

CODE
OF
REVISED
ORDINANCES
OF
ENOCH

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CODE OF REVISED ORDINANCES OF ENOCH

TABLE OF CONTENTS

TITLE 1-000. GENERAL PROVISIONS.

CHAPTER 1-100. CONSTRUCTION OF PENALTIES.

- Part 1-110 Introductory Provisions to Construction of Crimes Under This Code.
- Part 1-120 Jurisdiction and Venue.
- Part 1-130 Limitation of Actions.
- Part 1-140 Multiple Prosecution and Double Jeopardy - Criminal Joinder.
- Part 1-150 Burden of Proof.
- Part 1-160 Definitions.

CHAPTER 1-200. PRINCIPLES OF CRIMINAL RESPONSIBILITY.

- Part 1-210 Culpability Generally.
- Part 1-220 Criminal Responsibility for Conduct of Another.
- Part 1-230 Defenses to Criminal Responsibility.
- Part 1-240 Justification Excluding Criminal Responsibility.

CHAPTER 1-300. PUNISHMENTS.

- Part 1-310 Classification of Offenses.
- Part 1-320 Sentencing.
- Part 1-330 Fines and Special Sanctions.
- Part 1-340 Limitations and Special Provisions on Sentences.

CHAPTER 1-400. ADMINISTRATIVE REMEDIES.

- Part 1-410 Hearings.

TITLE 2-000. INCORPORATION, CLASSIFICATION BOUNDARIES, CONSOLIDATION AND DISSOLUTION OF MUNICIPALITY.

CHAPTER 2-100. INCORPORATION.

CHAPTER 2-200. MUNICIPAL WARDS.

CHAPTER 2-300. CLASSIFICATION.

CHAPTER 2-400. EXTENSION OF MUNICIPAL LIMITS.

CHAPTER 2-500. RESTRICTION OF MUNICIPAL LIMITS.

CHAPTER 2-600. CONSOLIDATION OF MUNICIPALITIES.

CHAPTER 2-700. DISSOLUTION OF MUNICIPALITY.

TITLE 3-000. MUNICIPAL GOVERNMENT.

CHAPTER 3-100. THE GOVERNING BODY.

CHAPTER 3-200. ELECTION OF GOVERNING BODY.

CHAPTER 3-300. MEMBERSHIP ON GOVERNING BODY, VACANCIES AND POWER TO VOTE.

CHAPTER 3-400. MAYOR AS MEMBER OF GOVERNING BODY.

CHAPTER 3-500. MEETING, PROCEDURE AND CONDUCT – VOTING.

Part 3-502 Time, Place - Exceptions.

CHAPTER 3-600. PUBLIC MEETINGS, EXECUTIVE SESSIONS, RECORDS AND PUBLICATION, PROCEDURE.

CHAPTER 3-700. MUNICIPAL ORDINANCES, RESOLUTIONS AND PROCEDURE.

CHAPTER 3-800. MUNICIPAL ADMINISTRATION.

Part 3-818 Compensation and Salaries.

Part 3-819 Amount of Bond.

CHAPTER 3-900. APPOINTED OFFICIALS AND THEIR DUTIES.

Part 3-917 City Engineer.

Part 3-924 Appointment of City Manager.

CHAPTER 3-1000. CIVIL SERVICE COMMISSION.

CHAPTER 3-1100. PERSONNEL RULES AND BENEFITS.

TITLE 4-000. ELECTIONS.

CHAPTER 4-100. PRIMARY ELECTION SYSTEM.

TITLE 5-000. COURTS.

CHAPTER 5-100. JUSTICE OF THE PEACE.

TITLE 6-000. FINANCES AND TAXATION.

CHAPTER 6-100. SALES AND USE TAX.

CHAPTER 6-200. SPECIAL IMPROVEMENTS.

Part 6-210 Collection of Special Improvement Taxes.

CHAPTER 6-300. SPECIAL IMPROVEMENT GUARANTY FUND.

CHAPTER 6-400. MUNICIPAL ENERGY SALES AND USE TAX.

CHAPTER 6-500. FISCAL PROVISIONS GENERALLY.

TITLE 7-000. MUNICIPAL IMPROVEMENTS AND PUBLIC SERVICE PROJECTS.

CHAPTER 7-100. MUNICIPAL IMPROVEMENT DISTRICT ACT.

CHAPTER 7-200. CONTRACTS FOR PUBLIC IMPROVEMENTS.

CHAPTER 7-300. MUNICIPAL RESOURCES.

TITLE 8-000. MUNICIPAL PROPERTY.

CHAPTER 8-100. REGULATION AND CONTROL.

- Part 8-102 Acquisition and Disposal.
- Part 8-110 Control of Municipal Property.

CHAPTER 8-200. CEMETERIES.

- Part 8-210 Cemetery Superintendent.
- Part 8-220 Regulation of Cemetery and Burials.
- Part 8-240 Fees and Charges.
- Part 8-250 Sale of Lots.
- Part 8-260 Perpetual Care.
- Part 8-270 Perpetual Care Fund.
- Part 8-280 Non-perpetual Care Lots.
- Part 8-290 Indigents.

CHAPTER 8-300. PUBLIC PARKS AND GROUNDS.

- Part 8-301 General Purpose.
- Part 8-302 General Provisions.
- Part 8-303 Definitions.
- Part 8-304 Park Property.
- Part 8-305 Sanitation.
- Part 8-306 Traffic.
- Part 8-307 Recreational Activities.
- Part 8-308 Prohibited Behavior.
- Part 8-309 Merchandising, Advertising and Signs.
- Part 8-310 Park Operating Policy.
- Part 8-311 Enforcement and Penalties.
- Part 8-312 Severability.
- Part 8-313 Ordinances Repealed.

CHAPTER 8-400. CONSTITUTIONAL TAKING ISSUES.

- Part 8-401 Policy Considerations.
- Part 8-402 Definitions.
- Part 8-403 Guidelines Advisory.
- Part 8-404 Review of Decision.
- Part 8-405 Reviewing Guidelines.
- Part 8-406 Results of Review.

TITLE 9-000. LICENSING, CONTROL AND REGULATION OF BUSINESS AND CONSTRUCTION.

CHAPTER 9-100. PROVISIONS RELATING TO THE LICENSING CONTROL AND REGULATION OF BUSINESSES.

Part 9-110 General Provisions.

CHAPTER 9-200. BUSINESSES LICENSED ON AN ANNUAL FEE.

Part 9-210 Administration and Imposition of Fee.

CHAPTER 9-300. BUSINESS LICENSED ON THE BASIS OF GROSS RECEIPTS.

CHAPTER 9-400. LICENSING AND REGULATING SPECIFIC BUSINESSES.

Part 9-410 Intoxicants.

Part 9-430 Construction Contractors.

Part 9-450 Solicitors, Canvassers, Peddlers and Itinerant Merchants.

Part 9-459 Requirements for Installers of Security Systems

CHAPTER 9-500. BUILDING REGULATIONS.

Part 9-510 Building Official.

Part 9-520 General Provisions.

Part 9-530 Building Code.

Part 9-540 Electrical Code.

Part 9-550 Electrical Installations.

Part 9-560 Plumbing Code.

Part 9-570 Expiration of permits

Part 9-579 Security Cameras in Commercial Businesses

CHAPTER 9-600. OTHER BUILDING OR CONSTRUCTION CODES.

Part 9-610 Individual Wastewater (Sewage) Disposal Code Adopted.

Part 9-620 Small Underground Wastewater Disposal System Code Adopted.

Part 9-630 Code for Installing Gas Piping and Appliances Adopted.

Part 9-640 Uniform Sign Code Adopted.

Part 9-650 Uniform Housing Code.

Part 9-660 Fallout Shelters.

TITLE 10-000. FIRE, HEALTH, SAFETY AND WELFARE.

CHAPTER 10-100. FIRES - DEPARTMENT – CODE.

Part 10-110 Department.

Part 10-120 Personnel and Duties.

Part 10-130 Powers of Fire Department.

Part 10-150 Uniform Fire Code.

Part 10-170 Standard Fire-Fighting Equipment.

CHAPTER 10-200. HEALTH.

Part 10-210 Board of Health and Health Officer.

Part 10-220 Health Director.

Part 10-240 Offensive Business and Facilities.

CHAPTER 10-300. DANGEROUS BUILDINGS

Part 10- 310 Dangerous Buildings.
Part 10- 320 Administrative Notice - Hearings - Disposal of Nuisance - Lien - Penalty
for Violation.

CHAPTER 10-400. GARBAGE AND LITTER.

Part 10-410 Garbage Regulation.
Part 10-430 Litter - Handbills.

TITLE 11-000. TRANSPORTATION, STREETS AND PUBLIC WAYS.

CHAPTER 11-100. RESERVED.

CHAPTER 11-200. RESERVED.

CHAPTER 11-300. STREETS AND PUBLIC WAYS.

Part 11-310 Superintendent of Streets.
Part 11-320 Streets - Traffic Control.
Part 11-330 Animals on Streets.
Part 11-340 Parking Regulations.
Part 11-350 Construction and Repair of Streets and Sidewalks.
Part 11-360 Sidewalk Regulations.
Part 11-380 Excavations.

CHAPTER 11-400. STREET ADDRESSES AND SIGNS.

Part 11-401 House Numbers Required.

CHAPTER 11-500. TELECOMMUNICATIONS RIGHT-OF-WAY.

Part 11-510 Declaration of Findings and Intent; Scope of Ordinance.
Part 11-520 Defined Terms.
Part 11-530 Franchise Required.
Part 11-540 Compensation and Other Payments.
Part 11-560 Franchise Application.
Part 11-570 Construction and Technical Requirements.
Part 11-590 Franchise and License Non-Transferable.
Part 11-600 Oversight and Regulation.
Part 11-610 Rights of City.
Part 11-620 Obligation to Notify.
Part 11-630 General Provisions.
Part 11-640 Federal, State and City Jurisdiction.

CHAPTER 11-700. OFF-HIGHWAY VEHICLE.

Part 11-701. Off-highway Vehicle Operation and Equipment.

TITLE 12-000. PLANNING AND ZONING.

CHAPTER 12-100. PLANNING.

Part 12-110 Administration.
Part 12-120 Land Use Authority.
Part 12-130 Building Permits.
Part 12-140 Changes in Zoning.

TITLE 13-000. POLICE AND PUBLIC OFFENSES.

CHAPTER 13-100. POLICE.

- Part 13-110 Police Department.
- Part 13-120 Jail.

CHAPTER 13-200. ANIMAL CONTROL.

- Part 13-210 Pound Master.
- Part 13-220 Care and Keeping.
- Part 13-240 Dogs.
- Part 13-260 Strays.

CHAPTER 13-300. GENERAL POLICE POWERS.

- Part 13-310 Offenses Re: Minors.
- Part 13-320 Intoxicants and Liquor.
- Part 13-330 Disturbing the Peace.
- Part 13-350 Public Property - Documents.

CHAPTER 13-400. INCHOATE OFFENSES.

- Part 13-410 Attempt.
- Part 13-420 Criminal Conspiracy.
- Part 13-430 Exemptions and Restrictions.

CHAPTER 13-500. OFFENSES AGAINST THE PERSON.

- Part 13-510 Assault and Related Offenses.
- Part 13-520 Reserved.
- Part 13-530 Interfering with Custodial Rights or Personal Liberty.
- Part 13-540 Sexual Offenses.

CHAPTER 13-600. OFFENSES AGAINST PROPERTY.

- Part 13-610 Property Destruction.
- Part 13-620 Burglary and Criminal Trespass.
- Part 13-630 Trespassing.
- Part 13-640 Theft.
- Part 13-650 Fraud.

CHAPTER 13-700. OFFENSES AGAINST THE FAMILY.

- Part 13-710 Marital Violations.

CHAPTER 13-800. OFFENSES AGAINST GOVERNMENT.

- Part 13-810 Corrupt Practices.
- Part 13-820 Abuse of Office.
- Part 13-830 Obstructing Governmental Operations.
- Part 13-840 Offense Against Public Property.
- Part 13-850 Falsification in Official Matters.
- Part 13-860 Abuse of Process.
- Part 13-870 Reserved.
- Part 13-880 Sabotage Prevention.

CHAPTER 13-900. OFFENSES AGAINST PUBLIC ORDER AND DECENCY.

- Part 13-910 Breaches of the Peace and Related Offenses.
- Part 13-920 Telephone Abuse.

- Part 13-930 Cruelty to Animals.
- Part 13-940 Offenses Against Privacy.
- Part 13-950 Libel and Slander.
- Part 13-960 Offenses Against the Flag.
- Part 13-970 Miscellaneous Provisions.

CHAPTER 13-1000. OFFENSES AGAINST PUBLIC HEALTH, SAFETY, AND WELFARE.

- Part 13-1001 Regulation of the Manner of Sale of Tobacco Products.
- Part 13-1010 Cigarettes and Tobacco and Psycho Toxic Chemical Solvents.
- Part 13-1020 Waters.
- Part 13-1030 Explosives and Fireworks
- Part 13-1040 Fences.
- Part 13-1050 Weapons.
- Part 13-1060 Charity Drives.
- Part 13-1070 Corporation Frauds.
- Part 13-1080 Public Nuisances.
- Part 13-1090 Trade and Commerce.
- Part 13-1100 Trademarks, Trade Names and Devices.
- Part 13-1110 Gambling.

CHAPTER 13-1200. PORNOGRAPHIC AND HARMFUL MATERIALS AND PERFORMANCES.

CHAPTER 13-1300. PROSTITUTION.

TITLE 14-000. UTILITIES.

CHAPTER 14-100. WATER.

- Part 14-110 Water Department and System.
- Part 14-134 Scarcity of Water
- Part 14-150 Service Outside Municipality.
- Part 14-160 Drinking Water Source Protection Ordinance
- Part 14-170 Water Board.
- Part 14-180 Cross Connection Ordinance.

CHAPTER 14-200. SEWERS.

- Part 14-201 Sewer Department and System.
- Part 14-205 Use of Public Sewer Required.
- Part 14-210 Private Wastewater Disposal.
- Part 14-220 Sanitary Sewers, Building Sewers and Connections; Rates for Use; Delinquency and Discontinuance of Service.
- Part 14-240 Annual Review of Operational Cost; Revision Where Required; Department Service.
- Part 14-245 Use of the Public Sewers.
- Part 14-260 Powers and Authority of Inspectors.
- Part 14-270 Penalties.
- Part 14-280 Ordinance in force.
Addendum.

TITLE 15-00. HISTORICAL PRESERVATION.

CHAPTER 15-100. PRESERVING HISTORIC AND ARCHITECTURALLY SIGNIFICANT DISTRICTS AND LANDMARKS.

CHAPTER 15-200. ESTABLISHMENT OF HISTORIC SITES AND HISTORIC LANDMARK REGISTER AND STANDARDS FOR REHABILITATION.

TITLE 16-000. SHADE TREE ORDINANCE.

CHAPTER 16-100. ENOCH CITY SHADE TREE ORDINANCE

- Part 16-110 Purpose.
- Part 16-160 Urban Forestry Program.
- Part 16-180 Adjacent Private Landowner Responsibilities.
- Part 16-190 Arborist License and Bond.
- Part 16-230 Tree List.

TITLE 17-0000. LIBRARY.

- Part 17-100 Purpose Statement.
- Part 17-200 Library Board of Directors
- Part 17-300 Accounting for and Expenditure of Library Funds.
- Part 17-400 Library Director.
- Part 17-500 Use of Library and Materials.

TITLE 1-000. GENERAL PROVISIONS.

PART 1-001. NAME OF CODE. The ordinances contained in this code and all ordinances of a general nature hereafter adopted and inserted herein and all amendments, additions and changes thereto shall be part of this code and shall be known and cited as the “Revised Ordinance of Enoch City Corporation”.

1-002. REPEAL OF EXISTING ORDINANCES.

- A. So far as the provisions of these Revised Ordinances are the same as those of previously existing ordinances, they shall be construed as continuations thereof. All ordinances and resolutions of this municipality heretofore in force, except such as are of a private, local or temporary nature including franchises, grants, dedications, bond issues, elections and special levies for local assessments, hereby are repealed except as otherwise provided in subsection B of this section.
- B. Those ordinances of this municipality, which are of a general nature which are not repealed and which the recorder/clerk is hereby authorized and directed to insert in the appropriate place in this code and which shall be deemed part of this code are:
 - 1. Zoning Ordinance
 - 2. Subdivision Ordinance
 - 3. Fee Schedule
- C. The fees or charges established by the ordinances are reflected in the fee schedule.

1-003. EFFECT OF REPEALING ORDINANCES. The repeal of the ordinances as provided in section 1-002, shall not affect any debt or fee which is accrued, any duty imposed, any penalty incurred, nor any action or proceeding commenced under or by virtue of the ordinances repealed or the term of office of any person holding office at the time these ordinances take effect; nor shall the repeal of any ordinance have the effect of reviving any ordinance heretofore repealed or superseded.

1-004. EFFECTIVE DATE. These Revised Ordinances shall become effective December 1, 1980.

1-005. DEFINITION AND RULES OF CONSTRUCTION. In the construction of the ordinances of this municipality, the following rules and definitions shall be observed and applied unless such construction would be inconsistent with the manifest intent of these ordinances:

- A. *General rule.* All words and phrases shall be construed and understood according to the common use and understanding of the language; the technical words and phrases and such other words and phrases as may have acquired a particular meaning in law shall be construed and understood according to such particular meaning.
- B. *Gender - singular and plural.* Unless otherwise indicated from the context of the ordinance, all words used in the singular shall include the plural and all words used in the masculine gender shall extend to and apply to the feminine gender.
- C. *Person.* The term “person” includes all individuals, both male and female, any governmental agency, corporation, partnership, association, company, and every other form of organization whether formed voluntarily or involuntarily.
- D. *Tenses.* The use of any verb in the present tense shall include the future and past tense when applicable.
- E. *Highway - Road.* The terms “highway” and “road” include public bridges, and may be equivalent to the words “county way,” “county road,” “common road,” and “state road.”

- F. *Street.* The term “street” includes alleys, lanes, courts, boulevards, public ways, public squares, public places, sidewalks, gutters and culverts, crosswalks, and intersections.
- G. *Business.* The term “business” includes any trade, profession, calling, activity, operation or enterprise for which a license is required by any ordinance of this municipality.
- H. *License.* The term “license” includes any certificate or license issued by this municipality.
- I. *Property.* The term “property” includes both real and personal property.
- J. *Owner.* The term “owner” applied to a building or land shall include any part owner, joint owner, tenant in common, joint tenant or lessee or a whole or part of such building or land.
- K. *Tenant - Occupant.* The term “tenant” or “occupant” applied to a building or land shall apply to any person who occupies all or any part of such building or land either alone or with others.
- L. *Reasonable time.* In all cases where any ordinance requires that an act be done in a reasonable time or that reasonable notice be given, such reasonable time for such notice shall be deemed to mean such time as may be necessary for the expeditious performance of such duty or compliance with such notice.
- M. *Time - how computed.* The time within which an act is to be done as provided in any ordinance or in any resolution or order of this municipality, when expressed in days, shall be determined by excluding that first day and including the last day, except if the last day be a Sunday or a holiday, then the last day shall be the day next following such Sunday or holiday which is not a Sunday or holiday. When time is expressed in hours, Sunday and all holidays shall be excluded.
- N. *Week.* The word “week” shall be construed to mean any seven-day period.
- O. *Location.* Whenever any act, conduct or offense is prohibited or required and no reference is made to location, unless the context specifically indicates otherwise, the act, conduct, or offense prohibited or required shall be within the boundaries of this municipality.
- P. *Chief of police, city marshal, town marshal or marshal.* The terms “chief of police,” “city marshal,” “town marshal” or “marshal” as used in this code all have the same meaning and may be used interchangeably.
- Q. *Municipality.* The word “municipality” as used throughout this code means the Town of Enoch.
- R. *Governing Body.* The word “governing body” as used throughout this code means the town council of this municipality.
- S. *Offense.* Offense means any act, action, or conduct prohibited by this code or the failure to perform any acts required in this code.
- T. *Officer or Officials.* The terms “officer” or “official” as used in this code means any elected or appointed person employed by the municipality unless the context clearly indicates otherwise.
- U. *Recorder/clerk.* The term “recorder/clerk” means the individual appointed to act as the clerk of the municipality.

1-006. CAPTIONS. The captions of this code immediately preceding each section are intended as mere captions to indicate the content of the section and shall not be deemed or taken to be part of the sections.

1-007. SEVERABILITY. It is hereby declared to be the intention of the governing body that the sections, paragraphs, sentences, clauses and phrases of this code are severable, and if any phase, clause, sentence, paragraph or section of this code shall be declared unconstitutional or without effect by any final judgment or decree of a court of competent jurisdiction, such

judgment or decree shall not affect any of the remaining phrases, clauses, sentences, paragraphs and sections of this code.

1-008. NUMBERING OF ORDINANCES.

- A. The recorder/clerk shall, in so far as possible, assign all ordinances of a general nature adopted after these revised ordinances a number which shall conform to the numbering system used in this code and shall indicate upon the face of the ordinance the date adopted.
- B. The recorder/clerk shall keep all ordinances of a local, private or temporary nature, including franchises, grants, dedications, bond issues and tax levies, in a separate book of "Special Ordinance" properly indexed and organized according to date adopted. The first number of such an ordinance shall be the last two digits of the year the ordinance is adopted, followed by a dash which is followed by a number which shall be a sequential, ascending number indicating the order in which such special ordinance was adopted during the year.
- C. Failure to comply with this section shall not affect or render invalid any ordinance of this municipality.

1-009. STATUTES OR CODES INCLUDED AND EXCLUDED. Any reference or citation to any statute shall not be interpreted or construed to include, incorporate or make the citation or statute part of this code unless the provisions of this code specifically include, incorporated, or make the citation or statute part of this code by reference or incorporation, and any such reference or citation not specifically included in incorporated may be changed, amended or deleted without publication on an order of the governing body.

TITLE 1-000. GENERAL PROVISIONS.

CHAPTER 1-100. CONSTRUCTION OF PENALTIES.

PART 1-110. INTRODUCTORY PROVISIONS TO CONSTRUCTION OF CRIMES UNDER THIS CODE.

1-111. APPLICATION OF CODE - OFFENSE PRIOR TO EFFECTIVE DATE.

- A. The provisions of this code shall govern the construction of, the punishment for, and the defense against any offense defined in this code or, except where otherwise specifically provided or the context otherwise requires, any offense defined outside this code; provided such offense was committed after the effective date of this code.
- B. Any offense committed prior to the effective date of this code shall be governed by the ordinances of this municipality existing at the time of commission thereof, except that a defense or limitation on punishment available under this code shall be available to any defendant tried or retried after the effective date. An offense under this code shall be deemed to have been committed prior to the effective date of this code if any of the elements of the offense occurred prior to the effective date.

