

TITLE 10. FIRE, HEALTH, AND PUBLIC SAFETY

CHAPTER 10-100. Fire Department.

10-101. Creation. There is hereby created a fire department to be known as the North Logan City Fire Department.

10-102. Creation of Position of Chief. There is hereby created the position of Chief of the Fire Department.

10-103. Powers and Duties of Chief.

- (A) The chief shall have the responsibility for the general supervision of the department.
- (B) During a fire, the Chief shall have full authority to take all measures as he shall deem necessary, subject to state law, to control and extinguish the fire and for that purpose he is hereby made a special peace officer.
- (C) The Chief shall at least quarterly, report to the governing body the condition of the fire equipment, the number of fires and their causes and the estimated loss therefrom together with such other information as the governing body may request or as he shall deem appropriate.
- (D) The Chief shall strictly enforce all of the provisions of the ordinances of this municipality relating to the protection against and prevention of fire.
- (E) The Chief shall maintain the equipment of the department in good repair and order and ready for use.
- (F) The Chief, subject to the approval of the Mayor and governing body, shall establish rules and regulations for the operation of the department.
- (G) The Chief may delegate his duties to any person employed by the department, but such delegation shall not relieve the Chief of his responsibility for the performance thereof.
- (H) The Chief shall cause all fires to be promptly investigated to determine the cause of the fire and report the cause of the fire, the time originated and such other information as may be relevant to prevent other fires.

10-104. Employees. The Chief may make recommendations to the Mayor relating to the employment of firefighters and such other personnel as may be necessary to enforce the provisions of this chapter. The Chief may employ such additional personnel as the Mayor and governing body may direct or authorize. (Ord. 08-09)

TITLE 10. FIRE, HEALTH, AND PUBLIC SAFETY

10-105. Emergency Vehicles. Fire apparatus and vehicles are hereby designated authorized emergency vehicles. (Ord. 08-09)

10-106. Removal of Obstructions at Fire. The officer in charge at any fire may order the removal or destruction of any fence, building or structure, or that any utility be closed, cut or removed when deemed necessary to control, extinguish or prevent the spread of fire.

10-107. Control of Persons. All persons present at a fire shall obey the orders of any firefighter. (Ord. 08-09)

10-108. Interference with Firefighters in Discharge of Duties. Every person at the scene of any fire who disobeys the lawful orders of any public officer or firefighters, or offers any resistance to or interference with the efforts of any firefighters, or company of firefighters to extinguish the same, or engages in any disorderly conduct calculated to prevent the same from being extinguished, or who forbids, prevents or dissuades others from assisting to extinguish the same, is guilty of an infraction. (Ord. 08-09)

10-109. Unlawful Interference with Officers, Apparatus, Water, Etc. Any person who shall willfully hinder any officer or firefighter in the discharge of his duty at a fire, or in any manner injure, deface or destroy any fire equipment, hose or other fire apparatus belonging to the municipality, or who shall interfere with any fire company or person, or who shall willfully break or injury any water pipe, or interfere with the water or its source of supply shall be deemed guilty of a Class B Misdemeanor. (Ord. 08-09)

10-110. Investigation After Fire Report. The Chief, or such other persons as he shall designate, shall, after extinguishing a fire, make prompt and thorough investigation of the cause of the fire, the time the fire began, the amount of loss and insurance, a description of the affected buildings and premises, and shall secure all other useful information available, and maintain a record of the same and shall report the same to the governing body at such time as it may direct. (Ord. 08-09)

10-111. Right to Enter Upon and Inspect Premises. The Fire Chief or his deputies upon presentation of proper credentials shall have the right to enter upon any premises at all reasonable hours for the purpose of making inspections.

10-112. Persons Present at Fire Subject to Orders. Every person eighteen years or older present at a fire shall be subject to the orders of the officer in command and shall render assistance in the manner directed by the officer in command. (Ord. 98-03)

10-113. False Alarm. It shall be unlawful for any person to turn in or report to the fire department a false alarm or report of a fire or to tamper or remove any part of the fire alarm system. Any violation of this section shall be a Class B Misdemeanor.

TITLE 10. FIRE, HEALTH, AND PUBLIC SAFETY

10-114. Burning at Community Waste Sites Restricted. No burning shall be done at sites used for the disposal of community trash, garbage, or other waste except when authorized for a specific period of time and subject to specific conditions as approved by the Utah Air Conservation Committee in accordance with the Utah Air Conservation Act (Chapter 13, Title 26, Utah Code) and by the City Council after a public hearing.

10-115. General Prohibition. No person shall burn any trash, garbage or other waste nor conduct any salvage operations in or at any open fire site except as provided by this ordinance.

10-116. Permissible Burning - Without a Permit.

- (A) Unless prohibited by state statutes or regulations, other City Ordinances, applicable declarations or closed fire seasons, or the order of a law enforcement officer, the City Fire Chief or his duly authorized agent, the following types of burning are permitted without a permit. (Ord. 98-03)
- (1) Fires in outdoor grills, fireplaces, or similar devices for the primary purpose of preparing food, provided the devices are not used for the burning of refuse, trash, garbage, or other waste in areas where there is a public or duly license disposal service available.
 - (2) Campfires and other recreational fires provided that such fires are attended and under the control of a responsible person and further provided that no such fire shall be permitted during any closed fire season as declared by the City Fire Chief, notice of which has been published once in a newspaper of general circulation in the county. (Ord. 98-03)
 - (3) Fires in indoor fireplaces.
 - (4) Burning on the premises of combustible household wastes generated by occupants of dwellings of four family units or less in those areas only where no public or duly licensed disposal service is available.
- (B) A burning permit is not required for the burning of fence lines on cultivated lands, canals, or irrigation ditches where the burning will not pose a threat to forest, range, or watershed lands, provided due care is used in the control of the burning and that the individual notifies the nearest fire department of the approximate time the burning will occur.

10-117. Permissible Burning Permit Required. Unless prohibited by state statutes or regulations, other county ordinances, applicable declarations of closed fire seasons, or the order of a law enforcement officer, the City Fire Chief or his duly authorized agent, the following types of burning are permitted, providing that a city permit has first been obtained: (Ord. 98-03)

TITLE 10. FIRE, HEALTH, AND PUBLIC SAFETY

- (A) The burning of pruning from trees, bushes, and plants, or of dead or diseased trees, bushes, and plants, including stubble, incidental to horticultural or agricultural operations.
- (B) The controlled heating of orchards or other crops to minimize damage from freezing temperatures, provided that the emissions from such heating shall not violate any minimum standards established by the State Department of Health.
- (C) Open burning of materials or structures when conducted under the control and supervision of the City Fire Chief. (Ord. 98-03)
- (D) Fires for firefighter training purposes when conducted under the direct control and supervision of the City Fire Chief. (Ord. 98-03, Ord. 08-09)
- (E) Open burning at an approved site of hazardous materials for which there is no reasonable alternate practical method of disposal; provided that such burning shall be under the supervision of the City Fire Chief and in accordance with state law. (Ord. 98-03)
- (F) Other open burning for special purposes or under unique circumstances when approved by the City Fire Chief and the County Health Department following a formal request therefore. (Ord. 98-03)
- (G) Fires on any city property including roads, rights-of-way, ditch banks, river bottom lands, wild lands, or other areas of city domain.

10-118. Consent of Utah Division of Wildlife Resources. The consent of the Utah Division of Wildlife Resources shall be required for any fires on any property leased, owned, or controlled by that division as wild lands or wildlife habitats.

10-119. Unattended and Uncontrolled Fires Prohibited.

- (A) It shall be unlawful for any person to leave any fire unattended whether on private or public property.
- (B) A fire shall be deemed "unattended" when any flame, live coals, or embers remain and the person or persons responsible for the fire have left the proximity of the fire either in distance or time that would preclude prompt suppression action by said person or persons.
- (C) Any fire on private or public property burning uncontrolled and without proper and adequate action being taken to prevent its spread is declared a public nuisance.

TITLE 10. FIRE, HEALTH, AND PUBLIC SAFETY

10-120. Permits.

- (A) City permits shall be issued by the City Fire Chief or his duly authorized agent who shall be authorized to determine the appropriate application process and forms for the issuance of such permits. (Ord. 98-03, Ord. 08-09)
- (B) The City Fire Chief or his duly authorized agent is authorized to grant a permit orally to an applicant provided that the Fire Chief or his duly authorized agent make and maintain a written record of the permit including the name of the applicants; the burning site; the nature of the burning, anticipated time, and date of the proposed burning; and the time and date of the granting of the permit. (Ord. 98-03, Ord. 08-09)
- (C) The North Logan City Council may, at its discretion, establish fees by resolution for burning permits. Until such resolution is adopted, no fees shall be assessed.
- (D) Whenever there is probable cause to believe that there has been a violation of the provisions of this ordinance or state law as to any fire or if circumstances give reasonable concern for the safety of persons or property, the City Fire Chief or his duly authorized agent may, upon notice to any person having a permit temporarily suspend such permit pending a hearing before the North Logan City Council; provided that: (Ord. 98-03, Ord. 08-09)
 - (1) The City Council shall hold a review hearing, due notice of which has been given to the permittee and the owners of any property affected or likely to be affected by the affirmation, modification, revocation or cancellation of any permit.
 - (2) At that hearing, the City Council, upon formal findings of fact, order that the permit be modified, revoked, or suspended and specify the reasons therefore in writing to the permittee and to the City Fire Chief. (Ord. 98-03)

10-121. Authority to Enforce.

- (A) The responsibility for the enforcement of this ordinance shall be primarily in the City Fire Chief or his duly authorized agents or deputies and also in the North Park Police Chief or his duly authorized deputies in conjunction with the City Fire Chief. (Ord. 98-03)
- (B) If there is reason to believe that any fire presents or is likely to present a danger to persons or property, the above-designated officer shall have the authority to require the immediate suppression or prohibition of such burning pending further action by the City Fire Chief or City Council as the case may require. (Ord. 98-03)

TITLE 10. FIRE, HEALTH, AND PUBLIC SAFETY

10-122. Reckless Burning. - See 15-303. Reckless Burning for the definition of reckless burning and associated penalties. (Ord. 98-03).

10-123. Penalties and Liabilities. - See 15-303. Reckless Burning for the definition of reckless burning and associated penalties. (Ord. 98-03)

10-124. Superseding Prior Ordinances. This ordinance specifically supersedes the provisions of the ordinance regulating open burning in North Logan City dated Oct. 19, 1971 and the provisions of any other city ordinances which are specifically contrary to the provisions of this ordinance.

10-125. Effective Date. This ordinance shall become effective upon adoption, publication and posting in the manner required by law. This ordinance adopted June 16, 1989.

TITLE 10. FIRE, HEALTH, AND PUBLIC SAFETY

CHAPTER 10-200. Uniform International Code. (Ord. 08-09)

10-201. Fire Code Adopted. There is hereby adopted as the fire code by this municipality, for the purpose of prescribing regulations governing conditions hazardous to life and protecting property from fire or explosion, the fire code currently adopted by the State of Utah, and as modified or amended (U.C.A. Title 53-7-204). Any reference herein to the "Internaitonal Fire Code" or "Fire Code" shall mean the fire code as adopted by the State of Utah. At least one copy of the fire code shall be filed with the Recorder/ Clerk for use and inspection by the public. (Ord. 91-03, Ord. 03-03, Ord. 08-09)

10-202. Establishment and Duties of Bureau of Fire Prevention.

- (A) The International Fire Code shall be enforced by the bureau of fire prevention in the fire department of the municipality which is hereby established and which shall be operated under the supervision of the chief of the fire department.
- (B)
 - (1) The chief of the fire department may detail such as Fire Marshal and inspectors as necessary.
 - (2) The chief of the fire department shall recommend to the Mayor, the employment of a Fire Marshal and technical inspectors, who, when such authorization is made, shall be selected through an evaluation of a resume and interview to determine their fitness for the position(s).
 - (3) The position(s) shall be open to members and non members of the fire department, and appointments made after evaluations shall be for an indefinite term with removal only for cause.
 - (4) The Fire Marshal shall under the direction of the Fire Chief administer the bureau of fire prevention and enforce the provisions of the International Fire Code as modified or amended by this ordinance and the State of Utah.
 - (5) During fire code enforcement, the Fire Marshal shall have full authority to take all measures as he shall deem necessary, subject to state law, to enforce the fire code and for that purpose he is hereby made a special peace officer.

(Ord. 08-09)

10-203. Definitions.

- (A) The word "jurisdiction" as used in the International Fire Code, shall mean the boundaries of this municipality.

TITLE 10. FIRE, HEALTH, AND PUBLIC SAFETY

- (B) The term "legal representative" as used in the International Fire Code shall mean the attorney for this municipality.
- (C) The term "Fire Code Official" as used in the International Fire Code shall mean the Fire Chief, Fire Marshal or other designated authority charged with the administration and enforcement of the code, or a duly authorized representative.
- (D) The term "key box" shall refer to the "Knox Box" key system as the approved type of secured key box system within the jurisdiction.

