

# COTTONWOOD HEIGHTS

## ORDINANCE NO. 398

### AN ORDINANCE AMENDING TITLES 5, 11, 12, 14 AND 19 OF THE COTTONWOOD HEIGHTS CODE OF ORDINANCES (JULY 2023 CODE MAINTENANCE)

**WHEREAS**, the “Municipal Land Use, Development, and Management Act,” UTAH CODE ANN. §10-9a-101 *et seq.*, as amended (the “Act”), provides that each municipality may enact a land use ordinance and a zoning map establishing regulations for land use and development; and

**WHEREAS**, pursuant to the Act, the municipality’s planning commission shall prepare and recommend to the municipality’s legislative body, following a public hearing, a proposed land use ordinance and a zoning map, or amendments thereto, that represents the planning commission’s recommendations for zoning the area within the municipality; and

**WHEREAS**, the Act also provides certain procedures for the municipality’s legislative body to adopt or amend the land use ordinance and zoning map for the City; and

**WHEREAS**, on 14 July 2005, the legislative body (the “Council”) of the city of Cottonwood Heights (the “City”) enacted its Ordinance No. 25 adopting a land use ordinance for the City and codifying such ordinance as Title 19 of the City’s code of ordinances (the “Code”); and

**WHEREAS**, thereafter, the City’s planning commission (the “Planning Commission”) formulated proposed amendments (the “Amendments”) to Titles 5, 11, 12, 14 and 19 of the Code to clarify ambiguous definitions and procedures and rectify conflicting provisions in the Code as part of general maintenance of the Code; and

**WHEREAS**, because certain of the Amendments affect Title 19, and to provide an opportunity for public input concerning all the proposed Amendments, a public hearing was held before the Planning Commission where citizens were given the opportunity to provide written or oral comment concerning the proposed Amendments; and

**WHEREAS**, such public hearing before the Planning Commission was preceded by all required legal notices; and

**WHEREAS**, following the public hearing, the Planning Commission recommended the Amendments to the Council for adoption; and

**WHEREAS**, the Council subsequently took additional public comment concerning the Amendments; and

**WHEREAS**, the Council has reviewed and is familiar with the Amendments, a copy of which is annexed as an exhibit to this ordinance, including any amendments proposed by the Council to the form of the Amendments affecting Title 19 that were recommended for adoption by the Planning Commission, as authorized by UTAH CODE ANN. 10-9a-502(2); and

**WHEREAS**, on 11 July 2023 the Council met in regular meeting to consider, among other things, amending the Code to enact the Amendments, including any such revisions; and

**WHEREAS**, after careful consideration of the recommendations of the Planning Commission, comments at the public hearing and other public meetings, and other relevant input, the Council has determined that it is in the best interest of the health, safety and welfare of the citizens of the City to adopt and enact the Amendments as proposed;

**NOW, THEREFORE, BE IT ORDAINED** by the city council of the city of Cottonwood Heights as follows:

Section 1. **Adoption of Amendments**. The Council hereby adopts and enacts the Amendments in the form of the attached exhibit, wherein deletions to the current affected ordinances are ~~struck through~~ or otherwise shown as deletions and additions to the current affected ordinances are underlined or otherwise shown as additions.

Section 2. **Action of Officers**. All actions of the officers, agents and employees of the City that are in conformity with the purpose and intent of this ordinance (this “*Ordinance*”), whether taken before or after the adoption hereof, are hereby ratified, confirmed and approved.

Section 3. **Severability**. It is hereby declared that all parts of this Ordinance are severable, and if any section, paragraph, clause or provision of this Ordinance shall, for any reason, be held to be invalid or unenforceable, the invalidity or unenforceability of any such section, paragraph, clause or provision shall not affect the remaining sections, paragraphs, clauses or provisions of this Ordinance.

Section 4. **Repealer**. All ordinances or parts thereof in conflict with this Ordinance are, to the extent of such conflict, hereby repealed.

Section 5. **Effective Date**. This Ordinance, assigned no. 398, shall take immediate effect as soon as it shall be published or posted as required by law and deposited and recorded in the office of the City’s Recorder, or such later date as may be required by Utah statute.

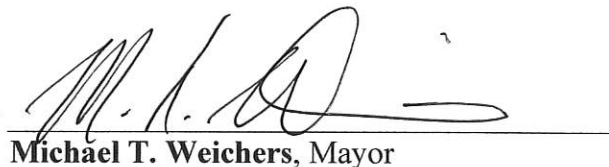
**PASSED AND APPROVED** this 11<sup>th</sup> day of July 2023.

