

TITLE 7 ¹

PUBLIC HEALTH AND SAFETY

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CHAPTER 7-01. LOCAL HEALTH DEPARTMENT

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7-01-010. Creation.

Pursuant to and in accordance with *Utah Code Ann.* § 26A-1-103, as amended, the governing body of Davis County has created the Davis County Health Department which includes and serves all incorporated and unincorporated areas in Davis County, including Centerville City.

7-01-020. Powers and Duties.

The Davis County Health Department has jurisdiction within and is authorized and empowered by law to act within the incorporated limits of Centerville City to enforce state and local health laws, rules, regulations and standards, in accordance with the powers and duties set forth in the Local Health Department Act, as set forth in *Utah Code Ann.* §§ 26A-1-101, et seq., as amended. The Davis County Health Department is hereby authorized to act within the incorporated limits of Centerville City for the purpose of providing local health department services and to enforce the public health rules, regulations and ordinances of the City.

7-01-030. Adoption of County Regulations.

The applicable and duly adopted rules, regulations and ordinances of the Davis County Health Department, as may be amended from time to time, are hereby adopted by this reference as ordinances of Centerville City, insofar as they are not in conflict with other effective ordinances of the City. This adoption by reference includes any such rules, regulations, ordinances, or amendments thereto adopted by Davis County after the effective date of this Chapter.

7-01-040. Permit Requirements.

The Davis County Health Department shall review and approve applications for permits to operate any business or engage in any construction within the City for which health department approval is required pursuant to any City, County or State law, ordinance, rule or regulation.

¹ Amended by Ordinance No. 2012-08, March 6, 2012

7-01-050. Penalty.

Any person who is found guilty of violating any of the provisions of the rules and regulations adopted in Section 7-01-030, or other applicable City ordinances regarding public health, either by failing to do those acts required therein or by doing a prohibited act, shall be subject to the penalty specified therein, or in the event no penalty is specified, shall be guilty of a Class B misdemeanor, punishable by fine, imprisonment or both, as permitted by applicable laws of the State of Utah, or enforced through the civil enforcement procedures set forth in Title 1, Chapter 6 of the Centerville Municipal Code. Each and every day that a violation of this Chapter exists or continues shall constitute a separate offense.

CHAPTER 7-02. ANIMAL CONTROL

- 7-02-010. Interlocal Agreement with Davis County.**
- 7-02-020. Adoption of County Ordinances.**
- 7-02-022. Intentional Feeding of Wild Deer, Elk, or Moose Prohibited.²**
- 7-02-024. Possession of Wild Animals Prohibited.³**
- 7-02-030. Penalty.**

7-02-010. Interlocal Agreement with Davis County.

The City has entered into an Interlocal Cooperation Agreement (“Agreement”) with Davis County for Animal Control Services wherein the County has agreed to provide animal care and control services for the City. Pursuant to such Agreement, and as more particularly provided herein, Davis County is hereby authorized and empowered to act within the incorporated limits of Centerville City for the purpose of providing animal care and control services and to enforce the animal control ordinances and regulations of the City.

7-02-020. Adoption of County Ordinances.

The applicable and duly adopted animal control ordinance and regulations of Davis County, as more particularly set forth in Title 6 of the Davis County Code, entitled the Davis County Animal Control Ordinance, are hereby adopted by this reference as ordinances of Centerville City, insofar as they are not in conflict with other effective ordinances of the City. This adoption by reference includes any such regulations or amendments thereof adopted by Davis County after the effective date of this Chapter.

7-02-022. Intentional Feeding of Wild Deer, Elk, or Moose Prohibited.

(a) It shall be unlawful for any person to intentionally place, distribute, or allow the placement of food, grain, minerals, or similar substances within City limits for the purpose of attracting wild deer, elk, or moose in such numbers or circumstances to cause property damage, endanger any person, or create public health concerns.

(b) Subsection (a) does not apply to:

- (1) public employees or authorized agents acting within the scope of their employment for public safety or wildlife management purposes;
- (2) normal agricultural or livestock operation practices; or
- (3) recreational feeding of wild song birds, hummingbirds, or passerine birds in a manner that attracts wild deer, elk, or moose in such numbers or circumstances to cause property damage, endanger any person, or create public health concerns.

7-02-024. Possession of Wild Animals Prohibited.

(a) It shall be unlawful for any person to possess, give, keep, or sell any wild animal within the City. For purposes of this Section, “wild animal” shall constitute any wild animal as defined in Section 6.04.010 of the Davis County Ordinances. “Wild animal” shall also include any protected or controlled species of amphibian or reptile as defined in Utah Administrative Rule R657-53-2 or any noncontrolled species of amphibian or reptile as defined in Section R657-53-2 when possession of such noncontrolled amphibian or reptile requires a certificate of registration from the Division of Wildlife Resources due to the number of noncontrolled animals possessed by any person or entity.

² Enacted by Ordinance No. 2015-17, September 15, 2015

³ Enacted by Ordinance No. 2016-09, April 5, 2016

(b) Subsection (a) does not apply to a veterinarian or veterinarian facility which is treating the animal, an animal shelter, or the Davis County Animal Control Department or authorized agent which has impounded or otherwise obtained possession of the animal. Any person or entity in possession of a wild animal under this subsection (b) shall comply fully with all applicable federal, state and county rules and regulations regarding the care, keeping, treatment, quarantine and vaccination of the animal, including, but not limited to, compliance with Section 6.16.130(B) of the Davis County Code, as amended.

(c) Except as otherwise provided in Subsection (b), this Section 7-02-024 is intended to replace and supersede the provisions of Section 6.16.130 of the Davis County Code regarding the possession and exceptions for wild animals.

7-02-030. Penalty.

Any person who is found guilty of violating any of the provisions of the ordinances adopted in Section 7-02-020, or other applicable City ordinances regarding animal control, either by failing to do those acts required therein or by doing a prohibited act, shall be subject to the penalty specified therein, or in the event no penalty is specified, shall be guilty of a Class B misdemeanor, punishable by fine, imprisonment or both, as permitted by applicable laws of the State of Utah, or enforced through the civil enforcement procedures set forth in Title 1, Chapter 6 of the Centerville Municipal Code. Each and every day that a violation of this Chapter exists or continues shall constitute a separate offense.

CHAPTER 7-03: NUISANCES

- 7-03-010. Purpose.**
- 7-03-020. Authority.**
- 7-03-030. Nuisance Defined.**
- 7-03-040. Nuisance Prohibited.**
- 7-03-050. Abatement of Nuisance.**
- 7-03-060. Notice to Abate Nuisance.**
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- 7-03-080. Exclusions.**

7-03-010. Purpose.

It is the purpose of this Chapter to define and identify actions or conditions which constitute nuisances within the City and to provide a means for correcting or abating such nuisances in order to protect the public health and safety, foster neighborhood stability, preserve the appearance, character and beauty of neighborhoods and business districts, encourage community pride and interest, preserve property values, and protect the general welfare of the City and its citizens, businesses and visitors.

7-03-020. Authority.

Pursuant to *Utah Code Ann.* § 10-8-60, as amended, the City is authorized to declare what shall be a nuisance, and to abate the same, and impose fines upon persons who may create, continue or suffer nuisances to exist. The City is also authorized to abate public nuisances in accordance with the procedures set forth in *Utah Code Ann.* § 76-10-806, *et seq.*, as amended.

7-03-030. Nuisance Defined.

Any item, thing, manner, or condition whatsoever that is dangerous to human life or health or renders soil, air, water or food impure or unwholesome, is declared to be a nuisance. A nuisance shall also include a public nuisance as defined in *Utah Code Ann.* § 76-10-803, as amended, and a nuisance as defined in *Utah Code Ann.* § 78B-6-1101, as amended.

7-03-040. Nuisance Prohibited.

It is unlawful for any person, whether as owner, agent, or occupant to create, aid in creating, or contribute to a nuisance, or to support, continue, or retain a nuisance. Any person, whether as owner, agent, or occupant who creates, aids in creating, or contributes to a nuisance, or who maintains, supports, continues, or retains a nuisance, or who willfully omits to perform any legal duty relating to the removal or abatement of a nuisance, is guilty of a class B misdemeanor. A separate offense shall be deemed committed on each day during or on which a violation occurs or continues.

7-03-050. Abatement of Nuisance.