(Ord. 08-09)

10-204. Establishment of Limits for the Storage of Flammable or Combustible Liquids in Outside Aboveground Tanks. The storage of flammable or combustible liquids in outside, aboveground tanks shall only be allowed on a case-by-case basis with each location and the storage facilities to receive prior approval by the City Council, after receiving the recommendations of the City Building Official, the official acting as the Fire Code Official or City Fire Chief, and the City's Public Safety Officer. Any approval may be made subject to compliance with stated conditions and all storage tanks shall meet Underwriters laboratory (UL) Standard NO. 142 or a later adopted equivalent, the National Fire Protection Association (NFPA) Standard No. 30 or a later adopted equivalent, and any tank, its related appurtenances and its placement shall conform to the currently adopted fire code regulations, the provisions of all applicable City Ordinances and regulations, as well as all other applicable regulations imposed by an agency with jurisdiction. (Ord. 91-03, Ord. 03-03, Ord. 08-09)

10-205. Establishment of Limits in Which Bulk Storage of Liquefied Petroleum Gases is to be Restricted. The bulk storage of liquefied petroleum gas shall only be allowed on a case-by-case basis with each location and the storage facilities to receive prior approval by the City Council, after receiving the recommendations of the City Building Official, the official acting as the Fire Code Official or City Fire Chief, and the City's Public Safety Officer. Any approval may be made subject to compliance with stated conditions and all such storage shall conform to the currently adopted fire code regulations, and the provisions of all applicable regulations imposed by an agency with jurisdiction. (Ord. 91-03, Ord. 03-03, Ord. 08-09)

10-206. Establishment of Limits of Districts in Which Storage of Explosives and Blasting Agents is to be Prohibited. The storage of explosives and blasting agents shall only be allowed on a case-by-case basis with each location and the storage facilities to receive prior approval by the City Council, after receiving the recommendations of the City Building Official, the official acting as the Fire Code Official or City Fire Chief, and the City's Public Safety officer. Any approval may be made subject to compliance with stated conditions and all such storage shall conform to the currently adopted fire code regulations, the provisions of all applicable City Ordinances and regulations, as well as all other applicable regulations imposed by an agency with jurisdiction. (Ord. 91-03, Ord. 03-03, Ord. 08-09)

TITLE 10. FIRE, HEALTH, AND PUBLIC SAFETY

10-207. Amendments to the International Fire Code.

- (A) Section 506 is changed to read as follows:
506.1 All commercial buildings or residential complexes which contain an elevator, fire alarm system and/or a fire suppression system, or where immediate access to or within a structure or an area is restricted because of secured openings or the building is unoccupied or where immediate access is necessary for life-saving or fire department purposes a key box shall be installed in an accessible location approved by the fire code official. The key box shall be of an approved type and shall contain the keys, cards or combinations necessary to gain access as required by the fire code official.
- 506.1.1 Locks. An approved lock shall be installed on gates or similar barriers when required by the fire code official.
- 506.2 Key box maintenance. The operator of the building shall immediately notify the fire code official and provide the new key when a lock is changed or rekeyed. The key to such lock shall be secured in the key box.
- (B) Section 508.5.1.1 is added to read as follows:
508.5.1. A fire hydrant shall be located within 100 feet of all fire department connections as approved by the fire code official.
- (C) Section 903.3.7.1 is added to read as follows:
903.3.7.1 Location of Fire Department Connection (FDC). Fire department connections shall be located not more than 100 ft (30.5 m) from the nearest fire hydrant connected to an approved water supply.
- (D) Section 903.3.7.2 is added to read as follows:
903.3.7.2 Locking Fire Department Connection (FDC) Caps. New fire sprinkler installations shall be equipped with locking FDC caps as approved by the fire code official. Existing fire sprinkler installations will require approved locking FDC caps when directed by the fire code official.
- (E) Section 905.1.1 is added to read as follows:
905.1.1 Locking Fire Department Connection (FDC) Caps. New Class I and Class II standpipe system installations shall be equipped with locking FDC caps as approved by the fire code official. Existing Class I and Class II standpipe system installations will require approved locking FDC caps when directed by the fire code official.

(Ord. 08-09)

TITLE 10. FIRE, HEALTH, AND PUBLIC SAFETY

10-208. Appeals. In order to hear and decide appeals of orders, decisions or determinations made by the fire code official relative to the application and interpretation of the fire code a board of appeals shall be created in accordance to International Fire Code Section 108. (Ord. 08-09)

10-209. New Materials, Processes or Occupancies Which May Require Permits.

- (A) The building inspector and the City Fire Chief or his duly authorized agent shall act as a committee to determine and specify, after giving affected persons an opportunity to be heard, any new materials, processes or occupancies which shall require permits in addition to those now enumerated in the fire code. (Ord. 91-03, Ord. 08-09)
- (B) The City Fire Chief or his duly authorized agent shall post such list in a conspicuous place in his office and distribute copies thereof to interested persons. (Ord. 91-03, Ord. 08-09)

10-210. Penalties.

- (A)
 - (1) Any person who shall violate any of the provisions of the International Fire Code or fail to comply therewith, or who shall violate or fail to comply with any order thereunder, or who shall build in violation of any detailed statement of specifications or plans submitted and approved thereunder, or any certificate or permit issued thereunder, and from which no appeal has been taken, or who shall fail to comply with such an order as affirmed or modified by the governing body or by a court of competent jurisdiction within the time fixed herein shall, severally for each and every such violation and noncompliance respectively, be guilty of a Class B Misdemeanor. (Ord. 08-09)
 - (2) Imposition of one penalty for any violation shall not excuse the violation or permit it to continue.
 - (3) All persons shall be required to correct or remedy such violations or defects within a reasonable time, and when not otherwise specified, each ten days that prohibited conditions are maintained shall constitute a separate offense.
- (B) The application of the above penalty shall not be held to prevent the enforced removal of the prohibited condition.

10-211. Equipment for New Fire Protection Systems - Standard Equipment. (See U.C.A. Section 11-4-2. (Ord. 08-09)

10-212. Duty of Local Governing Body to Maintain and Comply. (See U.C.A. Section 11-4-2.)

TITLE 10. FIRE, HEALTH, AND PUBLIC SAFETY

10-213. Deleted. (Ord. 08-09)

10-214. Establishment of Fire Districts or Zones. The areas described in the appropriate appendix are hereby established as fire districts or zones.

10-215. Validity of Ordinance. Should any section, clause, or provision of this Ordinance be declared by a court of competent jurisdiction to be invalid, in whole or in part, the same shall not affect the validity of the Ordinance as a whole, or any other part thereof.

10-216. Effective Date. This Ordinance shall become effective immediately upon posting in the manner required by law. This ordinance was adopted and passed on August 17, 1989.

TITLE 10. FIRE, HEALTH, AND PUBLIC SAFETY

CHAPTER 10-300. Health.

10-301. Board of Health Established. The Bear River District Health Department is hereby designated as the board of health of this municipality.

10-302. Duties and Powers of Board of Health.

- (A) The municipality may contract with the Bear River District Health Department on such terms and conditions as the parties may agree to enforce the provisions of this chapter and such other ordinances of this municipality which authorize or require action or impose any duty on the Board of Health.
- (B) The Board of Health shall adopt such rules and regulations as it shall deem necessary to govern its meetings and conduct.
- (C) The Board of Health shall review and approve all applications for permits to operate any business or engage in any construction for which a permit is required from the Board of Health pursuant to any ordinances or regulations of this municipality.
- (D) The Board of Health shall recommend to the Mayor for promulgation by the governing body such health rules, regulations, and ordinances as it deems necessary for the health of the persons within this municipality.

10-303. Permits. It shall be unlawful for any person to engage in any of the following businesses or commercial activities without first obtaining a permit from the Board of Health. (Ord. 98-03)

- (A) Handling, selling, offering for sale, preparing or serving any food or food products or beverages or water intended for human consumption.
- (B) Operating or permitting public access to any public swimming pool.
- (C) Operating any public dump, garbage or refuse collection or disposal facility, or cleaning out or installing any privy, cesspool, or septic tank. (Ord. 98-03)
- (D) Fumigating or eradicating pests, insects, vermin or any other infestation from any building occupied or to be occupied by humans.

10-304. Position Created. The Health Director of the Bear River District Health Department is hereby designated as the Health Director of this municipality.

TITLE 10. FIRE, HEALTH, AND PUBLIC SAFETY

10-305. Powers and Duties of Health Director.

- (A) The Health Director may appoint or designate any qualified person to act as his assistant for the purpose of enforcing the ordinances of this municipality.
- (B) Subject to the terms and conditions of the contract between the Bear River District Health Department, the Health Director shall:
 - (1) Be the executive officer of the Board of Health.
 - (2) Enforce all ordinances of this municipality and the State of Utah which relate to the health and welfare of the residents of this municipality.
 - (3) Enforce all rules, regulations and ordinances relating to:
 - (a) Plumbing, sanitation, contagious infectious diseases, quarantine and sewage disposal.
 - (b) Producing, storing, keeping and selling meat, dairy or other foods or food products.
 - (c) The quarantine and disposal of all animals affected with any contagious or infectious diseases.
 - (4) Enforce the nuisance ordinances of this municipality within the duties and powers of that office. (Ord. 98-03)
 - (5) Have the power to impose and maintain a strict quarantine of all infected persons and premises having contagious or infectious diseases, and to require such persons or premises to be disinfected.
 - (6) Have the right and authority, when he shall deem necessary to secure or preserve the public health, to enter into or upon any premises, building, or other places during the daytime to examine, analyze, or test any building, structure, premise, product or goods manufactured, stored, or kept within the municipality for the purposes of enforcing this chapter.

10-306. Unwholesome Food. It is a Class B Misdemeanor for any person to sell or offer for sale any unwholesome food or beverage which has been condemned by any government food inspector.

TITLE 10. FIRE, HEALTH, AND PUBLIC SAFETY

10-307. Vacating Premises.

- (A) It shall be unlawful for any person, upon vacating or moving from any dwelling, storeroom, or other building, to fail to remove all garbage, rubbish, or ashes from such building or premises and the grounds appurtenant thereto, or to fail to place the same in a thoroughly sanitary condition within 24 hours after the premises are vacated.
- (B) In situations where rental property is so vacated, the owner of the property shall be concurrently responsible with the tenant thereof for compliance with this section.

10-308. Discharge of Sewage Pollution.

- (A) It shall be unlawful for any person to discharge or permit the discharge of any sewage or filth from any premises into and upon any highway, stream, water course or public place, or into any drain, cesspool, or private wastewater disposal system which does not conform to standards established by the state division of health or by this municipality.
- (B) The Health Director may order a connection for sewage disposal to be made with the public sewer system provided by the municipality if such is available, provided that the public sewer system is within 300 feet of the premises.
- (C) The Health Director shall use all due measures to prevent the fouling of any streams, water courses, reservoirs, or any source furnishing water to any of the inhabitants of this municipality.

10-309. Inadequate Plumbing. The Health Director shall have power to require the prompt repair of all leaks or other defects in plumbing throughout the municipality. He shall have power to condemn and abate all plumbing which is deficient under the plumbing ordinances. When, in the opinion of the Health Officer, a change in occupants, type of business or other cause requires changes in plumbing, he shall have the power to compel the installation of an increased number of plumbing fixtures and a change in their type or capacity, and to make such other alterations or increases as may be necessary for the health and safety of the occupants of the building and of the public generally.

TITLE 10. FIRE, HEALTH, AND PUBLIC SAFETY

CHAPTER 10-400. Nuisances.

10-400. Nuisances Declared. For the purpose of this chapter, whatever is generally dangerous to human life or health; whatever is contrary to the allowed uses in a particular zone; or whatever renders soil, air, water, or food impure or unwholesome may be declared to be a nuisance and unlawful. Nuisances may include but are not limited to weeds, brush piles, and rubbish; improper outdoor storage of personal property or inadequate maintenance of property; or junked, wrecked, abandoned, or inoperable property such as vehicles for example. In addition, in some cases gatherings may be considered nuisances. Enforcement of this nuisance ordinance will normally be done using the Administrative Enforcement Code, Title 3-600.

10-401. Weeds, Brush Piles And Rubbish

- (A) **Definitions.** The following words, terms and phrases, when used in this Article, shall have the meanings ascribed to them in this Section:
- (1) *Backyard wildlife habitat certification* shall mean certification by the Utah Department of Natural Resources under its backyard wildlife habitat programs recognizing a yard as having the necessary components to sustain the desired wildlife species.
 - (2) *Brush pile* shall mean an accumulation of cuttings or dead portions of trees and shrubs.
 - (3) *City Administrator* shall mean the North Logan City Administrator or the designated representative of the City Administrator.
 - (4) *Compost* shall mean a mixture consisting of decayed organic matter used for fertilizing and conditioning soil.
 - (5) *Ditch* shall mean any channel, either man-made or natural, to carry water for drainage or irrigation, including its access and/or maintenance easements on either side.
 - (6) *Natural area certification* shall mean certification by Federal or State natural areas recognition and certification programs,
 - (7) *Open area* shall mean real property designated as Open Space pursuant to the NLC Subdivision Code (12C – 204) or other open areas such as designated transition areas or any other undeveloped real property in single, common or joint ownership.