**ATTEST:**

**COTTONWOOD HEIGHTS CITY COUNCIL**

By:   
Paula Melgar, Recorder



By:   
Michael T. Weichers, Mayor

**VOTING:**

Michael T. Weichers	Yea <input checked="" type="checkbox"/>	Nay <input type="checkbox"/>
Matt Holton	Yea <input checked="" type="checkbox"/>	Nay <input type="checkbox"/>
J. Scott Bracken	Yea <input checked="" type="checkbox"/>	Nay <input type="checkbox"/>
Shawn E. Newell	Yea <input type="checkbox"/>	Nay <input type="checkbox"/>
Ellen Birrell	Yea <input checked="" type="checkbox"/>	Nay <input type="checkbox"/>

**DEPOSITED** in the Recorder's office this 11<sup>th</sup> day of July 2023.

**POSTED** this 2 day of July 2023.

# EXHIBIT TO ORDINANCE NO. 398

## Chapter 5.24

### ALCOHOLIC BEVERAGE LICENSE

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#### 5.24.020 Definitions.

All words and phrases used in this chapter shall have the same meaning given to them in the Alcoholic Beverage Control Act, UTAH CODE ANN. §§32B-1-101 *et seq.*, as amended from time to time. In addition, the following words and phrases shall have the following additional meanings, unless a different meaning clearly appears from the context:

A. “*Act*” means the Alcoholic Beverage Control Act, UTAH CODE ANN. §§32B-1-101 *et seq.*, as amended from time to time.

B. “*Alcoholic beverage license*” means a license issued by the city pursuant to this chapter.

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

D. “*Commission*” means the Alcoholic Beverage Control Commission of the state of Utah.

E. “*Current business license*” means an alcoholic beverage business license issued by the city pursuant to this chapter.

F. “*Entrance of outlet*” means any entrance into the structure or unit space that is the subject of a license or license application.

G. “*Tavern*” means any business establishment that is engaged primarily in the retail sale of beer to public patrons for consumption on the establishment’s premises and includes a beer parlor, a parlor, a lounge, a cabaret, or a nightclub if the revenue from the sale of beer exceeds the revenue of the sale of food, although food need not be sold in the establishment.

H. “*Written consent*” means written consent of the city.

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## Chapter 11.04

### GENERAL PROVISIONS

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#### 11.04.010 Definitions.

Whenever in this title the following terms are used, they shall have the meanings respectively ascribed to them in this section:

A. “*Alley*” means a public way, not designed for general travel, within a block primarily intended for service and access to abutting property by vehicles.

B. “*Authorized emergency vehicles*” means vehicles that are designated or authorized as such by the city, the police department or the fire department, and such ambulances and emergency vehicles of the United States, state and municipal governments as may be operated on the streets of the city.

C. “*Bicycle*” means every device propelled by human power upon which any person

may ride, having two tandem wheels, either of which is over 20 inches in diameter, and including any device generally recognized as a bicycle, though equipped with more than one front or rear wheel.

D. “*City*” means the city of Cottonwood Heights, Utah.

E. “*Crosswalk*” means that portion of a roadway at an intersection included within the connections of the lateral lines of the sidewalks on opposite sides of the street measured from the curbs or, in the absence of curbs, from the edges of the traversable roadway; also, any portion of a roadway at an intersection or elsewhere distinctly indicated for pedestrian crossing by lines or other markings on the surface.

F. “*Crosswalk line*” means a single white line, not less than six inches in width, painted on a street marking the outlying limits of a pedestrian crossing.

G. “*Driver*” means every person who drives or is in actual physical control of a vehicle.

H. “*Fire department*” means the fire department of the city or any other entity providing fire and emergency protection services in the city, including, without limitation, the Unified Fire Authority.

I. “*Governmental OHV*” means a motor vehicle designed principally for off-road use that is owned and operated for official governmental purposes by the United States of America, the state of Utah, Salt Lake County, the city or another political subdivision of the state of Utah.

J. “*Intersection*” means:

1. The area embraced within the prolongation or connection of the lateral curb lines, or, if none, the lateral boundary lines or the roadway of two streets that join one another at, or approximately at, right angles, or the area within which vehicles, traveling upon different streets joining at any other angle, come in conflict; or

2. Where a street includes two roadways 30 feet or more apart, then every crossing of each roadway of such divided street by an intersecting street shall be regarded as a separate intersection.

K. “*Limited access street, highway or roadway*” means every highway, street or roadway, with respect to which owners or occupants of abutting lands and other persons have no legal right of access except at such points and in such manner as may be determined by the public authority having jurisdiction over such highway, street or roadway.

