewalk in the city, except as designated in this chapter.

#### **14.24.020 Telephone poles.**

Telephone poles shall be set along the pole line, with the face of the pole nearest the center of the street, one foot toward the property line from the curblines or in that area designated for utilities.

#### **14.24.030 Electric light poles.**

Electric light or other poles for carrying electric current for commercial purposes shall be set in the same manner as telephone poles, one foot from the curblines or in that area designated for utilities.

#### **14.24.040 City permission required when.**

No telephone, electric light or other pole used for support of wires carrying electric current shall be set on any public highway in the city without permission or a grant of right-of-way therefor being first obtained from the city.

#### **14.24.050 Mailboxes.**

Posts or structures for carrying or holding mailboxes shall be set either along the tree or pole line defined above for a sufficient distance back of the curblines so as not to obstruct the street, highway, sidewalk or curb ramp traffic.

#### **14.24.060 Fences.**

Fence posts may be set along a fenceline, which is designated as the distance from the center of any highway not less than half the surveyed and platted width of the highway; no public highway in the city being regarded as surveyed and platted less than 50 feet in width. It is unlawful to place or maintain any fence or building the face of which is nearer the center of any highway than the line designated as the fenceline.

#### **14.24.070 Posts on property abutting public highway.**

It is unlawful to set, place or maintain any telephone, electric light or current poles, trees, mail, sign or other posts, except as provided in this chapter, upon property abutting on any public highway in the city, at a point nearer to the fenceline than a line centering one foot therefrom on the side farthest from the center of the highway; and it is unlawful to set or maintain any sign or other post at a point nearer the centerline than one-half foot from the outside of the outer limit of any alley or lane.

#### **14.24.080 Reservation of poles for city use.**

It is provided that any grant or permission hereafter given to set telephone or electric light poles upon any of the public highways in the city, shall be made subject to the reservation, whether or not the reservation is specifically set forth in the grant or permission, that wherever the city shall deem it necessary for the public good or service, the city shall have the right to place crossarms on the poles, and to string one set of wires thereon, for furnishing electric light and

current to the city, and to use and operate the same during the period of such grant or permission, with reasonable regard for the rights of the grantee.

**14.24.090 Violation deemed obstruction.**

It is the duty of the department to treat as obstructions to public highways, all poles, posts, fences or other obstructions set or placed in violation of the terms of this chapter.

**Chapter 14.28**  
**WIRELESS FACILITIES IN THE**  
**PUBLIC RIGHT-OF-WAY**

**Sections:**

- 14.28.010 Purpose and scope.**
- 14.28.020 Definitions.**
- 14.28.030 Orders, rules and regulations.**
- 14.28.040 Master license agreement required.**
- 14.28.050 Permit required; Application form; Fees.**
- 14.28.060 Application processing.**
- 14.28.070 Compensation.**
- 14.28.080 Other requirements.**
- 14.28.090 Modifications.**
- 14.28.100 Maintenance of wireless facilities.**
- 14.28.110 Enforcement and remedies.**
- 14.28.120 Appeals.**

**14.28.010 Purpose and scope.**

A. *Purpose.* The purpose of this chapter is to establish requirements for the siting and use of wireless facilities in the public ways in a manner that facilitates the delivery of wireless services within the city, while minimizing associated adverse impacts. The goals of this chapter are to:

1. Provide for the managed development and installation, maintenance, modification, and removal of wireless services infrastructure in the city with the fewest number of wireless facilities and structures to provide adequate wireless communications coverage, without unreasonably discriminating against wireless providers of functionally equivalent services including all of those who install, maintain, and operate wireless facilities.

2. Promote and protect the public health, safety, and welfare, and specifically including protecting aesthetic values by reducing the visibility of wireless facilities and structures to the fullest extent possible through techniques including but not limited to camouflage/concealment, design

techniques, and undergrounding of wireless facilities and the equipment associated therewith, where appropriate.

3. Encourage the deployment of smaller, less intrusive wireless facilities to supplement existing telecommunications facilities.

4. Encourage the location of structures in non-residential areas, in a manner that minimizes the total number of structures needed throughout the community.

5. Encourage the collocation of wireless facilities on new and existing structures.

6. Encourage owners and users of wireless facilities and structures to locate them, to the extent possible, where the adverse impact on the community is minimized.

7. Enhance the ability of wireless providers to provide its wireless services to the community quickly, effectively, and efficiently.

8. Effectively manage wireless facilities in the public way.

B. *Scope.*

1. This chapter provides the basic local scheme for providers of wireless services and systems that require the use of the public ways, including providers of both the system and service as well as providers of the system only.

2. The requirements in this chapter shall apply to all wireless facilities and structures located within the city's public way and to all applications to locate or modify wireless facilities and structures within the city's public way. This chapter shall apply to all future wireless providers and to all wireless providers in the city prior to the effective date hereof, whether operating with or without a license.

3. The activities regulated by this chapter are subject to terms of the Small Wireless Facilities Deployment Act, UTAH CODE ANN. 54-21-101 *et seq.*, or its successor.

C. *Excluded activities.* This chapter shall not apply to video service systems, wireline services, or macro wireless facilities.

#### **14.28.020 Definitions.**

For the purposes of this chapter, the following definitions shall apply; the words “shall” and “will” are mandatory; the word “may” is permissive; and words not defined shall be given their common and ordinary meaning.

“*ADA*” means the Americans with Disabilities Act of 1990, 42 U.S.C. Sec. 12101 *et seq.*, or successor statute.

“*Antenna*” is defined in UTAH CODE ANN. 54-21-101(1) or its successor.

“*Applicant*” means a wireless provider who makes application for a permit under this chapter.

“*Application*” is defined in UTAH CODE ANN. 54-21-101(5) or its successor.

“*City*” means the city of Cottonwood Heights.

“*City engineer*” means the city’s city engineer or authorized representative.

“*Collocate*” is defined in UTAH CODE ANN. 54-21-101(11) or its successor.

“*Decorative pole*” is defined in UTAH CODE ANN. 54-21-101(14) or its successor.

“*Director*” means the city’s director of public works, in consultation with the city engineer and the city’s director of community and economic development.

“*FCC*” means the Federal Communications Commission of the United States.

“*Gross revenue*” has the same meaning as gross receipts from telecommunication services as defined in UTAH CODE ANN. 10-1-402, or its successor statute, as applied to revenue of a wireless provider.

“*Macro wireless facility*” means one or more antenna mounted on a tower or similar structure that is not a small wireless facility or a micro wireless facility. A macro wireless facility is not permitted in the public way unless otherwise required by federal law.

“*Master license agreement*” means an agreement between a wireless provider and the city that sets forth the general terms and conditions pursuant to which the wireless provider may install and operate wireless facilities in the public way.

“*Micro wireless facility*” is defined in UTAH CODE ANN. 54-21-101(21) or its successor.

“*Permit*” means a permit issued under this title for construction, excavation or other work in, or obstruction of, the public way. The written authorization the city requires for a wireless provider to perform an action or initiate, continue, or complete a project, subject to the terms of this chapter and a master license agreement. Other permits such as, for example, a building permit and traffic control permit, may also be required.

“*Permittee*” means any person who has been issued a permit and has agreed to fulfill the requirements of this chapter on its own behalf or on behalf of a wireless provider.

“*Person*” means and includes any natural person, partnership, firm, association, public utility company, corporation, company, organization, or entity of any kind.

“*Public way*” means all public rights of way, pathways, walkways and sidewalks, public streets, public roads, public highways, public alleys, and public drainageways including the surface, subsurface and above surface space, now or hereafter existing as such within the city. “*Public way*” does not include utility easements not within public ways of the city and federal interstate highways or fixed guideways as defined in UTAH CODE ANN. 59-12-102.

“*Residential realty*” means single-family residential lots, other multifamily residences, or undeveloped land that is designated for residential use by zoning or deed restrictions.

“*Small wireless facility*” is defined in UTAH CODE ANN. 54-21-101(25) or its successor.

“*Structure*” means a utility pole or a wireless support structure.

“*Telecommunications*” means the transmission, between or among points specified by the user, of information of the user’s choosing (e.g. data, video, and voice) without change in the form or content of the information sent and received.

“*Utility pole*” means a pole or similar structure that is in a public way and is or may be used for wireline communications, electric distribution, lighting, traffic control, signage, or the collocation of a small wireless facility. “*Utility pole*” does not include a wireless support structure, a structure that supports electric transmission lines, or electric power poles owned by the city.

“*Wireless facility*” is defined in UTAH CODE ANN. 54-21-101(29) or its successor.

“*Wireless provider*” means a person that provides wireless services to customers, and/or builds or installs wireless facilities.

“*Wireless service*” is defined in UTAH CODE ANN. 54-21-101(32) or its successor.

“*Wireless support structure*” is defined in UTAH CODE ANN. 54-21-101(34) or its successor.

“*Wireline backhaul facility*” means a facility used to transport communications by coaxial or fiber-optic cable from a wireless facility to a communications network. A wireline backhaul facility may be installed in the public way pursuant to a franchise agreement.

#### **14.28.030 Orders, rules and regulations.**

In addition to the requirements set forth in this chapter, the city may adopt such orders, rules and regulations which are reasonably necessary to accomplish the purposes of this chapter and are consistent herewith.

#### **14.28.040 Master license agreement required.**

A. Any wireless provider desiring to install, repair, maintain, remove and replace wireless facilities in the public way shall first enter into a master license agreement with the

city, except to the extent exempted by federal or state law.

B. The city is empowered and authorized to grant nonexclusive master license agreements on a nondiscriminatory basis, governing the installation, operation, use and maintenance of wireless facilities in the public way in accordance with the provisions of this section.

C. The city shall grant a master license agreement to a wireless provider pursuant to non-codified ordinance authorizing the negotiation and execution of a master license agreement. Acceptance of the master license shall occur by the wireless provider executing the authorized master license agreement within 30 days of recordation of the authorizing ordinance. Any amendment or extension thereof will also require city council approval.

D. The initial term of a master license agreement typically shall be ten years, which may be renewed if the wireless provider is in compliance with the master license agreement and all applicable laws, rules, and regulations, including this chapter. At the expiration of the term of the master license agreement, the wireless provider shall remove its wireless facilities from the public way unless otherwise agreed to by city.

E. This section shall only apply to wireless facilities. If a wireless provider has telecommunications systems that may be used for multiple purposes, such as a wireline backhaul facility or video services system, then such provider shall obtain a franchise from city for each permitted purpose.