TITLE 10. FIRE, HEALTH, AND PUBLIC SAFETY

- (8) *Ornamental grasses* shall mean, but not limited to, the ornamental grasses listed in the North Logan Design Standards Technical Manual (DSTM) and any other species of grass approved by the City Administrator that is customarily used for ornamental purposes and not as a turf grass.
- (9) *Owner or occupant* shall mean the owner of record or any agent or representative of such owner and any person entitled, by lease or tenancy, to possession of the premises.
- (10) *Property* shall mean in addition to the owner's lot or tract of land whether improved or vacant, the area to the center of an alley abutting the lot or tract of land, if any, all easements of record, and the sidewalk, curb, gutter and parking area of any street abutting such lot or tract of land.
- (11) *Refuse* shall mean solid and liquid wastes, except hazardous wastes, whether decayable or non-decayable, combustible or noncombustible, organic or inorganic, including but not limited to wastes and materials commonly known as trash, garbage, debris or litter, animal carcasses, offal or manure, paper, ashes, cardboard, cans, yard clippings, glass, rags, discarded clothes or wearing apparel of any kind or any other discarded object not exceeding three (3) feet in length, width or breadth.
- (12) *Rubbish* shall mean non-decayable solid wastes of a large size, including but not limited to large pieces of wood, large cardboard boxes or parts, large or heavy yard trimmings, discarded fence posts, crates, vehicle tires, junked or abandoned motor vehicle bodies or parts, scrap metal, bedsprings, water heaters, discarded furniture and all other household goods or items, demolition materials, used lumber and other discarded or stored objects three (3) feet or more in length, width or breadth.
- (13) *Weed* shall mean an aggressive, non-native herbaceous plant detrimental to native plant communities or agricultural lands, including but not limited to the weeds listed in the North Logan Design Standards Technical Manual (DSTM) and any other type of noxious weeds designated by the Utah Noxious Weed Act as amended or Cache County Weed District.
- (14) *Yard* shall mean the open space between buildings and property lines at the front, rear and sides of a property.

TITLE 10. FIRE, HEALTH, AND PUBLIC SAFETY

(B) Weeds, Regulations.

- (1) All weeds and un-mowed grasses required to be mowed under Subsection (2) and (3) of this Section, on a property within the City are hereby declared to be a nuisance and a menace to the health and safety of the inhabitants of the City.
- (2) Except as is provided in Subsections (4) and (6) of this Section, it is unlawful for the owner of any property to permit weeds and grasses to grow upon such property to a height of more than six (6) inches; provided, however, that this Subsection (2) shall not be applicable to any ornamental grass so long as it is used solely, or in combination with any other ornamental grass or grasses, as a supplement to the property's overall landscaped area.
- (3) Property owners that share a common boundary with Urban Wildland Interface Lands and open space shall modify the fuel load in areas adjacent to structures to create a fifty-foot (50') defensible space.
- (4) It is unlawful for the owner of any open area, ditch, ditch right-of-way or railroad right-of-way to allow the growth of weeds or grasses other than those grown for agricultural purposes upon such open area, ditch or right-of-way in excess of twelve inches (12") in height. Agricultural stubble fields, ditch banks and fence lines can be burned upon the obtaining of a permit. All other property listed in this paragraph must be cut.
- (5) It is unlawful for the owner or occupant of any property to permit the growth of noxious weeds as designated by the Utah Utah Noxious Weed Act as amended or Cache County Weed District regardless of height.
- (6) An owner of a tract of land that has been certified as a natural area is permitted to have grasses growing in excess of twelve (12) inches high. This exception will be limited to the grass species and areas of the site identified with the certification document.

(C) Brush Piles, Regulations. All brush piles within the City are hereby declared to be a nuisance and a menace to the health and safety of the inhabitants of the City.

- (1) It is unlawful for the owner or occupant of any property to permit brush piles to accumulate on any part of the property except as provided in sub-paragraphs (2) or (3) below. Brush piles shall be removed within five (5) days of formation.
- (2) Brush pile permits may be obtained from the North Logan City for seasonal and agricultural purposes that need to be in place for greater than five (5) days.

TITLE 10. FIRE, HEALTH, AND PUBLIC SAFETY

- (3) An owner of a tract of land that has been certified as a backyard wildlife habitat may have a brush pile not to exceed eight feet (8') by eight feet (8') wide by three feet (3') in height if it is permitted by the terms of the backyard wildlife habitat certification or the natural areas certification.
- (D) **Refuse and Rubbish, Regulations.** It is unlawful for the owner or occupant of any property to permit refuse and rubbish piles to accumulate on any part of the property. All refuse shall be stored for prompt disposal on the premises in refuse containers, and the storage area shall be kept free of loose refuse. Any refuse or rubbish which, by its nature, is incapable of being stored in refuse containers may be neatly stacked or stored for disposal within seven (7) days. The number and size of refuse containers shall be sufficient to accommodate the accumulation of refuse from the property. Containers shall be secured and placed where they are screened from view of the street and are not susceptible to being spilled by animals or wind or other elements.
- (1) No person shall cause or allow the disposal of refuse and rubbish by burning except as permitted by the Utah Administrative Code Rule R307-202 as modified.
- (2) The property owners and the prime contractors in charge of any construction site shall maintain the construction site in such a manner that refuse will be prevented from being carried by the elements to adjoining premises. All refuse from construction or related activities shall be picked up at the end of each workday and placed in containers which will prevent refuse and rubbish from being carried by the elements to adjoining premises. No burning of refuse or rubbish on construction sites will be permitted.
- (3) The accumulation of refuse and rubbish which constitutes or may create a fire, health or safety hazard or harborage for rodents is unlawful and is hereby declared to be a nuisance.
- (E) **Other Waste** No person shall, for a period longer than twenty-four (24) hours at any one time, store or permit to remain on any business, commercial or industrial premises owned or occupied by such person, any manure, refuse, animal or vegetable matter or any foul or noxious liquid waste which is likely to become putrid, offensive or injurious to the public health, safety or welfare.

10-403. Outdoor Storage and Maintenance of Property.

- (A) **Duty to Maintain Property.** The owner or occupant of any premises within the City, whether business, commercial, industrial or residential premises, shall maintain the property in a manner which is safe to human life or health and which does not adversely affect property values. The owner or occupant will not permit the deposit or accumulation of materials other than those ordinarily attendant upon the use for which the

TITLE 10. FIRE, HEALTH, AND PUBLIC SAFETY

premises are legally intended. If a property is used for a purpose (including, without limitation, a junkyard) which, by its fundamental nature, cannot be maintained as required above, then, in lieu thereof, such property, or any affected portion thereof, shall be completely screened from public view and from the view of any abutting property that is used for residential purposes.

- (1) No owner or occupant of any premises which are adjacent to any portion of an open area, vacant lot, ditch, detention pond, storm drain or watercourse shall cause the accumulation of refuse, rubbish or storage of any material within or upon such adjacent areas.
 - (2) An occupant of any single-family or two-family residence may maintain a compost pile that is a separated area containing alternate layers of plant refuse materials and soil maintained to facilitate decomposition and produce organic material to be used as a soil conditioner. Any such compost pile shall be so maintained as to prevent it becoming a nuisance by putrefying or attracting insects or animals.
- (B) **Outdoor Storage of Materials.** No owner or occupant of any residential premises shall permit the outdoor storage on such premises of materials not customarily stored outdoors in residential neighborhoods, such as, but not limited to, construction materials, tires and household appliances, if such materials, whether or not sheltered or covered or within a carport or other partially enclosed structure, are visible from any public street, sidewalk, alley or from the ground level of abutting properties. The storage of materials within a garage or other fully enclosed structure shall not be considered outdoor storage for the purposes of this provision. Notwithstanding the foregoing, construction materials may be stored outdoors on residential premises for a period not to exceed nine (9) months, or for such longer period of time as may have been approved by the City Administrator, if such materials are being used in the construction of a structure for which a building permit has been issued by the City.
- (C) **Outdoor Furniture Restrictions.** Keeping upholstered furniture which is not manufactured for outdoor use in outdoor areas where such furniture is visible to neighbors and passersby in the public right-of-way is hereby declared to be a nuisance. Accordingly, no person shall place, use, keep, store or maintain any upholstered furniture not manufactured for outdoor use, including, without limitation, upholstered chairs, upholstered couches and mattresses, in or on any porch, patio or other unenclosed structure where such furniture is visible from a public right-of-way or from the ground level of adjacent property, and no property owner or property manager shall knowingly permit any such activity to occur on property owned or managed by such person. The following shall constitute specific defenses to any alleged violation of this Section:

TITLE 10. FIRE, HEALTH, AND PUBLIC SAFETY

- (1) That such furniture was placed in the location in question in order to allow it to be moved during a move of a resident or residents of the premises or has been removed as part of a trash or recycling program on a day scheduled for such moving or removal.
- (2) That such furniture was temporarily placed in the location in question in order that it be offered for sale at a yard or garage sale if each of the following conditions exists; provided, however, that this defense shall not apply if upholstered furniture is located in an outside location for more than two (2) days in any six-month period:
 - (a) The furniture is located in an outside location only between the hours of 7:00 a.m. and 5:00 p.m.;
 - (b) The person attempting to sell the furniture, or that person's agent, is outside during the period of the yard or garage sale in order to monitor the sale; and
 - (c) A sign is placed on or near the furniture indicating that it is for sale.

10-403. Junked, Wrecked, Abandoned, Inoperable Motor Vehicles. No owner or occupant of any property shall permit the outdoor storage on such property of junked, wrecked or abandoned motor vehicles whether or not such vehicles are sheltered or covered or within a carport or other partially enclosed structure, are visible from any public street, sidewalk, alley or from the ground level of abutting properties. The storage of such vehicles within a garage or other fully enclosed structure shall not be considered outdoor storage for the purposes of this provision.

- (A) **Definitions.** The following words, terms and phrases, when used in this chapter, shall have the meanings ascribed to them in this Section:
- (1) *Inoperable motor vehicle* shall mean any motor vehicle that does not have a current license plate and validation sticker lawfully affixed thereto or that is in a condition of being junked, wrecked, wholly or partially dismantled, discarded, abandoned or unable to perform the functions or purpose for which it was originally constructed.
 - (2) *Motor vehicle* shall mean any self-propelled vehicle, which as originally built contained an engine, regardless of whether it contains an engine at any other time, including, without limitation, automobiles, trucks, buses, motor homes, motorized campers, motorcycles, motor scooters, tractors, snowmobiles, dune buggies and other off-the-road vehicles.

TITLE 10. FIRE, HEALTH, AND PUBLIC SAFETY

- (3) *Unsheltered* shall mean located outside a garage or other building in such a manner as to be visible to a person standing upon any public street, alley, sidewalk or right-of-way or to any person standing at ground level upon any adjoining piece of property.
- (B) **Unsheltered storage prohibited.** The unsheltered storage of an inoperable motor vehicle for thirty (30) days or more on any private property within the City is hereby declared to be a nuisance and dangerous to the public health, safety and welfare. An inoperable motor vehicle, not located in a garage or other fully enclosed building, shall be placed behind screening of sufficient size, strength and density, such as a solid fence, trees or shrubbery, to screen it from ordinary public view and to prohibit ready access to such vehicle by children.
- (C) **Exceptions.** This Ordinance does not apply to any person who is conducting an automobile sales, storage or repair enterprise operated in compliance with existing zoning regulations when the storage is necessary to the operation of such business enterprise. These exceptions for certain lawfully conducted business enterprises are affirmative defenses to be pled and proved by the defendant in any judicial proceedings under this Ordinance.
- (D) **Public nuisances not exempt.** Nothing in this Ordinance shall be construed to permit exempt or sheltered storage of inoperable motor vehicles to be conducted in such manner as to constitute a public nuisance under other provisions of this Ordinance, including without limitation allowing accumulation of refuse and rubbish and growth of weeds and brush in and about the storage area, breeding of insects and rodents or direct danger to persons from broken glass, sharp metal protrusions, insecure mounting on blocks, jacks or supports or explosion hazard.
- (E) **Removal.** The owner and the occupant of the private property on which the unsheltered storage is occurring and the owner of the inoperable motor vehicle in question are jointly and severally responsible to abate the nuisance. Every person who fails, neglects or refuses to abate the nuisance is also guilty of a Class C Misdemeanor. A separate offense shall be deemed committed on each day during or on which a violation occurs or continues. The imposition of any sentence does not exempt the offender from compliance with the requirements of this Article. No person, after abatement notification has been given, shall move the inoperable motor vehicle, in question, to any other private property upon which storage of such vehicle is not permitted or onto any public property or right-of-way.

10-404. Nuisance Gatherings.

- (A) **Definitions.** The following words, terms and phrases, when used in this Article, shall have the meanings ascribed to them in this Section:

TITLE 10. FIRE, HEALTH, AND PUBLIC SAFETY

- (1) *Offending property owner* shall mean the record owner of the property where the social gathering or party, which has been determined to be a public nuisance under § 10-404(B) took place.
 - (2) *Social gathering* shall mean a party, gathering or event of five (5) or more persons who have assembled or are assembling for a social activity or for a special occasion.
- (B) **Nuisance Gatherings Prohibited.** A social gathering or party which is conducted on residential premises within the City and which, by reason of the conduct of those persons in attendance, results in the occurrence of any one (1) or more of the following conditions or events on neighboring public or private property: rioting; the unlawful carrying or possessing of an open container of alcohol or fermented malt beverage in public; public urination or defecation; the unlawful sale, furnishing, possession or consumption of alcohol or fermented malt beverages; the deposit of trash or litter; the destruction of property; the generation of pedestrian or vehicular traffic, standing or parking which obstructs the flow of traffic or interferes with the ability to render emergency services; excessive, unnecessary or unreasonable noise which disturbs the comfort, quiet or repose of the neighborhood, including public disturbances, brawls, fights or quarrels; or conduct or condition which injures, or endangers the safety or health of the neighborhood, or results in any indecent or obscene conduct, or results in any indecent exposure by persons attending the social gathering or party, is hereby declared to be an unlawful public nuisance.
- (C) **Prohibited; penalty.** Any person being the owner, occupant, tenant or otherwise having any possessory control, individually or jointly with others, of any privately owned premises who either sponsors, conducts or hosts a social gathering or party and knowingly permits such social gathering or party to become a public nuisance as defined by § 10-404(B) is hereby deemed to have committed a class B misdemeanor, and upon conviction may further be ordered, as a condition of any sentence, to pay the costs of abatement pursuant to § 3-604. In any prosecution for a violation of this Section, proof that the owner or tenant of the premises upon which the nuisance party occurred was present at the time of the violation shall constitute prima facie evidence that such person was in control of the premises, and sponsored, conducted or hosted the social gathering or party and knowingly permitted the violation to occur.
- (1) All participants in any party or social gathering declared to be a public nuisance by a police officer shall cease participating and immediately disperse upon order of a police officer, and all persons not domiciled at the site of such social gathering or party shall leave the property immediately. Any person failing or refusing to obey and abide by such order commits a class B misdemeanor.