L. “*Low profile motorized vehicle*” shall mean any motorized vehicle that is not regulated by the state or by any other city ordinance provision, and is not otherwise permitted upon city or public property. This definition includes, but is not limited to, pocket bikes, miniature motorcycles, go-carts, and any other motor vehicle less than 36 inches in height when in its normal operating position, notwithstanding any flag, antenna, or other attachment or modifications made thereto.

M. “*Motorcycle*” means every motor vehicle, other than a tractor, having a seat or saddle for the use of the rider and designed to travel on not more than three wheels in contact with the ground.

N. “*Motor-driven cycle*” means every motorcycle, including every motor scooter, with a motor that produces more than five horsepower, and every bicycle with a motor attached.

O. “*Motor vehicle*” means every vehicle that is self-propelled, but not operated upon rails.

P. “*Owner*” means a person who holds the legal title to a vehicle or, in the event a vehicle is subject to an agreement for the conditional sale or lease thereof with the right of purchase upon performance of the conditions stated in the agreement and with immediate right of possession vested in the conditional vendee or lessee, or in the event a mortgagor of a vehicle is entitled to

possession, then such conditional vendee or lessee or mortgagor shall be deemed the owner for the purpose of this title.

**Q.** “*Park*” means the standing of a vehicle, whether occupied or not, otherwise than temporarily, for the purpose of and while actually engaged in loading or unloading.

**R.** “*Paved surface*” means an improved surface, generally utilized for parking or access, covered by asphalt, concrete or other hard surface materials, as approved by the city’s development review committee (the “DRC”). “*Paved surface*” specifically excludes, however, dry gravel and similar materials as a finished product, but allows for the use of permeable pavement as approved by the DRC.

**S.** “*Pedestrian*” means any person afoot.

**T.** “*Person*” means every natural person, firm, partnership, association, corporation, LLC, LP or other entity or artificial person.

**U.** “*Police department*” means the police department of the city or any other entity providing law enforcement services to the city.

**V.** “*Private road or driveway*” means every way or place in private ownership and used for vehicular travel by the owner and those having express or implied permission from the owner, but not used by other persons.

**W.** “*Railroad*” means a carrier of persons or property upon cars operated upon stationary rails.

**X.** “*Railroad sign or signal*” means any sign, signal or device erected by authority of a public body or official or by a railroad and intended to give notice of the presence of railroad tracks or the approach of a railroad train.

**Y.** “*Railroad train*” means a steam engine, electric or other motor, with or without cars coupled thereto, operated upon rails.

**Z.** “*Right-of-way*” means the right of one vehicle or pedestrian to proceed in a lawful manner in preference to another vehicle or pedestrian approaching under such circumstances of direction, speed and proximity as to give rise to danger of collision unless one grants precedence to the other.

**AA.** “*Safety zone*” means that area within the crosswalk for the exclusive use of pedestrians, bounded on two sides by the crosswalk lines and on the other two sides by yellow lines or by physical barriers, or otherwise so protected, marked or indicated by adequate signs as to be plainly visible at all times while set apart as a safety zone.

**BB.** “*Sidewalk area*” means that portion of a street or highway between the curb lines of the lateral lines of a roadway and the adjacent property lines.

**CC.** “*Stop*” means complete cessation from movement.

**DD.** “*Stop or limit line*” means a single white line not less than 12 inches in width behind which vehicles must stop when directed by the police department or a traffic control device.

**EE.** “*Stop, stopping or standing when prohibited*” means any stopping or standing of a vehicle whether occupied or not, except when necessary to avoid conflict with other traffic or in compliance with the directions of a police officer or traffic control device.

**FF.** “*Street*” or “*highway*” means the entire width between the boundary lines of every way publicly maintained when any part thereof is open to the use of the public for purposes of vehicular travel.

**GG.** “*Traffic-control device*” means all signs, signals, traffic markings and devices of the state placed or erected by authority of a public body or official having jurisdiction, for the purposes of regulating, warning or guiding traffic.

**HH.** “*Traffic engineer*” means the traffic engineer of the city or the appointed agent of any entity providing engineering services to the city.

**II.** “*Transportation engineer*” means the transportation engineer of the city or the appointed agent of any entity providing engineering services to the city.

**JJ.** “*Vehicle*” means every device in, upon or by which a person or property is or may be transported or drawn upon a highway, except devices moved by human power or used exclusively upon stationary rails or tracks.

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## Chapter 11.20

### STOPPING, STANDING AND PARKING

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#### 11.20.030 Regulation of parking.