1-112. PURPOSES AND PRINCIPLES OF CONSTRUCTION. The provisions of this code shall be construed in accordance with these general purposes to:

- A. Forbid and prevent the commission of offenses.
- B. Define adequately, the conduct and mental state, which constitute each offense and safeguard conduct that which without fault from condemnation as criminal.
- C. Prescribe penalties which are proportionate to the seriousness of offenses and which permit recognition of differences in rehabilitation possibilities among individual offenders.
- D. Prevent arbitrary or oppressive treatment of persons accused or convicted of offenses.

1-113. CRIMES ABOLISHED. No conduct is a crime or an offense unless made so by this code, or other ordinances or other applicable statute.

1-114. STRICT CONSTRUCTION RULE NOT APPLICABLE. The rule that a penal ordinance is to be strictly construed shall not apply to this code or any of its provisions or other ordinances of this municipality. All provisions of this code and offenses defined by it shall be construed according to the fair import of their terms to promote justice and to affect the objects of the law and general purposes of section 1-112.

1-115. PROCEDURE - GOVERNED BY STATE AND CONSTITUTIONAL PROVISIONS LIABILITY FOR CIVIL DAMAGES NOT AFFECTED.

- A. Except as otherwise provided, the procedure governing the accusation, prosecution, conviction and punishment of offenders and offenses is not regulated by this code, but shall be in conformity with the laws of Utah and the Constitution of the United States.
- B. This code does not bar, suspend, or otherwise affect any rights to or liability for damages, penalty, forfeiture, impeachment, or other remedy authorized by law to be covered or enforced in a civil action, administrative proceeding, or otherwise, regardless of whether the conduct involved in the proceeding constitutes an offense defined in this code.

PART 1-120. JURISDICTION AND VENUE.

1-121. JURISDICTION OF OFFENSES.

- A. A person is subject to prosecution in the municipality for an offense which he commits, while either within or outside of the municipality, by his own conduct or that of another for which he is legally accountable, if:
 - 1. The offense is committed either wholly or partly within the municipality; or
 - 2. The conduct outside this municipality constitutes an attempt within this municipality; or
 - 3. The conduct outside this municipality constitutes a conspiracy to commit an offense within this municipality and an act in furtherance of the conspiracy occurs in this municipality; or
 - 4. The conduct within the municipality constitutes an attempt, solicitation or conspiracy to commit in another jurisdiction an offense under this code and such other jurisdiction.
- B. An offense is committed partly within this municipality if either the conduct which is an element of the offense, or the result which is such an element, occurs within this municipality.
- C. An offense, which is based on an omission to perform a duty imposed by this code, is committed within this municipality regardless of the location of the offender at the time of the omission.

PART 1-130. LIMITATION OF ACTIONS.

1-131. EMBEZZLEMENT OF PUBLIC MONEYS - FALSIFICATION OF PUBLIC RECORDS. A prosecution for embezzlement of public moneys or the falsification of public records may be commenced at any time.

1-132. MISDEMEANOR - ANY INFRACTION - COMMENCEMENT OF PROSECUTION.

- A. Except as otherwise provided in this part, prosecutions for other offenses are subject to the following periods of limitation:
 - 1. A prosecution for a misdemeanor must be commenced within two years after it is committed;
 - 2. A prosecution for any infraction must be commenced within one year after it is committed;
- B. The prosecution is commenced on the filing of a complaint or information.

1-133. FRAUD OR BREACH OF FIDUCIARY OBLIGATION - MISCONDUCT BY PUBLIC OFFICER OR EMPLOYEE. If the period prescribed in Section 1-132-A has expired, a prosecution may nevertheless be commenced for:

- A. Any offense, a material element of which is either fraud or a breach of fiduciary obligation, within one year after discovery of the offense by an aggrieved party or by a person who has a legal duty to represent an aggrieved party and who is himself not a party to the offense, but in no case shall this provision extend beyond the period of limitation otherwise applicable by more than three years; and
- B. Any offense based on misconduct in office by a public officer or employee at any time during the term of the defendant's public office or the period of his public employment or within two years thereafter, but in no case shall this provision extend beyond the period of limitation otherwise applicable by more than three years.

1-134. DEFENDANT OUT OF STATE. The period of limitation does not run against any defendant during any period of time he is out of the state following the commission of an offense.

1-135. LESSER INCLUDED OFFENSE FOR WHICH PERIOD OF LIMITATIONS HAS RUN. Whenever a defendant is charged with an offense for which the period of limitations has not run and the defendant should be found guilty of a lesser offense for which the period of limitations has run, the finding of the lesser and included offense against which the statute of limitations has run shall not be a bar to punishment for the lesser offense.

PART 1-140. MULTIPLE PROSECUTION AND DOUBLE JEOPARDY - CRIMINAL JOINDER.

1-141. "SINGLE CRIMINAL EPISODE" DEFINED. In this code unless the context requires a different definition, "single criminal episode" means all conduct that is closely related in time and is incident to an attempt or an accomplishment of a single criminal objective. Nothing in this part shall be construed to limit or modify the joinder of offenses and defendants in criminal proceedings.

1-142. INCORPORATION BY REFERENCE OF PROVISIONS OF STATE CRIMINAL CODE. The provisions of Utah Code Annotated 76-1-402 through 76-1-405 are hereby adopted as part of this code and incorporated herein by reference.

1-143. JOINDER OF OFFENSES AND DEFENDANTS.

- A. Two or more offenses under this code or the ordinances of this municipality may be charged in the same citation or complaint in a separate count for each offense if the offenses charged are of the same or similar character or are based on the same act or transgression or on two or more acts or transactions connected together or constituting parts of a common scheme or plan.
- B. Two or more defendants may be charged in the same citation or complaint if they are alleged to have participated in the same act or transaction or in the same series of acts or transactions. Such defendants may be charged in one or more counts together or separately and not all of the defendants need be charged in each count.

PART 1-150. BURDEN OF PROOF.

1-151. INCORPORATION OF STATE CODE. The provisions of Utah Code Annotated 76-1-501 through 76-1-504 are hereby adopted and incorporated herein by reference.

PART 1-160. DEFINITIONS.

1-161. INCORPORATION OF STATE CODE. The provisions of Utah Code Annotated 76-1-601 are hereby adopted and incorporated herein by reference.

CHAPTER 1-200. PRINCIPLES OF CRIMINAL RESPONSIBILITY.

PART 1-210. CULPABILITY GENERALLY.

1-211. INCORPORATION OF STATE CODE. The provisions of Utah Code Annotated 76-2-101 through 76-2-104 are hereby adopted and incorporated by reference.

PART 1-220. CRIMINAL RESPONSIBILITY FOR CONDUCT OF ANOTHER.

1-221. INCORPORATION OF STATE CODE. The provisions of Utah Code Annotated 76-2-210 through 76-2-205 are hereby adopted as part of this code and incorporated herein by reference.

PART 1-230. DEFENSES TO CRIMINAL RESPONSIBILITY.

1-231. INCORPORATION OF STATE CODE. The provisions of Utah Code Annotated 76-2-301 through 76-2-308 hereby are adopted as part of the code and incorporated herein by reference.

PART 1-240. JUSTIFICATION EXCLUDING CRIMINAL RESPONSIBILITY.

1-241. INCORPORATION OF STATE CODE. The provisions of Utah Code Annotated 76-2-401 through 76-2-406 are hereby adopted as part of the code and incorporated herein by reference.

CHAPTER 1-300. PUNISHMENTS.

PART 1-310. CLASSIFICATION OF OFFENSES

1-311. SENTENCING IN ACCORDANCE WITH CHAPTER.

- A. A person adjudged guilty of an offense under this code or the ordinances of this municipality shall be sentenced in accordance with the provisions of this chapter.
- B. Ordinances enacted after the effective date of this code, which involve an offense, should be classified for sentencing purposes in accordance with this chapter, unless otherwise expressly provided.

1-312. DESIGNATION OF OFFENSES. Offenses are designated as misdemeanors or infractions.

1-313. MISDEMEANORS CLASSIFIED.

- A. Misdemeanors are classified into two categories:
 - 1. Class B misdemeanors.
 - 2. Class C misdemeanors.
- B. An offense designated as a misdemeanor or any violation of any provision of this code or any other Ordinance of this municipality when no other specification as to punishment or category is made, it is hereby declared to be a class B misdemeanor.

1-314. INFRACTIONS.

- A. Infractions are not classified.
- B. Any offense which is made an infraction in this code or other ordinances of this municipality or which is expressly designated an infraction and any offense designated by this code or other ordinances of this municipality, which is not designated as a misdemeanor and for which no penalty is specified is an infraction.

PART 1-320. SENTENCING.

1-321. SENTENCES OR COMBINATIONS OF SENTENCES ALLOWED - CIVIL PENALTIES. Within the limits prescribed by this code, a court may sentence a person adjudged guilty of an offense to any one of the following sentences or a combination of such sentences:

- A. To pay a fine; or
- B. To pay restitution in an amount adjudged appropriate by the court; or
- C. To probation; or
- D. To imprisonment.

1-322. MISDEMEANOR CONVICTION - TERM OF IMPRISONMENT. A person who has been convicted of a misdemeanor may be sentenced to imprisonment as follows:

- A. In the case of a class B misdemeanor, for a term not exceeding six months;
- B. In the case of a class C misdemeanor, for a term not exceeding ninety days.

1-323. INFRACTION CONVICTION - FINE, FORFEITURE, AND DISQUALIFICATION.

- A. A person convicted of an infraction may not be imprisoned but may be subject to a fine, forfeiture or both.

- B. Whenever a person is convicted of an infraction and no punishment is specified, the person may be fined as for a class C misdemeanor.

PART 1-330. FINES AND SPECIAL SANCTIONS.

1-331. FINES OF PERSONS. A person who has been convicted of an offense may, in addition to any term of imprisonment imposed, be sentenced to pay a fine not to exceed \$299.00 when the conviction is of a class B or C misdemeanor or infraction.

1-332. FINES OF CORPORATIONS, ASSOCIATIONS, PARTNERSHIPS, OR GOVERNMENTAL INSTRUMENTALITIES. The sentence to pay a fine, when imposed upon a corporation, association, partnership, or governmental instrumentality for an offense defined in this code or the ordinances of the municipality or for any offense defined in the code or the ordinances of the municipality or for any offense defined outside of this code over which this municipality has jurisdiction, for which no special corporate fine is specified, shall be sentenced to pay an amount, fixed by the court, not exceeding \$299.00 when the conviction is for a class B or C misdemeanor or infraction.

PART 1-340. LIMITATIONS AND SPECIAL PROVISIONS ON SENTENCES.

1-341. INCORPORATION OF STATE CODE. The provisions of Utah Code Annotated 76-3-401 through 76-3-405 are hereby adopted and incorporated herein by reference, as such limitations and special provisions on sentences apply to misdemeanors.

CHAPTER 1-400. ADMINISTRATIVE REMEDIES.

PART 1-410. HEARINGS.

1-411. REQUEST. Unless otherwise specifically provided in any ordinance of the municipality or any code adopted by reference, a hearing before the governing body may be requested by any person:

- A. Who is denied or refused a permit or license by any officer, agent or employee of this municipality.
- B. Whose permit or license is revoked, restricted, qualified or limited from that for which it was first issued.

1-412. FORM OF REQUEST. The request for hearing must be made in writing to the mayor or recorder/clerk and made within 30 days following the date notice denying, refusing, revoking, qualifying, restricting or revoking the license or permit is mailed by the municipality to the applicant or license holder at his address as it appears on the application or license.

1-413. PROCEDURE.

- A. Following receipt of a request for hearing, the governing body shall inform the person requesting a hearing of the time and place the hearing is to be held.
- B. At the hearing, the aggrieved party shall have the right to hear and examine any witnesses the municipality may produce to support its decision and to present his own evidence in support of his contention.
- C. The governing body shall in writing, within ten days following the conclusion of the hearing, inform the person who requested the hearing of the decision of the governing body.

1-414. NOT ADDITIONAL REMEDY. This part shall not be constructed so as to afford any aggrieved party more than one hearing before the governing body nor shall the hearing provided in this part apply to any criminal complaint or proceeding.

**TITLE 2-000. INCORPORATION, CLASSIFICATION,
BOUNDARIES, CONSOLIDATION AND DISSOLUTION OF
MUNICIPALITY.**

CHAPTER 2-100. INCORPORATION. See U.C.A. §§10-2-101 et seq.

CHAPTER 2-200. MUNICIPAL WARDS. See U.C.A. §§ 10-2-201 et seq.

CHAPTER 2-300. CLASSIFICATION. See U.C.A. §§ 10-2-301 et seq.

CHAPTER 2-400. EXTENSION OF MUNICIPAL LIMITS. See U.C.A. §§ 10-2-401 et seq.

CHAPTER 2-500. RESTRICTION OF MUNICIPAL LIMITS. See U.C.A. §§ 10-2-501 et seq.

CHAPTER 2-600. CONSOLIDATION OF MUNICIPALITIES. See U.C.A. §§ 10-2-601 et seq.

CHAPTER 2-700. DISSOLUTION OF MUNICIPALITY. See U.C.A. §§ 10-2-701 et seq.

TITLE 3-000. MUNICIPAL GOVERNMENT.

CHAPTER 3-100. THE GOVERNING BODY.

3-101. LEGISLATIVE AND EXECUTIVE POWERS. See U.C.A. § 10-3-101.

3-102. OTHER FUNCTIONS. See U.C.A. § 10-3-102.

3-103. IN CITIES OF THE FIRST CLASS. See U.C.A. § 10-3-103.

3-104. IN CITIES OF THE SECOND CLASS. See U.C.A. § 10-3-104.

3-105. IN CITIES OF THE THIRD CLASS. See U.C.A. § 10-3-105.

3-106. IN TOWNS. See U.C.A. § 10-3-106.

CHAPTER 3-200. ELECTION OF GOVERNING BODY.

3-201. MUNICIPAL ELECTION - TERMS OF OFFICE. See U.C.A. § 10-3-201.

3-202. TERMS OF ELECTED MUNICIPAL OFFICERS. See U.C.A. § 10-3-202.

3-203. ELECTION OF OFFICERS IN CITIES OF THE FIRST CLASS. See U.C.A. § 10-3-203.

3-204. ELECTION OF OFFICERS IN CITIES OF THE SECOND CLASS. See U.C. A. § 10-3-204.

3-205. ELECTION OF OFFICERS IN CITIES OF THE THIRD CLASS. See U.C.A. § 10-3-205.

3-206. ELECTION OF OFFICERS IN TOWNS. See U.C.A. § 10-3-206.

3-207. DETERMINING TWO AND FOUR YEAR TERMS. See U.C.A. § 10-3-207.

3-208. ELECTION EXPENSES TO BE PUBLISHED - PENALTY. See U.C.A. § 10-3-208.

CHAPTER 3-300. MEMBERSHIP ON GOVERNING BODY, VACANCIES AND POWER TO VOTE.

3-301. ELIGIBILITY AND QUALIFICATIONS. See U.C.A. § 10-3-301.

3-302. VACANCIES IN OFFICES IN CITIES OF THE FIRST AND SECOND CLASS. See U.C.A. § 10-3-302.

3-303. VACANCIES IN OFFICES IN CITIES OF THE THIRD CLASS AND TOWNS. See U.C.A. § 10-3-303.

CHAPTER 3-400. MAYOR AS MEMBER OF GOVERNING BODY.

3-401. MAYOR AS A VOTING MEMBER OF GOVERNING BODY. See U.C.A. § 10-3-401.

CHAPTER 3-500. PUBLIC BODY MEETING POLICY & PROCEDURES

PURPOSE:

In order to conduct the public's business in an open and efficient manner, the City Council of Enoch City, Utah hereby establishes rules of order and procedures for public meetings of the City, including, but not limited to, the City Council, Planning Commission Water Board, Tree Committee and Recreation Advisory Board. These procedures and policies are to ensure (a) order and procedure; (b) ethical behavior; and (c) civil discourse.

ESTABLISHMENT OF AGENDAS

1. All proposed agenda items from the public must be submitted to the City Recorder on an agenda application.
2. In order for the information to be included in the meeting packet, the application must be submitted to the City Recorder by 4:30 p.m. six business days prior to the scheduled meeting of which the topic is to be addressed.
3. Upon receiving the agenda application, the City Recorder will route the application to the City Manager. If more research is needed, City Staff will state the reason why in writing to the applicant and item may not be identified on the agenda as requested.
4. The City Manager, or appropriate staff member will be expected to work with agenda applicants to ensure that the proper information is included in the packet, and that they understand the meeting procedure, proposed action, and other information in order to make the agenda items flow smoothly.
5. As per State law, all open meeting laws will be adhered to. The public has the right to request to be on the agenda no later than 24 hours in advance of the meeting if they wish to be addressed during an agenda topic, otherwise, the public has the option to address the public body during the public input portion of the agenda for non-agenda items, but no action will be taken by the public body.
6. All agendas will comply with the Utah State Open Meetings Act UCA Section 52-4-101 et. seq. for posting requirements.

COUNCIL PACKETS

1. The City Recorder will coordinate with the City Manager, department heads and public to compile all documents necessary for the public meeting packets.
2. Each agenda item may include a memorandum on to the subject and any recommendations staff has made to the public body.
3. Meeting packets will be delivered to the public body at least three days prior to the meeting unless extenuating circumstances prevail.
4. Packets are to be delivered to the public body Member's home and/or designated place prior to the meeting.

OPEN AND CLOSED MEETINGS

1. The regular meetings of public bodies of the City are hereby established by Ordinance or order of the City Council and may be amended with a majority vote of the public body establishing the regular meeting schedule. The establishing public body will meet at least once each year to approve its annual meeting schedule, specifying the date, time, and place of such meetings by motion or specifying the body will meet "as needed".

2. All meetings of public bodies of the City shall be held in compliance with State laws relating to open and public meetings.
3. A closed meeting may be held upon the affirmative vote of two-thirds of the public body members present at an open meeting for which the required notice has been given.
4. No closed meeting is allowed except as to matters exempted by State law from open meeting requirements.

ELECTRONIC TELECOMMUNICATIONS

1. The purpose of electronic telecommunications is to ensure a quorum be present for all public meetings. Members are discouraged from using electronic telecommunication procedures during their absence due to cost, logistic issues, and the importance of seeing body language and facial expressions of participants in the meeting. In special circumstances, a public body Member may request the ability to attend a meeting via electronic means at the proceeding meeting via the approval of the Mayor and/or Chairperson of the public body.
2. The City Council chambers where the public body would normally meet if it was not holding an electronic meeting, currently located at 900 E. Midvalley Road, Enoch, Utah, shall be the anchor location for all electronic meetings, unless otherwise publicly noticed and the Council finds that such chambers provided space and facilities so that interested persons and the public may attend and monitor the open portions of the meeting, whether such meeting is a public hearing or otherwise.
3. To call an electronic meeting, public notice of such meeting must be given at least 24 hours before the meeting by a) posting written notice at the anchor location; b) providing written or electronic notice to (i) at least one newspaper of general circulation within the State and City; (ii) providing notice to the members of the public body at least 24 hours before the meeting so that they participate in and be counted as present for all purposes, including the determination that a quorum is present; (iii) providing a description to the members of the public body of how the members will be connected to the electronic meetings (iv) providing notice on the Utah State Public Meeting notice website at least 24 hours in advance of the meeting.

MINUTES OF CITY MEETINGS

1. The public bodies of the City shall keep minutes of their proceedings as required by State Law. The books, records, accounts and documents of each municipality shall be kept at the office of the City Recorder and draft and approved copies shall be open and available to the public during regular business hours for examination and copying. (Utah Code Section 10-3-603)
2. Minutes are the history of the community and should contain as much information as necessary for clarity. Minutes should be circulated to the members of the public body and made available within "a reasonable time after the meeting" and must be marked as "DRAFT" before approval by the public body.
3. Approval of the Written Minutes: the minutes of the current meeting should reflect that those minutes were "approved as presented," or if the draft minutes have corrections within the minutes, the minutes of the current meeting should reflect that those minutes were "approved as corrected or amended." Grammatical or typos which do not change the substance of the text are not identified as corrected minutes and the City Recorder will make minor corrections to the minutes.

MEETING PROCEDURE AND DECORUM GENERAL RULES

1. The purpose is to ensure fairness and common courtesy to all members and the public attending the meeting. These procedures and policies are to ensure (a) order and procedure; (b) ethical behavior; and (c) civil discourse.
2. The public body, Staff and public will turn off or turn their cell phones to vibrate during an opening meeting. The exception for this rule will be the Public Safety Officers.

3. Any member of the public body or staff member that is expected to attend the meeting, and will be absent or tardy, shall inform the Mayor/Chairperson, City Manager, or City Recorder prior to the meeting so as not to delay the start of the meeting.
4. The City encourages citizen input during public meetings. The Mayor or chair of the public body will invite the public to share their comments at the appropriate time during Public Hearings, Public Input, or Public Comments for a period of three (3) minutes. The Mayor or chair of the public body may also permit citizens to speak during individual agenda items at his/her discretion when they feel that the comments will be pertinent to the topic.
5. Members of the public body shall not talk over one another, interrupt, or speak in a condescending manner to one another. Taking turns speaking, deferring to someone who intends to speak, and in general, maintaining civil rules of conduct toward one another, the staff, and public are expected. Members of the public body and Staff members are expected to dress appropriately for the meeting and office which they hold.
6. When person(s) are addressing the public body, the person(s) should only speak on the merits of the topic immediately at hand.
7. Printed materials should be distributed to the public body prior to the meeting. If the public wishes to distribute printed materials to the public body during a meeting, they may do so, but must have additional copies for the City Recorder for the official record.
8. No public body of the City will tolerate disorderly conduct which includes insulting language or behavior by any person, including members of the audience, the public body itself, or Staff. No name calling, shouting or booing is allowed during a meeting. The Mayor or chair of the public body may call the person to order or excuse them from the meeting. The City reserves the right to have a public safety officer in attendance at a meeting to maintain public order.

MAYOR OR CHAIR RESPONSIBILITIES

1. The Mayor is the chair of the Council Meetings. A chair shall be designated for all other public bodies. The Mayor or chair, as applicable, will lead the meeting with, attention to process and rules of conduct and facilitate closure, summarization of main discussion point and request motions be formulated.
2. The Mayor or chair, as applicable, at his/her discretion, will recognize person(s) wishing to make comments or address the public body and request them to address the public body at the podium, stating their name and address for the official record. All comments should be directed to the public body and not to others in attendance. Person(s) wishing to speak should not request recognition while someone else is speaking.