The City is authorized to abate nuisances by administrative, civil or criminal action, or by any other means or remedy provided by law. Abatement procedures may include, but shall not be limited to, administrative civil penalties as provided in Title 1, Chapter 6, of the Centerville City Code, an action to abate a public nuisance in accordance with the procedures set forth in *Utah Code Ann.* § 76-10-806, *et seq.*, as amended, an action to abate or enjoin a nuisance as provided in *Utah Code Ann.* § 78B-6-1102, *et seq.*, as amended, abatement by eviction as provided in *Utah Code Ann.* § 78B-6-1108, *et seq.*, as amended, or criminal proceedings in accordance with applicable provisions of City Ordinances and the Utah Code of Criminal Procedure. Nothing herein shall be deemed to limit the use of other lawful methods of abating nuisances or the collection of costs associated with such enforcement or abatement.

7-03-060. Notice to Abate Nuisance.

As a courtesy, prior to enforcement action or abatement proceedings as provided in Section 7-03-050, the City may serve a notice to abate in writing upon the owner, occupant or agent of any lot, building or premises in or upon which any nuisance may be found, or upon the person who may be the cause of such nuisance, requiring such person to abate the same in such manner as the City may direct and within a reasonable time to be set forth in the notice. Such notice shall be served by personal delivery or by mailing a copy of the notice to abate to the offending party or parties. Failure to give a notice as provided herein shall not relieve the person or persons responsible for any nuisance from the obligation to abate such nuisance, or from the penalty provided for the maintenance thereof, and nothing herein shall be construed to require such notice prior to instituting an action for abatement of a nuisance as set forth in Section 7-03-050, above.

7-03-070. Failure to Abate Nuisance.

Any person who fails to abate any nuisance shall be liable to the City for all expenses incurred by the City in the enforcement, removal and/or abatement of the nuisance. The City may also bring a civil action for damages for causing or maintaining a nuisance, including the costs, if any, of abating the nuisance.

7-03-080. Exclusions.

(a) **Agricultural Operations.** Pursuant to *Utah Code Ann.* § 76-10-803, as amended, and *Utah Code Ann.* § 78B-6-1104, as amended, activities conducted in the normal and ordinary course of agricultural operations, as defined therein, and conducted in accordance with sound agricultural practices are presumed to be reasonable and to not constitute a nuisance. Agricultural operations undertaken in conformity with federal, state and local laws and regulations, including zoning ordinances, are presumed to be operating within sound agricultural practices.

(b) **Protection Areas.** Pursuant to *Utah Code Ann.* § 17-41-403, as amended, regarding the protection of land in an agricultural or industrial protection zone, the definition of a nuisance, as defined in Section 7-03-030, shall exclude: (1) any agricultural activity or operation within an agricultural protection area conducted using sound agricultural practices unless that activity or operation bears a direct relationship to public health or safety; and (2) any industrial use of land within an industrial protection area that is consistent with sound practices applicable to the industrial use, unless that use bears a direct relationship to public health or safety.

(c) **Vested Mining Use.** Pursuant to *Utah Code Ann.* § 17-41-403, as amended, the definition of a nuisance, as defined in Section 7-03-030, shall exclude a vested mining use that is consistent with sound mining practices.

(d) **Shooting Range.** Pursuant to *Utah Code Ann.* § 47-3-3, as amended, the definition of a nuisance, as defined in Section 7-03-030, shall exclude any shooting range that was established, constructed, or operated prior to the implementation of City nuisance ordinances unless that activity or operation substantially and adversely affects public health or safety.

(e) **Manufacturing Facility.** Pursuant to *Utah Code Ann.* § 78B-6-1103, as amended, a manufacturing facility or operation may not be or become a nuisance, private or public, by virtue of any changed conditions in and about its location after it has been in operation for more than three (3) years if the manufacturing facility or operation was not a nuisance at the time it began operation; provided, the manufacturing facility or operation may not increase the condition asserted to be a nuisance. This exclusion does not apply if the nuisance results from the negligent or improper operation of a manufacturing facility or other applicable conditions set forth in Section 78B-6-1103, as amended.

CHAPTER 7-04. WEED CONTROL AND CLEANING OF REAL PROPERTY

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7-04-010. Purpose.

The purpose of this Chapter is to establish regulations and procedures for the cleaning of real property, including, but not limited to, the control, regulation and abatement of injurious and noxious weeds, garbage, refuse, graffiti, public nuisances, and any illegal objects or structures, on property located within the City, in order to:

- (a) Prevent fire hazards;
- (b) Prevent the spread of vegetation not conducive to the public health, safety or welfare;
- (c) Eliminate the presence of public nuisances, eyesores, and other objects, structures or refuse not conducive to the public health, safety and welfare;
- (d) Prevent the continued existence of illegal objects and structures upon property; and
- (e) Prevent the unsightly effect of graffiti within the City and to discourage its continued application.

7-04-020. Authority.

Pursuant to its general police power and specific statutory authorization set forth in *Utah Code Ann.* §§ 10-11-1, *et seq.*, as amended, the City is authorized to designate and regulate the abatement of injurious and noxious weeds, garbage, refuse, public nuisances, or any illegal objects or structures, and may appoint a municipal inspector for the purpose of carrying out the provisions of this Chapter. The provisions of this Chapter are intended to provide enforcement procedures for the abatement of weeds and the cleaning of real property in accordance with the provisions of *Utah Code Ann.* 10-11-1, *et seq.*, as amended. The provisions of this Chapter are in addition to any other enforcement or nuisance provisions set forth in this Code, including, but not limited to, Title 7, Chapter 3, regarding nuisances.

7-04-030. Definitions.

For the purpose of this Chapter, the following terms shall have the meanings set forth below:

(a) "Graffiti" means any form of unauthorized painting, writing, spraying, scratching, affixing, marking or inscribing on the property of another, whether public or private, regardless of the content or nature of the material used in the commission of the act.

(b) "Owner" means any person who, alone, or joint or severally with others: Is the property owner of record of the subject property according to the records of the Davis County Recorder's Office.

(c) "Person" means any individual, public or private corporation, partnership, limited liability company, joint venture, association, firm, trustee, executor of an estate, or other legal entity recognized by law.

(d) "Refuse" means garbage, trash, rubbish, weed or grass clippings, dead animals, sludge, liquid or semi-liquid waste, and other discarded materials, or materials stored or accumulated in an unsightly manner for the purpose of eventually discarding or salvaging them, including unregistered and/or junk vehicles, or materials that have served their intended purpose.

(e) "Responsible Person" means any non-owner occupant of the subject property or any other person responsible for the subject property who is not the owner of record, including a manager or agent of the owner.

(f) "Weeds" means vegetation which is uncultivated, useless, unsightly, or which has become a fire hazard or otherwise determined by the City to be noxious, dangerous or a nuisance, including, but not limited to poison ivy (*rhus toxicodendron*) and those plants named in the Utah Noxious Weed Act, as set forth in *Utah Code Ann. §§ 4-17-1, et seq.*, as amended.

7-04-040. Administration.

Except as otherwise provided herein regarding fire safety matters and graffiti, the provisions of this Chapter shall be administered, interpreted and enforced by the Community Development Director. Fire safety matters and provisions shall be administered, interpreted and enforced by the Fire Official. Graffiti matters and provisions shall be administered, interpreted and enforced by the Police Department.

7-04-050. Inspectors.

The Community Development Director, and his or her designee, is hereby appointed as the City inspectors for purposes of carrying out the provisions of this Chapter ("Inspector"). Authorized representatives of the Davis County Health Department and the South Davis Metro Fire Agency are also appointed as City inspectors for purposes of carrying out the provision of this Chapter. It shall be the duty of such Inspectors to examine and investigate potential violations of this Chapter and to pursue the enforcement of any such violations in accordance with the procedures set forth herein. Inspectors are hereby authorized to make examinations and investigations of all real property within the City to determine whether the owners or responsible persons of such property are complying with the provisions of this Chapter. Pursuant to *Utah Code Ann. § 10-11-2*, as amended, Inspectors are authorized to examine and investigate real property within the City for the growth and spread of injurious or noxious weeds, garbage, refuse, public nuisances, and illegal objects or structures. Inspectors are not authorized to abate conditions solely associated with the interior of a structure, unless required for the demolition and removal of the structure.

7-04-060. Duty to Maintain.

The duty to maintain property within the City is imposed joint and severally on the property owner and any responsible person for the property, as such terms are more particularly defined in Section 7-04-030.

7-04-070. Weed Control.