A. The traffic engineer may place signs on all roads and highways prohibiting or restricting the parking of vehicles where, in his opinion, as evidenced by an order entered in his records, such parking is dangerous to those using the roads or where the parking of vehicles would unduly interfere with the free movement of traffic thereon.

B. The traffic engineer may prohibit, restrict or regulate the parking, stopping or standing of vehicles on any off-street parking facility or property that the city owns or operates.

C. No such regulations shall apply until signs giving notice thereof have been erected.

**D. Parking areas shall consist of a paved surface as defined in this title.**

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## Chapter 12.04

### DEFINITIONS

#### Sections:

12.04.010 Generally.

12.04.020 Address (situs address).

12.04.030 Address format.

12.04.040 Alley.

12.04.050 Baseline street.

12.04.060 Bench mark.

12.04.070 Building setback line.

12.04.080 Certificate of approval.

12.04.090 City.

12.04.100 Collector street.

12.04.110 Community development director.

12.04.120 Council.

12.04.130 County-wide grid system.

12.04.140 Cul-de-sac.

12.04.150 Directional.

12.04.160 Dwelling.

12.04.170 Easement.

- 12.04.180 Final plat.
- 12.04.190 Flag lot.
- 12.04.200 Frontage number.
- 12.04.210 Health department.
- 12.04.220 Intersection.
- 12.04.230 Lot.
- 12.04.240 Lot width.
- 12.04.250 Major street.
- 12.04.260 Marginal access street.
- 12.04.270 Master street plan.
- 12.04.280 Minor street.
- 12.04.290 Non-climbable fence.
- 12.04.300 Official map.
- 12.04.310 Open fence.
- 12.04.320 Owner.
- 12.04.330 Parcel of land.
- 12.04.335 Park strip.
- 12.04.336 Paved surface.
- 12.04.340 Planning commission.
- 12.04.350 Preliminary approval.
- 12.04.360 Preliminary plat.
- 12.04.370 Private rights-of-way.
- 12.04.380 Property identification certificate.
- 12.04.390 Public rights-of-way.
- 12.04.400 Solid visual barrier.
- 12.04.410 Subdivision.
- 12.04.420 Thoroughfare.
- 12.04.430 Thoroughfare name.
- 12.04.440 Thoroughfare number.
- 12.04.450 Thoroughfare type.
- 12.04.460 Trails.
- 12.24.470 Uniform property identification system.
- 12.24.480 Unit locator.

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12.04.336 Paved surface.

“Paved surface” means an improved surface, generally utilized for parking or access, covered by asphalt, concrete or other hard surface materials, as approved by the city’s development review committee (the “DRC”). “Paved surface” specifically excludes, however, dry gravel and similar materials as a finished product, but allows for the use of permeable pavement as approved by the DRC.

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## Chapter 12.24

### REQUIRED IMPROVEMENTS

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#### 12.24.060 Pavement requirements.

A. All streets within the city shall be improved with pavements bounded by integral concrete curbs and gutters to an overall width in accordance with the standards, rules and regulations approved by the city council.

B. Pavements shall be constructed in accordance with the requirements of the standards, rules and regulations approved by the city council.

C. Parking areas shall consist of a paved surface as defined in this title.

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## Chapter 19.04

### DEFINITIONS

#### Sections:

19.04.005 Terms, tenses and disputes of definitions

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- 19.04.450 Caretakers' or guards' residence.
- 19.04.460 Carnival, circus or tent service (temporary).
- 19.04.470 Carport, residential.
- 19.04.471 Carport, non-residential.
- 19.04.474 Car wash
- 19.04.1900 Off-street parking incidental to main use.
- 19.04.1905 Ornamental features.
- 19.04.1910 Outside display.
- 19.04.1920 Outside storage.
- 19.04.1930 Paint shop.
- 19.04.1940 Parcel.
- 19.04.1950 Park or playground (private).
- 19.04.1960 Park or playground (public).
- 19.04.1970 Parking lot.
- 19.04.1980 Parking lot or structure, commercial (auto).
- 19.04.1990 Parking space.
- 19.04.1995 Paved surface.
- 19.04.2000 Pawn shop.

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#### 19.04.470 Carport, residential.

A structure that is open on a minimum of two sides and designed or used to shelter not more than

three vehicles and not to exceed 24 feet on its longest dimension. Also called “covered parking area.”

**19.04.471 Carport, non-residential.**

A structure that is open on a minimum of two sides and designed or used to shelter vehicles. A minimum length of 20 feet and a minimum width of ten feet is required for every parking space being covered by the carport.

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**19.04.1905 Ornamental features.**

Design elements that serve as an ornament or decoration to the outside of a building. Areas with usable square footage, such as stairwells, decks, cantilevered rooms, bay windows, etc. do not qualify as ornamental features and must meet the standard setback requirements in the underlying zone.