TITLE 10. FIRE, HEALTH, AND PUBLIC SAFETY

- (2) Proof that a person convicted of a violation of this Section had attempted to disperse the participants at the social gathering or party, together with written verification that such person had initiated contact with The North Park Police Department for assistance, shall be a mitigating factor in determining an appropriate penalty and apportionment of the cost of abatement.

10-405. Other Remedies. Nothing in this Title shall be construed as affecting the ability of the City to initiate or continue concurrent or subsequent criminal prosecution or civil proceeding for any violation of the provisions of the City code or state law arising out of the circumstances necessitating the application of remedies in this Chapter.

(Ord. 07-02)

TITLE 10. FIRE, HEALTH, AND PUBLIC SAFETY

CHAPTER 10-500. Dangerous Buildings.

10-501. Adoption of a Code for the Abatement of Dangerous Buildings. The Uniform Code for the Abatement of Dangerous Buildings, currently adopted by State of Utah, printed as a code in book form by the International Conference of Building Officials (providing for a just, equitable and practicable method whereby buildings or structures which from any cause endanger the life, limb, health, morals, property, safety or welfare of the general public or their occupants, may be required to be repaired, vacated, or demolished), three copies of which have been filed for use and examination by the public in the office of the Recorder/Clerk of this municipality, is hereby approved and adopted as the Abatement of Dangerous Buildings Code of this municipality. (Ord. 91-03)

10-502. Application. The provisions of the Abatement of Dangerous Buildings Code shall apply to all dangerous buildings as therein defined, which now exist or which may exist or hereafter be constructed in this municipality.

10-503. Alterations, Additions and Repairs. All buildings or structures which are required to be repaired under the provisions of the Abatement of Dangerous Buildings Code shall be subject to the provisions of Subsection (a), (b), (c), (d), (e), and (I) of Section 104 of the Uniform Building Code.

10-504. Abatement of Dangerous Buildings. All buildings or portions thereof which are determined after inspection by the building official to be dangerous, as defined in the Abatement of Dangerous Building Code, are hereby declared to be public nuisances and shall be abated by repair, rehabilitation, demolition, or removal in accordance with procedures specified in Section 401 of the Abatement of Dangerous Buildings Code.

10-505. Establishment of a Board of Appeals.

- (A) In order to interpret provisions of the Abatement of Dangerous Buildings Code and to hear appeals provided for thereunder, there is hereby established an abatement of dangerous building board of appeals consisting of five members who shall not be employees of the municipality.
- (B) The building official shall be an ex officio member of and shall act as secretary to the board.
- (C) The board may adopt reasonable rules and regulations for conducting its business and shall render all decisions and findings in writing to the applicant with a copy to the building official.
- (D) Appeals to the board shall be process in accordance with the provisions contained in the adopted codes.
- (E) Copies of all rules and regulations adopted by the board shall be delivered to the building official who shall make them accessible to the public without cost.

TITLE 10. FIRE, HEALTH, AND PUBLIC SAFETY

10-506. Deleted (Ord. 98-03)

TITLE 10. FIRE, HEALTH, AND PUBLIC SAFETY

CHAPTER 10-600. Administrative.

10-601. Appointment and Duties of Inspector.

- (A) There is hereby established the position of nuisance inspector whose duties it shall be to enforce the provisions of this chapter. Until another person is designated, the Chief of Police shall enforce the provisions of this chapter. More than one person may be appointed to act as inspector under this section.
- (B) The nuisance inspector is authorized to:
- (1) Perform all functions necessary to enforce the provisions of this chapter.
 - (2) Inspect or cause to be inspected, as often as needed, all buildings, structures, lots or places for the purpose of determining whether such are in compliance with the provisions of this chapter.
- (C) If he concludes there exists an objectionable condition in violation of this chapter, the inspector shall:
- (1) Ascertain the names of the owners and occupants and descriptions of the premises where such objects and conditions exist.
 - (2) Serve notice in writing upon the owner and occupant of such premises, either personally or by mailing notice, postage prepaid, addressed to the owner and occupant at their last known post office addresses as disclosed by the records of the County Assessor or as otherwise ascertained, requiring such owner or occupant, or both, as the case may be, to eradicate or destroy and remove the same within such time as the inspector may designate, provided that any person notified pursuant to this subsection shall be given at least ten but not more than 20 days, as determined by the inspector following the date of service of such notice, to correct the objectionable condition. The notice shall:
 - (a) Contain a specific statement of the nature of the violation and generally describe the premises on which the violation exists.
 - (b) Inform the owner, occupant or other person that in the event he disagrees with the determination of the inspector and does not wish to comply with the provisions of the notice or that he objects to the factual or legal basis for the notice, he may request in writing a hearing before the governing body at a time and place to be set by the governing body. A written application for a hearing shall state the time within which the person must conform to the provisions of the notice.

TITLE 10. FIRE, HEALTH, AND PUBLIC SAFETY

- (c) Inform the person that in the event he fails or neglects to correct the objectionable condition the municipality will correct the objectionable condition and will collect the costs of so correcting the objectionable condition by either a court action, in which case he will be assessed such costs together with reasonable attorneys' fees and court costs, or will charge the cost of correcting the violation against the property as a tax.
- (3) In the event the owner or occupant makes such request for a hearing, the governing body shall set the time and place for hearing objections and the Recorder/Clerk shall notify the owner, occupant or other persons in writing of the time and place at which they may appear and be heard. The hearing shall not be heard within less than five days from the date of service or mailing of the notice of hearing.

10-602. Hearing.

- (A)
 - (1) At the written request of an owner, occupant or other person having an interest in property which is the subject of a notice to remove or abate weeds, objectionable conditions, or objects from the property, the governing body shall conduct an informal hearing (which need not be reported) wherein such person may present such evidence and argument as is pertinent to the question of whether or not the removal or abatement of the objects or conditions is properly within the purview of this chapter.
 - (2) The governing body shall also permit the presentation of evidence and argument by the inspector and other interested parties.
 - (3) Thereafter within not less than five nor more than ten days, the governing body shall over the signature of the Mayor or such other member of the governing body as it may designate render its written decision, a copy of which shall be mailed to or served upon the owner or other person to whom the original notice was given by the inspector.
- (B) In the event the decision of the governing body upholds the determination of the inspector, the notice originally given by the inspector as above provided shall be deemed to be sufficient to require the owner or occupant to remove or abate the objectionable objects or conditions, and he shall have up to ten days from the date of notice of the decision within which to conform thereto, unless additional time, not to exceed 30 days, is authorized by the inspector.

TITLE 10. FIRE, HEALTH, AND PUBLIC SAFETY

(C)

- (1) In the event that the decision of the governing body either overrules or modifies the determination of the inspector, the written decision of the governing body shall apprise the owner or occupant of the fact and set forth the details and extent to which the owner or occupant must make removal or other abatement of the objectionable objects or conditions, if any.
- (2) The owner or occupant shall be required to conform to the decision of the governing body within ten days after service or mailing of a copy of the decision, and the decision shall be deemed to be the modified decision of the inspector unless additional time is authorized by the governing body.

(D) The inspector shall file an amended notice and proof of service of notice and file the same in the office of the county treasurer.

10-603. Failure to Comply. If any owner, occupant or other person having an interest in land described in such notice or decision to whom the notice was given shall fail or neglect to conform to the requirements thereof relating to the eradication, destruction, or removal of such weeds, garbage, refuse, objects, or structures, the inspector shall employ all necessary assistance to cause such objectionable objects or conditions to be removed or destroyed. Any costs incurred for such necessary assistance shall be collected from the responsible party per section 10-601(C)(2)(c) of this code. (Ord. 98-03)

10-604. Itemized Statement.

- (A) The inspector shall prepare an itemized statement of all expenses incurred in the removal and destruction of nuisances, and shall mail a copy thereof to the owner or occupant or both or to persons having an interest in the property, demanding payment within twenty days of the date of mailing.
- (B) The notice shall be deemed delivered when mailed by registered mail addressed to the last known address of the property owner, occupant, or persons having an interest in the property.

10-605. Failure to Make Payment. In the event the owner, occupant or person having an interest in the property, fails to make payment of the amount set forth in the statement to the municipal treasurer within the 20 days, the inspector either may cause suit to be brought in an appropriate court of law or may refer the matter to the county treasurer as provided in this chapter.

10-606. Collection by Law Suit. In the event collection of expenses of destruction and removal are pursued through the courts, the municipality shall sue for and receive judgment for all of said expenses of destruction and removal, together with reasonable attorney's fees, interest and court costs, and shall execute upon such judgment in the manner provided by law.

TITLE 10. FIRE, HEALTH, AND PUBLIC SAFETY

10-607. Collection Through Taxes.

- (A) In the event that the inspector elects to refer the expenses of destruction or removal to the county treasurer for inclusion in the tax notice of the property owner, he shall make in triplicate an itemized statement of all expenses incurred in the destruction and removal of the same, and shall deliver the three copies of the statement to the county treasurer within ten days after the completion of the work of destroying or removing such weeds, refuse, garbage, objects or structures.
- (B) Thereupon the costs of the work shall be pursued by the county treasurer in accordance with the provisions of Section 10-14-4, Utah Code Annotated, 1953 as amended, and the recalcitrant owner shall have such rights and shall be subject to such powers as are thereby granted.

10-608. Criminal Proceeding.

- (A) The commencement of criminal proceedings for the purpose of imposing penalties for violations of this chapter shall not be conditioned upon prior issuance of a notice or the granting to the defendant of an opportunity to abate or remove the nuisance.
- (B) The provisions of this chapter relating to notice and abatement shall be deemed merely alternative and additional methods of securing conformity to the provisions of this chapter.

10-609. Penalty for Failure to Comply.

- (A) Any owner, occupant or person having an interest in the property subject to this chapter who shall fail to comply with the notice or order given pursuant to this chapter shall be guilty of a Class C Misdemeanor for each offense for each and every day such failure to comply continues beyond the date fixed for compliance.
- (B) Compliance by any owner, occupant or person to whom a notice has been given as provided in this chapter shall not be admissible in any criminal proceeding brought pursuant to this section.

TITLE 10. FIRE, HEALTH, AND PUBLIC SAFETY

CHAPTER 10-700. Offensive Businesses and Facilities.

10-701. Commencement of Offensive Business.

- (A) No person shall commence or change the location of an offensive business or establishment in or within one mile of the limits of this municipality without first filing an application for a permit to do so with the Recorder/Clerk.
- (B) Offensive businesses, within the meaning of this chapter shall include but not be limited to, packing houses, dairies, tanneries, canneries, renderies, junk or salvage yards, soap factories, foundries, breweries, distilleries, livery stables, blacksmith shops, or any other enterprise or establishment which creates excessive odors, fumes, smoke, gases, or noises.
- (C) The application for a permit shall specify the location at which the business or establishment is to be operated and maintained or the new location to which it is to be moved. The application shall describe the type of activity which will be conducted and describe the manner in which the business or establishment shall eliminate, control, or modify the emission by the business of the undesirable odors, fumes, noises, and other noisome features and the manner in which it shall be screened from public view, if its appearance is offensive.

10-702. Issuance of Permits.

- (A) The Recorder/Clerk shall cause a study to be made of the proposed business or relocation of any offensive business or establishment by the Board of Health and by personnel engaged in the inspection of buildings and other facilities. A report and recommendation shall be made to the governing body. The governing body, after review, may grant to the applicant an opportunity to be heard and present additional facts. Thereafter the governing body may:
 - (1) Deny the application.
 - (2) Recommend a modification thereof.
 - (3) Grant a limited permit to enter into the business or make the change of location subject to the requirement that the business or facility conform to standards established by the governing body with reference to controlling the offensive features of the business.
- (B) In the event a permit is granted, it shall be subject to revocation either upon failure of the operator or owner to conduct his business in the manner specified by the governing body

TITLE 10. FIRE, HEALTH, AND PUBLIC SAFETY

at the time of the granting of the permit, or because a change of circumstances makes the continued operation or maintenance of the business or facility a public nuisance.

- (C) The governing body shall have power to revoke or modify the permission to operate and maintain the business in such a manner as it deems necessary for the public good.

10-703. Existing Offensive Business and Facilities.

- (A) The governing body may require an investigation of any existing offensive business or facility to determine whether or not it should be permitted to remain in existence in or within one mile of the municipal limits. If the governing body determines that the continuation of the business or facility has become a nuisance to persons situated within the municipal limits or that ample control is not being exercised to minimize the creation of excessive odors, fumes, smoke, gases, and noise, it shall notify the owner or operator thereof that the governing body is considering revoking or modifying the operator's license.
- (B) If the governing body decides to require a modification of the manner in which the business or facility is to be maintained, it shall specify the standards or specifications to which the enterprise must conform or otherwise lose its license to engage thereafter in the business or activity.