F. Before offering or providing any wireless services pursuant to the master license agreement, a wireless provider shall obtain all other required regulatory approvals, permits, authorizations or licenses for the offering or providing of such services from the appropriate federal, state, and local authorities, and, promptly upon the city’s request, shall submit to the city evidence of the same, such as a license from the FCC or

certificate from the state Public Service Commission.

G. The grant of a master license agreement will not excuse the wireless provider from obtaining (1) any permit or other authorization required to engage in or carry on any business within the city as required by the city's laws, rules, and regulations, (2) any other permit, agreement or authorization required in connection with the use of property or facilities owned by third parties, or (3) any other permit or authorization required in connection with excavating or performing other work in or along the public way.

H. Wireless providers shall comply with all applicable federal, state, and city laws, rules and regulations, including those of the FCC.

I. Except to the extent exempted by applicable law, any wireless provider acting without a master license agreement on the effective date of the ordinance codified in this chapter shall request issuance of a master license agreement from the city within 90 days after such effective date. If such request is made, the wireless provider may continue to provide services during the course of negotiations. If a timely request is not made, or if a master license agreement is not granted, the wireless provider shall remove its equipment from the public way within 30 days after written notice from the city.

J. A master license agreement shall not convey any equitable or legal title in the public way. A master license agreement evidences the right to occupy the public way on a nonexclusive basis for the limited purposes and time period stated in the agreement. The right to occupy the public way pursuant to the master license agreement may not be subdivided, assigned or subleased except as may be expressly provided in the master license agreement.

K. A provider's use of the public way pursuant to a master license agreement shall be subject to the prior and continuing right of the city to use any and all parts of the public

way exclusively or concurrently with any other person or entity authorized by the city, and shall be further subject to all deeds, easements, dedications, conditions, covenants, restrictions, encumbrances and claims of title which may affect the public way.

L. A master license agreement granted pursuant to this chapter shall contain appropriate provisions for enforcement, compensation, and protection of the public including, without limitation, defining events of default; requiring deposit of an irrevocable unconditional letter or credit or surety bond; requiring proof of required insurance coverage; describing rights of termination or revocation; and indemnification of the city in connection with the wireless provider's activities in the public way.

M. If a wireless provider continues to operate all or any of its wireless facilities in the public way after the terms of the master license has expired, such wireless provider shall continue to comply with all applicable provisions of this chapter and the master license agreement, including, without limitation, all compensation provisions. Any such continued operations shall in no way be construed as a renewal or other extension of the master license agreement nor as a limitation on the remedies available to the city as a result of such continued operation after the term of the master license agreement including, without limitation, damages and restitution.

#### **14.28.050 Permit required; Application form; Fees.**

A. *Permit required.* Except as otherwise provided by applicable law, any wireless provider desiring to install a wireless facility in the public way shall first apply for and obtain a permit for such work pursuant to this chapter and any other requirements of this code. The city will not provide a permit to a wireless provider until the wireless provider and city have first entered into a master license agreement, and, if required, a

franchise agreement. If a wireless provider authorizes another person to act as the permittee to perform any activity contemplated by this chapter, such wireless provider shall be responsible funder this chapter and the permit to the same extent as if the wireless provider were itself the permittee.

B. Form of application. Applications for a permit shall be filed with the director on a form or forms to be furnished by the city, and shall contain, as applicable:

1. The name, address, telephone, and facsimile number of the applicant. Where an applicant is not the owner or in sole control of the facility to be installed, maintained or repaired in the public way, the application also shall include the name, address, telephone, and facsimile number of the owner;

2. A description of the type(s) of wireless facility(ies) covered by the application (such as collation of small wireless facility, installation of new utility pole, or installation of new wireless support structure) and, in cases of proposed collation, the type of structure on which the wireless facility will be mounted;

3. A description of the location, purpose, method of the proposed work, and surface and subsurface area to be affected;

4. A plan showing the proposed location of the work and the dimensions of any excavation and the facilities to be installed, maintained, or repaired in connection with the work, and such other details as the director may require;

5. A copy or other documentation of the use permit authorizing the applicant or owner to use or occupy the public way for the purpose described in the application, including the appropriate franchise agreement or master license agreement. Where the applicant is not the owner of the facility or facilities to be installed, maintained, or repaired, the applicant must demonstrate in a form and manner specified by the city engineer that the applicant is

authorized to act on behalf of the owner;

6. The proposed start date of work;

7. The proposed duration of the work, which shall include the duration of the restoration of the public way physically disturbed by the work;

8. Written certification that all material to be used in the work and restoration of the public way, will be on hand and ready for use so as not to delay the work and the prompt restoration of the public way;

9. Written certification that the applicant and owner are in compliance with all terms and conditions of this chapter, the orders, and all applicable rules and regulations of the director, and that the applicant and owner are not subject to any outstanding assessments, fees or penalties that have been finally determined by the city;

10. Evidence of insurance as required by either this code or the applicable agreement with the city;

11. A performance deposit as required by either this code or the applicable agreement with the city;

12. A scaled site plan, rendering or photo simulation, scaled elevation view and other supporting drawings and calculations, showing the location and dimension of all improvements. The submittal must include sufficient information to determine compliance with the standards and requirements of this chapter, specifically including information concerning structure height and location within the public way, compliance with the city's intersection and driveway sight distance standards, and compliance with the ADA;

13. Evidence of all regulatory approvals, permits, authorizations or licenses for the offering of such services from the appropriate federal, state, and local authorities (whether the services are being offered by the permit provider or another person);

14. Evidence that the owner (if not the applicant) has provided permission to perform the work on behalf of the owner and, if applicable, permission to use or attach to

owner's property in the public way; and

15. Any other information that may reasonably be required by the director.

*C. Avoidance of redundant submittals.*

The director may allow a wireless provider to maintain on file with the city any documentation that would otherwise be required for each individual application, such as basic wireless facility design documents and pole load analyses. The wireless provider must update any such information as necessary to keep it current.

*D. Application fee.* In order to offset the cost to the city to review applications, a wireless provider shall pay to city a non-refundable application fee for a permit to work in the public way for the installation or modification of a wireless facility. The cost of such permit is set forth on the city's consolidated fee schedule, and shall be the following amounts:

1. \$100 per small wireless facility that is collocated on an existing or replacement utility pole or wireless support structure.

2. \$250 for per utility pole to install, modify, or replace a utility pole associated with a small wireless facility, where permitted under UTAH CODE ANN. 54-21-204, or its successor.

3. \$1,000 per utility pole to install, modify, or replace a utility pole associated with a small wireless facility, where not permitted under UTAH CODE ANN. 54-21-204, or its successor.

**14.28.060 Application processing.**

Applications for permits shall be processed as follows:

*A. Consolidated applications.* A wireless provider may submit a consolidated application for (1) the collocation of up to 25 wireless facilities, so long as such wireless facilities are of substantially the same type and are proposed for collocation on substantially the same types of structures, and (2) the installation, modification, or replacement of up to 25 structures. In any 30-day period, a wireless provider may not file

more than one consolidated application, or multiple applications that collectively seek licensure for a combined total of more than 25 wireless facilities and structures.

*B. Completeness.* Within 30 days after an application is submitted to the city, the city shall determine whether the application is complete, and shall notify the wireless provider of that determination in writing. If the city determines that an application is incomplete it shall specifically identify the missing information in the written notification. The processing deadline will be tolled from the date when the city sends the written notification until the date when the wireless provider submits the missing information. If the wireless provider does not submit the missing information within 90 days after the date of the written notification, the application will expire.

*C. Processing timetable.* The city shall approve or deny applications in accordance with the following timetable:

1. Applications for the collocation of small wireless facilities shall be approved or denied within 60 days after the city receives a complete application. The city may extend the deadline by a single additional period of ten days by sending the applicant written notice of the extension before the applicable deadline.

2. Applications for new, modified, or replacement utility poles shall be approved or denied within 105 days after the city receives a complete application. The city may extend the deadline by a single additional period of ten days by sending the applicant written notice of the extension before the applicable deadline.

3. Applications for the collocation of large wireless facilities in the public way and for the installation of wireless support structures in the public way shall be approved or denied within 150 days after the city receives a complete application. The city may extend the deadline as the city deems necessary.



D. *Denial*. The city may deny an application to collocate a small wireless facility or to install, modify, or replace a utility pole that meets the height requirements in this chapter only as provided in UTAH CODE ANN. 54-21-302(7). If the city denies an application it shall provide the applicant with a written decision that documents the basis for the denial, and shall send that decision to the applicant on or before the day that the city denies the application. If the city denies an application for one or more utility poles, or for one or more small wireless facilities, in a consolidated application, the city shall not use that denial as a basis to delay the application process for any other utility pole or small wireless facility in the same consolidated application.

E. *Resubmittal*. Within 30 days after the day on which the city denies an application, the applicant may cure the deficiencies noted in the denial and resubmit the application without paying an additional application fee. The city shall approve or deny the resubmitted application within 30 days after receipt, and shall limit its review to the deficiencies noted in the original denial unless the applicant has changed another portion of the application.

#### **14.28.070 Compensation.**

The master license agreement will require the wireless provider to pay fair and reasonable compensation to the city to offset the city's cost of inspecting and managing the licensed wireless facilities and to compensate the city for use of the public way as described. Specifically:

A. *Collocation rate*. A wireless provider shall pay to city an annual fee for each collocation on a city owned utility pole as provided in UTAH CODE ANN. 54-21-204, or its successor. If such city owned utility pole is a street light owned or managed by city as part of the street light enterprise fund, the annual fee for such street light shall be allocated to the street light enterprise fund.

B. *Public way rate*. A wireless provider shall pay to city a fee to use or occupy the public way, unless otherwise provided by applicable law.

1. A wireless provider shall pay to the city an annual amount equal to the greater of (a) three and one-half percent (3.5%) of such wireless provider's gross revenues related to such wireless provider's use of the public way, or (b) two hundred fifty dollars (\$250) per small wireless facility. The annual amount due for the public way rate under this subsection (B) shall be remitted to the city in monthly installments.

2. With the payment of each annual public way rate, a wireless provider shall include a report describing gross revenue upon which the rate is calculated and a description, of reasonable specificity, of the small wireless facilities which have generated the revenue upon which the rate is based. The report shall include such other information related to such payment as the city may reasonably request. The records of the wireless provider pertaining to the reports and payment required by this chapter, including but not limited to any records deemed necessary or useful by the city to calculate or confirm gross revenue, and all other records of the wireless provider reasonably required by city to assure compliance by the wireless provider with the terms of this chapter shall be open to inspection by the city and its duly authorized representatives upon reasonable notice at all reasonable business hours of the wireless provider.