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**19.04.1990 Parking space.**

An off-street (i.e., not on a public street or alley) area, paved in accordance with city’s parking lot standards, that is used for parking a vehicle, and that is accessed from a paved driveway which connects the parking space with public access ~~a public street~~.

**19.04.1995 Paved surface.**

An improved surface, generally utilized for parking or access, covered by asphalt, concrete or other hard surface materials, as approved by the city’s development review committee. “Paved surface” specifically excludes, however, dry gravel and similar materials as a finished product, but allows for the use of permeable pavement as approved by the city’s development review committee.

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## Chapter 19.76

### SUPPLEMENTARY AND QUALIFYING RULES AND REGULATIONS

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**19.76.030 Structures, bulk and massing requirements.**

*A. Dwellings, including guest homes, on lots.*

1. Every dwelling shall be located and maintained on a lot, as defined in this title. Except for group dwellings and guest houses, not more than one dwelling structure shall occupy a lot.

2. Guest houses shall be a permitted use in the following zones:

- (a) R-1-8; R-1-10; and R-1-15
- (b) RR-1-21; RR-1-29; and RR-1-43
- (c) F-1-21; and F-1-43
- (d) F-20

3. The guest house shall be a detached accessory use to a principal residence and shall be

located in the rear yard of the principal lot.

4. The maximum allowed area of the guest house shall not exceed 25% of the area of the rear yard.

5. The floor area of the guest house and principal residence combined shall not exceed the maximum impervious surface coverage for the site.

6. The rental or lease of a guest house, or the use of a guest house as a permanent residence for a second family on the premises shall be prohibited.

7. Installation of separate utility meters for the guest house is prohibited.

8. All bulk and massing requirements for accessory buildings, as per the applicable zone, shall be applicable to the guest house.

B. Accessory buildings—Area of coverage and building area.

1. No accessory building or group of accessory buildings in any residential zone shall cover more than 25% of the rear yard.

2. Accessory buildings shall not be constructed before the principal/main building is constructed.

3. Minimum yard area requirements for accessory buildings are as follows:

(a) No accessory building shall be located in a front, side, or corner side yard area of any lot.

(b) Except as otherwise provided in this title, no accessory building shall exceed 20 feet in height. Further, for every foot of height over 14 feet, accessory structures shall be set back from property lines an additional foot from the minimum setback to allow a maximum height of 20 feet.

(c) Except as otherwise provided in this title, the following setbacks from property lines shall apply, based on accessory structure height:

(i) Accessory building height up to 14 feet: Three foot setback;

(ii) Accessory building height up to 15 feet: Four foot setback;

(iii) Accessory building height up to 16 feet: Five foot setback;

(iv) Accessory building height up to 17 feet: Six foot setback;

(v) Accessory building height up to 18 feet: Seven foot setback;

(vi) Accessory building height up to 19 feet: Eight foot setback; and

(vii) Accessory building height up to 20 feet: Nine foot setback;

4. All buildings shall be separated by a minimum distance of six feet.

C. Public use—reduced lot area and yards. The minimum lot area and minimum yard requirements of this title may be reduced by the planning commission for a public use. The planning commission shall not authorize a reduction in the lot area or yard requirements if rule 19.76.030(H), “Additional height allowed when,” is in use, or unless the evidence presented is such as to establish that the reduction will not, under the circumstances of the particular case, be detrimental to the health, safety or general welfare of persons residing or working in the vicinity, or injurious to property or improvements in the vicinity.

D. Structure height — Vertical measurement.

1. Structure height shall be measured by taking the average vertical distance measured at the four corners of the main structure. This measurement shall be taken from the original natural grade of the lot to the highest point of the roof structure. In cases where the four corners of the structure are not explicitly clear, the city’s building official and the director shall designate the four corners of the structure.

2. Structures may be stepped to accommodate the slope of the terrain provided that each step shall be at least 12 feet in horizontal dimension. The height of each stepped segment shall be measured as required in Subsection (A).

3. Original ground surface shall be the elevation of the ground surface in its natural state before any manmade alterations such as, without limitation, grading, excavation or filling, excluding

improvements required by zoning or subdivision ordinances. When the elevation of the original ground surface is not readily apparent because of previous manmade alterations, the elevation of the original grade shall be determined by the director using the best information available.

E. *Lot grade – measurement.* The percent grade of a lot shall be derived by determining the percent increase or decrease in elevation using the area of the proposed structure footprint and the front yard.