MAYOR OR CHAIR PRO-TEM RESPONSIBILITIES

1. The Mayor or chair Pro-tem will be established by Ordinance or motion by a majority vote of the City Council or public body.
2. The Mayor or chair Pro-tem will chair the meetings in the absence of the Mayor or chair and will conduct in accordance with meeting procedures.

MEMBER RESPONSIBILITIES

1. It is the duty of the voting members of a public body to consider the interest of the municipality in its entirety.
2. To prepare for the meetings by reviewing the agenda, supporting materials and asking questions in advance.
3. To communicate needs to Staff and other members about personal learning style, physical or mental limitations, and other accommodations required as permitted under the Americans with Disabilities Act and respect the accommodation needs of other Members.
4. To respect the public process and decisions.

5. The Members of a public body may expel any public body Members for disorderly conduct on a two-thirds vote of the members.
6. To maintain confidential information and discussion that is shared in closed sessions per the Open Public Meeting laws.

QUORUM

1. The majority of a public body constitutes a quorum for the public body and all motions of a public body shall be approved by a majority of the public body (not just a majority of the quorum in attendance).
2. If a position is vacant, a quorum is the majority of the remaining members of the public body.
3. Abstention does not impact a quorum.
4. There must be a minimum of a majority of the entire public body of affirmative votes for adoption of a motion.

RECORDED VOTE

1. Each Member of the public body has one vote each time a vote is held.
2. The requirement for a recorded vote must include the vote of each member and reason for abstention.

ABSTENTION FROM VOTING

1. A member may decide not to vote either in favor of or against a motion.
2. Abstention may occur if a member has been absent and/or feels insufficient information has been received on an issue.
3. Abstention is not to be confused with voting against a matter.
4. Members not abstaining carry the vote, as long as the motion receives the minimum required affirmative votes.

RECUSING

1. If a public body Member should choose to recuse themselves from an agenda item, they will need to remove themselves from their seat.

CONFLICTS OF INTEREST / DISCLOSURE STATEMENTS

1. All public body Members will complete a written disclosure statement annually or when there is a change in the nature of the conflict and file it with the City Clerk/Recorder. All disclosure statements will adhere to the Utah Municipal Officers and Employees Ethics Act (UCA 10.3.1301)
2. All disclosure statements are public information and may be inspected by the public during normal business hours.
3. A conflict of interest must be made orally in an open meeting to the members of the body of which there are a member at the time designated on the agenda when the Mayor or chair conducting the meeting asks the members if they have a conflict of interest and immediately before the discussion of the topic involved in the conflict of interest as per the Municipal Officers and Employees Ethics Act (UCA 10-3-1301).

MOTIONS

1. The Mayor or chair may recommend language to the Council for a motion.
2. Motions should begin with "I move to" or "I make a motion to".
3. Before a motion can be discussed it must be seconded.
4. Agenda items identified as discussion items only may not require a motion.
5. Amending a motion requires recognition by the Mayor or chair; the Member must state the change clearly and specifically and requires a second. It is debatable at this point before a majority vote to pass.

6. The motion must be made at the appropriate time in the order of business.
7. Agenda items needing more attention/investigation and/or discussion may be referred to a committee or Staff for further review. A motion should be made which identifies specifics of the committee or staff on when and how they are to report on the matter.
8. A motion to recess the meeting for a break must be made and should state for how long or a time to reconvene the meeting. This motion requires a second and is not debatable.
9. If a public body Member requests to withdraw a motion, the Mayor or chair will ask for any objections to the motion being withdrawn, if no objection, the motion is immediately withdrawn. If there is an objection, the request to withdraw becomes a motion, which must be seconded and is not debatable and requires a simple majority to pass. (Rev. July 2011)

PART

3-502. TIME, PLACE - EXCEPTIONS. The governing body shall hold two regular meetings which shall be held on the first and third Wednesday of each month at 900 E. Midvalley Road, which meetings shall begin promptly at 6:00 o'clock p.m., during mountain standard time and at 6:00 o'clock p.m., during mountain daylight time provided that:

- A. If the meeting date is a legal holiday, then the meeting shall be held at the same time and place above described on the next following day, which is not a legal holiday.
- B. The governing body may, by resolution, provide for a different time and place for holding regular meetings of the governing body.

3-505. QUORUM DEFINED. See U.C.A. § 10-3-504.

3-506. ATTENDANCE. See U.C.A. § 10-3-505.

3-507. HOW THE VOTE IS TAKEN. See U.C.A. § 10-3-506.

3-508. MINIMUM VOTE REQUIRED. See U.C.A. § 10-3-507.

3-509. RECONSIDERATION. See U.C.A. § 10-3-508.

CHAPTER

3-600. PUBLIC MEETINGS, EXECUTIVE SESSIONS, RECORDS AND PUBLICATIONS, PROCEDURE.

3-601. BUSINESS OF GOVERNING BODY CONDUCTED ONLY IN OPEN MEETINGS. See U.C.A. § 10-3-601.

3-603. PUBLIC RECORDS. See U.C.A. § 10-3-603.

3-604. PUBLICATION OR PROCEEDINGS, EXPENSES. See U.C.A. § 10-3-604.

3-605. PENALTY. See U.C.A. § 10-3-605.

3-606. RULES OF PROCEDURE. See U.C.A. § 10-3-606.

3-607. RULES OF CONDUCT FOR MEMBERS OF THE GOVERNING BODY. See U.C.A. § 10-3-607.

3-608. RULES OF CONDUCT FOR THE PUBLIC. See U.C.A. § 10-3-608.

3-609. ACTION ON COMMITTEE REPORTS. See U.C.A. § 10-3-609.

3-610. REQUIRING ATTENDANCE OF WITNESSES, PRODUCTION OF EVIDENCE. See U.C.A. § 10-3-610.

CHAPTER 3-700. MUNICIPAL ORDINANCES, RESOLUTIONS AND PROCEDURE.

3-701. LEGISLATIVE POWER EXERCISED BY ORDINANCE. See U.C.A. § 10-3-701.

3-702. EXTENT OF POWER EXERCISED BY ORDINANCE. See U.C.A. § 10-3-702.

3-703. PENALTY FOR VIOLATION OF ORDINANCE. See U.C.A. § 10-3-703.

3-704. FORM OF ORDINANCE. See U.C.A. § 10-3-704.

3-705. REQUIREMENTS AS TO FORM. See U.C.A. § 10-3-705.

3-706. REVISION OF ORDINANCES. See U.C.A. § 10-3-706.

3-707. POWER TO CODIFY ORDINANCES. See U.C.A. § 10-3-707.

3-708. ARRANGEMENT OF ORDINANCES. See U.C.A. § 10-3-708.

3-709. REPEAL OF CONFLICTING PROVISIONS - TITLE. See U.C.A. § 10-3-709.

3-710. PUBLICATION IN BOOK, PAMPHLET OR LOOSELEAF FORM - STATE STATUTES. See U.C.A. § 10-3-710.

3-711. PUBLICATION OF ORDINANCES. See U.C.A. § 10-3-711.

3-712. EFFECTIVE DATE. See U.C.A. § 10-3-712.

3-713. RECORDING, NUMBERING, AND CERTIFICATION OF PASSAGE. See U.C.A. § 10-3-713.

3-714. CONTENTS, DATES, PUBLICATION PROVIDED UNDER SEAL. See U.C.A. § 10-3-714.

3-715. MUNICIPAL ORDINANCES RECEIVED IN EVIDENCE. See U.C.A. § 10-3-715.

3-716. FINES AND FORFEITURES - DISPOSITION. See U.C.A. § 10-3-716.

3-717. PURPOSE OF RESOLUTIONS. See U.C.A. § 10-3-717.

3-718. FORM OF RESOLUTION. See U.C.A. § 10-3-718.

3-719. RESOLUTIONS NEED NO PUBLICATION EFFECTIVE DATE. See U.C.A. § 10-3-719.

CHAPTER 3-800. MUNICIPAL ADMINISTRATION.

3-801. ADMINISTRATIVE POWERS IN CITIES OF THE FIRST CLASS. See U.C. A. § 10-3-801

3-803. OFFICERS LIMITED TO ONE OFFICE. See U.C.A. § 10-3-803.

3-805. ADMINISTRATIVE POWERS IN CITIES OF THE SECOND CLASS. See U.C.A. § 10-3-805.

PART 3-818. COMPENSATION AND SALARIES.

A. The salary of the officers and employees of this municipality shall be paid in the amount and at such times as is specified in the approved yearly budget of the City.

B. In addition to the salary paid to the officers and employees of this municipality, they shall receive the following benefits:

1. The employees' share of the social security tax.
2. Health and accident insurance for themselves and their families on such basis and cost to the employee or officer as the governing body may from time to time establish by resolution.
3. Vacation and sick leave on such basis as the governing body may from time to time establish by resolution.
4. Participation in the Utah State Retirement program on such basis and cost as the governing body may from time to time, by resolution, establish.

C. Whenever any person serves in two or more positions either as officers or as employees of this municipality, unless otherwise specifically provided in the employment agreement, by ordinance or resolution, the person shall receive the salary or compensation of the office or employment paying the greater amount.

D. In addition to all other compensation or salaries any officer or employee of this municipality may receive, following the submission to the recorder/clerk of a claim, travel expenses and per diem established by the Utah State Department of Finance for expenses actually incurred by the person for attending any meeting, conference, seminar or training session, provided attendance shall have been approved by the governing body.

3-819. AMOUNT OF BOND.

A. Before taking the oath of office and entering on the duties of their respective office all municipal officials shall each give a bond or crime insurance with good and sufficient securities, payable to the municipality conditioned for the faithful performance of the duties of their office and the payment of all monies received by such officers according to the requirements of the state money management act.

- B. The treasurer's bond shall be superseded by any rules, regulation or directive of the state money management council when such rule, regulation or directive is binding on this municipality.
- C. The premium charged by any corporate surety for any bond or crime insurance required in this section shall be paid by this municipality.
- D. The bond required in this section may be a blanket bond.

3-820. CITIES OF THE FIRST AND SECOND CLASS. See U.C.A. § 10-3-820.

3-821. BOND OF TREASURERS. See U.C.A. § 10-3-821.

3-822. APPROVAL OF BONDS. See U.C.A. § 10-3-822.

3-823. PREMIUM PAID BY MUNICIPALITY. See U.C.A. § 10-3-823.

3-824. BONDS OF FIRST OFFICERS AFTER INCORPORATION. See U.C.A. § 10-3-824.

3-825. ADDITIONAL BONDS. See U.C.A. § 10-3-825.

3-826. OFFICIAL NEGLIGENCE AND MISCONDUCT - PENALTY. See U.C.A. § 10-3-826.

3-827. OATH REQUIRED BEFORE TAKING OFFICE OR PERFORMING DUTIES. See U.C.A. § 10-3-827. See Constitution of Utah Article IV, § 10 for form of oath.

3-828. OATH - GIVEN - FILED. See U.C.A. § 10-3-828.

3-829. ACTS OF OFFICIALS NOT VOIDED. See U.C.A. § 10-3-829.

CHAPTER 3-900. APPOINTED OFFICIALS AND THEIR DUTIES.

3-902. APPOINTMENT OF RECORDER, TREASURER, ENGINEER, ATTORNEY IN CITIES OF THE FIRST AND SECOND CLASS. See U.C.A. § 10-3-902.

3-903. CUSTODIAN OF RECORDS OF PUBLIC IMPROVEMENTS. See U.C.A. § 10-3-903.

3-904. BOOKS AND SUPPLIES - RECORDING, FILING AND INSPECTIONS. See U.C.A. § 10-3-904.

3-905. FEES TO BE PAID IN ADVANCE. See U.C.A. § 10-3-905.

3-906. SEAL. See U.C.A. § 10-3-906.

3-907. RECORDATION NOT TO INTERFERE WITH OTHER RECORDATIONS. See U.C.A. § 10-3-907.

3-908. NONCOMPLIANCE A MISDEMEANOR. See U.C.A. § 10-3-908.

3-909. POLICE AND FIRE DEPARTMENTS IN CITIES OF THE FIRST AND SECOND CLASS. See U.C.A. § 10-3-909.

3-910. HEADS OF DEPARTMENTS AND SUBORDINATE OFFICERS. See U.C.A. § 10-3-910.

3-912. DEPARTMENT HEADS MAY SUSPEND SUBORDINATES. See U.C.A. § 10-3-912.

3-913. POWERS AND DUTIES OF CHIEF OF POLICE. See U.C.A. § 10-3-913.

3-914. POLICE OFFICERS - POWERS AND DUTIES. See U.C.A. § 10-3-914.

3-915. RIGHTS TO ARREST WITHOUT WARRANT. See U.C.A. § 10-3-915.

3-916. RECORDER, TREASURER, MARSHAL IN CITIES OF THE THIRD CLASS AND TOWNS. See U.C.A. § 10-3-916.

PART

3-917. CITY ENGINEER.

- A. **Creation of office.** There is hereby created the office of City Engineer. The City Engineer shall be appointed by the Mayor, with the advice and consent of the City Council. The City Engineer shall receive such compensation as shall be set by Resolution.
- B. **Duties of the City Engineer.** The City Engineer shall have such duties as are assigned by the City Administrator, or as established by Resolution. Such duties may include, but shall not be limited to, the following:
1. To have general charge, supervision and inspection of all public improvements and public works, including subdivision improvements, undertaken by or on behalf of Enoch City by contract, ordinance, or otherwise, and to see that the same are performed in a workman like manner, and in accordance with the authorized plans and with the terms and specifications of the contracts and/or ordinances.
 2. To make such surveys, reports, and give such technical advice and assistance as is required by the Enoch City Planning and Zoning Commission for subdivisions and otherwise, as approved by the City Council member regularly assigned with oversight of said Planning and Zoning Commission.
 3. To supply legal descriptions of all property to be conveyed to or be conveyed by the City.
- C. **Field Notes, Maps and Profiles.** As of the effective date of this Ordinance, the City Engineer shall keep and maintain in the City Offices three copies of all field notes, maps, or profiles which relate to City surveys, waterworks, sewers, irrigation systems, streets, sidewalks, and all other engineering works, and he shall arrange and index them in such manner as will enable a ready reference thereto, and all shall be the property of the City.
- D. **Fees.** For all work done by the City Engineer for subdivision developers and other persons, as may be required by City contract or ordinance, the City Engineer shall charge the regular fee therefore and said fee shall be paid directly by such person to the City. Any such fee held on deposit in the City Treasury for such purpose may be applied to such payment. (Part 3-917 adopted 11-04-92)

3-918. MARSHAL IN THIRD CLASS CITIES AND TOWNS. See U.C.A. § 10-3-918.

3-919. POWERS, DUTIES AND OBLIGATIONS OF POLICE CHIEF, MARSHAL AND THEIR ASSISTANTS IN CITIES OF THE THIRD CLASS AND TOWNS. See U.C.A. § 10-3-919.

3-920. BAIL COMMISSIONER - POWERS AND DUTIES. See U.C.A. § 10-3-920.

3-921. FINES - COLLECTION BY BAIL COMMISSIONER - ACCOUNTING. See U.C.A. § 10-3-921.

3-922. TERM OF BAIL COMMISSIONERS - SALARY - BOND OF OATH. See U.C.A. § 10-3-922.

PART

3-924. APPOINTMENT OF CITY MANAGER.

- A. **Position of City Manager Established.** There is hereby established the position of City Manager for the City of Enoch, Utah. The City Manager shall be appointed by the Mayor, upon advice and consent of the City Council. The Manager shall be chosen solely upon the basis of position qualification and shall receive such salary as fixed by the City Council from time to time.
- B. **Qualifications.** The City Manager shall meet the qualifications established under the job description of City Manager.
- C. **Primary Function of the City Manager.** The City Manager shall act as an Administrative Assistant to the Mayor with a view to assist the Mayor, as requested, in carrying out the statutory function of that office.
- D. **Supervision of the City Manager.** The City Manager shall be under the supervision of the governing body and shall answer to the Mayor for the day to day operations of the City and performance of City Manager duties. Any disciplinary action by the Mayor against the City Manager must be approved in advance by the City Council, after consultation with the Mayor, unless the action is taken by the Mayor to prevent an immediate disruption of city business or a threat to safety and security of City government or the citizens of Enoch. In that event, the Mayor shall have authority to suspend the City Manager, but must do so in writing with a statement of the reasons why City Council approval was not sought in advance.
- E. **Limitation of Supervisory Authority.** The authority of the City Manager to supervise shall not apply to the Planning Commission or the Appeal Authority. Those officers and agencies shall be directly answerable to the Mayor and the City Council. In addition, the City Recorder and City Treasurer, when performing the statutory duties of those offices, shall not be subject to the supervision of the City Manager, but shall likewise answer directly to the Mayor and City Council. However, the Recorder, Treasurer, their deputies and clerks, and other personnel working within the city office, may be supervised by the City Manager when performing other duties not directly related to the statutory duties of those offices or when the Mayor has delegated his supervisory authority over those persons to the City Manager.

- F. **Term of Employment.** The Mayor and City Council shall, by resolution, ordinance or contract, provide for such terms of employment for the City Manager as they see fit, including but not limited to, hours of employment, vacation, compensatory time, and severance provisions.

3-925. TERM OF OFFICE. The Manager shall serve at the pleasure of the governing body except that the governing body may employ the manager for a term not to exceed three years. The term of employment may be renewed at any time. Any person serving as manager under this section may be removed, with or without cause, by a majority vote of the governing body, except for a period of ninety (90) days after any regular mayoral or council election, during which time the manager may not be removed except for cause.

3-926. DUTIES OF CITY MANAGER.

- A. The City Manager, acting under the control of the governing body and the direct supervision of the Mayor, may be delegated the following duties and responsibilities:
1. To formulate plans, direction and supervision procedures for the administration of all departments, agencies and offices, under the City's jurisdiction and to oversee the activities of department heads within the City in the application of the same.
 2. To develop and administer selection and recruitment procedures for employees and officers of Enoch City.
 3. Except where ordinances of the City provide otherwise, to select new City employees (see Enoch City Personnel Policies and Procedures, Article IV).
 4. In accordance with supervisory direction set forth herein above, to discipline, suspend, or terminate Enoch City department heads and employees subject to Enoch City Personnel Policies and Procedures.
 5. To administer the execution of the laws and ordinances promulgated by or applicable to Enoch City, except where the responsibility for the same has been delegated by ordinance, State Law, or resolution to the City Attorney, or some other Enoch City official.
 6. To assist the Mayor in the preparation of the annual budget and submission of the annual budget to the City Council for approval, with the aid and cooperation of all department heads, including the City Recorder and City Treasurer.
 7. To monitor the financial conditions and future city needs and to advise the Mayor and City Council of conditions and needs. To consult with the City Treasurer and City Recorder, prepare, and present such reports as may be requested on the financial and administrative activities of the City.
 8. To be fully informed of the activities and functions of all committees, departments and agencies of city government and to offer advice and council to those entities.
 9. To act as public relations officer for the City in the absence of the Mayor and/or City Council.
 10. To act as the Equal Employment Opportunity Officer for the City of Enoch and carry out the affirmative action directives issued by the City Council.

11. To review and make recommendations relative to all proposed contracts to which the City intends to become a party and to monitor the performance of all terms of completed contracts to insure full performance of all terms by all parties thereto.
- B. In addition to the duties and responsibilities, which may be delegated by the governing body or the Mayor as set forth herein above, the City Manager may be assigned duties in the following areas by the City Council:
1. Formulating plans, locating and identifying funding, and developing and presenting recommendation to the City Council regarding the construction, repair, operation, and maintenance of City streets, sidewalks, alley, lanes, bridges and other public highways; of sewers, water systems, drains, ditches, culverts, streams and water courses, gutters and curbs; of all public buildings, parks, playgrounds, airports, swimming pools, and other facilities belonging to the City and of assuring proper disposal of garbage and waste materials.
 2. To establish and supervise the operation of a purchase order system for the City
 3. To establish and maintain an inventory of Enoch City property and assets.
 4. To locate and identify potential grants and other money sources for the City, to apply for said grants when requested, and to administer grant funds received by the City.
 5. Research areas of interest and make recommendations regarding those areas for the future needs of Enoch City.
 6. Attend all meetings of the City Council and other public bodies of City Government as assigned, with the right to participate in discussion in those meetings, but not to vote.
 7. To recommend to the City Council for adoption such measures as is deemed appropriate and necessary for the welfare and proper operation of the City Government.
 8. To notify the Mayor and City Council of any emergency conditions existing in any branch of the City Government, so that appropriate action can be taken.
- C. **Modification to City Managers Duties.** The City Manager may be required by ordinance or resolution of the City Council or by request of the Mayor to carry out and put into effect, such projects and policies as directed. Previously delegated duties may be restricted or eliminated in the same manner.

3-927. LEGISLATIVE POWERS AND OFFICIAL POSITION OF THE MAYOR NOT DELEGATED. See U.C.A. § 10-3-927.

3-928. ATTORNEY. See U.C.A. § 10-3-928.

CHAPTER 3-1000. CIVIL SERVICE COMMISSION.

3-1001. SUBORDINATES IN POLICE, HEALTH, AND FIRE DEPARTMENTS TO BE APPOINTED FROM LIST. See U.C.A. § 10-3-1001.

3-1002. CLASSIFIED CIVIL SERVICE - EMPLOYMENT CONSTITUTING. See U.C.A. § 10-3-1002.

3-1003. COMMISSION - NUMBER, TERM, VACANCIES. See U.C.A. § 10-3-1003.

3-1004. QUALIFICATIONS OF COMMISSIONERS - SALARY - REMOVAL. See U.C.A. § 10-3-1004.

3-1005. ORGANIZATION OF COMMISSION - SECRETARY - OFFICES. See U.C.A. § 10-3-1005.

3-1006. RULES AND REGULATIONS - PRINTING AND DISTRIBUTION. See U.C.A. § 10-3-1006.

3-1007. EXAMINATIONS. See U.C.A. § 10-3-1007.

3-1008. APPOINTMENTS FROM CIVIL SERVICE LIST - PROBATION PERIOD. See U.C.A. § 10-3-1008.

3-1009. CERTIFICATION OF APPLICANTS FOR POSITION - NUMBER - ELIGIBLE LISTS, REMOVAL. See U.C.A. § 10-3-1009.

3-1010. PROMOTIONS - BASIS - CERTIFICATION OF APPLICANTS. See U.C.A. § 10-3-1010.

3-1011. TEMPORARY EMPLOYEES. See U.C.A. § 10-3-1011.