(a) No owner or responsible person shall permit weeds on property under his or her ownership or control to exceed a height of twelve inches (12") at any time.

(b) No owner or responsible person shall permit noxious plants such as poison ivy (*rhus toxicodendron*), poison oak (*rhus diversiloba*), poison sumac (*rhus vernix*), and those plants designated in the Utah Noxious Weed Act, as set forth in *Utah Code Ann.* §§ 4-17-1, *et seq.*, as amended, to grow at any height at any time on property under his or her ownership or control. Exceptions may be made for poison ivy, poison oak and poison sumac located in natural, non-residential, non-developed, and forested areas, such as the foothills and canyon areas within the City.

(c) All weeds and noxious plants must be eradicated by the application of legally obtained and authorized chemicals, cutting, or other acceptable method. All weed cuttings and remnants shall be promptly cleared and removed from the property. Weeds that are rototilled, disked, or removed by the root must be buried under the soil, removed from the property, or composted as allowed by law. Weeds which are eradicated by chemicals must be done so before their height exceeds twelve inches (12"), or they must be cut at a level not to exceed twelve inches (12") in accordance with Subsection (a).

(d) When the Fire Official determines that the weeds in a particular area pose a serious fire hazard in view of their density, dryness, proximity to possible sources of ignition, and the effects of prevailing winds and weather, then the owner or responsible person of the property on which said weeds are present shall be required to remove or maintain such weeds at an acceptable height as determined by the Fire Official.

(e) When the Community Development Director determines that the size, location, accessibility, or other circumstances regarding certain property makes compliance with this Section impractical, the Community Development Director may, in his or her sole discretion, issue an order permitting the owner or responsible person to create fire breaks as required and approved by South Davis Metro Fire Agency, or otherwise exempt the property from the requirements set forth herein as deemed permissible and nonhazardous to the public health and safety. Any such exception or exemption permitted hereunder shall be in writing and issued to the owner or responsible person of the property.

7-04-080. Refuse Control.

(a) No owner or responsible person shall permit refuse to remain upon property under his or her ownership or control for longer than twenty (20) days.

(b) When an Inspector determines that a particular deposit of refuse poses a significant health hazard by reason of its potential for the spread of disease, the breeding of worms, insects or rodents, or the contamination of a stream or other body of water, then said Inspector may order the owner or responsible person of the property on which said refuse is deposited, or the person who deposited it there, or both, to remove said refuse within twenty-four (24) hours. If twenty-four (24) hours pass after the order is issued and such refuse is not removed, the Inspector shall issue a Notice of Violation. In addition, the City may seek a preliminary injunction or other legal action enjoining continuation of such violation.

7-04-090. Graffiti Control.

(a) Reporting. City employees shall report graffiti as part of their job responsibilities. Residents may also report graffiti within the City. Any person spotting graffiti within the City should report

the sighting to the City Police Department for enforcement and tracking purposes, including possible criminal prosecution and/or intelligence functions.

(b) **Removal Required.** In order to prevent the unsightly and dangerous effects of vandalism and graffiti, it shall be the duty of every owner or responsible person of property within Centerville City to keep property under his or her ownership or control free from graffiti and evidence of vandalism. No owner or responsible person of property in the City shall permit such graffiti or evidence of vandalism to remain on his or her property after receiving written notice from the City requesting removal.

7-04-100. Notice of Violation.

When an Inspector has conducted an examination and investigation of property and has determined there has been a violation of this Chapter, the Inspector shall serve written notice of the examination, investigation and violations in accordance with the provisions of this Section ("Notice of Violation"). The Notice of Violation shall: (1) identify the property owner of record according to the records of the Davis County Recorder's Office; (2) describe the property and the nature and results of the examination and investigation conducted in accordance with this Chapter; (3) require the property owner and/or the responsible person for the property to eradicate or destroy and remove any identified items examined and investigated within a reasonable time (not less than ten (10) days from the date of service of the Notice of Violation).

7-04-110. Service of Notice of Violation.

The Notice of Violation shall be served on the property owner of record and may also be served on any responsible person for the property if the property owner is not an occupant of the property. The Notice of Violation shall be served upon the owner, in person or by mail, postage prepaid, addressed to the owner at the last known address of the owner according to the Davis County Recorder's Office. If applicable, the Notice of Violation shall be served upon any responsible person, in person or by mail, postage prepaid, addressed to the responsible person at the subject property address. The Inspector shall serve the Notice of Violation under penalty of perjury. Service of any Notice of Violation shall be deemed complete upon personal delivery, if delivered in person, or by post-mark, if mailed.

7-04-120. One Weed Notice Per Season.

For a Notice of Violation regarding injurious or noxious weeds, the Inspector is not required to issue more than one Notice of Violation for each annual season of weed growth for weeds growing on a property.

7-04-130. Appeal.

Any person aggrieved by the issuance of a Notice of Violation may request an appeal hearing by filing a written appeal with the Community Development Director within ten (10) days from the date of service of the Notice of Violation. The Community Development Director shall hold an appeal hearing on the matter within a reasonable time from receipt of the appeal. The Community Development Director may sustain, modify or reverse the Notice of Violation and shall issue a written decision regarding the matter.

7-04-140. Failure to Comply.

If any owner or responsible person of property to whom a Notice of Violation has been served fails to comply with the Notice of Violation or fails to file a timely appeal in accordance with Section 7-04-130, the Inspector may, at his or her discretion, enter the property and destroy or remove an item or

condition identified in the Notice of Violation, or employ necessary assistance and authorize others to enter onto such property to destroy, remedy or remove an item or condition identified in the Notice of Violation.

7-04-150. Itemized Statement of Costs.

If the Inspector elects to destroy, remedy or remove such items or conditions of property, or causes such items or conditions to be destroyed, remedied or removed, the Inspector shall prepare an itemized statement as more particularly provided herein ("Itemized Statement"). The Itemized Statement shall include: (1) the address of the subject property; (2) an itemized list of and demand for payment for all expenses, including administrative expenses, incurred by the City; and (3) the address of the City Treasurer where payment may be made for the expenses. The Itemized Statement shall demand payment within thirty (30) days after the day on which the Itemized Statement is post-marked. The Itemized Statement shall notify the property owner: (1) that failure to pay the expenses described in the Itemized Statement may result in a lien on the property; (2) that the owner may file a written objection to all or part of the Itemized Statement within twenty (20) days after the day the Itemized Statement is post-marked; and (3) where the owner may file the objection, including the City office and address.

7-04-160. Service of Itemized Statement.

Service of the Itemized Statement shall be deemed complete upon personal service, if delivered in person, or by post-mark, when mailed by certified mail addressed to the property owner's of record last-known address according to the records of the Davis County Recorder's Office.

7-04-170. Objection to Itemized Statement.

An owner may file a written objection to all or part of the Itemized Statement by filing such written objection with the City Council within twenty (20) days after the date of service of the Itemized Statement. If a property owner files a timely objection, the City Council shall hold a hearing on the matter within a reasonable time from receipt of the objection providing the owner an opportunity to be heard. Such hearing shall be held in accordance with applicable provisions of the Utah Open and Public Meetings Act. The City Council shall mail or deliver notice of the hearing date and time to the property owner. At the hearing, the City Council shall review and determine the actual cost of abatement, if any, incurred by the City. The property owner shall pay any actual costs due after a decision by the City Council at the hearing to the City Treasurer within thirty (30) days after the day on which the hearing is held. If the property owner fails to pay such costs within the required time frame, the City may pursue such costs in accordance with Section 7-04-180.

7-04-180. Determination of Collection Procedures.

If the owner fails to file a timely objection in accordance with Section 7-04-170, or fails to make full payment of the amount set forth in the Itemized Statement to the City Treasurer within the required time frame, the City may, as more particularly provided herein: (1) file an action in district court; or (2) certify the past due costs and expenses to the Davis County Treasurer.

7-04-190. Collection through Courts.

If the City pursues collection of the costs through the courts, the City may: (1) sue for and receive judgment for all removal and destruction costs, including administrative costs and reasonable attorneys fees, interest and court costs; and (2) execute on the judgment in the manner provided by law.

7-04-200. Collection through Tax Notice.