3. Notwithstanding anything in this subsection (B) to the contrary, no payment of the public way rate thereafter shall be due from a wireless provider who submits authoritative evidence that such provider is subject to a municipal telecommunications license tax imposed by the city under UTAH CODE ANN. 10-1-401 *et seq.*

C. *Other fees*. A wireless provider shall pay all other applicable fees established by

city, specifically including but not limited to permit fees and business license fees.

**14.28.080 Other requirements.**

A. Placement. Wireless facilities and new structures must be placed in locations that will not: (1) obstruct or hinder the usual travel or public safety on the public way; (2) create a public health or safety hazard, (3) obstruct, damage, or interfere with another utility facility in the public way, or the use of such other utility facilities, (4) materially interfere with the safe operation of traffic control equipment, (5) materially interfere with a sight line or a clear zone for transportation or pedestrians, (6) violate the ADA, or (7) violate any applicable laws or legal obligations.

B. Design requirements. The design and location of the wireless facility and utility pole or support structure shall comply with all design standards adopted by the city and be architecturally integrated with existing buildings, structures and landscaping, including considerations of height, color, style, placement, design and shape. Exposed cabling will not be permitted. New and replacement structures must be of monopole design; lattice structures will not be permitted. Wooden structures will not be permitted.

C. Structural load analysis. The application shall include an industry-standard pole load analysis indicating that the structure on which the wireless facilities will be mounted will safely support the load. If a small wireless facility cannot be safely installed on the structure, the applicant shall either replace the structure with a compliant structure of the same type or propose a new location.

D. Height.

1. The height of a structure with an attached wireless facility, including the wireless facility, shall be the minimum height needed for the operation of the wireless facility.

2. In no event shall the maximum height of a new or modified utility pole with an attached wireless facility, including the wireless facility, exceed 50 feet above the public way; provided that the antenna of a wireless facility may not extend more than ten feet above the top of a utility pole existing on or before 1 September 2018.

3. Where wireless facility equipment is permitted on the outside of a utility pole, it shall be placed higher than eight feet above the public way and shall not protrude more than two feet from the pole, unless otherwise permitted by city.

E. Decorative poles. If necessary to collocate a wireless facility on a decorative pole, a wireless provider may replace that decorative pole if the replacement pole reasonably conforms to the design aesthetics of the displaced decorative pole and meets the requirements of this code, including the design standards.

F. Undergrounding. A wireless provider shall place newly constructed lines, cables and wireless support structures underground whenever required by the city under UTAH CODE ANN. 54-21-207, or its successor. Any request by a wireless provider for location of any overhead or aerial facilities (other than the antennas or other facilities required to remain above ground in order to be functional) shall be considered by city in accordance with applicable rules and regulations.

G. Historic districts and design districts. In order to maintain the character of a historic district (including the area surrounding a designated historic structure) and/or design district (such as the city's Gateway Overlay District) as contemplated by Title 19 of this code, all wireless facilities and new structures in such district must employ screening, concealment, camouflage, or other stealth techniques to minimize visual impacts, and comply with all requirements and obtain all approvals as required by Title 19 of this code and as permitted by UTAH CODE ANN. 54-21-208, or its successor.

H. Insurance and bonding. A wireless provider shall maintain in continuous effect all insurance and bonds required in connection with obtaining a permit, whether pursuant to a master license agreement or other city requirement.

I. Indemnity. A wireless provider shall indemnify, save harmless, and defend the city, its officers, employees and agents, from and against all losses, claims, counterclaims, demands, actions, damages, costs, charges, and causes of action of every kind or character, including attorneys' fees, arising out of or in connection with such provider's wireless facilities or use of the public way, unless and to the extent caused by the city's negligence.

J. Electrical service. A wireless provider will be solely responsible for establishing electrical power services for its wireless facilities and for the payment of all electrical utility charges to the applicable electric service provider based upon applicable tariffs.

K. Residential realty. A wireless provider may not install a new utility pole in a public way adjacent to any residential realty if the curb to curb measurement of the street is 60 feet wide or less as depicted on the official plat records or other measurement provided with the application, unless the city has given prior written consent.

L. Hazardous materials. Wireless provider shall not possess, use, generate, release, discharge, store, dispose of, or transport any hazardous materials on, under, in, above, to, or from any public way except in compliance with all applicable environmental laws and pre-approved by city. Wireless provider shall promptly reimburse city for any fines or penalties levied against the city because of wireless provider's failure to comply with applicable environmental laws.

M. Lighting. Only such lighting of wireless facilities as is necessary to satisfy FAA requirements is permitted. White strobe lighting will not be allowed, unless

specifically required by the FAA. Security lighting for the equipment shelters or cabinets and other on the ground ancillary equipment is permitted, as long as it is appropriately down-shielded as reasonably directed by the city to keep light within the boundaries of the site.

N. Installation deadline. A permit shall expire 270 days after approval if the licensed small wireless facility or utility pole is not installed and operational. The foregoing deadline will be tolled for any period of time during which the lack of commercial power or communications facilities delays completion.

O. Tree trimming. A wireless provider may trim trees overhanging the public way to prevent the tree branches from coming in contact with the wireless facilities only with the prior permission and under the direction of the director and at the wireless provider's expense.

P. Compliance with law. All wireless facilities must at all times comply with all applicable federal, state, and local building codes and safety codes and regulations; provided that to the extent of any conflict between this chapter and any other provisions of this code, this chapter shall control. All wireless facilities and structures shall be constructed and installed to manufacturer's specifications.

Q. Additional requirements. Wireless facilities will be subject to any additional requirements set forth in the applicable master license agreement and permit.

#### **14.28.090 Modifications to wireless facilities.**

A. A wireless provider may not alter, modify, or enlarge a licensed small wireless facility, support structure or utility pole without the city's prior written consent. To obtain such consent, the wireless provider must submit an application for a permit in accordance with section 14.28.050.

B. Applications for modifications to wireless facilities and structures will be

subject to the same standards, requirements, and processing deadlines as applications for collocations.

C. Notwithstanding the foregoing, a wireless provider is not required to submit an application to, or obtain consent from, the city for the following activities: (1) routine maintenance; (2) replacement of a small wireless facility with a small wireless facility that is substantially similar or smaller in size; or (3) the installation, placement, maintenance, operation, or replacement of a micro wireless facility that is strung on a cable between existing utility poles in compliance with the National Electrical Safety Code. A wireless provider shall provide the city with advance written notice of any such activity in the public way.

D. A wireless provider shall apply for and obtain an excavation permit in accordance with Title 14, Chapter 16 of this code for any work that requires excavation or the closure of sidewalks or vehicular lanes. The requirement to obtain an excavation permit applies even for work that is exempted from the application process pursuant to subsection (C), above.

E. Any approved modifications will be documented in a new or amended permit issued under this chapter.

#### **14.28.100 Maintenance.**

A. All wireless facilities and wireless provider-owned structures shall be maintained by the wireless provider in a safe, clean and good condition, free of graffiti, rust, excessive dirt, and peeling paint.

B. A wireless provider shall maintain its system in accordance with standard prudent engineering practices and in compliance with all applicable codes and standards.

C. The city shall have the authority to conduct inspections of the wireless facilities and structures at any time to determine whether such facilities and structures comply with the requirements of this chapter.

#### **14.28.110 Enforcement and remedies.**

A. *Enforcement.* The city is responsible for enforcing and administering this chapter, and the city or its designee is authorized to give any notice required by law or under any master license agreement or permit. Failure of the city to require performance of any term in this chapter or the waiver by either party of breach hereof shall not prevent subsequent enforcement of that term and shall not be deemed a waiver of any subsequent breach.

##### **B. *Removal of wireless facilities.***

1. If (a) the use of a wireless facility is discontinued for a continuous period of at least 12 months, (b) the term of the applicable master license agreement has expired, or (c) any wireless facility or structure has been installed in the public way without complying with the requirements of this chapter, and the respective wireless facilities have not been removed by the wireless provider within 30 days after the occurrence of any such event, such wireless provider shall be deemed to have abandoned such wireless.

2. If any wireless facility is deemed abandoned, the wireless provider shall remove its wireless facilities and structures within 90 days after the city's notice of such abandonment and shall repair and restore the public way to a similar or better condition than at the time of the installation. Failure to do so may result in the city's removal of the facilities and structures at the wireless provider's cost. The city shall have the right to inspect and approve the condition of the public way, wireless facilities, and structures prior to and after removal. The liability, indemnity and insurance provisions of this chapter and any security required of a wireless provider shall continue in full force and effect during the period of removal and until full compliance by the wireless provider with the terms and conditions of this section.

3. Notwithstanding anything to the contrary set forth in this chapter, and subject to the city's prior approval in its discretion, a wireless provider may abandon any

underground facilities in place so long as it does not materially interfere with the utility of the public way or with the use thereof by the city, by any public utility, by any cable operator or by any other person.

C. *Default.*

1. If a wireless provider violates any provision of this chapter, the city will notify the violating party in writing, specifying the violation, and provide at least 30 days for the party to cure the violation. If the violation is not cured within 30 days, shall maintain all its rights and remedies, at law and in equity, concerning such violation, including the ability to charge fines, recover fees and costs, and remove the violating party's wireless facilities. Without limitation, the city may:

(a) Fine the violating party \$100 per day until the violation is cured;

(b) Terminate or suspend any franchises, permits, or licenses held by the violating party; and

(c) Withhold issuing any new permits to the violating party.

2. If the violation is not cured within 180 days after the city's notice, the city may remove and impound the violating party's wireless facilities until the violation has been cured.

3. The violating party may appeal the city's notice of violation as provided in section 14.28.120.

**14.28.120 Appeals.**

A. The city council or its designee shall hear and decide appeals from administrative decisions applying the provisions of this chapter.

B. A complete notice of appeal shall be filed within ten calendar days after the decision which is appealed.

C. An appeal of an administrative decision shall be considered and processed as follows:

1. A complete notice of appeal shall be submitted to the city recorder along with a \$600 appeal fee. The notice of appeal shall include at least the following information:

(a) The name, address and telephone number of the applicant and the applicant's agent, if any;

(b) A description of the decision being appealed;

(c) A description of the grounds for the appeal; and

(d) A description of the action claimed by the applicant to be incorrect.