3-1012. DISCHARGE BY DEPARTMENT HEAD - APPEAL TO COMMISSION - HEARING AND DECISION. See U.C.A. § 10-3-1012.

3-1013. ANNUAL AND SPECIAL REPORTS BY COMMISSION. See U.C.A. § 10-3-1013.

CHAPTER 3-1100. PERSONNEL RULES AND BENEFITS.

3-1102. CREATION AND ADMINISTRATION OF RETIREMENT SYSTEMS. See U.C.A. § 10-3-1102.

3-1103. SICKNESS, DISABILITY AND DEATH BENEFITS. See U.C.A. § 10-3-1103.

3-1104. LIBRARY PERSONNEL - MONTHLY WAGE DEDUCTIONS AND MATCHING SUMS - TIME OF INCLUSION. See U.C.A. § 10-3-1104.

3-1105. APPOINTIVE OFFICERS AND EMPLOYEES - DURATION AND TERMINATION OF TERM OF OFFICE. See U.C.A. § 10-3-1105.

3-1106. DISCHARGE OR TRANSFER - APPEALS - BOARD - PROCEDURE. See U.C.A. § 10-3-1106.

3-1107. COST OF LIVING ADJUSTMENT - PRICE INDEX USED. See U.C.A. § 10-3-1107.

TITLE 4-000. ELECTIONS.

CHAPTER 4-100. PRIMARY ELECTION SYSTEM.

PART 4-101. PRIMARY ELECTION.

- A. Election for mayor and council members shall be conducted according to the municipal election section of the Utah Code, reference 20A-9-404(1) and (2).
- B. This ordinance provides for the candidates for mayor and council members to be nominated at a primary election, if required. A primary election will be held only when the number of candidates filing for an office exceeds twice the number to be elected. The candidates nominated at the primary election plus candidates that were not required to run in the primary are to be placed on the November ballot.
- C. All ordinances of this city, which are inconsistent with the provision of this ordinance, are hereby repealed.
(Title 4-000 amended 4-19-95)

TITLE 5-000. COURTS.

CHAPTER 5-100. JUSTICE OF THE PEACE.

PART 5-110. JUSTICE OF THE PEACE TO BE APPOINTED. The mayor, with the advice and consent of the City Council, shall appoint a City Justice of the Peace to serve for a term of four (4) years with his term to begin the first Monday in February 1980. The Justice of the Peace shall be the judge of the Municipal Justice Court and shall have all the power and authority granted to that Court by State Law.

5-111. VACANCY OR DISQUALIFICATION.

- A. If a vacancy shall occur in the office of Justice of the Peace, the mayor, with the advice and consent of the City Council, shall fill such vacancy by appointment for the unexpired term.
- B. The person so appointed shall qualify in the same manner as a Municipal Justice and shall have and exercise all the powers conferred by law upon such Municipal Justice. In case the Municipal Justice shall for any reason be unable or disqualified to perform the duties of his office, or shall be absent, the mayor, with the advice and consent of the City Council, shall appoint some other Justice of the Peace residing within the County to act as the Municipal Justice of the Peace pro-tempore and he shall have and discharge the duties such Municipal Justice might have, but during the existence of such disability or absence only.
- C. Whenever there is a vacancy in the office of Municipal Justice of the Peace, the Municipality may contract with the County or with another Municipality to share the services of a Justice of the Peace. The contract shall be for the same term as the term of the Justice whose services are sought. Each City may contract for the services of a County or a Municipal Justice during their entire term at any time there is a vacancy in the office of Municipal Justice. Vacancies may be created by refusing to reappoint a person to the office of Justice of the Peace.

5-112. THE JUSTICE OF THE PEACE FOR ENOCH CITY SHALL MAINTAIN ACCURATE AND COMPLETE RECORDS OF ALL BUSINESS TRANSACTED IN HIS COURT. Such records shall be deposited with the city recorder on a quarterly basis, unless State law establishes a different requirement. The Justice shall also make such other reports as are requested by the governing body of Enoch City.

5-113. DISPOSITION OF FUNDS. All fines, fees, forfeitures or any other sums collected by the Justice of the Peace shall be paid to the Municipal Treasurer within seven (7) days of the receipt of such funds.

5-114. SALARY. The salary of the Municipal Justice of the Peace for Enoch City shall be established by resolution of the City Council and shall be paid out of the City Treasury. The said salary shall be reviewed when required by State law or whenever thought appropriate by the governing body of Enoch City and shall be readjusted in accordance with the number of hours and days that the Enoch City Justice Court is in session.

PART 5-120. JURISDICTION AND PROCEDURE.

5-121. JURISDICTION. The Enoch Municipal Justice of the Peace shall have exclusive original jurisdiction over criminal cases arising from the violation of any City ordinance. He shall have such other jurisdiction over criminal and civil cases and small claims actions as is permitted him by applicable State law.

5-122. JURY TRIAL. The right of jury trial shall be held inviolate in the Enoch Municipal Justice Court. However, in any case in which a party does not, under the constitution of the United States or the constitution or laws of the State of Utah, have a right to a jury trial, the case shall be tried by the Justice of the Peace without a jury. In all cases where there is such a right to a jury trial, a jury trial shall be deemed waived unless it is demanded by a party defendant or plaintiff to the action at least five (5) days prior to trial. Selection and summoning of jurors shall be as provided by State law or Justice Courts.

5-123. RULES OF PROCEDURE. The procedure in the Enoch City Municipal Justice Court shall be governed by the Utah Rules of Civil Procedure and the Utah Code of Criminal Procedure. The Justice of the Peace may promulgate such additional rules as are necessary and proper for the orderly functioning of the City Court.

5-124. PROCESS AND WARRANTS. All warrants or other process issued from the Municipal Justice Court shall be directed to the County Sheriff, any constable of the County, or the Chief of Police and shall be served in accordance with applicable State law or the orders of the Court.

5-125. RULES OF EVIDENCE. The Utah Rules of Evidence shall apply in all proceedings in the Enoch Municipal Justice Court. The Justice of the Peace shall take all evidence in accord with the provisions of those rules.

PART 5-130. CONTEMPT.

5-131. CONTEMPT FOR WHICH THE JUSTICE OF THE PEACE MAY PUNISH. The Justice of the Peace of Enoch Municipal Justice Court may punish for contempt persons guilty of the following acts and such other acts as are provided by State law:

- A. Disorderly, contemptuous, or insulant behavior toward the Justice while holding Court, tending to interrupt the due course of the trial or other judicial proceedings.
- B. Breaches of the peace, boisterous conduct, or violent disturbance in the presence of the Justice Court, or its immediate vicinity, tending to interrupt the due course of the trial or other Judicial proceedings.
- C. Disobedience or resistance to the execution of a lawful order or process issued from the Justice Court.
- D. Disobedience to a subpoena duly served, or refusing to be sworn or answered as a witness.
- E. Rescuing or attempting to rescue any person or property in the custody of an officer by virtue of an order or process of the City Court.

5-132. PENALTY FOR CONTEMPT. Any person guilty of contempt may be punished by a fine in an amount not to exceed one hundred dollars (\$100.00) or by imprisonment for a period not to exceed one (1) day or by both such fine and imprisonment.

TITLE 6-000. FINANCES AND TAXATION.

CHAPTER 6-100. SALES AND USE TAX.

PART 6-101. PURPOSE The purpose of this chapter is to levy a “sales and use” tax in compliance with the provisions of the Uniform Local Sales and Use Tax Law as amended and has been renumbered as Utah Code Annotated 59-12-201 to 59-12-208. (Rev. 1987)

6-102. CONTRACT WITH STATE OF UTAH The existing contract between the municipality and the state tax commission, which provides that the commission will perform all functions incident to the administration and operation of the sales and use tax ordinance of this municipality, is hereby declared to be in full force and effect.

6-103. SALES TAX LEVIED.

A. 6-103. SALES TAX LEVIED.

Levy of Tax. There is hereby levied a tax upon every retail sale of tangible personal property, services, and meals made within the municipality at the rate of one percent (1%). (Rev. 4-15-15)

B. Situs of Levy. For the purposes of this chapter, all retail sales shall be presumed to have been consummated at the place of business of the retailer, unless the tangible personal property sold is delivered by the retailer or his agent to an out-of-state destination or to a common carrier for delivery to an out-of-state destination. In the event a retailer has no permanent place of business in the state, or has more than one place of business, the place or places at which the retail sales are consummated shall be as determined under the rules and regulations prescribed and adopted by the state tax commission. Public utilities as defined by the current statute shall not be obligated to determine the place or places within any county or municipality where public utilities services are rendered, but the place of sale or the sales tax revenues arising from such service allocable to the municipality shall be as determined by the state tax commission, pursuant to an appropriate formula and other rules and regulations to be prescribed and adopted by it.

C Application of State Sales Tax Provisions. Except as hereinafter provided, and except insofar as otherwise inconsistent with the provisions of the Uniform Local Sales and Use Tax Law of Utah, all of the provisions of the current statute as amended and in force and effect on the effective date of this ordinance insofar as related to sales taxes.

D. Substitution of Municipality for State. Whenever and to the extent that the current statute of the state of Utah is named or referred to as the taxing agency, the name of this municipality shall be substituted therefore. Nothing in this subsection shall be deemed to require substitution of the name of the municipality for the word “state” when that word is used as part of the title of the state tax commission, or of the Constitution of Utah, nor shall the name of the municipality be substituted for that of the state in any section when the result of that substitution would require action to be taken by or against the municipality or any agency thereof, rather than by or against the state tax commission in performing the functions incidental to the administration or operation of this chapter.

E. Additional License Not Required. If an annual license has been issued to a retailer under the current statute an additional license shall not be required by reason of this section.

- F. **Exemptions.** There shall be excluded from the purchase price paid or charged by which the tax is measured:
1. The amount of any sales or use tax imposed by the state of Utah upon a retailer or consumer.
 2. Receipts from the sale of tangible personal property upon which a sales or use tax has become due by reason of the same transaction to any other municipality and any county in the state of Utah, under a sales or use tax ordinance enacted by that county or municipality in accordance with the Uniform Local Sales and Use Tax Law of Utah.

6-104. USE TAX.

- A. **Levy of Tax.** An excise tax is hereby levied on the storage, use or other consumption in this municipality of tangible personal property purchased from any retailer on or after the operative date of this ordinance for storage, use or other consumption in the municipality at the rate of three fourths of one per cent of the sales price of the property.
- B. **Application of State Use Tax Provisions.** Except as hereinafter provided, and except insofar as inconsistent with the provisions of the Uniform Local Sales and Use Tax Law of Utah, all of the provisions of the current statute as amended in force and effect on the effective date of this ordinance, applicable to use taxes, excepting provisions of taxation of alcoholic beverages thereof, and excepting for the amount of the tax levied therein, are hereby adopted and made a part of this section.
- C. **Substitution of Municipality for State.** Wherever and to the extent that in the current statute the state of Utah is named or referred to as the taxing agency, the name of the municipality shall be substituted therefore. Nothing in this subsection shall be deemed to require the substitution of the name of this municipality for the word "state" when that word is used as part of the title of the state tax commission, or the Constitution of Utah, nor shall the name of the municipality be substituted for that of the state in any section when the results of that substitution would require action to be taken by or against the municipality or any agency thereof, rather than by or against the state tax commission in performing the functions incidental to the administration or operation of this chapter.
- D. **Exemptions.** There shall be exempt from the tax due under this section:
1. The amount of any sales or use tax imposed by the state of Utah upon a retailer or consumer.
 2. The storage, use, or other consumption of tangible personal property, the gross receipts from the sales of or the cost of which has been subject to sales or use tax under a sales or use tax ordinance enacted in accordance with the Uniform Local Sales and Use Tax Law of Utah by any other municipality and any county of the state of Utah.

CHAPTER 6-200. SPECIAL IMPROVEMENTS.

PART 6-210. COLLECTION OF SPECIAL IMPROVEMENT TAXES.

6-211. PURPOSE. It is the purpose of this chapter to supplement and provide details necessary to implement the powers and procedures whereby the municipality may levy, assess and collect special taxes for special improvements under the provisions of the Utah Municipal Improvement District Act, U.C.A. §§ 17-3-301 et seq. (renumbered 1990)

6-212. DELINQUENCY - NOTICE OF SALE. After the date of delinquency, as fixed in the levy and notice of tax adopted by the governing body in connection with the creation of a special improvement district and the levy of taxes necessary to pay for the project, the treasurer shall proceed to make up a list of all property upon which the special tax remains due and unpaid and cause the same to be published at least once in some newspaper having general circulation in the municipality at least ten days prior to the date of sale. The delinquency list shall contain a description of the property delinquent according to lots, block, or parcels, together with the owner's name or names, if known, and if not known, in lieu thereof, the words "unknown owner" with the amount of taxes due on each separate parcel exclusive of costs, and shall be accompanied by a notice of sale substantially in the following form:

"NOTICE OF SALE FOR SPECIAL TAXES

Notice is hereby given that special taxes for (here insert briefly the purpose of the tax) are due and unpaid in amounts and upon the lands set forth and described in the delinquent list hereto attached. Unless the taxes, including interest, together with the cost of publication, are paid on or before the _____ day of _____ (here fix a day at least 12 days from the date of first publication), the real property upon which such taxes are a lien will, on that day, be sold for the taxes, interest, costs of advertising, and expenses of sale, at the front door of the _____ (here insert name of building and address) beginning at the hour of 12:00 o'clock noon, and continuing until all of the property shall have been sold."

6-213. COSTS. The treasurer shall tax against each parcel of land advertised as delinquent the actual cost of advertising the delinquency and shall, after the first publication, in all instances of payment, collect such amount in addition to the tax.

6-214. EXPENSE OF SALE. In case of a sale of any land for special taxes, the treasurer shall add to the amount of tax and costs of advertising the actual expense of the sale and shall, in all instances of sale or redemption, collect such sum.

6-215. MINIMUM SALE PRICE. In no case shall lands advertised for sale for delinquent special taxes be sold for less than the amount of such special taxes, interest, the cost of advertising, and expenses of sale.

6-216. SALE. On the day fixed for the sale, the treasurer, in person or by deputy, shall appear at the hour and place named in the notice of sale and at public auction, and there offer to the highest responsible bidder sufficient of the delinquent real estate for a sum sufficient to

pay the taxes, interest and costs. The offer of sale shall be substantially in the following language:

“There is delinquent upon _____ (here describe the piece of property as in the notice) special taxes amounting to _____ dollars with interest, costs, and expenses of _____ dollars.

What is the smallest portion of this property which you will take and pay the taxes, interest, costs and expenses?”

If the sale is not concluded by 4:00 p.m. of the day advertised it may be, by the treasurer, continued until noon the next succeeding business day and thereafter in the same manner proceeded with and continued until completed.

6-217. FEES. The treasurer shall collect a fee as set in the fee schedule for each certificate issued, which fee shall be paid into the treasury.

6-218. INTEREST. Interest at the rate of prime rate plus as defined by what is currently in effect shall be charged on the special tax due from the date of delinquency until date of sale and interest at the rate of ten percent per year shall be charged on the full amount for which the property was sold from the date of sale.

6-219. TAX SALE RECORD.

A. The treasurer shall make a record of all sales of real property in a book to be kept by him for that purpose. The record shall be kept substantially in the same order as that for which the property was advertised for sale, but shall list, as applicable, in separate columns, a description of the property, the amount of the tax, interest, costs, expenses, how much of what part of each tract was sold, by whom purchased, the date of sale, and the date of redemption.

B. At the end of each calendar year, the book shall be endorsed “_____ Treasurer, Special Tax Sale Record for the Year _____,” and it shall then be filed in his office. Whenever thereafter any portion of property so sold shall be redeemed, the fact of redemption shall be entered by the treasurer opposite the description of the property in the tax sale record. At the expiration of three years from the date of filing in this office, the treasurer shall file each yearly tax sale record in the office of the recorder/clerk.

6-220. CERTIFICATE OF SALE. When real estate is sold for special taxes, the treasurer shall make out, sign, acknowledge, and deliver a certificate of sale which shall recite the facts of sale as in the tax sale record, and what payment has been made therefore, and which certificate shall be substantially in the following form:

*“(Name of Municipality)
TREASURER’S OFFICE
CERTIFICATE OF SALE FOR SPECIAL TAX*

THIS CERTIFIES, That on the _____ day of _____, _____, in pursuance of law and ordinance, I, _____, as treasurer and collector of special taxes for _____, Utah, sold to _____, subject to redemption, as provided by law, the following property in (name of municipality) for delinquent special taxes assessed against the property in the name of (delinquent taxpayer) to-wit:

DESCRIPTION

_____ Ext. No. _____ Page _____
Frontage abutting the improvement to the full depth back there from (or other depth)

_____ Feet _____
of Lot _____ Block _____ Plat _____

TAX AND COSTS

<i>Amount of tax</i>	\$ _____
<i>Interest to date of sale</i>	\$ _____
<i>Advertising</i>	\$ _____
<i>Expense of sale</i>	\$ _____
<i>Certificate of sale</i>	\$ _____
<i>Total tax and costs at date of sale</i>	\$ _____

Treasurer and collector of special taxes

DATED, _____ *(name of municipality)* _____,

(acknowledgment in statutory form.)"

6-221. CERTIFICATE OF SALE TO MUNICIPALITY. When property is sold to the municipality for special taxes, the treasurer shall make out, sign, acknowledge and deliver the certificate of sale above described to the recorder/clerk, whose duty it shall be to see that such certificate is properly recorded in the office of the county recorder, and it shall thereafter be kept as a part of the records of the recorder/clerk's office.

6-222. SALE TO MUNICIPALITY. Where no bid at least equal to the amount of the tax, interest, cost of advertising and expenses of sale on each separate parcel is received as each separate parcel is offered for sale, the municipality shall be deemed to have bid for such property, and the property shall be sold by the treasurer to the municipality for the amount of the tax, interest, cost of advertising and expenses of sale. The sale shall have the same effect as if made to an individual. The recorder/clerk shall draw a check or warrant on the special improvement guarantee fund for which the special tax was levied in the amount necessary.

6-223. GENERAL TAXES ON DELINQUENT PROPERTY.

- A. Between the 15th day of November and the 15th day of December in each year, the recorder/clerk shall ascertain, by examination of the county records, which, if any, of the property sold to this municipality is delinquent and about to be sold for general taxes in each instance to the governing body, with the request that the amount thereof be appropriated to the county.
- B. It shall be the duty of the governing body to appropriate the amount recommended by the recorder/clerk. The treasurer shall thereon draw a warrant in favor of the county for the total sum of such delinquent taxes, and the recorder/clerk shall deliver the warrant to the county treasurer, taking duplicate receipts therefore for each separate piece or parcel of property upon which the general taxes are thus paid. The recorder/clerk shall thereon

deliver one of each such receipt to the treasurer, file, and attach the other to the corresponding certificate of sale in his office.

- C. On receiving such receipt, the treasurer shall make entry on his tax sale record, opposite the corresponding property, of the date and amount of taxes paid. Such taxes shall thereafter draw interest at the current rate per annum, and shall be included in the amount required to be paid for redemption of such property.

6-224. REDEMPTION.

Real estate sold for special taxes may be redeemed by any person interested therein, at any time within three years after the date of the sale thereof, by such person paying to the treasurer, for the use of the purchaser or his legal representative, the amount paid by such purchaser and all costs and expenses, including the cost of the certificate of sale, together with the sum as set in the fee schedule for the redemption certificate, and all special taxes that have been accrued thereon and which have been paid by the purchaser after this purchase to the time of redemption, together with interest at the rate of one percent per month on the whole from the date of payment to the date of redemption, provided, that:

- A. In all cases where property has been sold to this municipality, and general taxes thereon have been thereafter paid by this municipality, it shall be necessary for a redemptioner to pay the amount of such general taxes, so paid as aforesaid, with interest thereon from the date of payment to the date of redemption, at the rate of ten percent per annum; and,
- B. When two or more parties are interested in a piece of property which has been sold for taxes, either party may redeem the property in which he is interested, upon payment of that proportion of the taxes, interest and costs which his property bears to the whole property sold, together with the sum as set in the fee schedule for a redemption certificate.

6-225. INSTALLMENT REDEMPTION.

- A. Any property sold to this municipality, on which tax sale certificates have been issued but for which no tax deed has been issued to the municipality, may be redeemed by any person having an interest in such property on the payment in installments of the unpaid principal, interest and all costs and charges, provided that the installments shall be paid within such time and in such amounts as will discharge the indebtedness within the period in which the right to redeem from such tax sale shall expire.
- B. Credit shall be given for each installment as paid, and the interest shall be reduced proportionately.
- C. Interest shall be paid at the rate of ten percent per annum on the unpaid balance due under this section.
- D. There is hereby imposed the sum of \$1.00 per installment payment to cover the additional bookkeeping expenses incurred by any person taking advantage of this section, and such charge shall not be credited against the delinquent assessment.
- E. Every person who takes advantage of this section shall enter into an agreement with the municipality, which shall be substantially in the following form:

“AGREEMENT OF INSTALLMENT REDEMPTION

The undersigned hereby:

- 1. *Acknowledges that his is delinquent in the payment of the special improvement taxes levied against the property described below in the amount of \$_____ which amount is the total of the unpaid tax, principal and interest, costs of advertising and expense of sale.*

2. *Agrees and promises to pay the above-stated amount in _____ equal installments of \$_____, which payment will be made on or before the _____ day of each month from the period beginning _____, 19____ to and including _____, 19_____.*
3. *Acknowledges having received and read a copy of section 6-225 of the "Revised Ordinances of Enoch Town Corporation, and understand the same.*
4. *Agrees that should he fail to make payment of the installments when due, the right of the municipality to receive a tax deed for the property below described shall not be impaired thereby and the undersigned shall not be entitled to receive any refund of any amount paid hereunder.*

The property covered by the provisions of this agreement is described as follows:

DATED this _____ day of _____, 19_____.

Mayor, _____

ATTEST:

Recorder/Clerk, _____”

6-226. CERTIFICATE OF REDEMPTION. The treasurer shall, when any property is fully redeemed, make the proper entry in the tax sale record file in his office, and issue a certificate of redemption, which certificate shall be by him acknowledged, and which entry or certificate shall be *prima facie* evidence of such redemption.

6-227. NOTICE OF REDEMPTION. In all cases where property sold to this municipality is fully redeemed, the treasurer shall issue a formal notice of such redemption in writing and file the same with the recorder/clerk, whose duty it shall to be to attach such notice to the corresponding certificate of sale on file in his office, and endorse on the filling face of such certificate in red ink the work “REDEEMED” and the date of redemption.

6-228. TAX DEED.