If the City elects to certify the matter to the Davis County Treasurer, the City shall certify to the Davis County Treasurer the unpaid costs and expenses that the City has incurred with regard to the subject property. If the City certifies such costs to the Davis County Treasurer, the Davis County Treasurer shall enter the amount of the costs and expenses on the assessment and tax rolls of Davis County in the column prepared for that purpose in accordance with the provisions of *Utah Code Ann. § 10-11-4*, as amended. If current tax notices have been mailed, the Davis County Treasurer may carry the costs and expenses on the assessment and tax rolls to the following year. After entry of such amounts on the assessment and tax rolls, the amounts entered: (1) shall have the force and effect of a valid judgment of the district court; (2) is a lien upon the property; and (3) shall be collected by the County Treasurer at the time of payment of general taxes. Upon payment of the costs and expenses, the judgment is satisfied, the lien is released from the property, and receipt shall be acknowledged upon the general tax receipt issued by the County Treasurer.

7-04-210. Notice of Lien.

The City may file a notice of a lien against the property, including a copy of the Itemized Statement or a summary of the statement, in the records of the Davis County Recorder's Office, indicating that the City intends to certify the unpaid costs and expenses as more particularly provided in this Chapter. If the City files a notice of lien against the property, as provided herein, the City shall file for record a release of the lien after all amounts owing are paid.

7-04-220. Violations.

It shall be unlawful for any owner or responsible person of real property within the City to violate any of the provisions and restrictions of this Chapter regarding injurious or noxious weeds, garbage, refuse, or any illegal object or structure, or to fail to comply with any provisions of this Chapter or any lawful order or notice of the Community Development Director, Fire Official or Inspector regarding the abatement of any such violation.

7-04-230. Penalty.

In addition to the abatement and collection of cost procedures set forth herein, any violation of this Chapter shall be deemed a class B misdemeanor, punishable by fine, imprisonment or both, as permitted by applicable laws of the State of Utah, or enforced through the civil enforcement procedures set forth in Title 1, Chapter 6 of the Centerville Municipal Code. Each and every day that a violation of this Chapter exists or continues shall constitute a separate offense.

CHAPTER 7-05: FIRE REGULATIONS

- 7-05-010. South Davis Metro Fire Agency.**
- 7-05-020. Delegation of Authority.**
- 7-05-030. Fire Code.**
- 7-05-040. Fire Code Official.**
- 7-05-050. Fire Marshal.**
- 7-05-060. Fire Board of Appeals.**
- 7-05-070. Appeals.**
- 7-05-080. Penalties.**

7-05-010. South Davis Metro Fire Agency.

Centerville City is a participating member of the South Davis Metro Fire Agency (“Agency”), a separate legal entity duly organized and created under the laws of Utah by Interlocal Cooperation Agreement entered into by participating entities of the Agency pursuant to *Utah Code Ann.* § 11-13-101, *et. seq.*, as amended. The Agency shall provide all fire, emergency medical, and other emergency first responder services for the City in accordance with the terms and conditions of the Interlocal Cooperation Agreement entered into by the participating entities, as amended (“Interlocal Agreement”).

7-05-020. Delegation of Authority.

Centerville City hereby delegates all power and responsibility for fire suppression, prevention, investigation, enforcement, emergency medical, and other emergency and first responder services within the jurisdiction of the City to the Agency and hereby recognizes the Agency as the governmental and political subdivision for such purposes consistent and in accordance with the Interlocal Agreement and the Fire Code. The Agency is hereby authorized and empowered to act within the corporate limits of Centerville City to enforce the regulations of this Chapter and such other regulations of the Agency or the City regarding the prevention, suppression, and investigation of fires, providing emergency medical services, and protecting the lives and property within Centerville City.

7-05-030. Fire Code.

The International Fire Code (IFC), as more particularly adopted in Section 10A-2-112, as amended, is the Fire Code of Centerville City (“Fire Code”).

7-05-040. Fire Code Official.

The South Davis Metro Fire Agency shall serve as the Fire Code Official for Centerville City as more particularly described in the Fire Code.

7-05-050. Fire Marshal.

The Fire Marshal of the South Davis County Fire District is hereby authorized and empowered to exercise the powers and perform the duties of fire prevention engineer for Centerville City as set forth in the Fire Code and to perform such other powers and duties as delegated to the Fire Marshal by the City.

7-05-060. Fire Board of Appeals.

The Fire Board of Appeals as created and maintained by the Agency is hereby appointed as the Fire Board of Appeals for Centerville City to hear and decide appealable orders, decisions and determinations made by the Agency, the Fire Code Official, the Fire Marshal, or other authorized official, relative to the application and interpretation of the Fire Code within the jurisdiction of Centerville City. The Fire Board of Appeals shall also be authorized to determine the suitability of alternate materials and type of construction pursuant to applicable provisions of the Fire Code. The Fire Board of Appeals shall have

no authority relative to interpretation of the administrative provisions of the Fire Code, nor shall the Fire Board of Appeals be empowered to waive any requirements of the Fire Code.

7-05-070. Appeals.

The City, or any person adversely affected by any final order, decision or determination made by the Agency, the Fire Code Official, the Fire Marshal, or other authorized official, relative to the application and interpretation of the Fire Code within the jurisdiction of Centerville City, may appeal such order, decision or determination to the Fire Board of Appeals in accordance with the Agency's rules and regulations regarding the same and in accordance with applicable provisions of the Fire Code.

7-05-080. Penalties.

Any person who violates any provision of this Chapter or provision of the Fire Code shall be guilty of a class B misdemeanor, subject to fines and penalties as provided by law. Such fines and penalties shall be deemed cumulative and in addition to any and all other remedies provided by law or under the Fire Code. Each and every day that a violation of this Chapter exists or continues shall constitute a separate offense.

CHAPTER 7-06: EMERGENCY COST RECOVERY

- 7-06-010. Definitions.**
- 7-06-020. Cost Recovery Authorization.**
- 7-06-030. Cost Recovery Notice and Procedure.**
- 7-06-035. Determination of Costs.**
- 7-06-040. Cost Recovery Appeal.**
- 7-06-050. No Admission of Liability.**
- 7-06-060. Action to Recover Expenses.**
- 7-06-070. Conflict Provision.**

7-06-010. Definitions.

The following terms shall have the meanings set forth herein:

(a) “Aggravated fire emergency” means a fire caused or contributed to by the failure to comply with an order from any State, County, City, Fire Agency, or local agency, department or official; or occurs as a direct result of a deliberate act in violation of State law or the ordinances or regulations of the City, County or other local agency; a fire that constitutes arson or reckless burning as defined by the *Utah Code*; or an alarm that results in a fire unit being dispatched, and the person transmitting or causing the transmission of the alarm knows at the time of said transmission that no fire or fire related emergency exists.

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

(c) “Expenses” means the actual labor costs of government and volunteer personnel, including workers compensation benefits, fringe benefits, administrative overhead, costs of equipment, costs of equipment operation, equipment repair or replacement, costs of materials, decontamination, waste management (treatment, storage or disposal), costs of any contract labor and materials, and costs of any health assessment or health effects study and related treatment carried out for responding personnel as a necessity resulting from a hazardous materials incident or aggravated fire or medical emergency.

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

7-06-020. Cost Recovery Authorization.

The City and/or its authorized agent is hereby empowered to recover expenses incurred by virtue of the City's or other local governmental agencies' response to a hazardous materials emergency, aggravated fire emergency, or aggravated medical emergency from any person, corporation, partnership or other individual or entity who caused such an emergency, pursuant to the procedures set forth herein. The South Davis Metro Fire Agency is hereby authorized to serve as the City's authorized agent for purposes of administering and enforcing this Chapter.

7-06-030. Cost Recovery Notice and Procedure.

The City and/or its authorized agent shall determine responsibility for the emergency or response as defined above and notify the responsible party in person or by mail of the determination of responsibility and the expenses to be recovered.

7-06-035. Determination of Costs.

The City and/or its authorized agent shall retain sufficient evidence of eligible costs incurred and to be recovered under this Chapter and shall provide the responsible party with invoices regarding the same. Mutual Aid agencies responding to or providing assistance with a hazardous materials emergency or fire or medical emergency are eligible to submit bills for cost recovery to the City or its authorized agent. Submitted invoices should include sufficient documentation for cost reimbursement (*e.g.*, copies of time sheets for specific personnel, copies of bills for materials, equipment and supplies procured or used, etc.). Accepting invoices from Mutual Aid agencies shall not incur liability to the City or its authorized agent to pay costs from such agencies until payment has been received by the City or its authorized agent from the responsible party.

7-06-040. Cost Recovery Appeal.