F. *Height limitations—Buildings less than one story.* No building shall be erected to a height less than one story above grade.

G. *Height limitations—Exceptions.* In the ORD, CR, MU, NC, RO and PF zones, penthouse or roof structures for the housing of elevators, stairways, tanks, ventilating fans or similar equipment required to operate and maintain the building may be erected above the height limits prescribed in this title when approved by the planning commission, but no space above the height limit shall be allowed for the purpose of providing additional floor space. In the case of conflicting provisions, the stricter requirement shall apply.

H. *Additional height allowed when.* Public or semipublic utility buildings, when authorized in a zone, may be erected to a height not exceeding 40 feet if the building is set back from each otherwise established building line at least one foot for each additional foot of building height above the normal height limit required for the zone in which the building is erected.

I. *Story, first.* The lowest story in a building that qualifies as a story, except that a floor level in a building having only one floor level shall be classified as a first story. Where a floor in a building is more than four feet below existing grade for more than 50 percent of the total perimeter of the building, or more than eight feet below existing grade at any point, that floor will not qualify as a story for the purposes of measuring maximum structure height.

J. *Yard requirements.* “Yard” means a space on a lot, other than a court, unoccupied and unobstructed from the ground upward by buildings or structures, except as follows:

1. Fences;

2. ~~Canopies, not to include temporary or permanent carports.~~

~~—3. Accessory buildings in a rear yard including temporary or permanent carports;~~

~~—4. The ordinary projections of windows where the projection is at least 18 inches above floor level, awnings, parapets, relief carvings, roofs, cornices, chimneys, flues, and other ornamental features which project into a yard not more than three feet;~~

~~35. Open or lattice-enclosed exterior stairways, located in a commercial or manufacturing zone, projecting into a yard not more than five feet; and~~

~~46. Structures less than 18 inches in height from the finished ground surface.~~

K. *Demolition permits.*

1. An approved site plan is required before a commercial building can be approved for demolition.

2. The following items must be submitted to obtain a demolition permit:

(a) An asbestos inspection from an approved asbestos inspector.

(b) A completed and approved “Pre-demolition Building Inspection Form” from Salt Lake Valley Health Department.

(c) Approval for demolition from the Utah Division of Air Quality.

(d) A letter or email, from all service providers to the property or structure, indicating that all utilities have been terminated.

(e) A completed city building permit application.

L. *Portable storage containers.* In all municipal, residential, commercial, office or mixed-use zone, portable storage containers are permitted only in accordance with the following:

1. As a temporary use, not to exceed 180 days, during the construction, remodeling or

redevelopment of a permanent on-site structure with a valid building permit.

2. In no case shall a lot contain more than one of such portable storage containers, nor shall any portable storage container be located in required landscape areas, front yard area, required open space, detention basins, drive aisles, fire lanes, required parking spaces, loading zones or any other location that may cause a threat to public safety, or create a condition detrimental to surrounding land uses and property owners.

3. For commercial, office and mixed-use zones a temporary site plan must be submitted for review by the department. Approval of more than one portable storage containers may be approved by staff if the DRC finds that the addition will not jeopardize the public health, safety or welfare or create a nuisance. In addition, the temporary use of portable storage containers shall not violate a conditional use approval.

M. Construction mitigation plan for all construction. Prior to commencement of construction, a written construction mitigation plan addressing the following elements must be approved by the director or his designee. The construction mitigation plan shall address the following elements: (Please note: all elements may not apply to each individual project. There may also be additional elements, unique to the project that involve public health and safety issues).

1. Hours of operation. The hours of operation are 7:30AM to 6:00 PM, Monday thru Saturday, and 9:00AM to 6:00 PM on Sunday. Upon a clear and convincing showing by the applicant that a waiver to the hours of operation is necessary and will not jeopardize the public health, safety or welfare, the director may modify hours of operation through the building permit. Exclusively indoor construction beyond the hours of operation listed above in this subsection shall be exempt from such hours of operation unless the director determines that such extended hours will adversely impact the surrounding neighborhood.

2. Parking. Construction vehicle parking shall be restricted at construction sites so as to not block reasonable public and safety vehicle access along the street and sidewalks. Within paid and permit only areas, an approved parking plan must be obtained from the Public Works Department.

3. Deliveries. Deliveries of all materials and supplies may be regulated as to time (hours of operation) and routing.

4. Stockpiling & staging. In order to reduce the number of delivery trips to construction sites, the stockpiling of materials on site may be required.

5. Construction phasing. Due to narrow streets, topography, small lot configuration, traffic circulation, weather, construction parking and material staging problems, some projects may be required to be phased. In cases where phasing is deemed necessary, the first project to receive a building permit shall have priority, however, the building official shall have authority to phase projects as necessary to assure efficient, timely and safe construction.