10-704. Control of Animal and Fowl Facilities.

- (A) The governing body shall have the power to prohibit or control the location and management of any offensive, unwholesome business or establishment in or within one mile of the municipality and may compel the owner of any pigsty, privy, barn corral, fur-bearing animal farm, feed yard, poultry farm, or other unwholesome or nauseous house or place, to cleanse, abate or remove the same.
- (B) The governing body may on its own initiative and shall, on complaint of a member of the public, examine the operation, control or location of any business or facility for the purpose of determining whether or not the operation of such business or facility should be improved so as to minimize the offensive and unwholesome characteristics or whether the business or activity should be moved or abated.
- (C) In the event that the governing body decides that the business or facility should be abated, removed, or controlled, it shall notify the owner or operator of the business or facility of such fact.

TITLE 10. FIRE, HEALTH, AND PUBLIC SAFETY

- (D) After a hearing, the governing body may issue a limited license wherein it may prescribe the specifications and standard which must be followed by the business or facility in order to be permitted to continue in operation.
- (E) Upon a determination by the governing body that the business or facility is a nuisance, it shall have power to order the abatement or removal of the facility or establishment. If the owner fails to conform to such order, the governing body shall have power to bring all necessary legal proceedings to force removal, abatement, or adherence to standards.

TITLE 10. FIRE, HEALTH, AND PUBLIC SAFETY

CHAPTER 10-800. Litter.

10-801. Definitions. For the purposes of this part:

- (A) "Authorized receptacle" is a public or private litter storage and collection receptacle.
- (B) "Commercial handbill" is any printed or written matter, any sample or device, dodger, circular, leaflet, pamphlet, paper, booklet, or any other printed or otherwise reproduced original or copies of any matter or literature:
 - (1) Which advertises for sale any merchandise, product, commodity, or thing;
 - (2) Which directs attention to any business or mercantile or commercial establishment, or other activity, for the purpose of either directly or indirectly promoting the interest in sales thereof;
 - (3) Which directs attention to or advertises any meeting, theatrical performance, exhibition, or event of any kind, for which an admission fee is charged for the purpose of private gain or profit. However, the terms of this clause shall not apply where an admission fee is charged or a collection is taken up for the purpose of defraying the expenses incident to such meeting, theatrical performance, exhibition, or event of any kind, when either of the same is held, given or takes place in connection with the dissemination of information which is not restricted under the ordinary rules of decency, good morals, public peace, safety and good order, provided that nothing contained in this clause shall be deemed to authorize the holding, giving or taking place of any meeting, theatrical performance, exhibition, or event of any kind without a license, where such license is or may be required by any law of this state, or under any ordinance of this municipality; or
 - (4) Which, while containing reading matter other than advertising matter, is predominantly and essentially an advertisement, and is distributed or circulated for advertising purposes or for the private benefit and gain of any person so engaged as advertiser or distribution.
- (C) "Garbage" means waste from the preparation, cooking, or consumption of food, condemned food products and all refuse and waste from the handling, storage, preparation and sale of produce. Garbage originates primarily in kitchens, stores, markets, restaurants, hotels and other places where food is handled, stored, sold, cooked or consumed.
- (D) "Litter" is "garbage", "refuse", and "rubbish" as defined herein and all other waste material which, if thrown or deposited as herein prohibited, tends to create a danger to public health, safety, welfare or appearance of the municipality.

TITLE 10. FIRE, HEALTH, AND PUBLIC SAFETY

- (E) "Newspaper" is any newspaper of general or local circulation or any periodical or current magazine regularly published with not less than four issues per year, and sold to the public.
- (F) "Non-commercial Handbill" is any printed or written matter, any sample, or device, dodger, circular, leaflet, pamphlet, newspaper, magazine, paper, booklet, or any other printed or otherwise reproduced original or copies of any matter of literature not included in the aforesaid definitions of a commercial handbill or newspaper.
- (G) "Park" is a park, reservation, playground, beach, recreation center or any other public area in the municipality, owned or used by the municipality.
- (H) "Refuse" is all putrefactive and non-putrefactive solid wastes (except body wastes), including garbage, rubbish, ashes, street cleanings, dead animals, and solid market and industrial wastes.
- (I) "Rubbish" is non-putrefactive solid wastes consisting of both combustible and non-combustible wastes, such as paper, wrapping, cigarettes, cardboard, tin cans, yard clippings, leaves, wood, glass, bedding, crockery and similar materials.
- (J) "Vehicle" is every device in, on, or by which any person or property is or may be transported or drawn upon a highway, including devices used exclusively on stationary rails or tracks.

10-802. Litter in Public Places. No person shall throw or deposit litter in or on any street, sidewalk or other public places except:

- (A) In authorized receptacles for collection or in official municipal garbage dumps, or
- (B) For collection as authorized by the governing body.

10-803. Placement of Litter Receptacles So As to Prevent Scattering. Persons placing litter in authorized receptacles shall do so in such a manner as to prevent it from being carried or deposited by the elements on any street, sidewalk or other public place or on private property. (Ord. 98-03)

- (A) Contractors and any others owning or responsible for construction sites must maintain areas under construction in such a way as to keep litter from scattering. A receptacle which has the ability to hold the litter must be maintained on site for this purpose or construction debris and litter must be covered in such a way to prevent it from being carried or deposited elsewhere by the elements. (Ord. 98-03)

TITLE 10. FIRE, HEALTH, AND PUBLIC SAFETY

10-804. Sweeping Litter into Gutters Prohibited Except as Otherwise Authorized by the Governing Body. No person shall sweep into or deposit in any gutter, street or other public place the accumulation of litter from any building or lot or from any public or private sidewalk or driveway. Persons owning or occupying property shall keep the sidewalk in front of their premises free of litter.

10-805. Merchants' Duty to Keep Sidewalks Free of Litter. person owning or occupying a place of business shall sweep into or deposit in any gutter, street or other public place the accumulation of litter from any building or lot or from any public or private sidewalk or driveway. Persons owning or occupying places of business shall keep the sidewalk in front of their business premises free of litter.

10-806. Litter Thrown by Persons in Vehicles. No person, while a driver or passenger in a vehicle, shall throw or deposit litter on any street or other public place, or on private property.

10-807. Truck Loads Causing Litter. No person shall drive or move any truck or other vehicle unless such vehicle is so constructed or loaded as to prevent any load, contents or litter from being blown or deposited on any street, alley or other public place. Nor shall any person drive or move any vehicle or truck, the wheels or tires of which carry onto or deposit in any street, alley or other public place, mud, dirt, sticky substances, litter or foreign matter of any kind.

10-808. Litter in Parks. No person shall throw or deposit litter in any park except in authorized receptacles and in such a manner that the litter will be prevented from being carried or deposited by the elements on any part of the park or on any street or other public place. Where authorized receptacles are not provided, all such litter shall be carried away from the park by the person responsible for its presence and properly disposed of elsewhere as provided herein.

10-809. Litter in Lakes and Fountains. No person shall throw or deposit litter in any fountain, pond, lake, stream, bay or any other body of water in a park or elsewhere.

10-810. Throwing or Distributing Commercial Handbills in Public Places. No person shall throw or deposit any commercial or non-commercial handbill in or on any sidewalk, street or other public place. Unless otherwise authorized by the governing body, it is an infraction for any person to hand out, distribute or sell any commercial handbill in any public place, provided, however, that it shall not be unlawful on any sidewalk, street, or other public place for any person to hand out or distribute, without charge to the receiver thereof, any non-commercial handbill to any person willing to accept it.

10-811. Placing Commercial and Non-Commercial Handbills on Vehicles. Unless otherwise authorized by the governing body, no person shall throw or deposit any commercial or non-commercial handbill in or on any vehicle, provided, however, that it shall not be unlawful in any public place for a person to hand out or distribute without charge to the receiver thereof a non-commercial handbill to any occupant of a vehicle who is willing to accept it.

TITLE 10. FIRE, HEALTH, AND PUBLIC SAFETY

10-812. Depositing Commercial and Non-Commercial Handbills on Uninhabited or Vacant Premises. No person shall throw or deposit any commercial or non-commercial handbill in or on any private premises which are temporarily or continuously uninhabited or vacant.

10-813. Prohibiting Distribution of Handbills Where Properly Posted. No person shall throw, deposit or distribute any commercial or non-commercial handbill on any private premises, if requested by anyone thereon not to do so or if there is placed on said premises in a conspicuous position near the entrance thereof a sign bearing the words: "No Trespassing", "No Peddlers or Agents", "No Advertisement", or any similar notice, indicating in any manner that the occupants of the premises do not desire to be molested or have their right of privacy disturbed or to have any such handbills left on such premises.

10-814. Distributing Commercial and Non-Commercial Handbills at Inhabited Private Premises. No person shall throw, deposit or distribute any commercial or non-commercial handbill in or on private premises which are inhabited, except by handing or transmitting any such handbill directly to the owner, occupant, or other person then present in or on such private premises. However, in case of inhabited private premises which are not posted, as provided in this part, such person, unless requested by anyone on such premises not to do so, may place or deposit any such handbill in or on such inhabited private premises if such handbill is so placed or deposited as to secure or prevent such handbill from being blown or drifted about such premises or sidewalks, streets, or other public places, and except that mailboxes may not be so used when prohibited by federal postal law or regulations.

10-815. Exemption for Mail and Newspapers. The provisions of this part shall not apply to the distribution of mail by the United States, nor to newspapers except that newspapers shall be placed on private property in such a manner so as to prevent their being carried or deposited by the elements on any street, sidewalk, or other public place or on private property.

10-816. Posting Notice Prohibited. No person shall post or affix any notice, poster or other paper or devise, calculated to attract the attention of the public, to any lamp post, public utility pole, or shade tree, or on any public structure or building, except as may be authorized or required by law.

10-817. Litter on Occupied Private Property. No person shall throw or deposit litter on any occupied private property, whether owned by such person or not, except that the owner or person in control of private property may maintain authorized private receptacles for collection in such a manner that litter will be prevented from being carried or deposited by the elements on any street, sidewalk or other public place or on any private property.

10-818. Litter on Vacant Lots. No person shall throw or deposit litter on any open or vacant private property whether or not owned by such person.

TITLE 10. FIRE, HEALTH, AND PUBLIC SAFETY

10-819. Handbills and Posters.

- (A) No person or business shall post, stick, stamp, paint or otherwise fix, or cause the same to be done by any person, any notice, placard, bill, card, poster, advertisement or other paper or device calculated to attract the attention of the public, or upon any side- walk, curb, or any other portion or part of any public way or public place or any lamp post, electric light, telegraph, telephone or railway structure, hydrant, shade tree or tree-box, or upon the columns, trusses, girders, railings, gates or other parts of any bridge or other public structure of building, or upon any pole, box or fixture of the fire alarm or police telegraph system, except such as may be authorized or required by the laws of the United States, or state, and the ordinances of this municipality.
- (B) It shall be unlawful to distribute indiscriminately to the public by leaving at houses or residences in the municipality any cards, circulars, handbills, samples of merchandise, or any advertising matter whatsoever without having first secured a permit thereof. This section shall be construed to apply to the sale of articles by licensed peddlers.
- (C) Applications for such permit shall be made to the Recorder/Clerk and shall contain a statement of the nature of the article, cards or advertisement to be distributed, the name of the applicant and the name of the manufacturer or distributor of such article or service advertised.
- (D) Licenses shall be issued only to persons of good character. The Chief of Police shall make or cause to be made an investigation into the character of each applicant and shall report the results thereof to the Recorder/Clerk before any such license is issued.

TITLE 10. FIRE, HEALTH, AND PUBLIC SAFETY

CHAPTER 10-900. Water System Safety

10-901. Purpose. The purpose of this chapter is:

- (A) To protect the safe drinking water supply of North Logan City from the possibility of contamination or pollution by requiring compliance with state and local plumbing codes, health regulation, OSHA and other applicable industry standards for water system safety within the consumer's internal distribution system(s) private water system(s). Compliance with these minimum safety codes will be considered reasonable vigilance for prevention of contaminants or pollutants which could backflow into the public drinking water systems; and,
- (B) To promote reasonable elimination or control of cross connections in the plumbing fixtures and industrial piping system(s) of the consumer, as required by state and local plumbing codes, health regulations, OSHA and other applicable industry standards to assure water system safety; and,
- (C) To provide for the administration of a continuing program of backflow prevention which will systematically and effectively prevent the contamination or pollution of all drinking water systems.

(Ord. 90-04)

10-902. Definitions. For the purposes of this chapter, the words set out in this section shall have the following meanings:

- (1) **Approved Backflow Assembly.** “Approved backflow assembly” means an assembly accepted by the Utah Department of Health, Bureau of Drinking Water/Sanitation, as meeting an applicable specification or as suitable for the proposed use as a backflow device.
- (2) **Auxiliary Water Supply.** Any water supply on or available to the premises other than the purveyor's public water supply will be considered as an auxiliary water supply. These auxiliary waters may include water from another purveyor's public potable water supply or any natural source(s) such as a well, spring, river, stream, harbor, etc., or "used waters" or "industrial fluids". These waters may be contaminated or polluted or they may be objectionable and constitute an unacceptable water source over which the water purveyor does not have authority for sanitary control.
- (3) **Backflow.** “Backflow” means the reversal of the normal flow of water caused by either back-pressure or back-siphonage.
- (4) **Backflow Due to Back-Pressure.** “Backflow due to back-pressure” means the flow of

TITLE 10. FIRE, HEALTH, AND PUBLIC SAFETY

water or other liquids, mixtures, or substances into the pipes of a potable water supply system from any source(s) other than the intended source. This flow is caused by a pressure that is higher than the system pressure.