The notice set forth in Section 7-06-030 shall specify that the determined responsible party may appeal the decision to the City Council or an authorized hearing officer and establish a date by which the notice of appeal shall be filed. The appeal date shall be no less than fifteen (15) days from the date of the notice. In the event the determined responsible party appeals the determination, the City Council or authorized hearing officer shall hold a hearing to consider any issues raised by the appeal, at which hearing the appealing party and the South Davis Metro Fire Agency and/or City representatives shall be entitled to present evidence in support of their respective positions. After the hearing, the City Council or authorized hearing officer shall issue a written decision determining responsibility and assessing expenses.

7-06-050. No Admission of Liability.

The payment of expenses determined owing under this Chapter does not constitute a criminal fine or an admission of liability or negligence in any legal action for damages.

7-06-060. Action to Recover Expenses.

The City or its authorized agent shall submit one or a series of consolidated invoice(s) to the responsible party identifying agencies or agents and their specific costs for reimbursement. The responsible party shall issue a certified check to the City or its authorized agent within thirty (30) days of receiving any invoice or make other payment arrangements acceptable to the City or its authorized agent. All funds received under the authority of this ordinance shall be disbursed according to the claims submitted. Where the reimbursement is less than the requested amount, each agency shall receive a pro rata share of such reimbursement as the agencies' reimbursable costs bear to the total reimbursable cost. The City or its authorized agent shall not be liable to the agency for any deficiency. In the event the party or parties determined to be responsible for the repayment of expenses incurred by the City or its authorized agent fail to make payment after the final administrative determination of any appeal to the City, or thirty (30) days from receiving the invoice (or other acceptable payment program), the City or its authorized agent may initiate legal action to recover from the determined responsible party the expenses determined to be owing, including the City's or its authorized agent's reasonable costs and attorneys' fees.

7-06-070. Conflict Provision.

Whenever the requirements or provisions of this Chapter are in conflict with the requirements or provisions of any other lawfully adopted ordinance, the more restrictive requirements shall apply. Further, this Chapter shall not restrict or replace cost recovery from funding sources available under State and federal regulations.

CHAPTER 7-07: FIREWORKS

- 7-07-010. Authority.**
- 7-07-015. Compliance.**
- 7-07-020. Definitions.**
- 7-07-030. Fireworks Retail Seller Permit.**
- 7-07-040. Fireworks Operator Permit.**
- 7-07-050. Permit Procedures.**
- 7-07-060. Fees.**
- 7-07-070. Insurance.**
- 7-07-080. Reserved.**
- 7-07-090. Enforcement.**
- 7-07-100. Seizure.**
- 7-07-110. Suspension or Revocation.**
- 7-07-120. Appeals.**
- 7-07-130. Conflicts.**
- 7-07-140. Exemptions.**
- 7-07-150. Prohibited Sales of Fireworks.**
- 7-07-160. Prohibited Discharge of Fireworks.⁴**
- 7-07-170. Penalties.**

7-07-010. Authority.

The City is authorized to regulate the sale, discharge, storage and display of class C common state-approved fireworks within the City pursuant to and in accordance with the provisions of *Utah Code Ann.* § 10-8-47, as amended, *Utah Code Ann.* § 10-8-56, as amended, the County and Municipal Fireworks Act, as set forth in *Utah Code Ann.* §§ 11-3-1, et seq., as amended, and the Utah Fireworks Act, as set forth in *Utah Code Ann.* §§ 53-7-220, et seq., as amended.

7-07-015. Compliance.

Any sale, discharge, storage or display of fireworks within the City shall comply with the provisions of this Chapter, the County and Municipal Fireworks Act, the Utah Fireworks Act, and any rules and regulations adopted pursuant thereto, including, but not limited to Utah Admin. Rules R710-2, as amended.

7-07-020. Definitions.

The definitions set forth in *Utah Code Ann.* § 53-7-202, as amended, shall apply to such words used in this Chapter.

7-07-030. Fireworks Retail Seller Permit.

Any person desiring to sell class C common state-approved fireworks as a retail seller within the City shall be required to obtain a Fireworks Retail Seller Permit from the City. It shall be unlawful for any person to sell fireworks within the City without obtaining a Retail Seller Permit from the City. No Retailer Seller Permit shall be issued for the sale of any fireworks from a residence.

7-07-040. Fireworks Operator Permit.

Any person desiring to discharge any display fireworks, special effects, and flame effects performances within the City shall be required to obtain a Fireworks Operator Permit from the City. Any person applying for a Fireworks Operator Permit from the City must provide evidence that the display operator, special effects operator, or flame effects operator who will set up and discharge the display has received a license from the State Fire Marshal Division, Department of Public Safety. It shall be unlawful

⁴ Amended by Ordinance no. 2016-17, June 7, 2016

for any person to discharge any display fireworks, special effects, or flame effects within the City without obtaining a Fireworks Operator Permit from the City.

7-07-050. Permit Procedures.

Any person desiring to obtain a Fireworks Retail Seller Permit or a Fireworks Operator Permit from the City shall submit a written application for the same in accordance with the provisions of this Section. All Fireworks Permit applications shall be submitted to the Business License Official and shall include the following:

- (a) The name and address of the applicant;
- (b) The exact location from which the fireworks are to be sold or displayed;
- (c) The exact dates and times during which the fireworks will be sold or displayed;
- (d) The exact kinds of fireworks that will be offered for sale or displayed;
- (e) Proof of ownership of the property and premises to be licensed or written permission from the owner of the property and premises for the construction of the stand or other facility and the sale or display of fireworks therefrom;
- (f) Certificate of inspection of the property and premises by the South Davis Metro Fire Agency indicating that the sale or display of fireworks from the property and premises and any proposed structure or facility will not endanger surrounding and adjacent property or the occupants thereof;
- (g) For an Operator Permit application, proof of State license as required in Section 7-07-040;
- (h) The applicable permit fee as set forth in Section 7-07-060;
- (i) Proof of insurance in accordance with the provisions of Section 7-07-080.

7-07-060. Fees.

Any person obtaining a Fireworks Retail Seller Permit or Fireworks Operator Permit in accordance with the provisions of this Chapter shall be required to pay the applicable business license and permit fees as more particularly set forth in the City Fee Schedule.

7-07-070. Reserved.

7-07-080. Insurance.

Any person obtaining a Fireworks Permit under the provisions of this Chapter shall be required to obtain and maintain public and products liability insurance with limits of \$100,000 covering injury to persons and \$300,000 aggregate injury coverage, and \$100,000 property damage limits. Such policy shall be endorsed as to indemnify the City, its officers, employees and agents, against any liability or damages arising from the issuance of said permit or by reason of any acts or omissions of the permittee, its agents and employees.

7-07-090. Enforcement.

Enforcement officials of the City Police Department, the South Davis Metro Fire Agency, and the State Fire Marshal Division of the Department of Public Safety, shall enforce the provisions of this Chapter and applicable provisions of the Utah Fireworks Act. The Business License Official is authorized to administer and enforce the permitting provisions of this Chapter as more particularly provided herein.

7-07-100. Seizure.

Any officials charged with enforcing this Chapter and the Utah Fireworks Act may, as part of any enforcement action, seize display fireworks, fireworks, and unclassified fireworks that are offered for sale, sold, or in the possession of an individual in violation of this Chapter or the Utah Fireworks Act. In addition, such enforcement officials may recommend to City and/or the State Fire Marshal revocation of any fireworks license(s) or permit(s) issued to any person found to have violated the provisions of this Chapter.

7-07-110. Suspension or Revocation.

Any permit issued pursuant to the provisions of this Chapter may be suspended or revoked by the Business License Official in accordance with the suspension and revocation procedures set forth in Title 6, Chapter 3 regarding regulation and enforcement of business licenses.

7-07-120. Appeals.

Any person denied a permit under this Chapter or whose permit was suspended or revoked by the Business License Official, may appeal such decision to the City Manager in accordance with the appeal and administrative proceedings provisions set forth in Title 6, Chapter 3 regarding regulation and enforcement of business licenses.

7-07-130. Conflicts.

Nothing herein is intended to conflict with the provisions of the Utah Fireworks Act. In the event of actual conflict, the provisions of the Utah Fireworks Act shall control.

7-07-140. Exemptions.