6. Trash management and recycling of materials. Construction sites shall provide adequate storage and a program for trash removal. Construction material recycling bins are encouraged on sites with adequate room for separation of materials.

7. Control of dust & mud. A program for the control dust or other airborne debris shall be required. Provisions must be made to prevent the tracking of mud on streets and it will be required to remove any such mud daily. Placing gravel in the egress and ingress areas to a job site is one method to control mud and dust problems.

8. Noise. Any noise above 65 decibels violates the noise ordinance, as well as any excessive or unusually loud noise that is plainly audible beyond the property line or outside the hours of operation.

9. Grading and excavation. Because of the truck hauling involved in grading and excavation, restrictions on trucking routes as well as the hours of operation may be necessary to mitigate the adverse impacts from such operations. Destination and total cubic yards of dirt shall be addressed.

Any excavation six feet (1.8 m) or more in depth shall be protected from falling hazards by guardrail roofs, systems, fences, or barricades.

10. Temporary lighting. An approved temporary lighting plan must be obtained from the Planning Department if any exterior temporary lighting is necessary for construction.

11. Construction sign. A sign shall be posted in a location where the sign is readable from the street or driveway. The sign shall not exceed 12 square feet in size and six feet in height. The lettering shall not exceed four inches in height. Information on the sign shall include:

- (a) Name, address and phone number of the contractor
- (b) Name, address and phone number of the person responsible for the project
- (c) Name and phone number of the party to call in case of an emergency

N. Private swimming pools.

1. Definition. In this title “private swimming pool” means any pool, tank, depression or excavation in or above ground, or other structure, which (a) causes retaining of water over a depth of 18 inches and/or having a larger plane surface of water greater than 150 square feet, (b) is designed or used for swimming, wading or immersion purposes by individuals, and (c) is used or intended to be used solely by the owner, lessee or tenant of the realty on which it is situated (and his family and by friends invited to use it) without payment of any fees.

2. Permit. It shall be unlawful for any person to construct, alter or repair a private swimming pool within the city without first having secured a permit from the building official. An application for this permit shall be made on such forms as may be furnished by the city, and shall be accompanied by complete plans and specifications for the private swimming pool, including the type and location thereof with respect to the boundary lines of the land of the applicant. The applicant shall pay the fees established for such permit.

O. Temporary buildings.

1. Temporary buildings for uses incidental to construction work shall be require to obtain a permit from the CBO.

2. Temporary buildings must be removed upon completion or abandonment of the construction work.

3. If such buildings are not removed within 90 days upon completion of construction and 30 days after notice, the buildings will be removed by the city at the expense of the owner

P. Residential corner lot rear setback in R-1 zones. Corner lots in the R-1-6, R-1-8, R-1-10 and R-1-15 residential single family zones shall maintain a minimum rear setback of 15 feet for main structures; provided, however, that any portion of a main structure that is located closer than 20 feet from the rear lot line may not exceed 20 feet in height.

Q. Carports.

1. Residential carports. Residential carports shall be subject to the same height, setback, placement, and lot coverage standards for either attached or accessory structures in the underlying residential zone, depending on whether the carport is attached to the main building or constructed as an accessory structure.

2. Non-residential carports.

(a) All non-residential carports should be architecturally similar to the primary structure on the property.

(b) Non-residential carports may not exceed 20 feet in height.

(c) Non-residential carports which are attached to the primary building shall maintain the same setbacks as are required in the underlying zone for the primary building.

(d) Non-residential carports which are detached from the primary building shall maintain the following setbacks:

(i) If adjacent land is zoned non-residential, a non-residential carport shall be located in the rear

of the primary building(s), at least six feet away from the primary building(s), and shall maintain a minimum setback from side and rear property lines of three feet.

(ii) If adjacent land is zoned residential, a non-residential carport shall be located in the rear of the primary building(s), at least six feet away from the primary building(s), and shall maintain the minimum setbacks from side and rear property lines which is required for detached structures in the adjacent residential zone.

(iii) Any non-residential carport located nearer than five feet from any property line must install a one-hour rated fire wall.

(iv) Detached non-residential carports may be permitted in the side or front yard of non-residential properties as approved by the ARC following demonstration by the applicant that this configuration accomplishes the purposes of the city's design guidelines.

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## Chapter 19.80

### OFF STREET PARKING REQUIREMENTS

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#### 19.80.030 General provisions.