2. The hearing will be conducted pursuant to and subject to the processes and standards reasonably specified by the city council or its designee.

## Chapter 14.32

### SIDEWALK USE AND MAINTENANCE

#### Sections:

- 14.32.005 Duty of abutting property owners**
- 14.32.010 Installation of street improvements required.**
- 14.32.020 Sidewalk, drive approach, curbs and gutter repair or replacement.**
- 14.32.030 Inspections.**
- 14.32.040 Permit for sidewalk repairs required.**
- 14.32.050 Obstruction of sidewalks or curb ramps prohibited.**
- 14.32.060 Snow removal—Required.**
- 14.32.070 Snow and debris removal—Clogging gutter or depositing in public way prohibited.**
- 14.32.080 Obstructing sidewalk or curb ramp while receiving goods.**
- 14.32.090 Cellar doors.**
- 14.32.100 Driving or riding on sidewalks prohibited.**
- 14.32.110 Games on sidewalks, curb ramps or streets.**
- 14.32.120 Loitering prohibited.**
- 14.32.005 Duty of abutting property owners.**

It shall be the duty of each owner and occupant of real property abutting or fronting upon any street, highway or alley within the city to repair and maintain in good condition all public curbs, curb ramps, gutters, strips, sidewalks and other land and improvements across or immediately abutting such owner's or occupant's property and located between the curb line of the street and the property line. Such duty includes, without limitation, removal of all litter, weeds and noxious vegetation.

#### **14.32.010 Installation of street improvements required.**

A. An owner of property located on streets designated as a collector street or an arterial street on the city's road map, who constructs upon or otherwise improves that property to the extent of \$25,000 or more in value as computed by the city's building official when issuing the applicable building permits, shall also improve the adjacent public right of way. The improvements required by this section include the installation of curb, gutter, sidewalk and street paving along the entire frontage of the property being improved, and also include the replacement of existing pavement, curb, gutter or sidewalk if any of these improvements have deteriorated to a degree that replacement or repair is required, as determined by the city engineer.

B. The issuance of a building permit, and the subsequent final inspection approval and permanent certificate of occupancy, shall be conditioned upon the owner's compliance with this section.

C. The city's manager may approve a written deferral of installation of improvements required by this section upon the recommendation of the director of the department, and under such terms and conditions as will assure future installation of required improvements.

#### **14.32.020 Sidewalk, drive approach, curbs and gutter repair or replacement.**

A. The owner of a parcel of property abutting a public right of way is responsible, as provided in this chapter, for replacement or repair of curb, gutter or sidewalk abutting the owner's property which has deteriorated to a degree which the city engineer determines requires repair or replacement. Nothing in this section shall be construed to limit the liability of any person causing damage to curb, gutter or sidewalk located in a public right of way. A person who damages any curb, gutter or sidewalk, negligently or

otherwise, is liable for the full cost of replacement.

B. If the department, with concurrence of the manager, finds that existing curb and gutter, drive approach or sidewalk fronting on parcels on the public right-of-way require replacement for safety reasons, and that inclusion of the repair in a special improvement district is not practical, the department may cause the repair work to be done, subject to the following conditions:

1. The manager finds that the city has sufficient personnel and related support resources to accomplish the repair work; and

2. Sufficient budgeted funds are available to pay for the repair work.

C. Proposed repair requests under this section will generally be given priority according to the prioritized list maintained by the city engineer. The city engineer, with concurrence of the manager, may assign a different order of priority to requests to maximize efficient utilization of resources or to coordinate repair work with other public works projects.

D. If the owner of a parcel of property wants to remove and replace the curb and gutter, drive approach, or sidewalk on public property because of deteriorated conditions as defined by standard adopted by the city engineer, with prior written approval and agreement of the city, the city will reimburse the property owner fifty percent (50%) of the cost of replacement, not to exceed \$1,000 per lot/parcel. This reimbursement is subject to sufficient budgeted funds being available.

#### **14.32.030 Inspections.**

The city, through the department, may inspect the condition of the public curbs, gutters and sidewalks to determine any defects or needed repairs.

#### **14.32.040 Permit for sidewalk repairs required.**

A right-of-way repair permit shall be necessary for sidewalk repair and replacement projects, including alterations of

grade, location or dimensions of the curbs, curb ramps, gutters or sidewalks. There shall be no charge by the city for issuance of the permit.

#### **14.32.050 Obstruction of sidewalks or curb ramps prohibited.**

It is unlawful for any person owning, occupying or having control of any premises, to place or permit upon the sidewalk, curb ramp or the half of the street next to such premises:

A. Any broken ware, glass, filth, rubbish, refuse matter, ice, water, mud, garbage, ashes, tin cans or other substances;

B. Any vehicle, lumber, wood, boxes, fencing, building material, dead trees, tree stumps, merchandise, or other thing that obstructs the public street, curb ramp or sidewalk or any part thereof, or the free use and enjoyment thereof, or the free passage over and upon the same, or any part thereof, without the permission of the city.

#### **14.32.060 Snow removal—Required.**

It is unlawful for the owner, occupant, lessor or agent of property abutting on a paved sidewalk to fail to remove or cause to be removed from such sidewalk and any existing pedestrian curb ramp all hail, snow or sleet within a reasonable time after the hail, snow or sleet has fallen. Such removal shall in any event occur not later than the same day in which the snow, hail or sleet has fallen; provided that snow, sleet and hail falling after 8:00 p.m. may be removed the following day by 10:00 a.m.

#### **14.32.070 Snow and debris removal—Clogging gutter or depositing in public way prohibited.**

It is unlawful for:

A. Any person removing snow or debris from a sidewalk or curb ramp to deposit snow, dirt or other material in a gutter so as to clog the same or prevent the free flow of water therein.

B. Any person to place, dump or push

snow, dirt or other material onto public streets or sidewalks.

**14.32.080 Obstructing sidewalk or curb ramp while receiving goods.**

It is unlawful for any person to place or keep, or suffer to be placed or kept, upon any sidewalk or curb ramp, any goods, wares or merchandise that he may be receiving or delivering without leaving a ten-foot passageway clear upon such sidewalk or curb ramp; and it is unlawful for any person receiving or delivering such goods, wares or merchandise to suffer the same to be or remain on such sidewalk or curb ramp for a period longer than one hour.

**14.32.090 Cellar doors.**

It is unlawful for the owner or occupant of any building having a cellar which opens upon any street, curb ramp or sidewalk to fail to keep the door or other covering thereof in good repair and safe for the passage of the customary traffic on the street, curb ramp or sidewalk.

**14.32.100 Driving or riding on sidewalks prohibited.**

It is unlawful for any person to drive a self-propelled vehicle or team, or lead, drive or ride any animal upon any sidewalk except at established crossings.

**14.32.110 Games on sidewalks, curb ramps or streets.**

It is unlawful for any person to obstruct any sidewalk, curb ramp or street by playing games thereon, such as ball games, marbles, flying of kites, or to annoy or obstruct the free travel of any pedestrian, team or vehicle.

**14.32.120 Loitering prohibited.**

It is unlawful for any person to remain standing, lying or sitting on any sidewalk or curb ramp for a longer period than two minutes in such manner as to obstruct the free passage of pedestrians thereon, or to willfully remain standing, lying or sitting thereon in

the manner for more than one minute after being requested to move by any peace officer, or to willfully remain on any sidewalk or curb ramp in such manner as to obstruct the free passage of any person or vehicle into or out of any property abutting upon the sidewalk, curb ramp or any property having access to such sidewalk or curb ramp.



## Chapter 14.36

### DRIVEWAYS

#### Sections:

#### **14.36.010 Permit required.**

#### **14.36.020 Bond required.**

#### **14.36.030 Specifications and grades.**

#### **14.36.040 Deviation from permitted construction unlawful.**

#### **14.36.050 Inspection and approval.**

#### **14.36.060 Construction regulations.**

#### **14.36.010 Permit required.**

It is unlawful for any person to construct, build, establish or maintain any sidewalk, curb ramp, curb and gutter, or driveway over, across or upon any public street, road, thoroughfare, or parkway, or to cut or change the construction of any public sidewalk, curb or gutter for any purpose, without having first obtained from the department a permit for such construction, cut or change.

#### **14.36.020 Bond required.**

A. Before issuance of any such permit, the contractor or person proposing the construction shall file with the bond office, on a form furnished by the city, a penal bond in the sum of \$10,000 with good and sufficient surety thereon, conditioned that the makers shall save harmless, defend and indemnify the city against or on account of accidents, damages or claims arising out of or during the construction by the contractor. All such bonds shall be continuing until terminated by notice in writing given 30 days in advance.

B. In addition, a contractor making a business of such construction in the city shall maintain on file with the department a performance and completion bond in the penal sum of \$1,000 to guarantee for one year after the date of acceptance by the city work done in the city.

#### **14.36.030 Specifications and grades.**

All construction authorized by the permit

issued under section 14.36.010 shall be in accordance with the specifications and grades approved by the department. The acceptance of such permit shall be deemed an agreement by the permittee to perform such construction in accordance with such specifications and grades.

#### **14.36.040 Deviation from permitted construction unlawful.**

It is unlawful for any person to construct any sidewalk, curb and gutter, or driveway over, across or upon any public street, road, thoroughfare or parkway, or to cut or change the construction thereof except in accordance with the permit issued by the department.

#### **14.36.050 Inspection and approval.**

All sidewalks, curb ramps, curb and gutters, and driveways constructed in accordance with the permits authorized by this chapter shall be subject to supervision, inspection and approval by the department.

#### **14.36.060 Construction regulations.**

No permit shall be granted by the department for any driveway more than 30 feet in width. No driveway, including sidewalk, shall be less than six inches thick. When more than one driveway is required for any one parcel of land, a sidewalk island of at least 12 feet shall be provided between driveways, and in no case shall a permit be granted for a driveway that will be within ten feet from the property line where it adjoins any street. It is unlawful for any person to drive any vehicles over or across any such street corner or within ten feet therefrom, as provided in this section. Where, in the opinion of the department, it would be dangerous, or where a driveway conflicts with any permanent improvements or waterways, the department may refuse to issue the permit and the matter shall be referred to the city council or its designee for further consideration, in which event a driveway may be permitted at such place if approved by such authority.