Subject to the provision of *Utah Code Ann.* § 11-3-10, as amended, this Chapter shall not apply to class A, class B, and class C explosives that are not for use in Utah, but are manufactured, stored, warehoused, or in transit for destinations outside of Utah. This Chapter does not supersede *Utah Code Ann.* § 23-13-7, regarding the use of fireworks and explosives by the Division of Wildlife Resources and federal game agents.

7-07-150. Prohibited Sales of Fireworks.

(a) It shall be unlawful to sell, possess, use, or explode any fireworks within the City other than allowed by State law and the provisions of this Chapter.

(b) It shall be unlawful for any person to sell fireworks within the City without a Fireworks Retail Seller Permit as provided herein.

(c) It shall be unlawful to sell fireworks of any kind from a residence.

(d) It shall be unlawful to sell fireworks within the City other than during approved selling periods as set forth in *Utah Code Ann.* § 53-7-225, as amended.

7-07-160. Prohibited Discharge of Fireworks.⁵

(a) It shall be unlawful for any person to discharge any fireworks within the City other than as allowed by State law and City Ordinances.

(b) It shall be unlawful to discharge fireworks within the City other than during approved discharge periods as set forth in *Utah Code Ann.* § 53-7-225, as amended.

⁵ Amended by Ordinance No. 2016-17, June 7, 2016

(c) It shall be unlawful for any person to discharge any fireworks within the City on any undeveloped lot or within the hillside area or on any lot adjacent to an undeveloped lot or undeveloped hillside area. For purposes of this Section, "undeveloped" lot or hillside area shall mean any property which has not been improved with public improvements such as curb, gutter, and sidewalk, or which has not been improved with any private improvements such as a structure, asphalt, concrete or landscaping. Undeveloped lot or hillside area shall also include any property which contains a sufficient amount of dry weeds, ground cover, or other materials which render the property high risk for fire.

(d) Pursuant to Utah Code Ann. § 15A-5-202.5 and by determination of the Fire Chief of the South Davis Metro Fire Agency that hazardous environmental conditions exist which necessitate controlled use of any ignition source, including fireworks, lighters, matches, and smoking materials within specified areas of the City, the discharge of fireworks is prohibited within the City along the east bench area as more particularly described in the Centerville City Fireworks Restriction Area Map as retained by the City Recorder and adopted herein by this reference. The east bench restricted fireworks area as shown on the Fireworks Restriction Area Map is generally described as any property located east of and including the roadways within the following described boundary line: Beginning at the City's southern boundary line at Pages Lane and 700 East, north on 700 East to 100 South, west on 100 South to 600 East, then north on 600 East to 200 North, west on 200 North to 400 East, then north on 400 East to Chase Lane continuing north on 300 East in a line that connects to 325 East, then north and westerly on 325 East and Peachtree Drive to 1400 North, then west on 1400 North to Main Street, then north on Main Street to 1825 North, then east on 1825 North to 150 East, then following 150 East to Rock Manor Drive north to Lund Lane which is the City's northern boundary line. It shall be unlawful for any person to use or discharge fireworks within such restricted area as described herein from July 1 to July 31 of each year. This restriction does not apply to and is not intended to regulate residential uses such as grills, barbeques or improved fire pits associated with residential structures.

(e) It shall be unlawful for any person to discharge any display fireworks, special effects, or flame effects within the City without obtaining a Fireworks Operator Permit as provided herein.

7-07-170. Penalties.

Any person who violates the provisions of this Chapter is guilty of a class B misdemeanor, subject to such fines and penalties as provided by law. Each and every day that a violation of this Chapter exists or continues shall constitute a separate offense.

CHAPTER 7-08: SOLID WASTE AND RECYCLING.

- 7-08-010. Definitions.**
- 7-08-020. Collection of Solid Waste, Green Waste and Recyclable Materials.**
- 7-08-030. Service Charge.**
- 7-08-040. Method of Payment of Service Charge.**
- 7-08-050. No Accumulation of Garbage.**
- 7-08-060. Containers.**
- 7-08-070. Closing Containers Required.**
- 7-08-080. Time and Place of Pickup.**
- 7-08-090. Disposal of Green Waste.**
- 7-08-100. Burning Refuse Prohibited.**
- 7-08-120. Dumping Refuse Prohibited.**
- 7-08-130. Regulations.**

7-08-010. Definitions.

The following words and phrases, as defined in this Section, shall be applicable to this Chapter:

(a) **Approved Green Waste Containers.** Approved green waste containers shall consist of 90 or 100 gallon recycling containers constructed from cross linked, high-density polyethylene, or equivalent, designed specifically for automated collection equipped with wheels for easy movement by residential users and containing permanently attached, tight-fitting lids, or as approved by the City.

(b) **Approved Recycling Containers.** Approved recycling containers shall consist of 90 or 100 gallon recycling containers constructed from cross linked, high-density polyethylene, or equivalent, designed specifically for automated collection equipped with wheels for easy movement by residential users and containing permanently attached, tight-fitting lids, or as approved by the City.

(c) **Approved Solid Waste Garbage Containers.** Approved garbage containers shall consist of 90 or 100 gallon refuse containers constructed from cross linked, high-density polyethylene, or equivalent, designed specifically for automated collection equipped with wheels for easy movement by residential users and containing permanently attached, tight-fitting lids, or as approved by the City.

(d) **Bulky Wastes.** Wastes that are not capable of being stored in the approved automated refuse containers and cannot be picked up by normally used collection vehicles, including items such as appliances, furniture, large tree branches, lawn sod, Christmas trees, etc.

(e) **Commercial Solid Waste, Green Waste and Recyclable Materials.** Garbage, rubbish, trash, food wastes, recyclable materials, green waste, etc., resulting from the normal and incidental activities of commercial users.

(f) **Commercial User.** An enterprise, not a residence, such as a business, association, corporation, manufacturer, hotel, motel, resort, commercial entity, church, governmental or public entity other than the City, etc.

(g) **Food Wastes.** Animal, vegetable, or mineral matter derived from the preparation or packaging of foodstuffs.

(h) **Garbage, Rubbish and Trash.** All solid waste except hazardous waste, including but not limited to combustibles such as paper, wood, yard trimmings, etc., and non-combustibles such as metal, glass, stone, etc.

(i) **Green Waste.** Those green waste materials which can be recovered or otherwise diverted from the waste stream, such as lawn cuttings, clippings from bushes and shrubs, leaves, and

other similar green yard waste, but not including dirt or yard materials with thorns, as mutually agreed upon and determined by the contractor and the City.

(j) Hazardous Materials and Wastes. Materials and wastes that are hazardous by reason of their pathological, explosive, radiological, or toxic character, including any chemical, compound, mixture, substance or article which is designated by the United States Environmental Protection Agency, the State of Utah Department of Environmental Quality, or Davis County Health Department to be "hazardous" as that term is defined by or pursuant to Federal, State or local law.

(k) Nonprocessable Waste. Goods and materials which are not residential and/or are prohibited by the disposal facility, including, but not limited to, the following:

- (1) Any loads the majority of which consist of combustible material.
- (2) Hazardous waste of any kind.
- (3) Any material that when incinerated clearly conducts electricity.
- (4) Explosives.
- (5) Medical or pathological wastes.
- (6) Animal or human body parts or remains.
- (7) Any materials the majority of which is liquid.
- (8) Large appliances.
- (9) Construction debris of unprocessable proportions.
- (10) Large metal objects of any kind.
- (11) Large sealed containers of any kind.
- (12) Motor vehicles or related parts.
- (13) Any item exceeding two feet by two feet by five feet in dimensions.
- (14) Wood having a cross section exceeding nine inches or five feet in length.
- (15) Any material that is on fire; i.e. "Hot Load."
- (16) Commercial solid waste, as defined herein.
- (17) Hazardous materials and waste, as defined herein.
- (18) Bulky wastes, as defined herein.

(l) Recyclable Materials. Those materials which can be recovered from or otherwise diverted from the waste stream for the purpose of recycling, such as metals, paper and plastics as mutually agreed upon and determined by the contractor and the City.

(m) Residence. An occupied dwelling unit such as a home, trailer, or multi-family dwelling of four (4) or less units, not including hotels or motels or mobile home trailer parks. Each unit of a multi-family dwelling shall be considered a separate residence for purposes of billing. A dwelling unit may be considered not occupied if the persons living therein are absent for over ninety (90) continuous days. Unless otherwise agreed to by the City and the contractor, residence shall not include dwelling units

located within planned unit developments or other privately accessed developments accessible by private roadways, streets and driveways.