- A. If any property sold as aforesaid is not fully redeemed within the time and in the manner in this chapter provided, on the deposit of the tax sale record for the year in which the property was sold by the treasurer with the recorder/clerk, the recorder/clerk shall, on presentation of the treasurer’s certificate of sale, make and acknowledge a deed conveying the property therein described to the purchaser, his heirs, or assigns, as the case may be. If any person shall be entitled to receive deeds for more than one parcel of property, he may have the whole included in one deed, but each parcel shall be separately described. In January of each year, or as soon thereafter as the business of the office will permit, the recorder/clerk shall make and acknowledge a deed, conveying to this municipality all property purchased in the name of the municipality at special tax sale not theretofore redeemed, as in this chapter provided, shall see that such deeds are properly recorded in the office of the county recorder, and shall keep such deeds on file in his office for the benefit of the special improvement guarantee fund.
- B. Deeds issued by the recorder/clerk in pursuance of this provisions of this chapter shall recite in substance the amount of tax for which the property was sold, the particular

purpose of the tax levied, the year in which the levy was made, the day and year of sale, the amount for which the real estate was sold, a description of the property sold, in accordance with the certificate of sale, the name of the purchaser or the purchaser's assignee, and shall be executed by the recorder/clerk on behalf of the municipality, and by him acknowledged so as to be entitled to record.

6-229. TAX DEED RECORD. The recorder/clerk shall keep on file in his office a record of all tax deeds issued by him, which shall be a photo copy of the deeds so issued by him, and which shall be indexed in the name of the party whose property was sold for taxes, and also in the name of the individual to whom the tax deed was issued.

6-230. RECORDER'S FEE. The recorder/clerk shall collect a fee as set in the fee schedule for each deed issued, for the first description of property contained in such deed, and for each additional description of property in such deed, and shall pay such fees monthly into the treasury. However, in cases where this municipality is the tax sale purchases, no fee shall be collected.

6-231. SALE AFTER DEED. Whenever property sold for special taxes and purchased by this municipality shall not have been redeemed within the time specified, but shall have been conveyed to the municipality by recorder's deed, and which shall not have been sold by the municipality, such property may thereafter be purchased by the prior owner, his heirs, personal representative or assigns, or any other person, upon petition therefore addressed to the governing body and upon such terms as the governing body may determine. The proceeds of such purchase shall be paid into the special improvement guaranty fund, provided, however, that nothing contained in this section shall prevent this municipality from selling any property conveyed to it by recorder's deed to any person at any time after such conveyance in made.

CHAPTER 6-300. SPECIAL IMPROVEMENT GUARANTY FUND.

PART 6-301. SPECIAL IMPROVEMENT GUARANTY FUND. There is hereby created a special fund to be known as the "Special Improvement Guaranty Fund," which fund shall be used for the purpose of guaranteeing to the extent of the fund the payment of special improvement bonds or special improvement warrants and interest thereon theretofore or hereafter issued against the local improvement districts for the payment of local improvements therein and for the purchase of property sold to the municipality at tax sales or under foreclosure for delinquent special improvement taxes.

6-302. MAINTENANCE OF FUND. The governing body shall create and maintain the special improvement guaranty fund by appropriations from the general fund, by the levy of a tax not to exceed one mill in any one year, by the issuance of general obligation bonds, or by appropriation from such other sources as may be determined by the governing body to provide the money necessary for that purpose. The fund shall be held by the treasurer and shall be kept by him separate and apart from all other funds held by him. Payments out of the fund shall be made only by checks drawn by the recorder/clerk.

6-303. INTEREST AND PENALTIES. All excess charges and penalties collected by the treasurer for the benefit or credit of any special improvement fund and remaining on hand after all the bonds or warrants, together with interest thereon, drawn against the special improvement fund shall have been fully paid and canceled, shall be transferred by the recorder/clerk to the special improvement guaranty fund.

6-304. PAYMENT OF BONDS OR WARRANTS. When any bond, warrant, or coupon drawn against any special improvement fund is presented to the treasurer for payment and there is not a sufficient amount in the special improvement fund against which it is drawn, payment therefore shall be made by warrant drawn by the recorder/clerk against the special improvement guaranty fund (unless otherwise requested by the holder).

6-305. REPLENISHMENT OF FUND. Whenever there is not a sufficient amount of cash in the special improvement guaranty fund at any time to make any and all purchases of property bid in by the municipality at sales of property for delinquent special improvement taxes, the governing body shall replenish the special improvement guaranty fund by transfer or appropriation from the general fund or other available sources as may be determined by the governing body.

6-306. RECORDER TO ISSUE WARRANTS. Warrants drawing interest at a rate not to exceed eight percent per annum may be issued by the recorder/clerk against the fund to meet any financial liabilities accruing against it. At the time of making its annual tax levy, the governing body shall provide for the levy of a sum sufficient with the other resources of the fund to pay warrants so issued and outstanding, the tax for this purpose not to exceed one mill in any one year.

6-307. SUBROGATION OF MUNICIPALITY. Whenever the municipality shall have paid under its guaranty any sum on account of principal or interest on the bonds or warrants of any district, it shall be subrogated to the rights of the holders of such bonds or warrants or interest coupons so paid, and such bonds or warrants or coupons, and the proceeds thereof, shall become a part of the guaranty fund.

CHAPTER 6-400. MUNICIPAL ENERGY SALES AND USE TAX.

PART 6-401. PURPOSE. It is the intent of Enoch City to adopt the municipal energy sales and use tax, pursuant to and in conformance with, Utah Code Ann. Sec. 10-1-301 et seq., "The Municipal Energy Sales and Use Tax Act."

6-402. DEFINITIONS.

- A. "*Consumer*" means a person who acquires taxable energy for any use that is subject to the Municipal Energy Sales and Use Tax.
- B. "*Contractual Franchise Fee*" means:
 - 1. a fee; provided for in a franchise agreement; and
 - b. that is consideration for the franchise agreement; or
 - 2. a. a fee similar to subsection B 1; or
 - b. any combination of subsections B1 or B2.
- C. 1. "*Delivered Value*" means the fair market value of the taxable energy delivered for sale or use in the municipality and includes:
 - a. the value of the energy itself; and
 - b. any transportation, freight, customer demand charges, service charges, or other costs typically incurred in providing taxable energy in usable form to each class of customer in the municipality,
- 2. "*Delivered Value*" does not include the amount of a tax paid under Part 1 or Part 2 of Chapter 12, Title 59 of the Utah Code Annotated.
- D. "*Energy Supplier*" means a person supplying taxable energy, except for persons supplying a de minimus amount of taxable energy, if such persons are excluded by rule promulgated by the State Tax Commission.
- E. "*Franchise Agreement*" means a franchise or an ordinance, contract, or agreement granting a franchise.
- F. "*Franchise Tax*" means:
 - 1. a franchise tax
 - 2. a tax similar to a franchise tax; or
 - 3. any combination of subsections 1 or 2.
- G. "*Person*" includes any individual, firm, partnership, joint venture, association, corporation, estate, trust, business trust, receiver, syndicate, this state, any county, city, municipality, district or other local governmental entity of the state, or any group or combination acting as a unit.
- H. "*Sale*" means any transfer of title, exchange or barter, conditional or otherwise, in any manner, of taxable energy for a consideration. It includes:
 - 1. installment and credit sales;
 - 2. any closed transaction constituting a sale;
 - 3. any transaction under which right to acquire, use or consume taxable energy is granted under a lease or contract and the transfer would be taxable if an outright sale were made.
- I. "*Storage*" means any keeping or retention of taxable energy in this City for any purpose except sale in the regular course of business.
- J. 1. "*Use*" means the exercise of any right or power over taxable energy incident to the ownership or the leasing of the taxable energy.
- 2. "*Use*" does not include the sale, display, demonstration or trial of the taxable energy in the regular course of business and held for resale.

K. *"Taxable Energy"* means gas and electricity.

6-403. MUNICIPAL ENERGY SALES AND USE TAX. There is hereby levied, subject to the provisions of this chapter, a tax on every sale or use of taxable energy made within Enoch City equaling five percent (5%) of the delivered value of the taxable energy to the consumer. This tax shall be known as the Municipal Energy Sales and Use Tax.

- A. The tax shall be calculated on the delivered value of the taxable energy to the consumer.
- B. The tax shall be in addition to any sales or use tax on taxable energy imposed by Enoch City authorized by Title 59, Chapter 12, Part 2 of the Utah Code Annotated, The Local Sales and Use Tax Act.

6-404. EXEMPTIONS FROM THE MUNICIPAL ENERGY SALES AND USE TAX.

- A. No exemptions are granted from the Municipal Energy Sales and Use Tax except as expressly provided in Utah Code Ann. Sec. 59-1-104 of the Utah Code.
- B. The following are exempt from the Municipal Energy Sales and Use Tax, pursuant to Utah Code Ann. Sect. 10-1-305(2)(b):
 - 1. Sales and use of aviation fuel, motor fuel, and special fuels subject to taxation under Title 59, Chapter 13 of the Utah Code Annotated;
 - 2. Sales and use of taxable energy that is exempt from taxation under federal law, the United States Constitution or the Utah Constitution;
 - 3. Sales and use of taxable energy purchased or stored for resale;
 - 4. Sales or use of taxable energy to a person, if the primary use of the taxable energy is for use in compounding or producing taxable energy or a fuel subject to taxation under Title 59, Chapter 13 of the Utah Code Annotated;
 - 5. Taxable energy brought into the state by a nonresident for the nonresident's own personal use or enjoyment while within the state, except taxable energy purchased for use in the state by a nonresident living or working in the state at the time of purchase;
 - 6. The sale or use of taxable energy for any purpose other than as a fuel or energy; and
 - 7. The sale of taxable energy for use outside the boundaries of Enoch City.
- C. The sale, storage, use or other consumption of taxable energy is exempt from the Municipal Energy Sales and Use Tax levied by this Chapter, provided:
 - 1. The delivered value of the taxable energy has been subject to a municipal energy sales or use tax levied by another municipality within the state authorized by Title 59, Chapter 12, Part 3 of the Utah Code Annotated; and
 - 2. Enoch City is paid the difference between the tax paid to the other municipality and the tax that would otherwise be due under this Chapter, if the tax due under this Chapter exceeds the tax paid to the other municipality.

6-405. NO EFFECT UPON EXISTING FRANCHISES - CREDIT FOR FRANCHISE FEES.

- A. This Chapter shall not alter any existing franchise agreements between Enoch City and energy suppliers.
- B. There is a credit against the tax due from any consumer in the amount of a contractual franchise fee paid if:
 - 1. the energy supplier pays the contractual franchise fee to Enoch City pursuant to a franchise agreement in effect on July 1, 1997;
 - 2. the contractual franchise fee is passed through by the energy supplier to a consumer as a separately itemized charge; and
 - 3. the energy supplier has accepted the franchise.

6-406. TAX COLLECTION CONTRACT WITH STATE TAX COMMISSION.

- A. On or before the effective date of the Chapter, the City shall contract with the State Tax Commission to perform all functions incident to the administration and collection of the Municipal Energy Sales and Use Tax, in accordance with this Chapter. The Mayor is hereby authorized to enter agreements with the State Tax Commission that may be necessary to the continued administration and operation of the Municipal Energy Sales and Use Tax Ordinance enacted by this Chapter.
- B. An energy supplier shall pay the Municipal Energy Sales and Use Tax revenues collected from consumers directly to Enoch City monthly if:
 - 1. the City is the energy supplier; or
 - 2. a. the energy supplier estimates that the municipal energy sales and use tax collected annually from its Utah consumers equals \$1,000,000 or more, and
 - b. the energy supplier collects the Municipal Energy Sales and Use Tax.
- C. An energy supplier paying the Municipal Energy Sales and Use Tax directly to Enoch City may deduct any contractual franchise fees collected by the energy supplier qualifying as a credit and remit the net tax less any amounts the energy supplier retains as authorized by Sec. 10-1-307(4), Utah Code Annotated.

6-407 Repealed in 2006.

6-408. NO ADDITIONAL LICENSE TO COLLECT THE MUNICIPAL ENERGY SALES AND USE TAX REQUIRED - NO ADDITIONAL LICENSE OR REPORTING REQUIREMENTS. No additional license to collect or report the Municipal Energy Sales and Use Tax levied by this Chapter is required, provided the energy supplier collecting the tax has a license issued under Section 59-12-106, Utah Code Annotated.

6-409. EFFECTIVE DATE. This Chapter is effective June 30, 1997. The Municipal Energy Sales and Use Tax shall be levied beginning 12:01 A.M., July 1, 1997.

(Chapter 6-400 added 6-4-97)

CHAPTER 6-500. FISCAL PROVISIONS GENERALLY.

PART 6-501. CAPITAL IMPROVEMENTS FUND—CREATED. There is created an Enoch City Capital Improvements Fund in accordance with Section 10-6-116(5), Utah Code Annotated 1953, as amended, for the purpose of accumulating and setting aside funds for the acquisition, repair and replacement of public property, structures and other improvements including, but not necessarily limited to, public safety equipment and facilities, streets, sidewalks and trails, public buildings, library, parks, equipment and other public property or improvements.

6-502. CAPITAL IMPROVEMENTS FUND—FUNDING. The Enoch City Capital Improvement Fund shall be funded from year to year as funds are available and allocable pursuant to Section 10-6-101 et. seq., Utah Code Annotated 1953, as amended.

(Chapter 6-500 added 6-18-2003)

TITLE 7-000. MUNICIPAL IMPROVEMENTS AND PUBLIC SERVICE PROJECTS.

CHAPTER 7-100. Repealed 1995

CHAPTER 7-200. CONTRACTS FOR PUBLIC IMPROVEMENTS.

PART 7-210. BIDS ON PUBLIC IMPROVEMENTS.

7-211. BIDS REQUIRED - LOWEST RESPONSIBLE BIDDER - EXEMPTIONS - PREFERRED BIDDERS. See U.C.A. § 10-7-20 for bids on municipal improvements. See U.C.A. § 63-2-50 as to “Preferred Bidders.”

PART 7-220. PUBLIC CONTRACTS.

7-221. PERFORMANCE BOND REQUIRED FOR PUBLIC BUILDINGS. See U.C.A. § 14-1-5.

7-222. CLAIMS FOR LABOR OR MATERIALS. See U.C.A. § 14-1-6.

7-223. LIABILITY OF GOVERNING BODY ON FAILURE TO REQUIRE BOND. See U.C.A. § 14-1-7.

CHAPTER 7-300. MUNICIPAL RESOURCES.

PART 7-310. MUNICIPAL RESOURCE DEVELOPMENT BOARD. See U.C.A. §§ 10-7-79 through 10-7-84.

Revised Code July 2009. Editing and revisions approved 7-1-09 by Resolution 2009-07-01-A.

TITLE 8-000. MUNICIPAL PROPERTY

CHAPTER 8-100. REGULATION AND CONTROL.

PART 8-101. CONTROL OF PROPERTY. Cities see U.C.A. § 10-8-1 and 10-8-2 and Towns see U.C.A. § 10-13-1 and 10-13-5.

8-102. ACQUISITION AND DISPOSAL.

8-102-1. PURCHASES OF REAL PROPERTY. In any case, where the city acts to purchase or obtain real property, the following requirements must be met:

- A. The property must be accompanied by a survey by a registered surveyor or engineer, which establishes the precise boundaries of the property.
- B. The seller must supply to the city the above-required survey, as well as a policy of title insurance.
- C. The purchase must be specifically approved in writing by the Mayor with the majority consent of the members of the City Council.
- D. Any proposal to purchase property may be submitted to the Planning Commission for their recommendation.

8-102-2. SALES OF REAL PROPERTY. In any case where the City of Enoch acts to sell or dispose of real property owned by the city, the following requirements must be met:

- A. The property must be surveyed to establish the precise boundaries and must be accompanied by a proper legal description.
- B. Unless the sale is specifically authorized without bids by the City Council in accordance with subparagraph (C) hereinafter, all sales of real property belonging to the city shall be at public auction at the city offices or other designated locations after 30 days previous notice by publication at least three times in a newspaper published in, or of general circulation in, Enoch City and by posting notice of the sale in at least three public places within Enoch City. The property shall be conveyed for cash to the highest bidder and the proceeds paid to the City Treasurer for the use of the city. Bids may be sealed or voiced, at the discretion of the City Council. The City Council shall confirm the sale by majority vote, but shall be free to reject any and all bids or to establish a minimum bid.
- C. If the Council specifically authorizes a sale of real property belonging to Enoch City without bids, it shall do so on the record of a regular council meeting and shall set forth with specificity the reasons for such action.

8-102-3. SALES OF PROPERTY OTHER THAN REAL PROPERTY. All sales of property other than real property shall be approved in advance by the Mayor and a majority of the City Council. The property may be sold in the same fashion as real property, whether by bid or not, as set forth in Section 8-102-2 above or may be sold through a legitimate auction website.

8-102-4. PURCHASE OF PROPERTY OTHER THAN REAL PROPERTY. All purchases of property, services, labor or other valuable assets shall be in accordance with the policies, rules and regulations established by resolution of the City Council. The City Council shall establish a purchasing order system to control expenditures by city officials and employees as soon as practicable.

8-102-5. PURCHASES BY CITY OFFICIALS OR EMPLOYEES. In the event of a sale of city real property or other property without a bidding procedure as provided by Section 8-102-2(B) and (C) above, no city official or employee shall purchase said property, directly or indirectly. Any such sales to city employees or officials shall be void, and the property shall be returned to the city and resold using the bid procedure set forth herein above.

8-102-6. PENALTY. Any person who violates any provision of this chapter shall be guilty of a misdemeanor and upon conviction thereof shall be liable to punishment by a fine in an amount not to exceed \$299 or by imprisonment for a term not to exceed 6 months, or both such fine and imprisonment.

8-103. ERECTION AND CARE OF BUILDINGS. Cities see U.C.A. § 10-8-5.

PART 8-110. CONTROL OF MUNICIPAL PROPERTY.

8-111. UNLAWFUL USE. Unless authorized by permit or other written authorization issued by the municipality or unless authority is granted, by provisions of this code or other ordinance of the municipality now or hereafter enacted, it shall be a class B misdemeanor for any person to:

- A. Construct, lay, excavate, erect, operate or maintain over, under, across, in or through any property owned or controlled by this municipality any utility, canal, ditch, construction or building.
- B. Enter upon any property of this municipality contrary to posting or marking restricting or prohibiting use of the area.
- C. Intentionally use or perform acts upon property of the municipality which materially impairs, alters, or damages the property.

8-112. REPAIR OR RESTORATION. The governing body, in addition to any criminal penalty which may be imposed, may order any person who has damaged, altered, or changed any property of this municipality for any reason or any cause whatsoever, to repair or to restore the property to its original condition prior to the damage, alteration, or change. The person who has damaged, altered or changed any property within the meaning of this section shall be responsible to the city for any damages caused and the city may in the event that said person refuses to make the repairs as order, make those repairs through its own agents and bill the person doing the damage for the cost thereof. In the event that said person fails to pay those costs, the city may initiate legal action to collect those costs, plus interest at the highest legal rate and a reasonable attorney's fee.

8-113. FRANCHISE.

- A. The governing body may grant to any person a franchise or easement on such terms and conditions as it deems reasonable, for the purpose of entering upon, constructing, building, operating and maintaining any business or for other use of the property of this municipality, and the provisions of section 8-111 and 8-112 shall not apply to the extent such provisions are waived, qualified or made inapplicable to the rights or privileges granted in the franchise ordinance or easement.
- B. Any franchise or easement granted by this municipality shall be in writing and any franchise or easement not in writing shall be void.

8-114. ACTS EXEMPTED. It shall not be a violation of this part where any person uses the public property of this municipality in the manner of for the purpose or purposes for which such property has been made available for public use.

CHAPTER 8-200. CEMETERIES.

PART 8-201. DEFINITIONS. The following words or phrases shall have the following meanings unless the context otherwise clearly requires:

- A. The term “lot owner” or “purchaser” and “grave owner or purchaser” shall mean the owner or purchaser of burial privileges or the collateral right of use of any burial lot evidenced by a deed or burial right for a described lot or by proved and recognized descent or devise from the original owner.
- B. The term “lot” shall include the partial lots or single graves in the municipal cemetery.

8-202. THE NAME. The burial ground of this municipality, shall be known and designated by the name of Enoch City Cemetery.

8-203. CEMETERIES COVERED. All cemeteries owned and/or maintained by the municipality or which may hereafter be acquired by the municipality, wherever situated, are hereby declared subject to the provisions of this chapter.

PART 8-210. CEMETERY SUPERINTENDENT.

8-211. OFFICE OF CEMETERY SUPERINTENDENT. There is hereby created the position of cemetery superintendent.

8-212. DUTIES OF CEMETERY SUPERINTENDENT.

- A. The cemetery superintendent shall have the general supervision and administration of the municipal cemetery including but not limited to:
 - 1. Recommending to the governing body such additional rules and regulations as may be necessary for the operation, maintenance, use and protection of the cemetery.
 - 2. Subdividing the cemetery into lots and gravesites.
 - 3. Maintaining a record of the location of the graves and preventing any lot from being used beyond its capacity.
 - 4. Keeping in proper repair the enclosure around the cemetery and preventing its being entered by animals and, so far as practical, preventing the destruction or defacing of any tablet or marker placed or erected therein.
 - 5. Keeping a duplicate plat of the cemetery and, at the request of any person wishing to purchase any of the lots or parts of lots, pointing out any of the lots or parts of lots for sale; and upon disposal of any lots or part thereof, notifying the recorder/clerk of such fact. The recorder/clerk shall, after payment of the lot price has been received in the treasury, issue a certificate of burial rights, which shall describe the lot or grave to which the right to burial is granted. The mayor and the recorder/clerk shall sign the certificate.
 - 6. Opening any graves in the cemetery upon application to him being made by the recorder/clerk or by any person having the right to make such application and being responsible for closing all graves.
 - 7. Removing floral pieces or displays left on any grave as deemed necessary to the appearance of the cemetery, but such floral pieces or displays shall not be removed sooner than three (3) days after original placement except in emergency.
 - 8. Keeping the streets, alleys, walks and avenues in the cemetery in good order and unobstructed.

9. Erecting a suitable marker firmly set upon the northwest corner of each lot with the number of the lot inscribed thereon and which location shall be shown on the cemetery records.

PART 8-220. REGULATION OF CEMETERY AND BURIALS.

8-223. REGISTRATION OF BURIALS. Before any deceased person may be buried in the municipal cemetery, the relatives or person having charge of the deceased shall provide the recorder/clerk with a written statement which shall be filed by the recorder/clerk, which statement shall contain, if known, information about the deceased regarding his or her name, when and where born, the date and cause of death, the name of the mortuary, date of burial, other personal information pertinent to the deceased such as the names of family members and the location of the grave.