A. *Materials for Parking Areas.* Parking areas shall consist of a paved surface as defined in this title. concrete, asphalt, or other impervious materials approved in the city's adopted construction standards.

B. *Maintenance of Parking Areas.* Pavement, striping, landscaping, and lighting are required to be maintained in all parking areas. During times of snowfall, parking areas shall be cleared of snow as soon as is practically possible and otherwise in accordance with this code.

C. *Parking Area Access.* Parking areas for one or more structures may have a common access. The determination of the locations for a common access shall be based upon the geometry, road alignment, and traffic volumes of the accessed road. All structures other than residential are required to provide parking areas wherewith automobiles will not back across a sidewalk to gain access onto a public street.

D. *Lighting in Parking Areas.* Parking areas shall have adequate lighting to insure the safe circulation of automobiles and pedestrians. Such lighting shall be shielded in such a way as to not be a nuisance to, or otherwise adversely affect, adjacent properties or uses.

E. *Location of Parking Areas.* Required off-street parking areas for non-residential uses shall be placed within 600 feet of the main entrance to the building.

F. *Storm Water Runoff.* All parking areas other than single family and two family dwellings shall be reviewed and approved by the city engineer for adequate drainage of storm water runoff.

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## Chapter 19.88

### NONCOMPLYING BUILDINGS AND NONCONFORMING USES

#### Sections:

- 19.88.010 Continuation of use.
- 19.88.020 Occupation within one year.
- 19.88.030 Maintenance permitted.
- 19.88.040 Repairs and alterations permitted.
- 19.88.050 Addition of parking space.
- 19.88.060 Expansion of use permitted.
- 19.88.070 Additions, enlargements, moving and reconstruction of building.
- 19.88.080 Nonconforming use of land.
- 19.88.090 Change of use.
- 19.88.110 Restoration of damaged building.
- 19.88.120 One-year vacancy.
- 19.88.130 Abandonment.
- 19.88.140 ~~Reserved Application to have a use violation declared a nonconforming use.~~
- 19.88.150 Termination.

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#### 19.88.040 Repairs and alterations permitted.

Repairs and structural alterations may be made to a noncomplying building, site or structure, or to a building housing a nonconforming use.

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#### 19.88.060 Expansion of use permitted.

A nonconforming use may be extended through the entire existing building, site or structure in which it is conducted at the time the use became nonconforming, provided no structural alteration is proposed or made for purpose of the extension. The addition of a solar energy device is not a structural alteration under this section.

#### 19.88.070 Additions, enlargements, moving and reconstruction of building.

A. A building or site occupied by a nonconforming use and a building or structure noncomplying as to height, area or yard regulations shall not be added to or enlarged in any manner or moved to another location on the lot or reconstructed at another location on the lot except as provided by Subsection B of this section unless such additions and enlargements comply with the regulations and intent of this title.

B. A building or site occupied by a nonconforming use or a building or structure noncomplying as to height, area or yard regulations may be added to or enlarged or moved to a new location on the lot or reconstructed at a new location on the lot upon a permit authorized by the appeals hearing officer, provided that the appeals hearing officer, after the hearing, shall find:

1. The addition to, enlargement of, moving of, or reconstruction of the noncomplying building or structure at a new location on the lot will be in harmony with one or more of the purposes stated in Section 19.02.020, and shall be in keeping with the intent of this title;



2. That the proposed change does not impose any unreasonable burden upon the lands located in the vicinity of the nonconforming use or noncomplying building.

C. The appeals hearing officer shall have the same authority concerning additions, enlargements and moving of noncomplying structures as with noncomplying buildings, but shall not have the authority to allow reconstruction of noncomplying structures at a new location on the lot.

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**19.88.140 *Reserved. Application to have a use violation declared a non-conforming use.***

~~—A. Whenever land or a structure is used in violation of this title, the owner may file an application with the planning commission to have the use declared nonconforming. The planning commission may approve such an application only when the evidence establishes all of the following:~~

~~1. The use exists on the property at the time of the application and has been in continuous violation of the zoning ordinance for a period exceeding five years;~~

~~2. No complaint has been made to the department concerning the violation for a period exceeding five consecutive years during which the violation existed;~~

~~3. Continuation of the use will not have a detrimental effect on the health, safety or welfare of persons or property in the vicinity.~~

~~—B. In approving an application hereunder, the planning commission may set any conditions it deems necessary for protection of adjacent properties or the public welfare including provisions limiting the period of time the use may continue. This section shall in no way be interpreted to permit the continuation of any violation which exists on the effective date of the ordinance codified in this section. Any person shall have the right to appeal to the appeals hearing officer a decision rendered by the planning commission pursuant to this section.~~

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