(n) Residential Green Waste. Green waste resulting from the normal and incidental activities of residences.

(o) Residential Recyclable Materials. Recyclable materials resulting from the normal and incidental activities of residences.

(p) Residential Solid Waste. Garbage, rubbish, trash, food wastes, etc. resulting from the normal and incidental activities of residences.

7-08-020. Collection of Solid Waste, Green Waste and Recyclable Materials.

(a) Unless otherwise provided herein, the City, its agent or contractor, shall collect, remove and dispose of all residential solid waste, green waste, and recyclable materials. All residential solid waste, green waste, and recyclable materials shall be collected, removed and disposed of with such frequency and in such manner as the City Council may from time to time establish by regulation or contract.

(b) Except as otherwise expressly permitted by this Chapter, no solid waste, refuse, green waste, or recyclable materials shall be removed or hauled away or transported upon the streets or public ways of the municipality except by the municipality, its agent or contractor, and except by authorized persons hauling commercial solid waste, green waste, or recyclable materials as hereinafter provided. It is hereby declared to be unlawful for any person, except as permitted in this Chapter, to haul or remove garbage or refuse in the municipality.

(c) The collection and disposal of commercial solid waste, green waste, and recyclable materials, as defined herein, shall not be a normal function of or provided by the City. Commercial establishments, public or quasi-public institutions and establishments creating commercial solid waste, green waste, and recyclable materials may remove commercial solid waste, green waste, or recyclable materials themselves or may employ the services of authorized contractors to remove commercial solid waste, green waste, and recyclable materials. Authorized commercial solid waste, green waste, and recyclable materials haulers must apply for and receive a business license to operate within the City, and written authorization from the City to do so. Haulage of commercial solid waste, green waste, and recyclable materials must be done in the manner, at such times and in such vehicles as may be approved for such purposes as the City Council may from time to time by regulation provide.

(d) Nothing contained in this Chapter shall preclude persons from hauling their own solid waste, green waste, or recyclable materials over the streets and rights-of-way of the municipality as the City Council may authorize.

(e) Except for those residences who have opted-out from curbside recycling in accordance with Subsection 7-08-030(d), or those residences who have not signed up for green waste collection services in accordance with Subsection 7-08-030(e), nothing in this Chapter shall be construed as eliminating the charge made for residential solid waste, green waste, or recyclable collection and disposal service.

7-08-030. Service Charge.

(a) Except for those residences that have opted-out of curbside recycling in accordance with Subsection (d), or who have not signed up for green waste collection services in accordance with Subsection (e), all residents within the municipality shall pay monthly solid waste, green waste and recycling service charges as more particularly set forth in the Fee Schedule as adopted by the City. The charges, rates, penalty fees for delinquency in payment, and other charges incidental to solid waste, green waste, and recycling services, shall be set forth in the Fee Schedule and may be amended from time to time by the resolution of the City Council.

(b) If a dwelling unit or a place of business will remain vacant for an entire calendar month, the owner or possessor of the site may make arrangements with the City Manager, or his or her agent, for a waiver of the solid waste, green waste, and/or recycling service charges during the vacancy of the premises.

(c) The Mayor, with the consent of the City Council, may excuse needy persons who are not reasonably capable of paying the monthly charge for residential collection of solid waste, green waste and/or recyclable materials from the payment of the residential rate for such period of time as may be deemed proper or necessary.

(d) Any property owner that has opted-out of the City's curbside recycling program prior to May 29, 2009, in accordance with the City's opt-out policy and notice, shall not be obligated to participate in the City's curbside recycling program. All other residences and new residential customers shall be required to participate in the curbside recycling program.

(e) Participation in the City's green waste recycling program shall be on a voluntary basis. Residences desiring such service shall sign up in writing on forms provided by the City. Participants shall be required to participate in the program for at least six (6) months. Green waste containers may be used for solid waste disposal and collection from December 1st through February 28th (or 29th in leap year) of every year. Green waste containers shall only be used for authorized green waste disposal and collection from March 1st through November 30th of each year.

7-08-040. Method of Payment of Service Charge.

(a) The residential solid waste, green waste, and recycling service charges above imposed by this Chapter shall be added to the charge made for water furnished through the water system of the municipality and shall be billed and collected in the same manner as water service charges are billed and collected.

(b) In the event that the obligee for the water service charges and the obligee for the garbage service charges do not coincide, or in the event that practical economic and administrative reasons do not make combined billing and collection feasible, in the opinion of the City Council, the solid waste, green waste, and recycling service charges may be collected with such frequency and in such manner as the City Council shall, by regulation, provide.

7-08-050. No Accumulation of Garbage.

It shall be unlawful for any person to accumulate solid waste, refuse, green waste, or recyclable materials or cause solid waste, refuse, green waste, or recyclable materials to be deposited upon any street or right-of-way. The City may permit the processing of solid waste, refuse, green waste, or recyclable materials upon premises properly equipped and maintained so as to prevent the creation of a nuisance or a hazard to health, or permit the depositing of ashes and other dry material for filling purposes at such places as the City may designate and under such restrictions as the City Council may by regulation impose. Additionally, the City may grant to any person permission for sorting, baling, and marketing trade waste upon premises properly equipped and maintained.

7-08-060. Containers.

(a) All residential solid waste, green waste, and recyclable materials to be collected by the City, its agents or contractors, from residential users shall be placed only in approved containers as defined in Section 7-08-010 of this Chapter. All other solid waste, green waste, or recyclable materials not collected by the City shall be placed in suitable and sufficient garbage receptacles, either receptacles with tight-fitting lids or properly and sufficiently treated water resistant bags manufactured specifically for use in solid waste, refuse, green waste, and recyclable materials collection. Residential solid waste shall be placed by residential users only in containers issued to them, and use of containers issued to others for garbage disposition is prohibited.

(b) Title to containers furnished by the City, its agents or contractors, to residential users, whether the right to the use thereof is paid in a lump sum or on a monthly basis, shall be retained by the City and the payment made by residents therefor shall be rental for the use thereof.

(c) Users renting containers furnished by the City, or having custody thereof, shall keep the container free from destructive or decorative markings, shall maintain the original color thereof, and shall keep the inside of said containers clean and free from build-up of fungus or bacteria or any other type of contaminant that causes odors or facilitates deterioration of the inside or outside of such container.

(d) Residential users shall report to the City, or authorized garbage hauler, any damage to or malfunctioning containers that limit their usefulness for receipt of garbage or refuse so that the same may be returned to the supplier for repair or replacement pursuant to the supplier's warranty covering the same.

(e) Residential solid waste, green waste, or recycling containers lost or missing through no fault of the user thereof shall be replaced by the City without charge, but users shall exercise due care to protect containers against loss through theft or misappropriation.

(f) Containers furnished by the City are issued to specific users by number and are non-transferrable. Upon discontinuance of use by a resident, containers shall be returned to the City.

7-08-070. Closing of Containers Required.

Approved containers shall not be overfilled to the extent that the contents may be spilled during the process of pickup and dumping into the solid waste, green waste, or recyclable materials collection vehicle. All solid waste, refuse, green waste, or recyclable materials not deposited for pickup by the City shall be placed in rainproof and fly-proof receptacles of the type herein required, and the receptacle shall be tightly closed in such a manner as to prevent offensive odors or flies.

7-08-080. Time and Place of Pickup. ⁶

(a) Unless otherwise specifically directed by the City, its agents or contractors, all solid waste and recyclable materials subject to collection by the City, its agents or contractors, shall be placed in approved containers as defined herein, which containers shall be placed on the edge of the street adjacent to the owner's property, at least ten (10) feet away from any mailbox, with the container's wheels as close to the curb as reasonably possible, with the hinge thereof to curbside and the lid opening facing toward the street. Unless otherwise specifically directed by the City or its contractor, green waste containers shall be placed in the same location as is required for solid waste and recycling containers. When snow or street construction prevents placing of the container against the curb, the container shall be placed not over two (2) feet from the edge of said snow or construction and in a manner that will not obstruct traffic or unduly impede the snowplowing activities of the City.

(b) Containers shall not be placed or permitted to block driveways or through traffic.

(c) Until otherwise provided by regulation, containers must not be set out upon the street for collection prior to the evening of the day before collection and must be set out prior to 6:00 a.m. on the day of collection.

(d) All empty containers must be removed from the street as soon as practicable after being emptied, and in every case, must be removed from the street the same day they are emptied.