## Chapter 14.40

### BRIDGES, DITCHES AND WATERWAYS

#### Sections:

#### 14.40.010 Generally.

#### 14.40.020 Bridges.

#### 14.40.030 Ditches and waterways.

#### 14.40.040 Headgates.

#### 14.40.050 Water mains.

#### 14.40.060 Duty to repair bridges and flumes.

#### 14.40.070 Violations deemed obstructions.

#### 14.40.010 Generally.

It is unlawful for any person to construct, place, set, keep or maintain any bridge, sewer, well, spill, or like obstruction, upon, in, under or along any public highway, road, street, avenue, lane, alley, trail, sidewalk or curb ramp in the city, except as designated in this chapter and coordinated with the applicable irrigation company.

#### 14.40.20 Bridges.

Bridges over any ditch, waterway or opening across any sidewalk shall not be less than the full width of such sidewalk. Bridges over any ditch, waterway or opening across any roadway section of any highway, trail or sidewalk shall not be narrower than the full width of the roadway section. In all cases, bridges shall be set square with the road or sidewalk, and their coverings shall be made to conform to the grade of the road or sidewalk as fixed by the city. All bridges shall be of substantial material and construction, and the plans and specifications shall be approved by the department and shall be satisfactory to the city council. Bridges connecting the roadway with the sidewalk shall be made to conform with the established grade of the roadway and sidewalk.

#### 14.40.030 Ditches and waterways.

A. All ditches, canals or waterways

constructed across or over any sidewalk or highway shall be securely bridged or flumed; the bridges or flumes shall conform to the regulations provided in this chapter.

B. No ditch, canal or waterway shall be made or constructed across any sidewalk, curb ramp or highway except upon receiving permission from the city and except after conforming with the established grade thereof. When a change in the grade of any sidewalk, curb ramp or highway becomes necessary for the convenience of any ditch, canal or waterway, the changed grade shall be done by or at the expense of the person constructing the ditch, canal, or waterway, and shall be constructed only after receiving permission to proceed from the city or its delegated agent and shall be completed to the satisfaction of the city or its agent.

C. All ditches, canals or waterways running along any highway shall be placed at a location approved by the department.

#### 14.40.040 Headgates.

Headgates for the control of irrigating or other water shall be placed in a location approved by the department.

#### 14.40.050 Water mains.

Water mains for carrying water along or across any highway may be laid by permission or upon order of the city council, at a sufficient depth to keep the roadway secure, and when laid along any highway shall be located in the roadway centering on a line five feet nearer the center of the highway than the curblines as now fixed by ordinance. No excavation for laying water mains or pipes shall be made in any public highway without first obtaining the consent of the city council.

#### 14.40.060 Duty to repair bridges and flumes.

It is unlawful for any person conveying water through or along any ditch, canal or waterway along or across any highway to permit any flume, bridge, etc., under the

control of or owned by the person to become out of repair, and to remain so after attention has been called thereto, longer than is necessary to institute the work of repairs thereon, which work shall be diligently prosecuted to completion.

**14.40.070 Violations deemed  
obstructions.**

It is the duty of the department to treat as obstructions any bridges, flumes, pipes or ditches placed or constructed in violation of this chapter.

## **Chapter 14.44**

### **SHADE TREES**

#### **Sections:**

**14.44.010 Care of trees.**

**14.44.020 Planting line.**

**14.44.030 Condemnation and removal of trees.**

#### **14.44.010 Care of trees.**

In all cases the abutting property owner who receives the beneficial use of and benefit from trees is to care for and water the same. Failure to care for trees may constitute a nuisance.

#### **14.44.020 Planting line.**

The line on which the trees are to be centered within a city highway right-of-way shall be determined by the department.

#### **14.44.030 Condemnation and removal of trees.**

The department, upon giving proper notice to abutting property owner, shall have the authority to condemn and remove, or order the removal by the abutting property owner of, any tree, tree stump, shrub or vine upon any city roads, avenues, or ways where the tree, tree stump, shrub or vine is dead, diseased or for any other reason undesirable. The department shall have authority to trim or prune any road tree or remove any tree that is in violation of any city ordinance, without serving notice upon the abutting property owner.

## Chapter 14.48

### STREET VACATIONS

#### Sections:

#### 14.48.010 Purpose.

#### 14.48.020 Street defined.

#### 14.48.030 Conditions for vacation.

#### 14.48.040 Fees and advertising costs.

#### 14.48.050 Legal interest of city.

#### 14.48.060 Evaluation of need for street.

#### 14.48.070 Compensation.

#### 14.48.010 Purpose.

The purpose of this chapter is to provide a consistent standard regarding compensation to the city for the vacation and/or transfer of its interest in public streets. Vacation of the city's interest in streets should be viewed as a transfer of a substantial property right for which the public should be compensated. To prevent windfall enrichment to abutting property owners at public expense, such transfer should not be made without compensation being paid to the city.

#### 14.48.020 Street defined.

"*Street(s)*" means all major and minor streets, alleys, walkways and trails.

#### 14.48.030 Conditions for vacation.

Petitions for vacation of public streets shall be considered on the basis of the following:

A. *Alleys, Walkways and Trails.* Alleys, walkways and trails are not generally within the current planning and maintenance policies of the city. Vacation of an alley, walkway or trail relieves the city from present and future obligations to maintain such alley, walkway or trail. This benefit to the city is declared to be adequate compensation for the city's interest. Where appropriate, the city may require conditions precedent to the vacation of any alley, walkway or trail such as installation of landscaping, fencing or other improvements which must be completed or bonded for prior

to the enactment of the vacation ordinance.

B. *Major and Minor Streets.* Major and minor streets shall not be vacated or permanently closed unless adequate compensation has been paid for the transfer of the city's interest in the land.

#### 14.48.040 Fees and advertising costs.

No petition for vacation of a city street shall be considered unless accompanied by the fee specified in the consolidated fee schedule to cover costs of review by city personnel. The petitioner shall pay all advertising costs for public notices required for vacation hearings.

#### 14.48.050 Legal interest of city.

No action shall be taken on any petition to vacate a street until the department identifies and verifies the specific manner in which the city acquired its interest in the street and the city attorney determines the legal interest of the city in the street.

#### 14.48.060 Evaluation of need for street.

Each petition shall be evaluated in terms of the current use of the street and the need in the foreseeable future for its use as a public street or for any other public purpose. If such need exists or may exist in the foreseeable future, the petition shall be denied.

#### 14.48.070 Compensation.

Any action providing vacation, sale or other transfer of the city's interest in any street where compensation is required shall be conditioned upon prior payment of such compensation and shall not be completed by an enactment of the ordinance until all required compensation is paid to the city together with advertising costs for all public notices. Generally, such compensation shall be the fair market value of the land. In appropriate cases compensation may be provided for, in part or in whole, through an exchange of land or relocation of streets within an existing subdivision. Where the city's interest in a street is transferred to

another public entity for a public use which benefits the city, the city council may determine that the benefit to the city from such use is adequate compensation for the land. Where appropriate, the city may require conditions precedent such as the installation of landscaping, fencing or other improvements which must be completed or bonded for prior to the enactment of a vacation ordinance.

## Chapter 14.52

### UNLAWFUL ACTIVITIES AND LIABILITY FOR DAMAGES

#### Sections:

**14.52.010 Disregard of warning or barricade.**

**14.52.020 Livestock use on highway unlawful.**

**14.52.030 Injury to trees on highway—Penalty.**

**14.52.040 Violation of Class C road use regulations.**

**14.52.050 Liability for damage to highway or structure.**

**14.52.055 Liability for damage to sidewalk or curb ramp.**

**14.52.060 Liability for damages due to illegal operation.**

**14.52.070 Violation—Penalty.**

**14.52.010 Disregard of warning or barricade.**

No person shall willfully fail to observe any barricade, warning light, sign or flag man, warning the public that a highway or portion thereof is restricted or closed to traffic.

**14.52.020 Livestock use on highway unlawful.**

It is unlawful for any person to drive livestock upon the public highways.

**14.52.030 Injury to trees on highway—Penalty.**

Whoever digs up, cuts down or otherwise injures or willfully destroys any trees planted and standing on any city highway in conformity to law is guilty of a misdemeanor, and shall also be liable to the owner for treble the amount of damages sustained.

**14.52.040 Violation of Class C road use regulations.**

No person shall willfully violate any of the rules and regulations of the city council as

to the use of city highways or traffic thereon, nor shall anyone unlawfully remove, deface or interfere with any road sign, notice, warning or barrier.

**14.52.050 Liability for damage to highway or structure.**

Any person who willfully or negligently injures or damages any city highway, highway equipment or road sign shall be liable for such damage. The amount of such damage may be recovered in a civil action brought by the city attorney in the name of the city.

**14.52.055 Liability for damage to sidewalk or curb ramp.**

Any person who willfully or negligently injures or damages any city sidewalk or curb ramp shall be liable for such damage. The amount of such damage may be removed in a civil action brought by the city attorney in the name of the city.

**14.52.060 Liability for damages due to illegal operation.**

Any person driving any vehicle, object or contrivance upon any city, highway, or highway structure shall be liable for all damage that the highway structure may sustain as a result of the illegal operation, driving or moving of the vehicle, object or contrivance weighing in excess of the maximum weight specified by law. Whenever the driver is not the owner of such vehicle, object or contrivance, but is operating the same with the express or implied permission of the owner, then the owner and driver shall be jointly and severally liable for the damage. Such damage (together with the city's attorneys' fees and costs, if any) may be recovered in a civil action brought by the city attorney in the name of the city at the request of the department.

**14.52.070 Violation—Penalty.**

Where the performance of an act is

prohibited or declared unlawful by the provisions of this chapter but no penalty is prescribed for the violation of the provisions, the doing of such an act is declared to be a misdemeanor.



## Chapter 14.56

### SPECIAL EVENTS

#### Sections:

- 14.56.010 Purpose.**
- 14.56.020 Application of provisions.**
- 14.56.030 Definitions.**
- 14.56.040 Permit required.**
- 14.56.050 Exemption from permit requirement.**
- 14.56.060 Permit—Application procedures.**
- 14.56.070 Permit—Application processing.**
- 14.56.080 Permit --- Event requirements and restrictions**
- 14.56.090 Permit—Fees.**
- 14.56.100 Permit —Approval and denial.**
- 14.56.110 Permit—Liability insurance and indemnification.**
- 14.56.120 Appeal procedures.**
- 14.56.130 City liability.**
- 14.56.140 Violation—Penalty.**
- 14.56.150 Protest zones.**

#### **14.56.010 Purpose.**

The purpose of this chapter is to establish permit requirements for special events staged on or affecting public streets and public property in the city to ensure, *inter alia*, that such events are conducted in a way that appropriately balances the public's right to engage in free speech with the cost and inconvenience to the general public and disruption of public services attributable to such event.