- (5) **Backflow Due to Back-Siphonage.** “Backflow due to back-siphonage” means the flow of water or other liquids, mixtures, or substances into the distribution pipes of a potable water supply system from any source(s) other than the intended source, caused by the reduction of pressure in the potable water supply system.
- (6) **Backflow Prevention Assembly.** Backflow prevention assembly means an assembly or means designed to prevent backflow. Specifications for backflow prevention assemblies are contained within the Utah Plumbing Code, Chapter 10, (Appendix J), and the Cross Connection Control Program of Utah.
- (7) **Contamination.** “Contamination” means a degradation of the quality of the potable water supply by irrigation water, sewage, industrial fluids or waste liquids, compounds or other materials.
- (8) **Cross-Connection.** Cross-connection means any physical connection or arrangement of piping or fixtures which may allow non-potable water or industrial fluids or other material of questionable quality to come in contact with potable water inside a distribution system. This would include any temporary connections, such as swing connections, removable sections, four-way plug valves, spools, dummy sections of pipe, swivel or change-over devices or sliding multiport tubes or other plumbing arrangements.
- (9) **Cross Connection - Containment.** “Cross connection-containment” means the installation of an approved backflow assembly at the water service connection to any customer's premises where it is physically and economically unfeasible to find and permanently eliminate or control all actual or potential cross connections within the customer's water system; or, it means the installation of an approved backflow prevention assembly on the service line leading to and supplying a portion of a customer's water system where there are actual or potential cross connections which cannot be effectively eliminated or controlled at the point of the cross connection (isolation).
- (10) **Cross Connection - Controlled.** “Cross connection-controlled” means a connection between a potable water system and a non-potable water system with an approved backflow prevention assembly properly installed and maintained so that it will continuously afford the protection commensurate with the degree of hazard.
- (11) **Water Purveyor.** “Water purveyor” means any entity that delivers potable water to customers for culinary purposes. In this chapter, the water purveyor is North Logan City.

(Ord. 90-04)

TITLE 10. FIRE, HEALTH, AND PUBLIC SAFETY

10-903. Authority.

- (A) The municipality has the authority to protect the drinking water distribution system conditions leading to the possible contamination or pollution of the drinking water system due to the backflow of contaminants or pollutants into the drinking water supply.
- (B) The municipality has the authority to make drinking water system surveys inspections of the consumer's water distribution system(s).
- (C) The building inspector has the authority to enforce the applicable sections of the Plumbing Code at the point of service (downstream or consumer side of the meter) and continues throughout the developed length of the consumer's water system. (Ord. 90-04)

10-904. Responsibility - City.

- (A) The municipality shall notify, in writing, all consumers of the need for a periodic system survey to ensure compliance with existing applicable minimum health and safety standards.
- (B) The municipality will prepare and mail a survey in the form of a questionnaire to each consumer.
- (C) Survey records shall indicate compliance with the health and safety standards mentioned in subsection A of this section. The municipality will determine, from the consumer's survey, if it appears that the health and safety standards mentioned in subsection A of this section are met, and if an on-site inspection is needed. The municipality shall cause such inspections to be conducted by individuals deemed qualified by and representing the municipality.
- (D) The need and selection of an approved backflow prevention assembly for containment control required at the service entrance shall be determined from the results of the system survey and/or the on-site inspection.
- (E) The building inspector will review all pans for new construction or remodeling to ensure that unprotected cross connections are not an integral part of the consumer's water system. If a cross-connection cannot be eliminated, it must be protected by the installation of an air gap or an approved backflow prevention device/assembly, in accordance with the Utah Plumbing Code.

(Ord. 90-04)

TITLE 10. FIRE, HEALTH, AND PUBLIC SAFETY

10-905. Responsibility – Consumer.

- (A) Compliance with this chapter is a term and condition of supply. The consumer's acceptance of service is admittance of his/her awareness.
- (B) The consumer will complete the inspection of his/her system and will return the survey in a timely manner.
- (C) It is the consumer's responsibility to see that any drinking water vacating his water system does so via an approved air gap or via an approved mechanical backflow prevention assembly, properly installed and in accordance with the Utah Plumbing Code.
- (D) It is the joint responsibility of the consumer and the consumer's plumber to purchase, install, test and maintain any backflow prevention device/assembly required to comply with this chapter.

(Ord. 90-04)

10-906. Responsibility - Plumber.

- (A) Plumbers installing consumer water system(s); and/or installing, testing, or repairing backflow prevention devices in the municipality must do so in accordance with the Utah Plumbing Code
- (B) Plumbers are responsible to see that no cross-connection is made in any water system wherein they have the responsibility for installation. they are to report any possible cross-connection they may discover to the Building Inspector of the municipality.
- (C) Any plumber violating this chapter may have his business license revoked and will be subject to other penalties as given in Section 10-908(D) of this chapter.

(Ord. 90-04)

10-907. Responsibility - Certified Backflow Assembly Technicians, Purveyors, or Repair Persons.

- (A) Whether employed by the consumer or a utility to survey, test, repair, or maintain backflow prevention assemblies, the certified backflow technicians, purveyors or repair persons will have the following responsibilities:

(1) **Certified Backflow Technicians, Purveyors, or Repair Persons.**

TITLE 10. FIRE, HEALTH, AND PUBLIC SAFETY

- (a) Ensure that acceptable testing equipment and procedures are used for testing, repairing or overhauling backflow prevention assemblies;
- (b) Make reports of such testing and/or repair to the consumer, water purveyor, and the Division of Drinking Water on forms approved for such use by the Division of Drinking Water. The report shall include the list of materials or replacement parts used; (Ord. 98-03)
- (c) Ensure that replacement parts are equal in quality to parts originally supplied by the manufacturer of the assembly being repaired;
- (d) To refrain from changing the design, material or operational characteristics of the assembly during testing, repair or maintenance;

(2) Certified Technician

- (a) A certified technician shall perform all tests of the mechanical devices/assemblies and be responsible for the competence and accuracy of all tests and reports;
 - (b) A certified technician shall ensure that his license is current, and that the testing equipment being used is acceptable to the state, and is in proper operating condition;
 - (c) A certified technician shall be equipped with, and be competent to use, all necessary tools, gauges, and other equipment necessary to properly test, and maintain backflow prevention assemblies;
 - (d) The certified technician conducting the test must tag each double check valve, pressure vacuum breaker, reduced pressure backflow assembly and high hazard air gap, showing the serial number, date tested and by whom. The technician's license number must also be on this tag.
- (B) In the case of a consumer requiring a commercially available technician, any certified technician is authorized to make the test and report the results of that test to the consumer, water purveyor and the Division of Drinking Water. If such a commercially tested assembly is in need of repair, the Plumbers Law of Utah, Section 58A-2-5-(3), requires a licensed plumber make the actual repair.

(Ord. 90-04, Ord. 98-03)

TITLE 10. FIRE, HEALTH, AND PUBLIC SAFETY

10-908. Requirements.

(A) Policy.

- (1) No water service connection to any premises shall be installed or maintained unless the water supply is protected as required by state laws, regulations, codes, and this chapter. Service of water to a consumer found to be in violation of this chapter shall be discontinued by the water purveyor after due process of written notification of violation and an appropriate amount of time for voluntary compliance if:
 - (a) A backflow prevention assembly required by this ordinance for control of backflow and cross connections is not installed, tested, and maintained; or
 - (b) It is found that a backflow prevention assembly has been removed or bypassed; or
 - (c) An unprotected cross connection exists on the premises; or
 - (d) The periodic system survey has not been conducted.

Service will not be restored until such conditions or defects are corrected.
- (2) The customer's system(s) shall be open for inspection at all reasonable times to authorized representatives of the water purveyor to determine whether cross connections or other structural or sanitary hazards, including violation of this chapter, exist and to audit the results of the required survey (Section 10-903(B)).
- (3) Whenever the public water purveyor deems that a particular service contributes a sufficient hazard to the water supply, an approved backflow prevention assembly shall be required. This shall be installed at the consumer's expense on his/her service line, at or near the property line, or immediately inside the building being served; but, in all cases, before the first branch line leading off the service line.
- (4) The type of protective assembly required under subsection(A) (3) of this section shall depend upon the degree of hazard which exists at the point of cross connection (whether direct or indirect), and shall be in accordance with applicable local and state requirements.
- (5) All presently installed backflow prevention assemblies which do not meet the requirements of this section but were approved assemblies for the purposes described herein at the time of installation and which have been properly maintained, shall, except for the inspection and maintenance requirements under

TITLE 10. FIRE, HEALTH, AND PUBLIC SAFETY

subsection (A) (6) of this section, be excluded from the requirements of these rules so long as the water purveyor is assured that they will satisfactorily protect the public water system. Whenever the existing assembly is moved from the present location or requires more than minimum maintenance, or when the water purveyor finds that the operation or maintenance of this assembly constitutes a hazard to health, the unit shall be replaced by an approved backflow prevention assembly meeting the local and state requirements at the consumer's expense.

- (6) It is the responsibility of the consumer at any premises where backflow prevention assemblies are installed to have certified surveys/inspections, and operational tests made at least once per year at the consumer's expense. In those instances where the public water purveyor deems the hazard to be great, he may require certified surveys/inspections and tests at a more frequent interval. It is the duty of the public water purveyor to see that these tests are made according to the standards set forth by the State Department of Health, Division of Drinking Water. (Ord. 98-03)
 - (7) All backflow prevention assemblies shall be tested within ten (10) working days of initial installation.
 - (8) Backflow prevention assembly shall not be installed so as to create a safety hazard. Examples: these assemblies shall not be installed over electrical panels, directly adjacent to steam pipes or boilers, in difficult-to-access pits, or above ceilings, etc.
 - (9) It is unlawful for a consumer or other person to tamper with, modify, or cause to be modified any cross-control device or other part of the consumer's distribution system, such that contaminants may be introduced into the municipality's drinking water system.
- (B) **Violations - Service Shutoff.** If violations of this chapter exist or if there has not been any corrective action taken by the consumer within ten days of the written notification of deficiencies noted within the survey, then the public water purveyor shall deny or immediately discontinue service to the premises by providing a physical break in the service line. When the customer has corrected the condition(s) in conformance with the state and municipality statutes relating to plumbing, safe drinking water supplies and the regulations adopted pursuant thereto, service may be restored with the consumer paying the costs associated with the reconnection and any other reconnection service fees.
- (C) **Financial Liability.** An consumer or other person who knowingly or unknowingly contaminates the municipality's drinking water system because of an illegal cross-connection is liable for all costs associated with the contamination. These costs may

TITLE 10. FIRE, HEALTH, AND PUBLIC SAFETY

include, but are not limited to, clean-up costs, consequential damages, and any punitive damages allowed under municipality, state or federal law.

- (D) **Penalty.** Any person violating any of the provisions of this chapter shall be deemed guilty of a misdemeanor. Each day of violation shall be deemed to be a separate offense. (Ord. 90-04)

TITLE 10. FIRE, HEALTH, AND PUBLIC SAFETY

CHAPTER 10-1000. EXCAVATION ORDINANCE.

10-1001. Purpose.

- (A) It is the purpose and object of this ordinance to establish reasonable and uniform limitations, safeguards and controls on excavation within the City. These provisions are deemed necessary in the public interest to effect practices which will provide protection of the tax base, provide for the economical use of vital materials necessary for our economy and give due consideration to the present and future use of land in the interest of promoting the public health, comfort, safety, community character and general welfare.
- (B) Any necessary alterations to the surface of land within the City which involves excavation on said land should be done in such a way as to minimize undesirable effects on surrounding or adjacent land. Excavated land should be reclaimed and rehabilitated so as to prevent conditions detrimental to the general health, safety and welfare of the residents of the City and to provide for the subsequent use of the excavated land. Reclamation and rehabilitation requirements must be adapted to the diversity of the topography, chemical, climatic, biologic, geologic, economic and social conditions of the area where the excavation takes place.

10-1002. Definitions.

- (A) Excavation. For the purposes of this ordinance, excavation shall mean the removal of rock, sand, gravel, clay and any other soil by digging, leveling, scraping, blasting or any other process, together with all other types of mining or excavation operations where material is removed from the earth. The provisions of this ordinance shall not apply to the removal of sod to a depth in excess of four (4) inches per crop removal, and provided such removal will not adversely affect the drainage, stability and /or vegetation of the area. This ordinance shall not apply to ditching and land leveling for agricultural or recreational uses, or for site preparations for building a structure, subject to the following: Land leveling for purposes of this ordinance may include the removal of the resources referenced above, but any excavation for purposes if this ordinance which exceeds one thousand (1000) cubic yards per acre, or a proportionally equivalent amount for fractional acreage, shall be subject to the provisions of this ordinance. This ordinance shall also not apply to removal or other movement of rock, sand, gravel, clay or any other soil as done in the process of developing an approved subdivision.
- (B) Land. Land means the surface and subsurface of an area within the incorporated areas of the City where excavation operations are being or will be conducted, including but not limited to: on-site private ways, roads, the excavation site itself, exploration sites, drill sites or working, parking, storage areas; areas in which structures, facilities, equipment, machines, tools or other materials or property which result from, or are used in such operations, are situated.