8-224. BURIALS AND DISINTERMENT.

- A. It is an infraction for any person to:
 1. Disinter a body buried in any cemetery, except under the direction of the cemetery superintendent who shall, before disinterment, require a written permission from both the local health department and the owner of the lot or his or her heirs, which written authorization shall be filed and preserved in a record kept for such purposes.
 2. Disinter or remove the body of a person who has died from a contagious disease within two years after the date of burial, unless the body was buried in a hermetically sealed casket or vault and is found to be so incased at the time of disinterment.
- B. It is an infraction to inter anything other than the remains of human bodies in cemeteries.
- C. It is an infraction to bury the body of any person within this municipality except in the municipal cemetery.

8-225. VAULTS REQUIRED.

- A. Unless in writing waived by the cemetery superintendent, it shall be unlawful for any person to be buried in the cemetery unless the casket shall be placed in a vault made of concrete, fiberglass, steel, or brick-lined or of such other material approved by the governing body, substantially constructed and covered with a similar durable material.
- B. No wood shall be used as a permanent part of the construction of any part of the vault.

8-227. SALE SUBJECT TO RULES. Every lot or single grave sold is subject to rules and regulations that have been or may be adopted. The rules and regulations shall be subject to such changes as are found necessary for the protection of lot owners, the remains of the dead and the preservation of the cemetery.

8-228. CARE RESERVED. The municipality reserves the right to enter upon any grave and to perform all work necessary for the care and upkeep of all lots and graves in its cemeteries.

8-229. ORDERS AND RESPONSIBILITIES FOR ERRORS. Under no circumstances will the municipality assume responsibilities for errors in opening graves when orders are given by telephone.

8-230. TRAFFIC RULES.

- A. The provisions of the municipal traffic ordinances relative to the operation of vehicles and conduct of pedestrians shall be in effect in the cemetery, except as herein otherwise modified by this ordinance.
- B. It shall be unlawful for any person to ride or drive within the municipal cemetery at a speed greater than ten miles per hours.

8-231. CHILDREN. Children under the age of 12 years shall not be allowed in cemeteries unless accompanied by their parents or other adults, except for the purposes of attending authorized funerals or, in the company of adults, placing flowers on the grave of a deceased relative or friend, or performing any other customary evidence of respect in accordance with their religious principles.

8-232. ANIMALS PROHIBITED. No animal shall be allowed in any cemetery except in the confines of a vehicle and must be at all times retained within the confines of said vehicle while the vehicle remains in the cemetery. Service animals are exempted from prohibition.

8-233. DECORUM. Cemetery grounds are sacredly devoted to the interment and repose of the dead. Strict observance of decorum due such a place shall be required of all persons.

8-234. INJURY TO CEMETERY PROPERTY PROHIBITED. It shall be an infraction for any person to injure, deface, break, destroy or remove any headstone, tombstone, monument, tree, shrub or any other property in the cemetery.

8-235. LANDSCAPING BY PRIVATE PERSONS. Except as provided by the rules and regulations of the governing body, it shall be unlawful for any person to erect or maintain any fence, corner post, coping or boundary of any kind, to plant any vegetation upon any lot or lots, street, alley, or walk in the cemetery or to grade the ground or land thereof. The cemetery superintendent shall, whenever required, furnish the true lines of any lots, according to official survey, shall prevent and prohibit any markings of the same except by official landmarks, and shall prevent and prohibit any grading thereof that might destroy or interfere with the general slope of the land.

8-236. PLACEMENT OF MARKERS. It shall be unlawful for any person to erect, place or cause to be placed any marker or monument on any lot in cemetery in violation of the rules and regulations promulgated by the governing body regarding the placement, construction and design of all such markers.

8-237. ADDITIONAL RULES AND REGULATIONS.

- A. The governing body may promulgate by resolution such additional rules and regulations concerning the care, use, operation and maintenance of the cemetery as it shall deem necessary.
- B. The rules and regulations for the purchasers of lots in the municipal cemetery as constituted in this chapter of the municipal code may be printed upon request. Such rules and regulations shall constitute a part of the terms and conditions under which owners and users may utilize the cemetery and shall form a supplement to this ordinance after they have been adopted as official by resolution of the governing body.
- C. Any changes in the rules and regulations shall be adopted by the governing body before such changes shall be official.

PART 8-240. FEES AND CHARGES. As stated in City fee schedule.

8-241. COLLECTION OF FEES. The recorder/clerk or such other persons as the governing body may designate, are hereby authorized and required to collect in advance prices and fees for the opening and closing of graves or other services which shall include but not be limited to properly disinterring bodies and properly restoring the earth and grounds, recording each burial, disinterment or removal, and raised monument privileges. The fees shall be such amounts as are determined by the governing body from time to time by resolution.

8-242. FEE TO BE PAID FOR OPENING GRAVE.

- A. No grave shall be opened in the municipal cemetery until payment of a fee for the labor and expense in so opening the grave shall be paid.
- B. The recorder/clerk shall notify the cemetery superintendent when required fees have been collected and a grave is to be opened for the burial of a deceased person. However, upon a contract being entered into between any mortician and the municipality wherein the mortician agrees to be responsible and liable for fees for the opening of a grave, and wherein that mortician will be personally liable for such fees and for perpetual care payments, the recorder/clerk or authorized person may give the cemetery superintendent authority to open graves

8-243. PURCHASE PRICE AND FEES. The governing body shall from time to time by resolution fix the size of lots, the price at which burial rights shall be sold and the fees, which shall be charged for the various cemetery services to be provided.

PART 8-250. SALE OF LOTS.

8-251. SALE.

- A. The recorder/clerk, and such other person as the governing body may designate, are hereby authorized to sell the use of lots in the municipal cemetery for burial purposes only and to collect all sums arising from the sale. The recorder/clerk shall keep a complete record of all sales, which record shall describe the location of the lot purchased and the price paid therefore. The recorder/clerk or designated person shall deliver to each purchaser a certificate of burial rights for each lot purchased, which certificate shall, among other things, describe the location of the lot, the purchase price, and the type of maintenance services which are to be provided, e.g., perpetual care, prepaid continued maintenance, or currently paid services.
- B. A certificate and rights to burial shall be exempt from execution, taxation or assessment for care and maintenance from and after full payment of the purchase price. Payments made pursuant to this section shall not be construed to be in payment for cemetery services other than perpetual care or prepaid maintenance.
- C. Perpetual care or prepaid continued maintenance shall be deemed to include the filling of the grave, the placing of top soil upon the grave, seeding the grave with grass and watering and cutting the grass. No other services are included.
- D. No other improvements, changes or service, except perpetual care or prepaid continued maintenance shall be made on any lot without the certificate holder or his heirs first submitting to and receiving from the cemetery superintendent, written approval for such improvements, changes or services, which improvements, changes or services shall be subject to the rules and regulations promulgated by the governing body.

8-252. RESTRICTIONS OF RESALE.

- A. From and after December 1, 1980, the lots sold by this municipality shall not be further sold, transferred, conveyed or assigned to any person except the municipality. The municipality hereby agrees to buy back any municipal cemetery grave lot, which it may hereafter sell. The repurchase of such lots shall be for the original price paid by the purchaser, or the current selling price of the lot, whichever is less.
- B. Whenever a certificate of burial rights or lots reverts to the municipality, as provided for in this part, or becomes vested in the municipality for any reason, before new certificates are issued, the original certificate shall be canceled or an assignment given and the record shall be so changed.
- C. The certificates shall be issued and signed by the mayor and shall be attested by the recorder/clerk. All lots or parts of lots, as provided in this section, together with all improvements, shall be exempt from execution and from taxation and assessment for care and maintenance charges from and after said payment.

PART 8-260. PERPETUAL CARE.

8-261. CONTRACTING FOR PERPETUAL CARE.

- A. No grave shall be hereafter opened in the cemetery of this municipality until perpetual care upon the lot where the grave is to be opened shall have been contracted for with this municipality, or perpetual care thereon paid. Should it be the desire of any person to have a grave opened and the body interred therein and perpetual care shall not have been previously contracted for or paid in full for the lot therein, the person may either pay the full purchase price for perpetual care or enter into a contract wherein payment shall be agreed.

- B. The agreement shall provide for a down payment in the amount of 20 percent of the total purchase price of the cost of the lot, and shall further provide for the payment of monthly installments over a period not to exceed 20 months. The monthly installments shall be in the amounts equal to the balance of the contract divided by the number of months which the contract is to run, plus two months extra payment to pay for the privilege of making the payments in installments or six percent of the balance, whichever is less.
- C. The installment contract for perpetual care of, or purchase of a lot with perpetual care, shall provide for collection by the municipality in event of a default and such collection shall be by civil action, and the defendant therein shall pay cost of collection, together with a reasonable attorney's fee to the municipality, and shall also pay interest at the rate of eight percent per annum upon the past due installments. All installments shall immediately become due upon the default of any of the installments provided, however, that when perpetual care for any lot in the municipal cemetery or portion thereof, has not been paid for a period of ten years, then, and in such an event, the unused portion of the lot shall thereafter escheat to this municipality, and the title thereof shall revert to this municipality, which shall thereafter have the right, option, and privilege to sell and dispose of unused cemetery property, as is in this chapter provided, upon condition that this municipality shall thereafter maintain perpetually without cost of fee the portion of the lot occupied by a grave or graves prior to the date when the remaining property escheated to this municipality.
- D. This municipality shall have power to fix, by resolution, a fee from any person now owning a cemetery lot or portion thereof for the annual maintenance and care thereof. Until, such time as the fee shall be fixed by resolution, said person shall pay a fee equal to -0- per year for such care and maintenance. The fee shall continue to be paid until a further or additional interment shall be made on the lot, at which time the provisions of this subpart relating to perpetual care and maintenance and to payment of fees and costs pertaining thereto shall take effect and apply.

8-262. CARE INCLUDED. The essential perpetual care that the municipality agrees to give shall consist of care of the cemetery generally, and shall include, but is not limited to, mowing of all lots and graves at reasonable intervals, resodding, seeding, and filling in sunken graves, sodding the surface of the graves to lot level, removing dead flowers and trimming trees and shrubbery when necessary, raking and cleaning the lots and straightening of tilting stones or markers, but shall not include repairing or replacing markers or memorial structures of any nature, except when the need for repair or replacement is directly caused by the municipality.

PART 8-270. PERPETUAL CARE FUND.

8-271. PERPETUAL CARE FUND CREATED.

- A. There hereby is established a perpetual care fund according to the laws of the state of Utah and this chapter. All funds received from the sale of perpetual care services shall be placed in a special perpetual care fund, invested in compliance with the laws of the state of Utah and used for the purposes herein provided.
- B. The income from the perpetual care fund shall be used to pay the upkeep and development of the cemetery. The municipality may borrow from the fund from time to time, but any funds borrowed shall be repaid to the fund with interest thereon at the prevailing rate paid by the municipality to borrow funds from commercial lenders.
- C. If the municipality borrows from the fund, it shall pay into a fund for the operation of the cemeteries the interest accrued upon money annually. Should it be found that the interest returned upon the perpetual care funds shall be more than is required to pay for the operation and upkeep of the municipal cemetery, then the surplus shall be added to the

principal amount of the perpetual care fund herein created, and shall be so handled until changed by resolution to provide for the use of such accumulated interest.

8-272. DUTIES OF TREASURER. It shall be the duty of the treasurer to keep an accurate record of the perpetual care trust fund account, including investments, to see that the principal portion thereof is properly invested in accordance with resolutions of the governing body and the laws of the state of Utah, and to advise the mayor when funds are available for investment in the amount of \$1,000 or more. The mayor shall advise the governing body of the availability of such funds,

8-273. DUTY OF GOVERNING BODY. It shall be the duty of the governing body when funds are available for investment to direct by resolution all purchases of securities for the perpetual care fund or to name a suitable trustee for such investment.

8-274. INCOME. All income from investments held in the perpetual care fund shall be quarterly credited to the cemetery maintenance fund for use in providing the perpetual care as required herein.

PART 8-280. NON-PERPETUAL CARE LOTS.

8-281. MAINTENANCE CHARGES ON LOTS WITHOUT PERPETUAL CARE.

- A. Every lot for which perpetual care has not been purchased and with reference to which the owner has established a right to directly provide for maintenance and care, notwithstanding the provisions of section 8-228, shall be maintained and cared for to the extent and in accordance with the standards established by the governing body for care and maintenance of all lots of the cemetery.
- B. In the event that the owner fails to provide the requisite care and maintenance for non-perpetual care lots, the cemetery superintendent shall furnish care and maintenance at rates established by the governing body.
- C. All such charges shall become a personal liability of the owner of the lots and, in addition thereto, shall constitute a lien against the lots upon the basis of which the governing body may cause the burial rights therein to be forfeited and said rights to revert to the municipality.

8-282. REVERSION OF NONPAYING LOTS.

- A. When any owner of any lot or portion of a lot in the cemetery shall have failed to pay the cost of services rendered by the municipality or its employees in watering, beautifying, maintaining or caring for any lots or portions thereof in the municipal cemetery for which perpetual care has not been purchased in accordance with the provisions of this chapter, and such failure to pay has continued for a period of six months, the municipality may pursue collection of such costs in a court of law. A court action may be pursued for the purpose of seeking judgment against the owner and thereafter attaching any of the assets of the owner including an attachment of the lots or portions of lots upon which the owner has failed to make payment for maintenance service.
- B. As an additional remedy, or in lieu of seeking collection in a court of law, the municipality may cancel the owner's certificate or deed representing rights to burial on the unoccupied lots or portions of lots and causing ownership of lots or portions thereof to revert back to the municipality by following the procedure set forth in this part.

8-283. PROCEDURE FOR REVERSION OF LOT TO MUNICIPALITY.

- A. The municipality may terminate the owner's right to use of unoccupied lot or lots in the municipal cemetery when there has been a six-month failure to pay the costs of maintenance provided by the municipality in the following manner:
 - 1. The governing body shall fix a time and place of hearing before the governing body at which the owner shall be given the opportunity to present good cause as to why his right to future use of the lot or lots involved shall not be terminated and as to why the ownership of the lot or portions of lot shall not revert back to the municipality for resale by it.
 - 2. A notice of the time, place, and purpose of the hearing to forfeit the owner's interest in the lot or parts of the lot shall be given by personal delivery of a written notice of the time, place, and purpose of the meeting of the governing body or by mailing a copy of the notice to the last-known address of the owner or owners.
 - 3. In the absence of an ability to make personal delivery of the written notice to the owner or owners, a notice of the hearing to forfeit rights to said lot or portions of lot shall be published at least once in a newspaper having general circulation in the county. The publication shall be made at least three weeks prior to the date of the hearing.
 - 4. If the owner is known to be deceased, then mailing of notice or delivery of notice shall be made to the last-known address of any known heirs.
 - 5. Copies of the notice shall also be posted in a conspicuous place in the offices of the municipality.
 - 6. At the time and place set for the hearing before the governing body, the governing body shall give the owner or owners an opportunity to be heard, a right to present witnesses, and to submit evidence showing cause why the lot or portions of the lot shall not be forfeited to the municipality.
- B. After due consideration of all the facts presented at such hearing, the governing body may order, if it finds that there has been a failure to make payment of such costs or if no satisfactory arrangement has been proffered for making the immediate payment of such costs, that the lot or portions of lot shall revert to the municipality for resale and that all of the rights and privileges of the owner in the lot or lots are terminated.
- C. Thereafter, the municipality may make sale of the lots in the same manner as it makes sales of all other lots within the cemetery.

PART 8-290. INDIGENTS.

8-291. BURIAL OF INDIGENTS.

- A. The governing body, may, by resolution, designate a portion of the municipal cemetery to the burial of indigents. Whenever it is made to appear to the mayor by proof submitted to him by the recorder/clerk that any person who has died does not have an estate sufficient to pay the purchase price of a lot in the cemetery, and that the nearest relative or representative of such deceased person desires to have the body of such deceased interred in the cemetery, the mayor may grant burial space for such deceased person at the request made to him by the recorder/clerk.
- B. The mayor shall communicate his decision to both the recorder/clerk and the cemetery superintendent. The mayor shall give report to his decision, whether affirmative or negative, to the governing body at its next regular meeting. All strangers without funds or other persons who may die in the municipality may be granted the privilege granted herein.

CHAPTER 8-300. PUBLIC PARKS AND GROUNDS.

PART 8-301. GENERAL PURPOSE. The provisions of this chapter are to:

- A. preserve the public parks and grounds for the enjoyment of all;
- B. ensure that all individuals shall be able to enjoy public parks and grounds;
- C. encourage compatible activities in appropriate areas; and
- D. promote the safety and welfare of the public.

8-302. GENERAL PROVISIONS. The provisions of this chapter shall govern all public parks and grounds within the municipal limits of Enoch City, and shall regulate all conduct therein.

8-303. DEFINITIONS. Words and their derivations shall have the meaning given therein. The word "shall" is always mandatory and not merely directory.

- A. *Alcoholic Beverages.* Liquor, wine, beer or any other beverage containing ethanol or similar form of alcohol in any volume.
- B. *City.* Enoch City, Utah
- C. *Public Parks and Grounds.* Park, playground, recreation center, cemetery or any other area in the City owned or used by the City, and devoted to active or passive recreation, or designated as public grounds.
- D. *Person.* Any person, group, firm, partnership, association, corporation, company or organization of any kind.
- E. *Vehicle.* Any device for carrying passengers, whether motor powered or self-propelled. The terms shall include any trailer in tow of any size, kind or description. Exception is made for baby carriages and vehicles in service of the City Parks.
- F. *Domestic Animals.* Cat(s), Dog(s), Horse(s) or other pet(s) or animals kept in the house or yard. Also, any animal raised or kept for agricultural purposes.

8-304. PARK PROPERTY.

A. **Buildings and Other Property.**

- 1. **Disfiguration and Removal.** It is unlawful for any person to willfully mark, deface, disfigure, injure, tamper with, displace or remove any buildings, tables, benches, fire places, railing, paving material, water lines or other public utilities, or parts or appurtenances thereof, signs, notices or place cards, whether temporary or permanent, monuments, stakes, posts, or other boundary markers or other structures or equipment, facilities or park properties, or appurtenances whatsoever, either real or personal.
- 2. **Rest rooms and Washrooms.** All persons shall cooperate in maintaining rest rooms and washrooms in a neat and sanitary condition.
- 3. **Removal of Natural Resources.** It shall be unlawful for any person to dig or remove any soil, rock, stones, trees, shrubs or plants, down-timber or other wood or materials, or make any excavation by tool, equipment, blasting or other means.
- 4. **Erection of Structures.** It shall be unlawful for any person to construct or erect any structure of whatever kind, whether permanent or temporary in character, or run or string any public service utility into, upon or across such lands, except on special permits issued by the City.

B. **Trees, Shrubs, and Animals.**

- 1. **Injury and Removal.** It shall be unlawful for any person to carve, transplant or remove any tree or plant or injure any tree or plant; nor shall any person attach any rope, wire or other contrivance to any tree or plant. A person shall not dig or

otherwise disturb grass areas, or in any other way injure or impair the natural beauty or usefulness of any area. Exception: authorized trimming, pruning, or removal for safety purposes.

2. **Climbing Trees, Etc.** It shall be unlawful for any person to climb any tree, monument, fountain, railing, fence, or upon any property not designated or customarily used for such purposes.
3. **Hitching of Animals.** It shall be unlawful for any person to tie or hitch an animal to any tree, plant, fence, post, wall or similar structure.

C. **Wild Animals, Birds, Etc.**

1. **Hunting.** It shall be unlawful for any person to hunt, molest, harm, frighten, trap, chase, tease, shoot or throw missiles at any animal; nor shall anyone remove or have in their possession the young of any wild bird or the eggs or nest or young of any reptile or bird.

8-305. SANITATION.

- A. **Pollution of Waters.** It shall be unlawful for any person to throw, or otherwise place or cause to be placed in the waters or any fountain, pond, stream or other body of water in or adjacent to any park, any substance, liquid or solid, which will or may result in the pollution of said waters.
- B. **Refuse and Trash.** It shall be unlawful for any person to dump, deposit or leave any rubbish, waste, garbage or refuse or other trash. No such refuse or trash shall be placed in any waters contiguous to any park or left anywhere on the grounds thereof, but shall be placed in proper receptacles, where these are provided. Where receptacles are not provided, all such rubbish or waste shall be carried away from the park by the person responsible for its presence and properly disposed of elsewhere.

8-306. TRAFFIC.

- A. **State Motor Vehicle Laws Apply.** All persons shall comply with all applicable provisions of the State Motor Vehicle Traffic Laws, together with such regulations as are contained in this and other ordinances.
- B. **Enforcement of Traffic Regulations.** All persons shall obey all traffic officers and City employees, such persons being authorized and instructed to direct traffic whenever needed.
- C. **Obey Traffic Signs.** All persons shall observe all traffic signs indicating speed, direction, caution, stopping or parking, and all others posted for proper control.
- D. **Operation Confined to Road.** It shall be unlawful for any person to drive any vehicle on any area except the park road or parking areas or such other areas as may on occasion be specifically designated by the City.
- E. **Parking.**
 1. **Designated Areas.** It shall be unlawful for any person to park a vehicle in other than a designated parking area or temporarily as allowed on public rights of way.
 2. **Immovable Vehicles.** It shall be unlawful for any person to leave any vehicle anywhere in the park overnight or in any manner fixed or arranged so such vehicle cannot readily be moved by hand.
 3. **Double Parking.** It shall be unlawful for any person to double-park any vehicle on any road or parkway.
- F. **Bicycles.**
 1. **Confined to Roads.** It shall be unlawful for any person to ride a bicycle on other than a paved vehicular road or path designated for that purpose. A bicyclist shall be permitted to wheel or push a bicycle by hand over any grassy area or wooded trail or on any paved area reserved for pedestrian use.

2. **Operation.** It shall be unlawful for any person to ride a bicycle other than on the right-hand side of the road paving as close as conditions permit, and bicycles shall be kept in single file when two or more are operating as a group. Bicyclist shall pass on the left of any vehicle they are overtaking, and pass to the right of any vehicle they may be meeting.
3. **Rider Prohibited.** It shall be unlawful for any person to ride with any other person on a bicycle without an auxiliary seat.
4. **Immobile.** It shall be unlawful for any person to leave a bicycle lying on the ground or paving, or leaning against trees, or in any place where other persons may be injured by them.

8-307. RECREATIONAL ACTIVITIES.