#### **14.56.020 Application of provisions.**

This chapter imposes regulatory requirements on certain activities which are held on public streets and public property in the city and which are defined as "special events." The requirements imposed by this chapter do not alter, supersede or nullify any requirements contained in other statutes, ordinances or regulations which may also regulate these same activities. These

requirements shall be applied in a content-neutral manner and without discrimination as to race, religion, sex, national origin, political affiliation or other unlawful discriminatory classification.

#### **14.56.030 Definitions.**

For the purpose of this chapter, the following words shall have the following meanings:

A. "*Administrator*" means the city's business license administrator or other designee of the city's manager. The administrator may prepare and distribute checklists and other informational materials for use by the public and others regarding the special events permit process. The administrator shall assist members of the public to apply for and receive special event permits, and shall facilitate contact with other public agencies that have a role in issuing a permit.

B. "*Application*" means an application for a special event permit.

C. "*Athletic event*" means an organized competitive or recreational event in which a group of 50 or more people collectively engages in a sport or form of physical exercise, such as running, jogging, walking, bicycling or skating, on any public street or property.

D. "*Block party*" means an outdoor public party staged by residents of a neighborhood that requires closing down the public street accessing that neighborhood, so long as the street in question is not classified by the city for more intensive use than as a "residential collector" street.

E. "*CHPD*" means the city's police department.

F. "*Conducting business*" means the sale, or display or contracting for sale, of goods or services.

G. "*Entertainment event*" means an organized event involving the preplanned participation of more than 50 people, having as its primary purpose the entertainment or amusement of people, such as parades,

carnivals, fairs, concerts, block parties, movie or television film events, or neighborhood gatherings, on any public street or property.

H. “*Event organizer*” means the individual or organization sponsoring the event or otherwise responsible for event arrangements and payment of support fees.

I. “*Free speech*” means any speech or expressive activity that is protected by the constitutions of the United States and/or the state of Utah, such as speechmaking, picketing, protesting, marching, debating, or demonstrating concerning public issues; provided such activities do not unduly disrupt or interfere with traffic on public streets or the use of public places by other members of the public.

J. “*Park*” means a public park located within the city.

K. “*Park owner*” means the entity that owns or manages a park, including the city, the Cottonwood Heights Parks and Recreation Service Area, or Salt Lake County, as applicable. The city shall identify the park owner of any specific park upon written request from an event organizer.

L. “*Political event*” means an organized event having as its primary purpose the exercise of free speech on any public street or property.

M. “*Protest zone*” means an area set aside on public property specifically designated for persons to exercise free speech rights.

N. “*Public forum*” means public streets and property in the city that traditionally has been used by the public for assembly and free speech, or public property that has not been traditionally open for public assembly and free speech but that the city has opened for use by the public as a place for assembly and free speech.

O. “*Public property*” means any real property located in the city that is owned or operated by a public entity other than the federal government or the Utah state government.

P. “*Public street*” or “*public road*” means a public highway (including associated sidewalks) within the city not designated as a state highway.

Q. “*Sidewalk*” means the public walkway area adjoining a public street, which usually is located between the curb line and the fence line on either side of a public street.

R. “*SLCHD*” means the Salt Lake County Health Department.

S. “*Special event*” or “*event*” means an athletic event, an entertainment event, a political event, or other organized event whether held for profit, nonprofit or charitable purposes that attracts participants and/or observers and is conducted on public streets or property.

T. “*Spontaneous event*” means an event that is occasioned by news or affairs coming into public knowledge less than 48 hours before the event and is conducted at a public forum.

U. “*Support fee*” or “*fee*” means a fee charged by the city for the cost of providing added police protection, traffic control, road closures, cleanup of public facilities or other required city services before, during, or after the event. Support fees may be waived by the city if the event constitutes an activity that is exempted from permit requirements under subsection 14.56.050.

V. “*UDOT*” means Utah Department of Transportation.

W. “*UFA*” means Unified Fire Authority.

X. “*UTA*” means Utah Transportation Authority.

#### **14.56.040 Permit required.**

A. It is unlawful for any person or entity to organize and hold a special event without first obtaining a special event permit and paying the fees as required in this chapter.

B. It is unlawful for any person or entity to impede access to, or cause the closure of, any public street in association with a special event without first obtaining a special event permit and paying the fees as required in this chapter. Liability under this chapter shall

only apply to organizers and shall not extend to mere participants of a non-permitted special event.

**14.56.050 Exemption from permit requirement.**

This chapter shall not apply to:

A. Political events at a public forum involving 50 people or less;

B. Special events held at a park pursuant to a reservation agreement or other written contract between the event organizer and the park owner, so long as the attendance at such event does not exceed the lesser of (1) any maximum number of attendees specified in the reservation agreement, or (2) the capacity of the park facilities as determined from time to time by the park owner.

C. Any meeting that is subject to the Utah Open Meetings Act;

D. A spontaneous event held at a public forum; provided that organizers of spontaneous events are encouraged to give as much advance notice as reasonably possible to allow the city to provide services necessary to promote, protect and assure the safety and convenience of the public in their use of public streets and property.

E. Use of parks for organized league play of athletic events, such as youth soccer leagues, pursuant to a reservation agreement or other written contract between the athletic league and the park owner; or

F. Public school events:

1. that are located on, or directly adjacent to, public school property which do not impair the use of adjoining public streets; or

2. that the city's manager, in consultation with CHPD and such other city departments as the manager deems appropriate, determines will not impair the use of public streets and will not result in the city incurring material unreimbursed support fees.

**14.56.060 Permit—Application procedures.**

A. All applications for special event permits shall be made on a special event permit application form prescribed by the city and shall include the following information:

1. Type and description of event;
2. Name of the event organizer, contact person, address, telephone number and email address;
3. Proposed date, together with beginning and ending times;
4. A detailed site map of the event which includes the location, available parking, staging, booth/table setup, restroom availability, etc.;
5. Estimated numbers of event staff, participants and spectators;
6. Admission fee, donation, or other consideration to be charged or requested;
7. Signature of applicant and applicant's affirmation that the information contained in the application is true and correct to the best of applicant's knowledge;
8. Approval permit from the park owner if using any park not owned by the city;
9. If alcohol service is legally permissible and will be present at the event, alcohol permit application forms and background checks;
10. If the event is a block party or other event that would require closure of a public street, the applicant must collect and submit with the application form a list of signatures consenting to the street closure from all neighbors whose vehicular access to their property would be affected by the street closure;
11. Services requested from parks (electrical power, water, stage, sound system, etc.), police, fire, public services or other city departments;
12. Special event sales tax identification number and temporary city business license for any sales of goods or services in connection with the special event;

13. Traffic control plan pursuant to subsection 14.56.080; and

14. Such additional information as the city reasonably may specify on the city-prescribed application form.

B. Application forms may be obtained from the administrator, and also may be available on the city's website.

C. Completed application forms should be submitted to the administrator at least 60 calendar days before the event is publicized, in order to allow sufficient time to process the application and to allow timely appeal to the manager if the application is denied. The administrator will endeavor to notify the applicant within 15 days after application filing of approval or disapproval of the application. Applications submitted less than 30 days prior to the scheduled event shall be denied unless:

1. The applicant demonstrates to the city manager that compliance with the 30-day deadline was impractical or impossible due to the nature of the event; and

2. The city manager determines that:

(a) All requirements of this chapter have been met;

(b) The city is reasonably able to properly evaluate the application in the available time in the ordinary course and conduct of city's business; and

(c) The city will have sufficient time to properly prepare for the event in the ordinary course and conduct of city's business, in a manner that will protect the safety and general welfare of both the event participants and the city's residents.

D. No advertising of a special event shall occur until city approval of the special event is granted and a special event permit is issued.

E. Special events which cross or involve multiple governmental jurisdictions shall be approved only if the applicant also obtains formal authorization from all affected governing bodies and attaches such authorization(s), or a detailed written explanation of the status of such

authorization(s), to the application. A permit issued by another governmental entity shall not exempt an applicant from obtaining a city permit. The administrator may provisionally grant a city permit under this chapter if the administrator determines that appropriate applications to all other affected governmental entities have been filed and are being diligently pursued; provided that such provisional grant of a city permit may be revoked if all required permits from other affected entities are not issued before the occurrence of the special event.

#### **14.56.070 Permit—Application processing.**

A. Upon receipt of an application, the administrator shall circulate copies of the application to such agencies and offices as the administrator reasonably deems appropriate for the purpose of obtaining their approval or disapproval of the proposed special event, such as:

1. SLCHD;

2. CHPD;

3. UFA;

4. The city director of public works; and

5. Any other city department which is to provide a service in connection with the special event.

B. In reviewing an application, the departments involved shall consider the following:

1. The impact of the special event on the traffic, security, health and safety of the public;

2. Probable interference to public access and use of public streets and other public properties and facilities;

3. Appropriate, reasonable requirements for the mitigation of traffic, security, health and safety concerns, and an evaluation of the probable sufficiency of measures proposed by the applicant to resolve those concerns;

4. The demonstrated ability of the applicant to comply with requirements necessary to protect the safety, health and welfare of the public;

5. The location and duration of the special event and the city's ability to accommodate the event with its available resources;

6. Other previously-approved special events that could cause scheduling conflicts during the same period and/or over-extend the city's available resources; and

7. Previously-approved special events which have impacted, or will impact, the same neighborhood(s) in the same calendar year.

C. The departments involved in reviewing an application may impose additional requirements or conditions necessary to protect the public interest by ensuring traffic management, security of property, or the health and safety of the public.

D. If an application includes any material misrepresentation, such as materially understating the anticipated number of attendees, and the city reasonably determines that such material misstatement was either intentional or the result of gross negligence by the applicant, then the applicant and its principals shall (1) be liable to the city for any and all costs incurred by the city as a result of the misrepresentation, and (2) not be allowed to receive another special event permit from the city for a period of two years unless otherwise determined by the city council. The city reserves the right to pursue all other legal remedies against the applicant and its principals concerning the misrepresentation.

#### **14.56.080 Permit—Event requirements and restrictions.**

A. City support services will be provided for special events as determined by the city to protect public health, safety and welfare, subject to the payment by the event organizer of the city's cost of providing such services as provided in this chapter.

1. Before city approval is granted for a special event, the event organizer shall pay to

the city the city-estimated support fees as specified in section 14.56.090.