TITLE 10. FIRE, HEALTH, AND PUBLIC SAFETY

- (C) Off-site. Off-site means the land areas that are outside or beyond the boundaries of the on-site land which is owned or controlled by the owner or operator of the on-site land on or within which excavation operations are being or will be conducted.
- (D) On-site. On-site means the land on or within the boundaries of which excavation operations are or will be conducted by the owner or operator thereof.
- (E) Operator. Operator means any person, firm, corporation, association, partnership, receiver, trustee, executor, administrator, guardian, fiduciary, agent or other legally existing entity, organization or representative of any kind, either public or private, owning, controlling or managing excavation operations or proposed excavation operations.
- (F) Owner. Owner means any person, firm, corporation, association, partnership or other legally existing entity, organization or representative of any kind, either public or private, owning, controlling or managing the land(s) employed in excavation operations or proposed excavation operations.
- (G) Public Road. Public road means any highway, road, street, alley, lane, court, place, viaduct, tunnel, culvert or bridge laid out or erected as such by the public, or dedicated or abandoned to the public, or made such in an action for the partition of real property, and includes the entire areas within the public right-of-way or public road.
- (H) Rehabilitation. Rehabilitation means actions performed during and after excavation operations to shape, stabilize, revegetate or otherwise treat the land affected in order to achieve a safe, stable, ecological condition. The excavated lands will be rehabilitated to a usable condition which is readily adaptable to alternate land uses and creates no danger to public safety. These rehabilitated or reclaimed land areas will be consistent with the city land use plan in the immediate areas. The rehabilitation process may extend to affected lands surrounding the excavated lands and may require backfilling, grading, resoiling, revegetation, soil compaction, stabilization and other measures.

10-1003. Excavation Conditional Use Permit Required.

No excavation shall be permitted on any land in the City unless authorized under a “Conditional Use Permit” (“Excavation Conditional Use Permit”, hereafter) issued to the owner and/or operator of the property in accordance with the procedures set forth in Chapter 12C-500, except for excavation on any land in the City where a non-conforming excavation use is legally proven to have been established or is accepted by City officials as having been established.

TITLE 10. FIRE, HEALTH, AND PUBLIC SAFETY

10-1004. Additional Information Required with Conditional Use Permit Application.

In order to insure that the land area of the proposed excavation is reasonable for that purpose and to ensure rehabilitation of the land area to a state that enables meaningful use, ensures public safety and maintains or restores acceptable aesthetic conditions, the owner or operator shall, prior to commencement of any phase of operation, submit to the City Planning Commission, as part of the Excavation Conditional Use Permit application procedure, an excavation and rehabilitation plan which addresses the following, except for items which are, for due cause, waived or modified by the Planning Commission as being unnecessary for a particular application:

- A. **General Information.** The following shall be provided: the name of the property owner(s), lessee(s), operator(s), agent for service of process or notice(s), address and/or location of property and legal description.

- B. **Pre-excavation Inventory and Analysis.** A pre-excavation inventory and analysis, both off-site and on-site, shall be performed by the applicant containing the following information:
 - 1. A regional vicinity analysis describing other land uses surrounding the site, the possible impacts of the proposed excavation on surrounding land and the methods to be employed to mitigate any potentially negative effects; and
 - 2. A description of the regional haulage routes to be employed on public and private roads.
 - 3. Other items reasonably determined necessary by the Planning Commission.

- C. **Pre-site Inventory and Analysis.** The applicant shall conduct a pre-site inventory and analysis to include:
 - 1. A topographic map of the area (at a scale of one inch equals two hundred feet) to a maximum contour interval of five feet, and extending at least 500 feet beyond the proposed excavation site;
 - 2. A description of the visual characteristics, with particular concern given to the use of natural topography and vegetation, to shield on-site operations from nearby properties, roadways and the general public;
 - 3. A soils survey, to include a soils profile; and
 - 4. Other items reasonably determined necessary by the Planning Commission.

- D. **Excavation Operations Plan.** The application shall provide an excavation operations plan which describes the following:

TITLE 10. FIRE, HEALTH, AND PUBLIC SAFETY

1. Proposed starting date and the anticipated period of operation and also including anticipated days of the week and hours of the day for operations;
2. Planned phases of excavation;
3. Anticipated amount of material to be removed during each phase;
4. Number, type and kinds of machinery and equipment to be used;
5. Operational processes, including crushing, stockpiling, top soil retention, milling, etc.;
6. The water to be used in operations, its source, control and disposal;
7. Electrical power requirements, source and control;
8. Accessory facilities, such as scales and buildings;
9. Sanitary facilities and disposal system;
10. Wind and air movement patterns with a description of techniques used to control dust and noise;
11. Transportation routes on and off site;
12. Run-off water control and detention;
13. Depiction of phases and location of all facilities, stockpiles, transportation routes, detention basin(s), and water and power sources on the topographic map referred to above or other suitable map;
14. Any economic or adverse effects on the surrounding area and steps taken to mitigate their impact, such as dust and vibration control and noise abatement;
15. Detailed analysis and description of noise levels (expressed in decibels) expected from proposed operations;
16. Cross sections showing existing surfaces versus proposed excavation at 100 foot intervals across the site; cross sections should be drawn parallel to slope; and
17. To the extent not already shown, how the operations will comply with the requirements of 10-1009 (Operational Requirements).

TITLE 10. FIRE, HEALTH, AND PUBLIC SAFETY

18. Operator's safety plan.
 19. Other items reasonably determined necessary by the Planning Commission.
- E. Rehabilitation Plan. The applicant shall provide a rehabilitation plan with the use of maps, imagery and renderings (at a scale of one inch equals two hundred feet) extending five hundred feet beyond the legal description of the site area with a maximum contour interval of five feet which includes at least the following:
1. A grading plan drawn and certified by a licensed engineer or land surveyor indicating the areas to be excavated and the proposed finished grades and stormwater drainage patterns;
 2. A description of the methods and plans to be employed for rehabilitation of the site during and after the excavation operations;
 3. A description of the landscape plan to include the installation of topsoil, planting schedule, specifications for plant applications, mulching, plant materials, and type of irrigation to be used;
 4. A description of the hydrologic environment of the rehabilitated site to include a map illustrating water drainage areas such as lakes, springs, ponds, streams, wells, pipelines, culverts, ditches, canals;
 5. A description of all permanent roads and other man-made structures which are to remain after rehabilitation;
 6. Cross sections shall be taken in the excavation site in areas of greatest material displacement. The number of cross sections required shall be dependent on the size and topography of the excavation site;
 7. To the extent not already shown, compliance with 10-1010 (Rehabilitation Requirements);
 8. Evidence of surety; and
 9. Other items reasonably determined necessary by the Planning Commission.
- F. Addendum. (To be completed prior to final issuance of the Excavation Conditional Use Permit.) Final conditions or limitations imposed by the Planning Commission or City Council.

TITLE 10. FIRE, HEALTH, AND PUBLIC SAFETY

- G. Authorization of Permit. All operation and rehabilitation maps and plans shall include signature blocks for the owner and operator, City Engineer and Mayor. The referenced signatures shall be obtained before an Excavation Conditional Use Permit shall be authorized.

10-1005. Revocation or Modification of an Excavation Conditional Use Permit.

- A. Any Excavation Conditional use Permit issued shall be subject to revocation or modification by the Planning Commission as set forth in Chapter 12C-500.
- B. Modification of the Excavation Conditional Use Permit Plans. Modification of the Excavation Conditional Use Permit plans may be initiated either by the Planning Commission or by the permittee where minor revisions are sought for any portion of the approved Permit. Consideration of such revisions need not require a public hearing provided that, in the judgment of the Planning Commission, the proposed revisions would not constitute significant changes, and provided also that the Planning Commission has not determined, or the permittee has not expressly requested, that a public hearing be held.

10-1006. Transfer to Successor Operator.

Whenever an owner/operator succeeds to the interest of another owner/operator by sale, assignment, lease or other means, the Planning Commission may release the first owner/operator from his responsibilities under his approved plans as described above, including surety, provided the successor owner/operator assumes all of the responsibilities of the former owner/operator to the satisfaction of the Planning Commission under the approved Excavation Conditional Use Permit and the posting of surety. Upon satisfactory assumption of such responsibilities by the successor owner/operator, under conditions approved by the Planning Commission, the responsibility of the total excavation site and permit shall be transferred to the successor owner/operator. Any owner/operator succeeding to the interest of another owner/operator by sale, assignment, lease or other means, in a legally existing non-conforming use as referenced in Section 10-1003, above, shall enjoy the same privileges and be bound by the same restrictions as the transferring owner/operator.

10-1007. Appeals to the City Council.

Appeals from any decision of the Planning Commission with respect to the Excavation Conditional Use Permit shall be directed to the City Council in the manner prescribed in Chapter 12C-500. Upon the hearing of such appeal, the City Council may, by motion, affirm, reverse or modify in whole or in part any determination of the Planning Commission, also as provided by Chapter 12C-500..

TITLE 10. FIRE, HEALTH, AND PUBLIC SAFETY

10-1008. Filing of an Annual Progress Report.

At the end of each calendar year, unless waived by the Planning Commission for due cause, each operator conducting excavation operations shall file an operations and progress report with the Planning Commission. The report will summarize activities in fulfillment of the requirements of excavation and rehabilitation in conformance with the rehabilitation plan previously submitted.

10-1009. Operational Requirements.

All excavation operations conducted or carried on within the City are subject to the following limitations, restrictions and controls:

- A. **Dust, Noise, Vibration, Smoke, Lights and Odor.** All equipment and machinery used on the site and in transportation of products through the City shall be constructed, maintained and operated in such a manner as to minimize the impact of dust, noise, vibration, smoke, welding lights and other lights, odor and all other negative or undesirable impacts on the City, or City property, and particularly on adjacent and surrounding properties. Soil berming, landscaping and other techniques shall be used to accomplish the objective of reducing the impact of smoke, any kind of lights, noise and vibration on adjacent property, and to control loose dirt and dust such that it remains on the operation site. All state and federal emission guidelines and regulations must be adhered to. Access and haulage roads shall be maintained in a dust-free condition by surfacing or other treatment as approved by the City Engineer and fugitive dust shall be controlled in all other operational areas of the excavation site.
- B. **Operation Boundaries.** To protect neighboring residents and properties from the potentially adverse effects of dust, noise, vibration, smoke, welding and other lights, odors, soil erosion, and all other negative or undesirable impacts, all excavation operations are prohibited within 200 feet of an adjacent residential zone boundary or a subdivision or within fifty (50) feet of a public highway or street, except for accessory roads. Rock crushing operations shall not be conducted within 600 feet of adjacent properties, if allowed at all. Existing operations shall, within 90 days of the passage of this ordinance, provide a map showing the boundaries of their operation.
- C. **Fencing and Barriers.** Fencing or other suitable barriers shall be created and maintained on or around the boundary of the excavation site or on or around portions of the site where such fencing is practicable and necessary because of dangerous conditions, whether existing or created by the excavation, as determined by the City Engineer. Fencing or barriers may also be required, at the option of the Planning Commission, to provide screening of the excavation operation from public view and to enhance the general aesthetics of the area. Fencing, monuments or other means of identification shall be placed and maintained around the perimeter of the excavation site so as to enable

TITLE 10. FIRE, HEALTH, AND PUBLIC SAFETY

reasonable identification of the property line separating the excavation property from adjoining land owners.

- D. Landscaping. The planting of trees, shrubs or other appropriate landscaping, or the placement of berms or structures, shall be required where natural conditions make such feasible and practical in order to provide a dust or sound barrier, to screen excavation from public view, to enhance the general appearance, and to minimize the damaging effect of such operations to the aesthetics and character of the surrounding area. Vegetative material shall be planted together with necessary topsoil as per a schedule approved in the granting of the Excavation Conditional Use Permit or as a part of a separate Rehabilitation Plan for existing operations, and shall be maintained in a healthy, growing condition.
- E. Washing Operations. The washing of sand and gravel, when permitted, shall be done so as to prevent the discharge of waste water directly into adjacent natural water courses or onto any public or private roads or any private property without the written consent of the property owner.
- F. Run-off Water Detention. The operator or owner shall, on determination by the City Engineer, be required to construct run-off water detention facilities to prevent damage to neighboring property and structures and for protection of the residents and property below the site. A Storm Water Pollution Prevention Plan (SWPPP) shall be prepared and submitted in accordance with the National Pollution Discharge Elimination System (NPDES) requirements, and all necessary Federal, State and local permits shall be obtained.
- G. Truck Washing and Covering. Prior to entry onto asphalt roadways from dirt surfaces, truck tires shall be washed or otherwise cleaned to remove dust, soil, mud, gravel and all other debris and trucks shall be covered, all to prevent contamination of public highways by the depositing of dust, mud, soil, gravel and all other debris on any public highway.
- H. Load Limits. All trucks, equipment and machinery operating on public or city streets and roads shall comply strictly with the city, county and state road limitations setting forth allowable vehicle weight limits, heights and lengths, and all vehicles must meet state safety requirements; and, where necessary, flagging and other traffic controls shall be implemented to preserve public safety.
- I. Hours of Operation. Excavation operations and transport of materials to and from the site, except for the maintenance and repair of vehicles and equipment, which does not have a negative or unacceptable impact on surrounding or adjacent property owners, shall take place between the hours of 8:00 a.m. to 6:00 p.m. on any day, except as provided herein. No truck used in hauling operations will be allowed into the site before the specified time or permitted to leave the site loaded with materials from the site after the

TITLE 10. FIRE, HEALTH, AND PUBLIC SAFETY

specified time. No excavation operations shall take place on Sundays or on any legal city, state or federal holidays. During periods of national or unusual emergency or to ensure safety of citizens, the time and hours of operation may be altered at the discretion of the City Council. In addition, the City Council may, consistent with the intent of these regulations, modify the provisions relative to permitted hours of operation for any excavation area, after notice to interested parties and the holding of a hearing on the proposed modification.