- A. **Hunting and Firearms.** It shall be unlawful for any unauthorized person to hunt, trap or pursue wildlife at any time on public parks and grounds in Enoch City. (Rev. 4-15-15)
- B. **Picnic Areas.**
 1. **Availability.** Use of the individual fireplaces, together with tables and benches follows generally the rule of "first come, first serve," unless otherwise reserved as specified herein.
 2. **Non-Exclusive.** It shall be unlawful for any person to use any portion of the park areas for the purpose of holding any activity to the exclusion of other persons; nor shall any person use such area when reserved as herein provided.
 3. **Reservations.** It is the policy of Enoch City Corporation to restrict the use of certain facilities in areas of its public parks by means of reservation.
 - a. Reservations may be made on a "first come, first serve basis."
 - b. The maximum period of time for any single reservation is one day within the normal operating hours of the park unless otherwise approved by the City. Overnight use of the park is not permitted unless otherwise approved by the City.
 - c. It will be the responsibility of the group or individual to mark or identify the area or facilities reserved for their use. The city office personnel shall be responsible for keeping city employees apprised of park activities.
 - d. **Liability of Permittee.** Any person or entity to which a permit is issued, shall be liable for any loss, damage or injury sustained by any person or persons to whom such permit shall have been issued.
 4. **Proper Use of Facilities.**
 - a. No dangerous horseplay or use of the facilities for purposes other than the designed use is allowed.
 - b. Leave area clean and picked-up on departure.
 - c. Respect the rights of others, the reservation signs, and any specifically posted rules and regulations at the facilities.
 - d. Any damage done to the facilities, intentionally or as a result of violation of posted rules, will be charged to the entity responsible, and that entity will be held liable for damage.
 5. **Duty of Picnicker.** It shall be unlawful for any person to leave a picnic area before a fire is completely extinguished and before all trash is placed in the disposal receptacles where provided. If no such trash receptacles are available, refuse and trash shall be carried away by the picnicker to be properly disposed of elsewhere.

- C. **Camping.** It shall be unlawful for any person to set up tents, or any other temporary shelter, for the purpose of overnight camping; nor shall any person after closing hours leave in a park any movable structure or vehicle to be used or that could be used for such purpose without the written permission of the City.
- D. **Dangerous Games.** It shall be unlawful for any person to take part in the playing of any dangerous games involving thrown or otherwise propelled objects such as, but not limited to, stones, arrows, javelins, or gas powered model airplanes and other model vehicles.

8-308. PROHIBITED BEHAVIOR.

- A. **Intoxicating Beverages.**
 - 1. **Prohibition.** It shall be unlawful for any person to bring alcoholic beverages or drink alcoholic beverages at any time in City parks or on City grounds.
 - 2. **Drunkenness.** It shall be unlawful for any person to be under the influence of any intoxicating liquor in City parks or on City grounds.
- B. **Domestic Animals.** It shall be unlawful for any person to allow the entry of any domestic animals (except Seeing Eye or hearing dogs) into areas other than automobile parking and walks immediately adjacent thereto.
- C. **Roller-blades, Roller-skating, and Skateboarding.** It shall be unlawful for any person to roller-blade, roller-skate, or skateboard on City property.
- D. **Glass Containers.** It shall be unlawful for any person to allow or permit the entry of any glass container on City property.
- E. **Fires.** It shall be unlawful for any person to build or attempt to build a fire except in such areas and under such regulations as may be designated by the City. It shall be unlawful for any person to drop, throw or otherwise scatter lighted matches, burning cigarettes or cigars, tobacco paper or other flammable material within any park area or on any highway, road or street abutting or contiguous thereto.
- F. **Fireworks.** It shall be unlawful for any person to light or set off any fireworks of any kind in City parks or on City grounds except those sponsored by Enoch City or set off by the Fire Department.
- G. **Interference with Permittee.** It shall be unlawful for any person to disturb or interfere unreasonably with any person or party occupying any area, or participating in any activity under the authority of a permit.
- H. **Indecent Exposure.** See Code of Revised Ordinances of Enoch, Part 13-972.

8-309. MERCHANDISING, ADVERTISING AND SIGNS.(Rev. 9-2-15)

- A. **Vending and Peddling.** It shall be unlawful for any person to offer for sale any article or thing; nor shall any person place any stand, cart or vehicle for the transportation, sale or display of any such article or thing. Exception is made to any person or special event acting by and under the authority and regulation of the City.
- B. **Advertising.** It shall be unlawful for any person to announce, advertise, or call the public attention in any way to any article or service for sale or hire without prior approval of the City.

8-310. PARK OPERATING POLICY.

- A. **Hours.** Except for special activities and use approved by the City, unusual and unforeseen emergencies, parks shall be open to the public every day of the year during hours designated by the City. Park hours may be extended with approval of the City.

B. **Closed Areas.** Any section or part of any park may be declared closed to the public by the City at any time, either temporarily or at regular and stated intervals, as the City shall find reasonably necessary.

8-311. ENFORCEMENT AND PENALTIES. Any person, firm or corporation violating any provisions of this chapter shall be deemed guilty of a Class B misdemeanor.

8-312. SEVERABILITY. If any section, subsection, sentence, clause, phrase or a portion of this chapter is for any reason held invalid or unconstitutional by any court of competent jurisdiction, such portion shall be deemed a separate, distinct and independent provision, and such holding shall not affect the validity of the remaining portions hereof.

8-313. ORDINANCES REPEALED. All ordinances or parts of ordinances in conflict with the provisions of this Ordinance are hereby repealed.

CHAPTER 8-400. CONSTITUTIONAL TAKING ISSUES.

PART 8-401. POLICY CONSIDERATIONS. There is an underlying policy in the City of Enoch strongly favoring the careful consideration of matters involving Constitutional Taking claims, in fairness to the owner of private property bringing the claim and in view of the uncertainty and expense involved in defending lawsuits alleging such issues. At the same time, the legitimate role of government in lawfully regulating real property must be preserved together with the public's right to require the dedication or exaction of property consistent with the Constitution. Consistent with this policy, it is desired that a procedure be established for the review of actions that may involve the issue of a Constitutional Taking. These provisions are to assist governments in considering decisions that may involve Constitutional Takings. It is intended that a procedure for such review be provided, as well as guidelines for such considerations. This ordinance is further intended and shall be construed to objectively and fairly review claims by citizens that a specific government action should require payment of just compensation, yet preserve the ability of the City to lawfully regulate real property and fulfill its other duties and functions.

8-402. DEFINITIONS.

- A. "*Constitutional Taking*" means any action by the City, which involves the physical taking or exaction of private real property interests that might require compensation to the private owner of that property because of:
1. The Fifth or Fourteenth Amendment to the Constitution of the United States;
 2. Article I, Section 22, of the Utah Constitution;
 3. Any court ruling that governs the physical taking or exaction of private real property interest by a governmental entity.
- B. Action by the City involving the physical taking or exaction of private real property interests are not a Constitutional Taking if the physical taking or exaction:
1. bears an essential nexus to;
 2. is a legitimate governmental interest; and
 3. is roughly proportionate and reasonably related, on an individualized property basis, both in nature and in extent, to the impact of the proposed development on that legitimate governmental interest.

8-403. GUIDELINES ADVISORY. The guidelines adopted and decisions rendered pursuant to the provisions of this section are advisory, and shall not be construed to expand or limit the scope of the City's liability for a Constitutional Taking. The reviewing body or person shall not be required to make any determination under this ordinance except pursuant to Section IV hereof.

8-404. REVIEW OF DECISION. Any owner of private real property who claims there has been a Constitutional Taking of their private real property shall request a review of a final decision of any officer, employee, board, commission or council. The following are specific procedures established for such a review:

- A. The person requesting a review must have obtained a final and authoritative determination, internally, within the City, relative to the decision from which he is requesting a review.
- B. Within thirty (30) days from the date of the final decision that gave rise to the concern that a Constitutional Taking has occurred, the person requesting the review shall file in writing, in the office of the City Recorder, a request for review of that decision.

- C. The City Council, or an individual or body designated by the City Council, shall immediately set a time to review the decision that gave rise to the Constitutional Taking claim.
- D. In addition to the written request for review, the applicant must submit, prior to the date of review, the following:
 - 1. Name of the applicant requesting review.
 - 2. Name and address of the current owner of property affected, the form of ownership [sole proprietor, corporate (profit or non-profit), partnership, etc.], and if other than individual ownership, the name and address of all principal shareholders or partners.
 - 3. A detailed description of the grounds for the claim that there has been a Constitutional Taking.
 - 4. Full legal description and street address of the property claimed to have been taken.
 - 5. Evidence and documentation as to the value of the property taken, including the date and cost of acquisition of the property by its owner. This should include any evidence of the value of that same property before and after the alleged Constitutional Taking, the name of the party from whom purchased, including the relationship, if any, between the person requesting a review and the party from whom the property was acquired.
 - 6. Nature of the protectable interest claimed to be affected (fee simple, leasehold interest, etc.).
 - 7. Terms (including sale price) of any previous purchase or sale of a full or partial interest in the original parcel within which the affected piece is located within the three years prior to application.
 - 8. All appraisals of the property prepared for any purpose, including financing, real estate listing, or ad valorem taxation, during the previous three years.
 - 9. All information concerning current mortgages or other loans secured by the property, including name of the mortgagee or lender, current interest rate, remaining loan balance, and other significant provisions.
 - 10. All listings of the property for sale or rent, price asked, and offers received, if any, within the previous three years.
 - 11. All studies commissioned by the petitioner or agents within the previous three years concerning feasibility of developing and utilizing the property.
 - 12. For income producing property, an itemized income and expense statement for the property during the previous three years.
 - 13. Information from a title policy or other independent source showing all recorded liens or encumbrances affecting the property.
 - 14. Such additional information as the City Council or its designee may request that in their opinion is reasonably necessary to arrive at a conclusion concerning whether there has been a Constitutional Taking.
- E. An application shall not be deemed to be "complete" or "submitted" until the reviewing body or official certifies to the applicant that all materials and information required above have been received by the City. The reviewing body or person shall notify the applicant of any incompleteness.
- F. The City Council or body or official designated by it shall hear all the evidence related to and submitted by the applicant, city, or other interested party.
- G. If review is made by a body or official as designated by the Council rather than the Council itself, a recommendation shall be made to the City Council at the next scheduled council meeting following the appeal application date.

- H. A final decision on the review shall be rendered by the City, after review of the recommendation by a designated reviewing body or official, if any, within fourteen (14) days from the date the complete application for review has been received by the City Recorder.
- I. The decision of the City Council regarding the results of the review shall be given in writing to the applicant and to the officer, employee, board or commission that made the original decision from which appeal was taken.
- J. If the City Council fails to hear and decide the review within fourteen (14) days, the decision appealed from shall be presumed to be approved.

8-405. REVIEWING GUIDELINES. The City Council or its designee shall review the facts and information presented by the applicant to determine whether or not the action by the City constitutes a Constitutional Taking as defined in the Chapter. In doing so, the following shall be considered:

- A. Whether the physical taking or exaction of the private real property bears an essential nexus to a legitimate governmental interest.
- B. Whether a legitimate governmental interest exists for the action taken by the City.
- C. Whether the property and exaction taken is roughly proportionate and reasonably related, on an individual property basis, both in nature and extent, to the impact caused by the activities that are the subject of the decision being reviewed.

8-406. RESULTS OF REVIEW. After decision by the City Council, where it is determined to be necessary and appropriate, the officer, employee, board or commission who made the original decision giving rise to the Constitutional Taking claim shall be advised to take such other action as will be consistent with the decision of the City Council.

(Chapter 8-400 adopted 12-7-94)

TITLE 9-000. LICENSING, CONTROL AND REGULATION OF BUSINESS AND CONSTRUCTION.

CHAPTER 9-100. PROVISIONS RELATING TO THE LICENSING CONTROL AND REGULATION OF BUSINESSES.

PART 9-110. GENERAL PROVISIONS.

9-111. DEFINITIONS. As used in chapters 9-200, 9-300 and 9-400:

- A. “*Business*” means and includes all activities engaged in within this municipality carried on for the purpose of gain or economic profit, except that the acts of employees rendering service to employers shall not be included in the term business unless otherwise specifically provided.
- B. “*Engaging in business*” includes, but is not limited to, the sale of tangible personal property at retail or wholesale, the manufacturing of goods or property and the rendering of personal services for others for a consideration by persons engaged in any profession, trade, craft, business, occupation or other calling, except the rendering of personal services by an employee to his employer under any contract of personal employment.
- C. “*Place of business*” means each separate location maintained or operated by the licensee within this municipality from which business activity is conducted or transacted.
- D. “*Employee*” means the operator, owner or manager of a place of business and any persons employed by such person in the operation of said place of business in any capacity and also any salesman, agent or independent contractor engaged in the operation of the place of business in any capacity.
- E. The term “*wholesaler*” means a person doing a regularly organized wholesale or jobbing business and selling to retail merchants, jobbers, dealers or other wholesalers, for the purpose of resale.
- F. The term “*wholesale*” means a sale of tangible personal property by wholesalers to retail merchants, jobbers, dealers or other wholesalers for resale, and does not include a sale by wholesalers or retailers to users or consumers not for resale, except as otherwise specified.
- G. “*Each separate place of business*” shall mean each separate establishment or place of operation, whether or not operating under the same name, within the municipality, including a home or other place of lodging if the same is held out by advertisements, listings or otherwise as the establishment or place of operation of a person engaging in the business of selling tangible, personal property at either retail or wholesale, or both, in the municipality.

9-112. BUSINESS LICENSE REQUIRED. It shall be a class B misdemeanor for any person to transact, engage in or carry on any business, trade, profession, calling or to operate a vending, pinball or coin-operated machine without first receiving the class or type of license required by the municipality.

9-113. LICENSE ASSESSOR AND COLLECTOR. The recorder/clerk is designated and appointed as *ex officio* assessor of license fees for this municipality. On receipt of any application for a license, the recorder/clerk shall assess the amount due thereon and shall collect all license fees based upon the rate established by ordinance. He shall enforce all provisions of

this title, and shall cause to be filed complaints against all persons violating any of the provisions of this title.

9-114. PAYMENT DATES. All license fees shall be due upon the date of application approval. No license shall be issued until the license fee is paid in full. Licenses are good for one year from the date of approval. (Part 9-114 amended 11-17-93)

9-115. PENALTY FOR LATE PAYMENT. If any license fee is not paid within thirty (30) days of the due date, a penalty in the amount of \$10.00 shall be added to the original amount thereof. No license shall be issued until all penalties legally assessed have been paid in full. (Part 9-115 amended 4-6-11)

9-116. APPLICATIONS FOR LICENSE.

- A. All applications for license shall include:
 - 1. The name of the person desiring a license.
 - 2. The kind of license desired, stating the business, calling, trade or profession to be performed, practiced or carried on.
 - 3. The class of license desired, is such licenses are divided into classes.
 - 4. The place where such business, calling, trade or profession is to be carried on, giving the street number if the business calling, trade or profession is to be carried on in any building or enclosure having such number.
- B. In the event that the license application relates to a coin-operated machine or device, the application shall identify the machine or device to which it applies and the location thereof. (Part 9-116 amended 1-21-04)

9-117. CERTIFICATE. All certificates of license shall be signed by the mayor, attested by the recorder/clerk, and shall contain the following information:

- A. The name of the person to whom such certificate has been issued.
- B. The amount paid.
- C. The type of license and the class of such license, if licenses are divided into classes.
- D. The term of the license, with the commencing date and the date of its expiration.
- E. The place where such business, calling, trade or profession is to be conducted.

9-118. DISPLAY.

- A. Every certificate of license issued under this title shall be posted by the licensee in a conspicuous place upon the wall of the building, room, or office of the place of business so that the same may be easily seen. When such certificate of license has expired, it shall be removed by the licensee from such place where it has been posted, and no certificate of license which is not in force and effect shall be permitted to remain posted upon the wall or any part of any room within the place of business. If the licensee's business is such that a license cannot be displayed due to the transient or mobile nature of the business, then the licensee shall carry the license on his person ready to be shown on request by an authorized officer during all such time or times while the licensee is engaged in or pursuing the business for which a license is granted.
- B. In the event the license is for a coin-operated machine or device, the certificate shall be attached or displayed in the immediate vicinity of the machine for which it has been issued.

9-119. TRANSFER OF LICENSE PROHIBITED. No license granted or issued under any ordinance of this municipality shall be assigned or transferred to any other person. It shall not be deemed to authorize any person other than therein named to do business or to authorize any other

business, calling, trade or profession than is therein named unless by permission of the governing body.

9-120. REVOCATION OR DENIAL OF BUSINESS LICENSE.

- A. Any license issued pursuant to the provisions of this code or of any ordinance of this municipality may be revoked and any application denied by the governing body because of:
 - 1. The failure of the licensee or applicant to comply with the conditions and requirements of this code or any ordinance of the municipality.
 - 2. Unlawful activities conducted or permitted on the premises where the business is conducted.
- B. Prior to the revocation of a license or denial of an application to renew business license, the licensee or applicant shall be given a notice which shall state in substance that the governing body intends to revoke the business license or deny the application to renew, together with the reason or reasons therefore, at a regular or special meeting of the governing body (which shall be at least ten days and not more than 30 days from the date notice is sent) and that the licensee or applicant has a right to appear, to be represented by counsel, to hear the evidence against him, to cross-examine witnesses and to present evidence as to why the license should not be revoked or the application denied.
- C. The preceding subsection shall not apply to applications for licenses for businesses that have not previously been licensed by the municipality, and such applicants need only be informed that their application has been denied.

9-121. BRANCH ESTABLISHMENTS. A separate license must be obtained for each separate place of business in the municipality and each license shall authorize the licensee to engage only in the business licensed thereby at the location or in the manner designated in such license, provided, that warehouses and distributing places used in connection with or incident to a business licensed under this part shall not be deemed to be separate places of business or branch establishments.

9-122. JOINT LICENSE. Whenever any person is engaged in two or more businesses at the same location within the municipality, such person shall not be required to obtain separate licenses for conducting each of such businesses, but shall be issued one license, which shall specify on its face all such businesses. The license tax to be paid shall be computed at the highest license fee applicable to any of the businesses being conducted at such location. The sale of beer or any other product or service requiring an additional license shall be subject to such additional licensing requirement. Where two or more persons conduct separate businesses at the same location, each such person shall obtain a license for such business and pay the required license tax for such business.

9-123. RECIPROCAL RECOGNITION OF LICENSES.

- A. No license shall be required for operation of any vehicle or equipment in this municipality when:
 - 1. Such vehicle is merely passing through the municipality.
 - 2. Such vehicle is used exclusively inter-city or inter-state commerce.
- B. No license shall be required by chapters 9-200, 9-300, or 9-400 of any person whose only business activity in the municipality is the mere delivery in the municipality of property sold by him at a regular place of business maintained by him outside the municipality where:
 - 1. Such person's business is, at the time of such delivery, licensed by the Utah municipality or county in which such place of business is situated, and

2. The authority licensing such business grants to licensees of this municipality making deliveries within its jurisdiction the same privileges, upon substantially the same terms, as are granted by this section, and
 3. Neither the property delivered nor any of the facilities by which it was manufactured, produced or processed are subject to inspection by authority of this municipality for compliance with health or sanitary standards prescribed by this municipality, and
 4. The truck or other conveyance by which such delivery is made prominently displays at all times a license plate or symbol issued by the said licensing authority to evidence such business license. Such plate or symbol shall identify the licensing authority by which it is issued, shall indicate that it evidences a license issued thereby, and shall specify the year or term for which it is effective.
- C. The recorder/clerk shall, at the request of any person, certify a copy of this section to any municipality or county of the state of Utah to which a copy has not previously been certified.

9-124. EXEMPTIONS TO LICENSE.

- A. No license fee shall be imposed under chapter 9-200 or 9-300 on any person engaged in business for solely religious, charitable, eleemosynary or other types of strictly non-profit purpose which is tax exempt in such activities under the laws of the United States and the state of Utah, nor shall any license fee be imposed on any person engaged in a business specifically exempted from municipal taxation and fees by the laws of the United States or the state of Utah; not shall any license fee be imposed upon any person not maintaining a place of business within this municipality who has paid a like or similar license tax or fee to some other taxing unit within the state of Utah and which taxing unity exempts from its license tax or fee, by reciprocal agreement or otherwise, businesses domiciled in this municipality and doing business in such taxing unit.
- B. The license assessor and collector may, with approval of the governing body, enter into reciprocal agreements with the proper officials of other taxing units, as may be deemed equitable and proper in effecting the exemption provided for in subsection A of this section.

9-125 FEE NOT TO CONSTITUTE UNDUE BURDEN ON INTERSTATE COMMERCE. None of the license taxes provided for by chapters 9-200 and 9-300 shall be applied as to occasion an undue burden on interstate commerce. In any case, where a license tax is believed by a licensee or applicant for license to place an undue burden upon such commerce, he may apply to the license assessor and collector for an adjustment of the tax so that it shall not be discriminatory, unreasonable or unfair as to such commerce. Such application may be made before, at or within six months after payment of the prescribed license tax. The applicant shall, by affidavit and supporting testimony show his method of business and the gross volume or estimated gross volume of business and such other information as the license assessor and collector may deem necessary in order to determine the extent, if any, of such undue burden on such commerce. The license assessor and collector shall then conduct an investigation, comparing applicant's business with other businesses of like nature and shall make findings of facts from which he shall determine whether the tax fixed by chapters 9-200 and 9-300 is discriminatory, unreasonable or unfair as to applicant's business and shall recommend to the governing body a license tax for the applicant in an amount that is nondiscriminatory, reasonable and fair, and if the governing body is satisfied that such license tax is the amount that the applicant should pay, it shall fix the license tax in such amount. If the regular license tax has already been paid, the governing body shall order a refund of the amount over and above the tax fixed by the governing body. In fixing the fee to be charged, the license assessor and collector

shall have the power to base the fee upon a percentage of gross sales, or employees, or may use any other method, which will assure that the fee assessed shall be uniform with that assessed on businesses of like nature.

CHAPTER 9-200. BUSINESSES LICENSED ON AN ANNUAL FEE.

PART 9-210. ADMINISTRATION AND IMPOSITION OF FEE.

9-211. BUSINESS SUBJECT TO FEE. The business, location, trade, calling or profession of every person engaged in a business in this municipality as previously defined in Section 9-111 hereof shall pay an annual licensing fee as required by this chapter.

9-212. REGISTRATION. All persons engaged in any business trade, calling, or profession shall complete and file in the office of the recorder/clerk a registration form provided to him by the municipality, which shall show:

1. The name of the applicant.
2. The address and telephone number of the applicant.
3. The type of organization, e.g., corporation, partnership or sole proprietor.
4. If a partnership or a corporation or other artificial person, the name, address, telephone number of the person responsible for the functions of the organization.
5. Such other information as the governing body may require.