2. City support services will be limited to those deemed necessary by the city to protect public health, safety and welfare and to reimburse for private use of public property. Police protection needs and support will be determined and administered by CHPD. Parks, streets and public places-related needs and support will be determined and administered by the city's manager or designee in consultation with any park owner(s). The event organizer may be obligated to pay other public entities such as UFA for support services in addition to those incurred by the city.

3. The event organizer will be billed by the city for the remaining support fees above any estimated costs paid prior to receiving city approval. Typically, such invoice shall be submitted by city within 30 days after the event. Invoiced amounts are due and payable within 30 days after the invoice date. Any refund due to the event organizer will be paid by the city within 45 days after the event if actual costs are less than the estimate.

B. The event organizer shall provide police and fire/emergency services protection and traffic/crowd control as recommended by CHPD, any other city department, UFA, or their respective designees at the sole expense of the event organizer.

C. Barricades meeting the city's requirements shall be provided by the event organizer. For athletic events, jersey barriers or similar to safely separate event participants (such as runners) from vehicles may be required on any major arterial or similar high-use public road in the city, including Wasatch Boulevard, Highland Drive, Ft. Union Boulevard, Creek Road, Bengal Blvd., 1300 East and Union Park Avenue.

D. The use of a park for an event (such as the start/finish of a race) shall be subject to charges and use limitations in accordance with applicable city ordinances (including

chapter 14.60 of this title) and the park owner's rules and regulations.

E. For any event which uses any public street(s), the event organizer must comply with the following additional requirements:

1. A traffic control plan must be submitted to CHPD as part of the application. The traffic control plan must be legible and complete and provide for clearly marked, appropriate detours to minimize traffic inconvenience.

2. If the event uses any public street that is a Utah state road or a UTA route, then the city may also require notification to, and any necessary permits from, UDOT and UTA.

F. The city shall not issue a special event permit for an event (such as an athletic event) which effectively closes down, or materially impairs vehicular use of, any road or intersection in the city for any period of time, without:

(1) a recommendation from CHPD, and

(2) approval of the application by the city council, who shall consider the costs involved and the health and safety of, and anticipated inconvenience to, the public in making a final determination.

G. Excessive street parking for events is discouraged, and the administrator may require an event organizer to submit a detailed parking plan if the event appears to have insufficient off-street parking.

H. Special events that involve movie and commercial filming events are subject to the following additional requirements:

1. Production and support vehicles may not be parked overnight on any street in a residential zone without express written permission from the city.

2. Use of any pyrotechnic or similar flammable visual display must be pre-approved by the city.

3. The event organizer shall notify neighboring businesses and residents in advance of filming and inform them about the potential impact of the event. The city may specify the extent of this notice requirement.

I. In addition to the requirements imposed by this chapter, events that last more than two (2) hours and involve more than 500 people must:

(1) obtain a "mass gathering permit" from SLCHD; and

(2) if food service is involved, obtain a temporary food service permit from SLCHD.

J. The event organizer shall be strictly liable to the city or other owner for any damage to public property caused by the event.

K. Any plans (such as for traffic control or crowd control) required to be submitted by the event organizer under this chapter are subject to city's prior review, modification and approval.

(L) If any business will be conducted as part of the event, the event organizer and any such merchants shall obtain a temporary business license from city.

#### **14.56.090 Permit—Fees.**

A. Each application for a special event permit shall be accompanied by a nonrefundable application fee as specified in the city's consolidated fee schedule or as otherwise set by the city council to defray the administrative costs of processing the application.

B. Additional support fees shall be charged by the city to cover the costs incurred in providing the police, fire/emergency, public works and other public services required by the event. The city shall provide a good-faith estimate of the additional support fee required upon its approval of the special event permit application, based upon the city's analysis of the personnel and equipment required in view of factors such as the date and time of the event; the route location and length; the anticipated traffic and weather conditions; the estimated number of participants and spectators; the nature, composition, format and configuration of the event; and the estimated time for the event.

C. Additional fees also may be charged by SLCHD, UFA, UDOT, UTA, or other service providers or public entities affected by the special event. The city shall endeavor to ascertain such additional fees in connection with approval of the application, and full payment of such additional fees shall be paid directly to the city before the special event permit is issued.

D. Support or other fees charged for traffic control, police protection, public works support or other public services deemed necessary by the city or other affected public entity for the event shall be paid in full prior to issuance of the special event permit.

E. If a special event is cancelled within 48 hours of the event, then the city shall use its reasonable efforts to mitigate and reduce the support and other fees charged under subsection D of this section, refunding to the applicant within a reasonable time thereafter any paid amount remaining after covering (or reserving for) losses to the city and other affected providers and governmental entities.

F. Only the following special events shall be exempt from the fees set forth in this section:

1. Political events;
2. Parades of less than one-half mile in length;
3. Events sponsored in whole or in part by the city; and
4. Block parties.

**14.56.100 Permit—Approval and denial.**

A. A special event permit application shall be approved and a permit shall be issued to the applicant by the administrator upon approval by all affected departments and outside agencies and compliance with the requirements of this chapter. The administrator shall notify the manager and all affected departments and outside agencies of all special events permits issued pursuant to this chapter.

B. The city may deny a permit application for a special event if:

1. The proposed special event violates a law, ordinance, policy or procedure, or regulation related to the time, place or manner of the proposed special event;

2. The proposed special event is not consistent with the intended nature or use of the requested public street or property;

3. The proposed special event is scheduled at a place and time the will disrupt the use of an already-approved special event permit;

4. The proposed special event does not provide for adequate adult supervision for minors scheduled to participate;

5. The proposed location or facility is not adequate to accommodate the proposed special event, or the nature of the event is such that the city does not have sufficient resources available to ensure the health, safety and welfare of special event participants or the general public;

6. The application for permit contains a material falsehood or misrepresentation;

7. The applicant is legally incompetent to contract, or to sue and be sued;

8. The applicant (or, if the applicant is an entity, then one or more of the applicant's principals) has an unpaid debt to the city for prior costs incurred during a prior special event; or

9. The administrator, in consultation with other affected departments or entities, reasonably determines that the proposed special event poses a significant danger or threat to the public health, welfare or safety, or such event may result in unreasonable inconvenience or cost to the public.

C. The administrator may condition the issuance of a special event permit on the applicant satisfying conditions that the city deems reasonably necessary to ensure the health, safety and welfare of event participants and the general public. For example, the administrator may require the applicant to provide adequate bathroom facilities, security, or post a bond for clean-up or other costs.

D. If a special event permit application is denied, then the administrator shall:

1. Specify in detail the basis for the denial by citing to the law, ordinance, policy, procedure or regulation justifying the denial, and describe how the special event is not consistent with the cited provision; and

2. Describe how any burden on free speech brought about by the denial is necessary to facilitate the city's interest in protecting the health, safety and welfare of the city's residents.

E. The administrator, in consultation with other affected departments and agencies, may revoke any permit upon violation of the conditions or standards for issuance. The administrator also may revoke a permit in the event of a declared emergency.

F. The CHPD may disperse a special event that is being conducted inconsistent with the conditions of the permit, or in violation of any applicable law.

#### **14.56.110 Permit—Liability insurance and indemnification.**

A. No special event permit shall be issued unless and until the applicant has submitted to the administrator a certificate of insurance, listing the city as an additional insured, on an occurrence policy issued by an insurance company authorized to do business in the state, showing comprehensive general liability and property damage coverage of at least \$1.0 Million combined single limit for the event.

B. Only the following special events shall be exempt from the insurance requirements set forth in this section;

1. Political events;
2. Parades of less than one-half mile in length;
3. City-sponsored events; and
4. Block parties.

C. In consideration for the issuing of a special event permit and the use of public streets or property, the applicant shall indemnify, save harmless and defend the city

and any other affected public entity, and their respective officers, employees, agents and volunteers, against any claim, action or proceeding for loss, damage or expense (including, without limitation, attorneys' fees and costs) sustained on account of injury, death or property damage occurring by reason of, in connection with, or arising out of the special event.

#### **14.56.120 Appeal procedures.**

Any applicant aggrieved by the administrator's denial of a special event permit may appeal such decision to the city's manager or designee. All appeals shall be in writing, shall state the specific grounds for the appeal, and shall be filed with the manager within ten calendar days after the date the applicant received notice of the administrative denial. An applicant aggrieved by the decision of the manager concerning such appeal, or of the city council concerning the permit application (see, e.g., section 14.56.080(F)(2)), may seek judicial review in Third District Court of such decision pursuant for a period of 30 days after the issuance of the manager's or the city council's (as applicable) decision.

#### **14.56.130 City liability.**

By issuing a special event permit, the city makes no guarantees and assumes no liability for the safety of participants or spectators of special events.

#### **14.56.140 Violation—Penalty.**

In addition to civil remedies available to the city as described above, any violation of this chapter shall be punishable as a Class B misdemeanor. Failure to obtain a permit as required by this chapter may also result in enforcement action by the CHPD or other city designee which may immediately stop an event which has not been issued a permit and/or may issue citations where event staff or participants violate other state statutes or city ordinances, such as traffic rules and regulations, disturbing the peace, public



nuisance, failure to disperse, trespass, or other health and safety regulations.

**14.56.150 Protest zones.**

A. The city may establish appropriate protest zones at city property and facilities.

B. The need, location and size of protest zones will be established upon consultation and with approval of the manager and city attorney and, where feasible, the city council.

C. Protest zones will be established to assure safe entry to, exit from, and appropriate use of city property and facilities by patrons and public.

D. Protest zones will not be placed in the vehicular portion of public streets, and may not be placed on private property unless the owner consents to such use.

## Chapter 14.60

### PARK AND PLAYGROUND USE REGULATIONS

#### Sections:

- 14.60.010 Public parks**
- 14.60.015 Vandalism and nuisances prohibited.**
- 14.60.020 Use of city-owned parks by permission - Commercial sales prohibited.**
- 14.60.030 Closing hours.**
- 14.60.040 Camping and fires prohibited.**
- 14.60.050 Vehicular and animal traffic.**
- 14.60.060 Speed limit.**
- 14.60.070 Littering prohibited.**
- 14.60.080 Parking regulations.**
- 14.60.090 Possession or consumption of alcoholic beverages.**
- 14.60.100 Use of radios and recorders.**
- 14.60.110 Annoying or injuring animals or fowl.**
- 14.60.120 Use of skateboards, in-line skate and roller skates.**
- 14.60.125 Unauthorized discharge of fireworks prohibited.**
- 14.60.130 Penalty.**

#### **14.60.010 Public parks.**

The following are designated as public parks and playgrounds for purposes of this chapter:

- A. Antczak park;
- B. Bair park (also known as Golden Hills park);
- C. Berry Hill park;
- D. Butler park (the grounds of Cottonwood Heights Community Recreation Center);
- E. Bywater park (also known as Banberry park);
- F. Cottonwood Heights park (playing fields adjacent to Butler park);
- G. Crestwood park;
- H. Little Cottonwood park;
- I. Mill Hollow park;

- J. Old Mill park;
- K. Richard L. Gutrie skate park;
- L. Willow Creek park (pocket park on Supernal Way);
- M. The grounds of any public school located within the city; and
- N. Any other place within the city owned by a governmental entity that is now or hereafter set aside or used as a public park or playground.