(e) Those physically unable to wheel containers to curbside may arrange with the City, its agent or contractor, for special pickup.

⁶ Amended by Ordinance No. 2013-15, October 1, 2013

(f) It shall be unlawful to park a vehicle upon a public street within the City during the hours of solid waste and recycling service pickup on said street in a manner that interferes with access thereto by the solid waste, green waste, and recyclable materials collection vehicle.

7-08-090. Disposal of Green Waste.

Green waste may be disposed of by business establishments, and residences that have not signed up for City green waste collection services, in vehicles provided by them subject to regulation by the City as to the places of disposal and as to the type of vehicle used to avoid spillage upon public ways of the municipality, hazards to safety, and the prevention of nuisances.

7-08-100. Burning Refuse Prohibited.

It shall be unlawful for any person to burn solid waste, garbage, manure, green waste, or other refuse or rubbish in the open air or in any furnace or stove within the municipality unless expressly allowed by State regulations or County health and burning ordinances or regulations.

7-08-110. Dumping Refuse Prohibited.

It shall be unlawful for any person to place, deposit, or dump solid waste, garbage, ashes, paper boxes, cartons, trade waste, manure, green waste, or any other refuse upon any lot within the municipality whether such lot is occupied or vacant and whether such person so placing, depositing or dumping such refuse is the owner, tenant, occupant or lessor thereof or has the same under his jurisdiction and control.

7-08-120. Limitations on Dumping.

Dumping solid waste, green waste, recyclable materials, and garbage shall be permitted only in such places as are designated by the City Council. Dumping shall be subject to such rules and regulations as may be formulated by the City Council. Until changed by City Ordinance, all processible waste generated within the city shall be delivered to the Wasatch Integrated Waste Management District facilities, as said District shall direct.

7-08-130. Regulations.

The City Council may adopt such regulations as, in its opinion, are necessary to implement this Chapter and its objectives.

CHAPTER 7-09: NOISE CONTROL

- 7-09-010. **Prohibited Noise.**
- 7-09-020. **Regulated Noise.**
- 7-09-030. **Factors.**
- 7-09-040. **Exceptions.**
- 7-09-050. **Special Permit.**
- 7-09-060. **Violations.**

7-09-010. **Prohibited Noise.**

It is unlawful for any person to willfully or with reckless disregard create the following noise disturbances within the City.

(a) **Disruption of Dwelling.** To make, cause or permit any excessive noise which annoys, injures, or endangers the comfort, repose, health or safety of any neighborhood or person residing therein which under the circumstances would disturb a person of average and reasonable sensitivities.

(b) **Disruption of Meeting.** To make, cause or permit any excessive noise which prevents or disrupts a lawful meeting, gathering, business or other lawful activity, which under the circumstances would disturb a person of average and reasonable sensitivities.

(c) **Automobiles.** To operate or permit the operation of a motor vehicle which causes excessive noise levels as a result of a defective or modified exhaust system, or as a result of any unnecessary rapid acceleration, deceleration, engine revving or tire squealing.

(d) **Street Performances.** To use or permit the use of bells, whistles, sirens, music horns or any other noise-making device for the purpose of business, amusement or otherwise which tends to cause persons to congregate on the streets or sidewalks of the City.

(e) **Emergency Signals.** To make, cause or permit the sounding of any fire, burglar, automobile or civil defense alarm, siren, whistle, or similar emergency signaling device other than for emergency or testing purposes. Any testing permitted herein shall be conducted between the hours of 7:00 a.m. and 9:00 p.m. and shall be conducted for the minimum test cycle time not to exceed three (3) minutes.

7-09-020. **Regulated Noise.**

It shall be unlawful to cause, permit or perform the following acts between the hours of 9:00 p.m. and 6:00 a.m. within the City when such acts create a noise disturbance within a residential area.

(a) **Loading Operation.** To load, unload, open, close, or otherwise handle boxes, crates, containers, building materials, garbage containers or similar objects.

(b) **Construction Work.** To operate any tools or equipment used in construction, drilling, repair, alteration or demolition work on buildings, structures or streets.

(c) **Power Equipment.** To operate any mechanically powered saw, drill, sander, grinder, lawn or garden tool, lawnmower or other similar device, other than powered snow removal equipment.

(d) **Garbage Collection.** To collect garbage, waste or refuse.

7-09-030. Factors.

The factors to be considered in determining whether a violation of the provisions of this Chapter exists include, but shall not be limited to, the following:

- (a) The level of the noise;
- (b) The nature of the noise; i.e. usual or unusual;
- (c) The origin of the noise; i.e. natural or unnatural;
- (d) The level and intensity of any background noise;
- (e) The proximity of the noise to residential areas;
- (f) The nature and zoning of the surrounding area;
- (g) The density of inhabitants in the surrounding area;
- (h) The time of day of the noise; and
- (i) The recurrence or consistency of the noise.

7-09-040. Exceptions.

The provisions of this Chapter shall not apply to emergency situations, the lawful exercise of free speech except as regulated herein by reasonable time, place and manner restrictions, and conduct permitted by license or permit of the City or otherwise authorized by law. In addition, this Chapter shall not apply to agricultural equipment or operation, unless such equipment or operation is determined by the City to constitute a nuisance from the negligent or improper operation of any such equipment or operation.

7-09-050. Special Permit.

Persons may file an application with the City for a special Temporary Noise Permit authorizing the applicant to take certain action or conduct certain activities not otherwise permitted herein. Any permit issued hereunder shall be in addition to any and all other licenses or permits required by law, and shall be subject to all other State and County laws regarding noise emissions.

(a) Application. Applications for a special Temporary Noise Permit shall be made in writing to the City Manager and shall include the following items:

- (1) Name and address of the applicant;
- (2) Activity or purpose for which the permit is desired;
- (3) Reasons why the permit is necessary, including an explanation of undue hardship and lack of reasonable alternatives;
- (4) The specific date, time and location to be covered by the permit;
- (5) Any other relevant information requested by the City.

(b) Fees. Each Application for the special Temporary Noise Permit filed hereunder shall be accompanied by any required permit fees set forth in the City Fee Schedule. No permit shall be issued until the proper fees have been paid to the City. Unless otherwise provided, the fees required herein shall be in addition to any and all other license or permit fees imposed by any other law.

(c) Issuance. The City Manager shall review all applications filed hereunder and may issue or deny a permit, in whole or in part, based upon consideration for public health and safety. Any permit issued hereunder shall contain any conditions upon which the permit has been granted, including the effective dates, time restrictions, location and other reasonable requirements necessary to minimize adverse affects upon surrounding areas and any persons therein.

(d) Denial. If the proper fees have not been paid, or the City Manager determines that the application does not conform with applicable law or it is not in the public's best interest to issue the permit, the City Manager shall deny the permit and notify the applicant in writing of such denial. The notice shall state the reasons for denial and inform the applicant that he or she may file a written appeal of such denial pursuant to Subsection (i).

(e) Term. Any permit issued hereunder shall specifically state the term and purpose for which it was issued, not to exceed thirty (30) days.

(f) Limitation. Except as provided herein, each permit issued hereunder shall be valid only for the person to whom it is issued. Permit holders shall ensure that the permit is available for inspection by City officials at the place and time for which it is issued.

(g) Records. The City Manager shall keep a record of all permits issued hereunder, including the name of the person to whom the permit was issued, the type of permit issued, and the fees collected.

(h) Revocation. Any permit issued hereunder may be revoked or suspended by the City Manager due to the permit holder's failure to comply with the provisions hereof or other applicable law. Prior to revocation of any permit, proper notice and an opportunity to be heard shall be provided to the permit holder.

(i) Appeal. Any determination made by the City Manager relative to the issuance, denial or revocation of a permit hereunder may be appealed to the City Council by filing, within ten (10) days from the date of said determination, a written notice of appeal setting for the grounds for the appeal and any other pertinent information. Such notice of appeal shall be filed by delivering an original and three (3) copies to the City Recorder during regular business hours. Upon receipt of the appeal, the City Council shall thoroughly and objectively investigate the matter and issue a written decision stating the reasons for the decision and informing the appellants of any right to judicial review provided by law.

7-09-060. Violations.

Any person found in violation of this Ordinance shall be guilty of a class B misdemeanor and subject to imprisonment and/or fines as provided by law. Violations of this Ordinance shall also constitute a public nuisance and may be enjoined and abated as such by the City. Each and every day that a violation of this Chapter exists or continues shall constitute a separate offense.