- J. Restricted or Related Manufacturing Operations. The manufacture of concrete building blocks or other similar blocks, the production or manufacture of lime products, the production of ready-mixed concrete, the production of asphalt mixes, rock crushing and screening operations, and any similar production or manufacturing processes that might be related to the excavation operation shall not be permitted, except as otherwise provided in the municipal zoning ordinance and except where a non-conforming use related to one or more of the referenced activities is legally proven to have been established or is accepted by City officials as having been established.
- K. Permits: Compliance with Laws. Compliance with all federal, state and local laws relating to excavation operations shall be achieved and maintained and all required permits obtained, including a business license from the City.
- L. Cessation of Operations. Within one year after the cessation of operations, all temporary structures (except fences), equipment, rock piles, rubble heaps or other debris shall be removed or back-filled into the excavation so as to leave the site in neat and orderly condition as determined by the City Engineer and as provided below. This includes the rehabilitation of all excavated areas.
- M. Blasting. Any excavation by blasting shall only be allowed by separate application to and approval by the City Council, after a public hearing for which prior notice was given.
- N. Safety of Operations. Any excavation operation shall be conducted in a safe manner. To protect against collapse, cuts, banks, and any other open slopes on the premises shall not be left past the end of a working day, or left unattended when such slopes are more steep than one to one (1:1). The City's Safety Officer or City Engineer may require less steep slopes of any operation if he/she determines that, due to the nature of the soils being excavated, a less steep slope ought to be maintained to ensure proper safety. Other applicable State and Federal occupational health and safety requirements must also be met. The owner of the land, as well as any contractor conducting the excavation operation shall be jointly responsible for compliance with safety requirements.

TITLE 10. FIRE, HEALTH, AND PUBLIC SAFETY

10-1010. Rehabilitation Requirements.

In order to insure that the excavated area shall be rehabilitated to a condition of practical usefulness and reasonable physical attractiveness within a reasonable amount of time, to prevent environmental degradation to the ecologic and hydrologic regimes caused by excavation, and to prevent present and future hazards to public safety and welfare, all owners and/or operators of excavation operations shall adhere to a rehabilitation plan approved by the Planning Commission, which shall include the following, except for items which are, for due cause, waived or modified by the Planning Commission as being unnecessary for a particular excavation site:

- A. **Progressive Rehabilitation.** The owner or operator shall, at the option of the Planning Commission, submit a plan for progressive rehabilitation, meaning that rehabilitation will commence and be carried on during excavation operations. When the excavation of an area of two (2) acres or less is completed per the excavation plan, that area shall be rehabilitated. Rehabilitation shall proceed as soon as practicable after completion of the excavation of a phase, or site if there are no phases, as set forth in the approved excavation and rehabilitation plan, or as determined by the City Engineer.
- B. **Backfilling.** Where back-filling is required, the excavated area shall be graded and backfilled with uncontaminated native materials or topsoil only. This backfill must be of such material as to support vegetation and grass growth. The graded or back-filled area shall not be contoured so that it will collect and permit stagnant water to remain thereon. Peaks and depressions in the excavation area shall be reduced to a surface which will result in level or gently sloping topography in substantial conformity to the land area immediately surrounding the excavation site and which will minimize the possibility of erosion. In rehabilitation involving material that is of loose or friable nature, no slope shall be left that exceeds thirty (30) degrees or the normal angle of repose of the material involved, whichever is less.
- C. **Grading, Stockpiling, Seeding, Phases, Etc.** Excavations shall be planned so as to progressively develop the proposed final land forms by grading and by stockpiling topsoil and overburdened materials in areas designated for future land forms or in excavations where the material will be spread over the excavation floor where no future excavation is anticipated. Such areas are to be covered with topsoil, seeded and planted immediately after grading is completed or within appropriate planting seasons, but in any case, the grading and planting shall be complete within one year. The rehabilitation plan shall contain a description of the phased rehabilitation process throughout the anticipated life of the excavation.

TITLE 10. FIRE, HEALTH, AND PUBLIC SAFETY

- D. **Final Rehabilitation.** Final rehabilitation shall begin immediately for any site where operations authorized under an Excavation Conditional Use Permit or a legal non-conforming use as referenced in Section 10-1003, above, have ceased for a period of at least one year, or otherwise terminated. The final rehabilitation shall conform to the plan approved (including approved modifications) in the Excavation Conditional Use Permit, or the plan approved for a legal non-conforming use as referenced in Section 10-1003, above. All rehabilitation plans shall conform at least to the below listed minimum standards and other requirements listed elsewhere in this Ordinance, as reasonably determined by the Planning Commission; provided, however, that the Planning Commission or City Council may require more stringent standards where special hazards exist in order to protect the health, safety or general welfare of the public and to prevent injury to property or improvements:
1. **Grading.** Slopes, overburdened stockpiles and abandoned soil piles shall be graded and smoothed so as to control erosion and prevent the creation of potentially dangerous areas in accordance with the direction of the City Engineer.
 2. **Water-filled Areas.** All excavations which create standing water or ponds shall be filled with native materials. This requirement shall not apply, however, to any water-filled excavations scheduled to become an integral part of the final rehabilitation plan. The rehabilitation of these areas shall be done in such a manner that the groundwater is not polluted. Fill material shall be porous to allow for water dispersion unless otherwise specified in the rehabilitation plan.
 3. **Landscaping.** Unless inconsistent with the final proposed use of the rehabilitated land, the excavated areas and all other disturbed areas shall be replanted and maintained with trees, shrubs, grasses or other vegetative ground cover, preferably native to the area, in order to minimize erosion and to restore the land to a natural appearance, or to an appearance previously approved by the City Council.
 4. **Removal of Buildings and Equipment.** As soon as excavation has been permanently terminated, all buildings and equipment (including electrical conduits) used in the administration of the operations shall be removed unless deemed necessary to the approved final use of the rehabilitated site.
 5. In the final year of excavation, the mining operation may, as part of the rehabilitation project, excavate closer than 200 feet to any property lines, but only upon a showing of compelling mutual good and the approval of the Planning Commission and City Council.
- E. **Rehabilitation Verification.** At the conclusion of excavation operations and rehabilitation of the excavation site, the City Engineer shall present to the Planning Commission a statement verifying the permit area or non-conforming excavation area has been

TITLE 10. FIRE, HEALTH, AND PUBLIC SAFETY

rehabilitated in compliance with the requirements of the excavation ordinance and excavation and rehabilitation plan previously submitted in compliance with this ordinance. The Planning Commission shall certify to the City Council that all requirements of this ordinance have been met.

10-1011. Provision of Surety.

- A. **Provision of Surety Before Operations Begin.** After receiving notification that the application for an Excavation Conditional Use Permit has been approved, but prior to commencement of such operation, the operator shall provide surety to the City, in a form and amount to be fixed by the City Council, as recommended by the City Engineer, sufficient to secure the performance of the rehabilitation agreement.
- B. **Amount of Surety.** In determining the amount of surety to be provided, the City Engineer shall consider factual information as to the magnitude, type and costs of approved rehabilitation activities planned for the land affected and the nature, extent and duration of operations under the excavation and rehabilitation plan. The City Engineer shall determine the amount of the surety reasonably related thereto, to protect the City and insure compliance with the requirements of the Excavation Conditional Use Permit; however, the amount of the surety shall not exceed one hundred-twenty-five percent (125%) of the estimated cost of rehabilitating the excavation. The surety shall be periodically reviewed to insure that the amount of the surety is capable of insuring adequate rehabilitation.
- C. **Form of Surety.** In determining the form of surety to be provided, the City Council shall approve a method that is consistent with the requirements of this ordinance, which may be one or a combination of corporate surety bond, land, cash, letter of credit or other deposited securities to which the City shall have immediate access in the event the owner/operator fails to or refuses to carry out and complete the necessary and required rehabilitation.
- D. **Releases of Surety.** The liability under surety provisions shall continue until such time as released as to part, or in its entirety, by the City Council upon completion of the required rehabilitation. Partial releases may be allowed within the discretion of the City Council.
- E. **Forfeiture of Surety.** If the owner/operator fails to or refuses to carry out the necessary land rehabilitation as outlined in the approved excavation and rehabilitation plans, the City may, after notice and hearing, declare any surety filed for this purpose forfeited, or in case of a corporate bond file suit against the owner or operator and his bonding company. The City shall also have the right to file suit against the defaulting permittee for violations of this ordinance or any permit granted, or for costs of rehabilitation and reasonable attorney fees. The City may also cause the required rehabilitation to be completed and be reimbursed or pay for such work out of the surety that was provided.

TITLE 10. FIRE, HEALTH, AND PUBLIC SAFETY

10-1012. Operation - Reduction in Distance Permitted When.

Relating to existing operations, where a non-conforming excavation use is legally proven to have been established or is accepted by City officials as having been established, the City Council may, consistent with the intent of these regulations and where the character of the terrain, the nature of ownership of land, the character of surrounding development or other special conditions would justify such modification, permit a reduction in the required operation boundaries as stipulated in Section 10-1009.B. of this Ordinance so as not to impose unreasonable requirements; however, in no case shall the required distances for any excavation or accessory structure be less than fifty (50) feet from a residential zone boundary.

10-1013. Exceptions.

In cases where unusual topographical, exceptional conditions or hardships exist, variations and exceptions from this Ordinance may be made by the City Council for good cause after recommendation by the Planning Commission.

10-1014. Compliance by Existing Operations.

Within ten (10) days after the adoption of the ordinance codified in this Chapter, all existing excavation operations shall comply with the provisions set forth in the last sentence of 10-1009.A, and Sections 10-1009.G and H, Operational Requirements; within ninety (90) days after the adoption of the ordinance codified in this chapter, all existing excavation operations shall comply with all of the remaining provisions set forth in the Operational Requirements of Section 10-1009; and within one (1) year after the adoption of this ordinance, existing excavation operations shall comply with all provisions set forth herein, except those contained in Sections 10-1003, 10-1004, 10-1005, 10-1007 and 10-1011; provided, however, in no case shall requirements be imposed that are unreasonable from an engineering standpoint in respect to conditions resulting from operations related to a non-conforming excavation use that is legally proven to have been established or is accepted by City officials as having been established prior to the enactment of the Ordinance codified in this Chapter.

10-1015. Enforcement - City Administrator Authority.

The City Administrator is hereby designated and authorized as the officer charged with the enforcement of this ordinance and may, in specific instances at his discretion, delegate this authority to any authorized city employee.

10-1016. Inspection and stop work orders.

It shall be the duty of the City Administrator to inspect or cause to be inspected at regular intervals, as often as necessary, all excavations. Where it is determined by the City Administrator that any excavation operation is not proceeding in compliance with the provisions of this Ordinance, the City Administrator may order, or cause to be ordered, the work on the excavation operation stopped by notice in writing served on any person engaged in working or causing such work to be done on the excavation operation, and all persons shall forthwith stop such work until the excavation operation is brought into compliance with the provisions of this

TITLE 10. FIRE, HEALTH, AND PUBLIC SAFETY

Ordinance and the City Administrator authorizes the excavation operation to proceed. In addition, the City Administrator may also pursue appropriate legal action in the courts. Failure to implement administrative or legal action shall not legalize any violation of this ordinance.

10-1017. Violation.

Any person, owner, operator, corporation, or other entity violating any provision or provisions of this Ordinance shall be deemed guilty of a Class B Misdemeanor; and each such person, owner, operator, corporation, or other entity shall be deemed guilty of a separate offense for each and every day or portion thereof during which any violation of any of the provisions of this ordinance is committed, continued or permitted; and upon conviction of any such violation, such person, owner, operator, corporation, or other entity shall be punishable to the fullest extent of the law. Further, the City may revoke the Excavation Conditional Use Permit and Business License of any person, owner, operator, corporation or other entity violating any provision(s) of this Ordinance in accordance with the procedures established by City Ordinances or state law for such revocations.

10-1018. Repealer.

In the event any part of this ordinance is determined to be invalid or unconstitutional, then rather than voiding or invalidating the same, whatever restrictions, requirements or provisions said Court determines are reasonable, valid and constitutional shall be substituted herein and enforced as if a part of this ordinance. In the event said Court refuses to so act, then such invalid or unconstitutional portion is deemed stricken from the ordinance, but the remaining provisions shall remain valid.

(Ord. 00-05)

TITLE 10. FIRE, HEALTH, AND PUBLIC SAFETY

10-1100. Emergency Planning

10-1101. Emergency Planning Committee. There is hereby created an Emergency Planning Committee to prepare for and respond to disasters and other emergencies as needed. Said Committee shall be constituted in accordance with the currently adopted Emergency Response Plan.

10-1102. Emergency Response Plan. The North Logan City Emergency Response Plan shall be adopted by the City Council by resolution.

(Ord. 00-07)