#### **14.60.015 Vandalism and nuisances prohibited.**

A. It shall be unlawful for any person or persons to scratch, cut, injure or deface any of the buildings, fences, structures, or foul any of the fountains, or any other improvement, or to cut, injure or remove flowers, flower beds, trees, shrubs soil or rocks within any public park or playground, or to commit any other act of vandalism to public or private property.

B. It shall be unlawful to do any of the following in a public park or playground:

1. To play or practice golf except in areas designated for such purpose, or as part of an authorized golf class of the Cottonwood Heights Recreation Center then in session under qualified adult instruction at such center;
2. To shoot or otherwise propel arrows except as part of an authorized archery class of the Cottonwood Heights Recreation Center then in session under qualified adult instruction at such center;
3. To engage in any activity that threatens the safety or well-being of other persons;
4. For the owner of any dog to allow the same to run at large except in areas designated for such purpose; or
5. To create a disturbance or a nuisance as described in this code.

#### **14.60.020. Use of city-owned parks by permission --- Commercial sales prohibited.**

A. Any person, group or organization desiring to use a city-owned park or playground or any portion thereof on an exclusive basis or any person, group or any organization desiring to use the park equipment for public gathering to the exclusion of other persons or for the purpose of holding meetings, either public or private in nature, shall do so only after obtaining a reservation permit from the city's community development director (or the city's other designee) and upon payment of an appropriate fee for the privilege of reserving the area for a given period of time. Said permit shall be granted only after the person, group, or organization applying for the permit, can demonstrate to the satisfaction of the city or its designee that adequate public restroom facilities are available, and that such public, private, or exclusive gathering, meeting, or activity can be conducted in a manner that will not, because of noise, lighting, parking, or other condition, unreasonably disturb the adjoining neighborhood.

B. It shall be unlawful to sell anything, or to engage in any commercial activity, in a city-owned park or playground, whether for profit or otherwise, without the prior written consent of the city's community development director (or the city's other designee).

**14.60.030. Closing hours.**

All public parks and playgrounds shall be closed between at least 11 p.m. and 6 a.m. the following morning. No person or persons shall be permitted in said parks or playgrounds either on foot, or horseback or on any type of vehicle during said hours except for the express purpose of traveling directly through the park or playground on a public street or sidewalk passing through the park or playground.

**14.60.040. Camping and fires prohibited.**

No person shall camp or lodge in any public park or playground, except in areas designated for such purpose, without first

obtaining written permission from the city's community development director. Except in areas designated for such purpose, no person shall make or kindle a fire for any purpose in any public park or playground.

**14.60.050. Vehicular and animal traffic.**

It shall be unlawful to drive any vehicle or animal or to allow any vehicle or animal to proceed on or over any public park or playground unless the same are designated for vehicular or animal traffic. For purposes of this chapter, it shall be presumed that any area in use at the time as a picnic or recreational area or otherwise in use by pedestrian traffic is closed to vehicular or animal traffic; provided that such prohibition shall not apply during parades, fairs or other special events specifically authorized by the city. This section shall not be construed to prohibit the presence of dogs and cats and similar other small animals while under the control of their owners from being allowed upon such public property unless such are vicious and are shown such either by their general nature or by the facts of the case. Further, this section shall not be construed to prohibit delivery, maintenance and other approved vehicles from proceeding on or over any public park or playground as authorized by the park or playground owner.

**14.60.060. Speed limit.**

It shall be unlawful to drive any vehicle or ride any animal within any public park or playground at a speed greater than fifteen miles per hour unless otherwise posted by the city.

**14.60.070 Littering prohibited.**

It shall be unlawful to cause or allow any foreign material, papers, bottles, rags, or discarded articles of any substantial kind or nature to be left in any public park or playground.

**14.60.080 Parking regulations.**

It shall be unlawful to park any vehicles within any public park or playground in such a way as to block the roads provided for public traffic; or, where public parking is provided, to park other than in the public parking areas.

**14.60.090 Possession or consumption of alcoholic beverages.**

It shall be unlawful to possess or consume beer, liquor, or any other alcoholic beverage within a public park or playground.

**14.60.100 Use of radios and recorders.**

A. It shall be unlawful to operate, play or cause to be operated or played in a public park or playground, in a motor vehicle located in a public park or playground, or in a motor vehicle parked on a road adjacent to a public park or playground, any radio, television, phonograph, stereo, tape player, disk player or other similar device which produces, reproduces or amplifies sound in such a manner as to be audible beyond the boundaries of the park or playground or at a distance of more than fifty (50) feet from such radio, television, phonograph, stereo, tape player, disk player, sound amplifier or similar device.

B. Subsection (A) of this section shall not apply if the device described in subsection (A) of this section and the volume of sound therefrom are specifically authorized by the city or the governmental entity that owns such public park or playground in conjunction with a scheduled activity.

**14.60.110 Annoying or injuring animals or fowl.**

No person shall annoy, injure, release from confinement or in any manner interfere with any bird or animal in a public park or playground.

**14.60.120 Use of skateboards, in-line skate and roller skates.**

No person shall ride or use any skateboard, in-line skates (rollerblades and roller skis) or roller skates in any public place in an area where notice that such activity is prohibited is conspicuously posted. A violation of this section is an infraction.

**14.60.125 Unauthorized discharge of fireworks prohibited.**

Discharge of fireworks (as defined in UTAH CODE ANN. 53-7-202[10]) on or over any park or playground 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.

**14.60.130 Penalty.**

Except as otherwise provided in this chapter, a violation of any provision of this chapter shall be a class B misdemeanor.

## Chapter 14.65

### PROHIBITION ON SMOKING IN PUBLIC PARKS AND PLAYGROUNDS AND OTHER CITY-OWNED PROPERTY

#### Sections:

**14.65.010 Findings; Purpose.**

**14.65.020 Definitions.**

**14.65.030 Outdoor smoking prohibited in public parks and playgrounds.**

**14.65.040 Smoking prohibited on city-owned property at and during city events.**

**14.65.050 Smoking prohibited near transit stops.**

**14.65.060 Penalties.**

**14.65.010 Findings; Purpose.**

A. UTAH CODE ANN. §26-38-6 allows the city to restrict smoking in outdoor places of public access which are owned or operated by a political subdivision of the state.

B. Tobacco smoke is a form of air pollution and is a danger to the health, safety and welfare of the public.

C. The city council has determined that it is in the best interests of the city to protect the health, safety and welfare of the public in their use of parks, recreational areas and city-owned property as provided in this chapter.

D. The purpose of this chapter is to provide a legal framework to protect the public health, safety and welfare from the dangers posed by tobacco smoke in certain outdoor settings.

**14.65.020 Definitions.**

For purposes of this chapter:

A. *“Public parks and playgrounds”* shall mean and include:

1. Antczak park;
2. Bair park (also known as Golden Hills park);
3. Berry Hill park;

4. Butler park (the grounds of Cottonwood Heights Community Recreation Center);

5. Bywater park (also known as Banberry park);

6. Cottonwood Heights park (playing fields adjacent to Butler park);

7. Crestwood park;

8. Little Cottonwood park;

9. Mill Hollow park;

10. Old Mill park;

11. Richard L. Gutrie skate park;

12. Willow Creek park (pocket park on Supernal Way);

13. The grounds of any public school located within the city; and

14. Any other ball diamond, pocket park, soccer field, linear park/trail, bleachers and spectator areas, picnic pavilion and shelter, outdoor swimming pools, outdoor ice rinks, outdoor amphitheatres, playgrounds, and any other place within the city owned by a political subdivision of the state of Utah that is now or hereafter set aside or used as a public park, playground, recreational area or the like.

B. *“Smoke”* or *“smoking”* shall mean and include possession, carrying or holding a lighted pipe, cigar, or cigarette of any kind, or any other lighted smoking equipment, or the lighting or emitting or exhaling of smoke of a pipe, cigar, or cigarette of any kind, or of any other lighted smoking equipment.

**14.65.030 Outdoor smoking prohibited in public parks and playgrounds.**

Smoking is prohibited in all public parks and playgrounds except those areas, if any, specifically designated (through signage) by the owner or operator of such public park or playground as smoking areas.

**14.65.040 Smoking prohibited on city-owned property at and during city-sponsored events.**

Smoking is prohibited in all city-owned property at and during city-sponsored events

except those areas, if any, specifically designated by the city as smoking areas.

**14.65.050 Smoking prohibited near transit stops.**

Smoking is prohibited within 25 feet of any bus stop or other public transit stop or station in the city.

**14.65.060 Penalties.**

A “first offense” violation of this chapter is an infraction punishable by a fine not to exceed \$25.00 but not by imprisonment. Police officers shall have the discretion to issue a “warning” if they deem it is in the city’s best interests for a first offense under this chapter. Second, and subsequent, offenses of this chapter are punishable as a Class C misdemeanor.

**CHART 14.16.040**

**PERMIT FEES AND EXCAVATION PERMIT BOND SCHEDULE**

All permittees shall pay the following fees:

TYPES OF PERMITTEE	FEE AMOUNT	COMMENT
Annual plan permittees – Paving cuts	50¢ per square foot	\$150 minimum charge
All other permittees – Paving cuts	\$1.00 per square foot	\$250 minimum charge
All permittees – No paving cuts	25¢ per square foot	\$100 minimum charge

In addition, all permittees shall post cash deposits, irrevocable letter of credit or bonds as set forth in section 14.16.130 in the amounts described:

EXCAVATION SIZE	AMOUNT
0-100 square feet	\$1,000
101-300 square feet	\$2,000
301-450 feet	\$3,000
451-600 square feet	\$4,000
601 square feet or more	As determined by the department