9-213. FEE LEVIED.

- A. Every person who engages in business in the municipality within the definitions set forth herein above shall pay an annual licensing fee as follows:
1. Home Occupation Businesses, after being granted a Conditional Use Permit, shall pay an annual licensing fee as set in the fee schedule and due upon the date of application approval. (5-2-07)
 2. Commercial Businesses, located in commercially zoned areas of Enoch City, shall pay an annual licensing fee as set in the fee schedule and due upon the date of application approval. (5-2-07)
- B. Notwithstanding the above, a person engaged in the sale of fireworks under the provisions of Part 13-1039 shall be required to pay an annual licensing fee in the amount as set in the fee schedule.

9-214. FEE ON BUSINESS WITHOUT PLACE OF BUSINESS WITHIN MUNICIPALITY. There is hereby levied upon every person engaged in business in this municipality, which does not have a place of business in this municipality and is not exempt under the provisions of Part 9-124, an annual licensing fee as set in the fee schedule.

9-215. IN ADDITION TO OTHER LICENSE FEES. The license fees imposed by this chapter shall be in addition to any and all other license fees, whether called a fee or tax or otherwise imposed by any other provision of the ordinances of this municipality.

9-216. PENALTY. Whenever any fee required to be paid by this chapter, is not paid on or before the day on which it becomes delinquent, a penalty as set in the fee schedule shall be imposed. Such penalty shall become a part of the fee imposed by this chapter.

9-217. FALSE RETURNS. No person required by this chapter to make and file a return shall make and file a false return knowing the same to be false.

9-218. FAILURE TO FILE RETURN. If any licensee hereunder fails, neglects, or refuses to file his application and pay the fees as and when required herein, the recorder/clerk is authorized

to determine the amount of the license fees due, together with penalties, and by mail to notify such licensee of the amount so determined. The amount so fixed shall thereupon become the amount due, and shall be immediately payable.

9-219. COLLECTION OF LICENSE FEE. Any license fee due and unpaid under this chapter and all penalties thereon shall constitute a debt to the municipality and shall be collected by court proceedings in the same manner as any other debt in like amount, which remedy shall be in addition to all other existing remedies.

(Chapter 9-200 thru 9-219 added 1-21-04)

CHAPTER 9-300. BUSINESSES LICENSED ON THE BASIS OF GROSS RECEIPTS. (Chapter 9-300 repealed on 1-21-04)

Revised 10-7-09.

CHAPTER 9-400. LICENSING AND REGULATING SPECIFIC BUSINESSES.

PART 9-410. INTOXICANTS.

9-411. LICENSE REQUIRED TO SELL BEER. It shall be unlawful for any person to engage in the business of the sale of beer at retail, in bottles, cans or in original containers, or draft, within the corporate limits of Enoch City without first having procured a license thereof from the City. A separate license shall be required for each place of sale and the license shall at all times be conspicuously displayed in the place to which it shall refer or for which it shall be issued. On-premise beer retailers shall also be licensed by the State of Utah Alcoholic Beverage Control Commission. All licensees shall comply with Utah Law and the regulations of the Alcoholic Beverage Control Commission, the laws and ordinances of Enoch City and all rules and regulations of the Iron County Health Department relating to health matters.

9-412. LICENSE APPLICATION.

- A. All applications for licenses authorized by this Chapter shall be verified and filed with the License Officer of Enoch City and shall state the applicant's name in full, that the applicant has complied with the requirements and possesses the qualifications specified in the Utah Alcoholic Beverage Control Act; and if the applicant is a co-partner, the names and addresses of all partners; and if the corporation or limited liability company, the names and addresses of all officers and directors of the corporation or members of the limited liability company; and must be subscribed by the applicant who must state under oath that the facts stated therein are true.
- B. Licenses may not be granted to sell beer within three hundred (300) feet of any church building or school building.
- C. A minor may not be granted a beer retailer license.

9-413. LICENSE FEES. Fees for each class of license shall accompany all applications and shall be in the amount as designated from time to time by resolution of the City Council.

9-414. RESTRICTIONS.

- A. It shall be unlawful to advertise the sale of beer in any exterior window or sign and to merchandise beer outside of premise such as sidewalks, etc. All beer merchandizing must be held back within the first fifty per cent (50%) of the retail establishment floor space from the public front door.
- B. No licensee shall violate the terms of the license issued, permit any beer to be consumed on the premises, and it shall be unlawful to keep or maintain a nuisance as defined by this Title.

- C. A beer retailer may not purchase, acquire, possess for the purpose of resale, or sell any beer except that which has been lawfully purchased from a wholesaler licensed under the Alcoholic Beverage Control Act or from a small brewer that manufactured the beer. All purchases made of beer by any beer retailer from a licensed wholesaler shall be from the wholesaler who is authorized by the Alcoholic Beverage Control Commission to sell beer in the geographical area in which the beer retailer is located unless an alternate wholesaler is authorized by the Commission to sell to the beer retailer.
- D. Beer may not be sold, provided or possessed for off-premise consumption in containers larger than two liters.
- E. A minor may not sell beer on the premises of an off-premise beer retailer. Only persons 21 years of age or older are authorized to sell beer within the city limits.
- F. If malt beverage coolers or malt liquor is sold by an off-premise beer retailer, the off-premise beer retailer shall display a sign at the location on the premises where malt beverages or malt liquor is sold stating: "Many malt beverages contain alcohol. Please read the label."
- G. Beer sales shall not be allowed from Sunday 12:00 a.m. until Monday 7:00 a.m. There shall be no beer sales weekdays from 1:00 a.m. until 7:00 a.m.
- H. A surveillance camera will be installed and will be recording during open business hours to view the point of beer sales in all retail outlets within the city limits.
- I. Remedies for failure to comply with this ordinance:
 1. State statutes as required by Utah State Alcohol Beverage Commission.
 2. An immediate revocation of proprietor's business license.

PART 9-430. CONSTRUCTION CONTRACTORS.

9-431. PURPOSE. The purpose of this part is to establish a system of imposing license fees upon persons engaging in business within the limits of the municipality as contractors. The licenses are designed to be determined upon the basis of each contract or job being performed. It is the opinion of the governing body that this method of determining the amount of fee will result in fair taxation and will not discriminate against the contractor who performs only a few jobs within the municipal limits as distinguished from the contractor who performs many.

9-432. DEFINITIONS.

- A. "*Contractor*" means any person, firm, co-partnership, corporation, association, or other organization, or any combination thereof, who for a fixed sum, price, fee, percentage, or other compensation other than wages, undertakes any building, highway, road, railroad, excavation or other structure, project, development, or improvement, other than to personality, or any part thereof; provided, that the term contractor, as used in this part, shall include anyone who builds more than one structure on his own property during any one year for the purpose of sale and shall include subcontractors, but shall not include anyone who merely furnishes materials or supplies without fabricating the same into, or consuming the same in the performance of the work of the contractors as herein defined.

- B. *Types of Contractors:* As an illustrative list of contractors subject to the provisions of this part, but not in limitation thereof, the following occupations are subject to this part: general contractors, specialty contractors of all kinds, such as, but not limited to those engaged in the business of installing, repairing or otherwise performing services in connection with: acoustical tile and roof decking; awnings, storm doors, and windows; air conditioning, dry-heating, sheet metal; boilers, steam fitting; carpentry; cement and concrete; ceramic tile; cabinet and millwork; composition floor, counter tops, tile; carpet; drywall; elevator installation; electrical; excavating and grading; fencing; floor coverings; fire prevention (structural); furnaces and burners; glazing; industrial piping; iron and bronze (ornamental); insulation; landscaping; lathing; lawn sprinklers; masonry; mosaic tile and terrazzo; overhead doors; painting and paper hanging; pest control (structural); plastering; plumbing and wet heating; roofing and siding; swimming pool; signs; stone masonry; sewer installation; steel reinforcing and erection; tanks (structural); waterproofing; weather stripping; welding; wrecking and demolition; wood floor laying and finishing.

9-433. DOING BUSINESS WITHOUT REGISTRATION AND A LICENSE UNLAWFUL.

Any person desiring to engage in business as a contractor within the corporate limits of this municipality must comply with the two following requirements:

- A. Prior to engaging in any subject business activity during any calendar year, he must register for the calendar year as a contractor by completing and filing a registration form in the office of the recorder/clerk.
- B. Prior to the performance of any services in connection with any specific contract or job, the person shall secure a license to engage in the performance of service connected with said specific job or contract from the office of the recorder/clerk.

9-434. REGISTRATION.

- A. Any person desiring to engage in business as a contractor shall complete and file in the office of the recorder/clerk a registration form provided to him by the municipality, which shall show:
1. The name of the contractor.
 2. The address and telephone number of the contractor.
 3. The type of organization, e.g., corporation, partnership or sole proprietor.
 4. If a partnership or a corporation or other artificial person, the name, address, and telephone number of the person responsible for the functions of the organization:
 - a. Whether or not licensed under the contractor's license law of the state of Utah; if so, the license number of the contractor.
 - b. Type of business in which registrant seeks to engage, e.g., general contractor or one of the specialty contractors.
 - c. Such other information as the governing body may by regulation require.
- B. Any person seeking to register for the privilege of doing business as a contractor within the limits of this municipality for any calendar year, or any part thereof, shall pay an annual registration fee as set in the fee schedule.

9-435. JOB LICENSE FOR EACH CONTRACT.

- A. Any person desiring to perform services as a contractor shall, in addition to registering, as above required, secure a job license granting to him the privilege of performing the services required of him for each contract or job which he proposes to complete.
- B. Any person seeking said job license for a contract or job shall complete an application therefore, on forms provided him by the municipality. The application shall set forth:
1. The name and address of the contractor.

2. His municipal registration number.
3. The number of his state contractor's license.
4. The person by whom he is engaged to perform services as a contractor.
5. The address of said person.
6. The location at which the said contractor's services are to be performed.
7. The type of services that are to be performed, e.g., as a general contractor, as one of the specialty contractors.
8. The contract amount.

9-436. JOB LICENSE FEE. Every contractor, for the privilege of engaging in the business of performing said services, shall pay the amount set forth in the appropriate appendix to this code.

9-437. RECORDS - INSPECTION. All persons registered pursuant to this part for the privilege of doing business as contractors, and all persons who engage in doing business as contractors, shall maintain records of all services performed by them as contractors within the corporate limits of this municipality. The records shall disclose the person for whom the services are performed and the contract price or charge made for the services and such other information as the governing body may, by regulation, require. The persons shall maintain such records at their office or principal place of business and shall permit officials or agents of the municipality to inspect said records for the purpose of determining whether or not said persons have complied with the requirements of this license part.

9-438. REGULATIONS. The governing body may adopt such regulations as in its opinion are necessary to implement this part and the objectives thereof.

PART 9-450 RESIDENTIAL SOLICITATION, CANVASSERS, PEDDLERS AND ITINERANT MERCHANTS

- A. Purpose**
- B. No Other City License or Approval Required**
- C. Definitions**
- D. Exemptions from Chapter**
- E. Solicitation Prohibited**
- F. Registration of Solicitors**
- G. Application Form**
- H. Written Disclosures**
- I. When Registration Begins**
- J. Issuance of Certificates**
- K. Form of Certificate and Identification Badge**
- L. Maintenance of Registry**
- M. Non-Transferability of Certificates**
- N. Denial, Suspension or Revocation of a Certificate of Registration**
- O. Appeal**
- P. Deceptive Soliciting Practices Prohibited**
- Q. "No Soliciting" Notice**
- R. Duties of Solicitors**
- S. Time of Day Restrictions**
- T. Buyer's Right to Cancel**
- U. Penalties**

A. Purpose.

Residents of the City have an inalienable interest in their personal safety, well-being, and privacy in their residences, as well as their ability to provide or receive information regarding matters of personal belief, political or charitable activities, and goods and services lawfully in commerce. The City has a substantial interest in protecting the well-being, tranquility, personal safety, and privacy of its citizens, which includes the ability to protect citizens from unwanted intrusions upon residential property. The City also has a substantial interest in protecting citizens from fraud or otherwise unfair consumer sales practices as well as criminal activity.

There must be a balance between these substantial interests of the City and its citizens, and the effect of the regulations in this Chapter on the rights of those who are regulated. Based on the collective experiences of City officials derived from regulating business activity, protecting persons and property from criminal conduct, responding to the inquiries of citizens regarding Door-to-Door Solicitation, the experience of its law enforcement officers and those affected by Door-to-Door canvassing and solicitation, as well as judicial decisions outlining the boundaries of constitutional protections afforded and denied persons seeking to engage in Door-to-Door Solicitation, the City adopts this Chapter to promote the City's substantial interests in:

- (1) Respecting citizen's decisions regarding privacy in their residences;
- (2) Protecting persons from criminal conduct;
- (3) Providing equal opportunity to Advocate for and against Religious Belief, Political Position, or Charitable Activities; and
- (4) Permitting truthful and non-misleading Door-to-Door Solicitation regarding lawful Goods or Services in intrastate or interstate commerce.

The City finds that the procedures, rules and regulations set forth in this Chapter are narrowly tailored to preserve and protect the City interests referred to herein while at the same time balancing the rights of those regulated.

B. No Other City License or Approval Required.

(1) Registered Solicitors and persons exempt from Registration need not apply for, nor obtain, any other license, permit, or registration from the City to engage in Door-to-Door Solicitation.

(2) Any Business licensed by the City under another City Ordinance that uses employees, independent contractors, or agents for Door-to-Door Solicitation in an effort to provide any tangible or intangible benefit to the Business, shall be required to have such Solicitors obtain a Certificate, unless otherwise exempt from Registration.

(3) Those Responsible Persons or Entities associated with Registered Solicitors need not apply for, nor obtain, any other license, permit, or registration from the City, provided they do not establish a temporary or fixed place of business in the City.

(4) Nothing herein is intended to interfere with or supplant any other requirement of federal, state or other local government law regarding any license, permit or certificate that a Registered Solicitor is otherwise required to have or maintain.

C. Definitions. For the purposes of this Chapter, the following definitions shall apply:

(1) **“Advocating”** means speech or conduct intended to inform, promote, or support Religious Belief, Political Position, or Charitable Activities.

(2) **“Appeals Officer”** means the City Council or designee of the City responsible for receiving the information from the City and Appellant regarding the denial or suspension of a Certificate and issuing a decision as required by this Chapter.

(3) **“Appellant”** means the person or entity appealing the denial or suspension of a Certificate, either personally as an Applicant or registered Solicitor, or on behalf of the Applicant or Registered Solicitor.

(4) **“Applicant”** means an individual who is at least sixteen (16) years of age and not a corporation, partnership, limited liability company or other lawful entity who applies for a Certificate permitting Door-to-Door Solicitation.

(5) **“Application Form”** means a standardized form provided by the City to an Applicant to be completed and submitted as part of Registration.

(6) **“B.C.I.”** means an original or copy, dated no older than 180 days prior to the date of the Application, of either: (1) a Utah Department of Public Safety Bureau of Criminal Identification verified criminal history report personal to the Applicant; or (2) verification by the Utah Department of Public Safety Bureau of Criminal Identification that no criminal history rising to the level of a Disqualifying Status exists for the Applicant.

(7) **“Business”** means a commercial enterprise licensed by the City as a person or Entity under this Title, having a fixed or temporary physical location within the City.

(8) **“Certificate”** means a temporary, annual, or renewal Certificate permitting Door-to-Door Solicitation in the City applied for or issued pursuant to the terms of this Chapter.

(9) **“Charitable Activities”** means Advocating by persons or Entities that either are, or support, a Charitable Organization.

(10) **“Charitable Organization”** includes any person, joint venture, partnership, limited liability company, corporation, association, group, or other Entity:

A. that is:

- (i) a benevolent, educational, voluntary health, philanthropic, humane, patriotic, religious or eleemosynary, social welfare or advocacy, public health, environmental or conservation, or civic organization;
- (ii) for the benefit of a public safety, law enforcement, or firefighter fraternal association; or
- (iii) established for any charitable purpose; and

B. That is tax exempt under applicable provisions of the Internal Revenue Code of 1986 as amended, and qualified to solicit and receive tax- deductible contributions from the public for charitable purposes.

- C. Charitable Organization includes a chapter, branch, area, or office, or similar affiliate or any person soliciting contributions within the state for a Charitable Organization that has its principal place of business outside the City or State of Utah.¹

(11) **“Competent Individual”** means a person claiming or appearing to be at least eighteen (18) years of age and of sufficiently sound mind and body to be able to engage in rational thought, conversation, and conduct.

(12) **“Completed Application”** means a fully completed Application Form, a B.C.I, two copies of the original identification relied on by the Applicant to establish Proof of Identity, and the tendering of Fees.

(13) **“Criminally Convicted”** means the final entry of a conviction, whether by a plea of no contest, guilty, entry of a judicial or jury finding of guilt, which has not been set aside on appeal or pursuant to a writ of habeas corpus. The criminal conviction is that offense of which the Applicant or Registered Solicitor was convicted, without regard to the reduced status of the charge after completion of conditions of probation or parole, and charges dismissed under a plea in abeyance or diversion agreement.

(14) **“Disqualifying Status”** means anything specifically defined in this Chapter as requiring the denial or suspension of a Certificate, and any of the following:

- A. The Applicant or Registered Solicitor has been Criminally Convicted of: (i) felony homicide, (ii) physically abusing, sexually abusing, or exploiting a minor, (iii) the sale or distribution of controlled substances, or (iv) sexual assault of any kind.
- B. Criminal charges currently pending against the Applicant or Registered Solicitor for: (i) felony homicide, (ii) physically abusing, sexually abusing, or exploiting a minor, (iii) the sale or distribution of controlled substances, or (iv) sexual assault of any kind.
- C. The Applicant or Registered Solicitor has been Criminally Convicted of a felony within the last ten (10) years;
- D. The Applicant or Registered Solicitor has been incarcerated in a federal or state prison within the past five (5) years;
- E. The Applicant or Registered Solicitor has been Criminally Convicted of a misdemeanor within the past five (5) years involving a crime of: (i) moral turpitude, or (ii) violent or aggravated conduct involving persons or property.
- F. A Final Civil Judgment been entered against the Applicant or Registered Solicitor within the last five (5) years indicating that: (i) the Applicant or Registered Solicitor had either engaged in fraud, or intentional misrepresentation, or (ii) that a debt of the Applicant or Registered Solicitor was non-dischargeable in bankruptcy pursuant to 11 U.S.C. § 523(a) (2), (a)(4), (a)(6), or (a)(19);

- G. The Applicant or Registered Solicitor currently on parole or probation to any court, penal institution, or governmental entity, including being under house arrest or subject to a tracking device;
- H. The Applicant or Registered Solicitor has an outstanding arrest warrant from any jurisdiction; or
- I. The Applicant or Registered Solicitor is currently subject to a protective order based on physical or sexual abuse issued by a court of competent jurisdiction.

(15) **“Door to Door Solicitation”** means the practice of engaging in or attempting to engage in conversation with any person at a Residence, whether or not that person is a Competent Individual, while making or seeking to make or facilitate a Home Solicitation Sale, or attempting to further the sale of Goods and or Services.

(16) **“Entity”** includes a corporation, partnership, limited liability company, or other lawful entity, organization, society or association.

(17) **“Fees”** means the cost charged to the Applicant or Registered Solicitor for the issuance of a Certificate and/or Identification Badge, which shall not exceed the reasonable costs of processing the application and issuing the Certificate and/or Identification Badge.

(18) **“Final Civil Judgment”** means a civil judgment that would be recognized under state law as a judgment to which collateral estoppel would apply.

(19) **“Goods”** means one or more tangible items, wares, objects of merchandise, perishables of any kind, subscriptions, or manufactured products offered, provided, or sold.

(20) **“Home Solicitation Sale”** means to make or attempt to make a Sale of Goods or Services by a Solicitor at a Residence by means of Door-to-Door Solicitation, regardless of

- A. the means of payment or consideration used for the purchase;
- B. the time of delivery of the Goods or Services; or
- C. the previous or present classification of the Solicitor as a solicitor, peddler, hawker, itinerant merchant or similar designation.

(21) **“Licensing Officer”** means the City employee(s) or agent(s) responsible for receiving from an Applicant or Registered Solicitor the Completed Application and either granting, suspending, or denying the Applicant’s Certificate.

(22) **“No Solicitation Sign”** means a reasonably visible and legible sign that states “No Soliciting,” “No Solicitors,” “No Salespersons,” “No Trespassing, or words of similar import.

(23) **“Political Position”** means any actually held belief, or information for, against, or in conjunction with any political, social, environmental, or humanitarian belief or practice.

(24) **“Registered Solicitor”** means any person who has been issued a current Certificate by the City.

(25) **“Registration”** means the process used by the City Licensing Officer to accept a Completed Application and determine whether or not a Certificate will be denied, granted, or suspended.

(26) **“Religious Belief”** means any sincerely held belief, or information for, against, or in conjunction with, any theistic, agnostic, or atheistic assumption, presumption or position, or religious doctrine, dogma, or practice regardless of whether or not the belief or information is endorsed by any other person or public or private entity.

(27) **“Residence”** means any living unit contained within any building or structure that is occupied by any person as a dwelling consistent with the zoning laws of the City, together with the lot or other real property on which the living unit is located. This does not include the sidewalk, public street or public right of ways.

(28) **“Responsible Person or Entity”** means that person or Entity responsible to provide the following to an Applicant, Registered Solicitor, and the Competent Individual in a Residence to whom a Sale of Goods or Services is made or attempted to be made by means of a Home Solicitation Sale:

- A. maintaining a state sales tax number, a special events sales tax number, computing the sales taxes owing from any Sale of Goods or Services, paying the sales taxes, and filing any required returns or reports;
- B. facilitating and responding to requests from consumers who desire to cancel the sale pursuant to applicable contractual rights or law; and
- C. refunding any monies paid or reversing credit card charges to those persons who timely rescind any sale pursuant to applicable contractual rights or law.

(29) **“Sale of Goods or Services”** means the conduct and agreement of a Solicitor and the Competent Individual in a Residence regarding a particular Good(s) or Service(s) that entitles the consumer to rescind the same within three days under any applicable federal, state, or local law.

(30) **“Services”** means those intangible goods or personal benefits offered, provided, or sold to a Competent Individual of a Residence.

(31) **“Soliciting”** or “Solicit” or “Solicitation” means any of the following activities:

- A. Seeking to obtain Sales or orders for the exchange of goods, wares, merchandise or perishables of any kind, for any kind of remuneration or consideration, regardless of whether advance payment is sought;
- B. Seeking to obtain prospective customers to apply for or to purchase insurance, subscriptions to publications, or publications;
- C. Seeking to obtain contributions of money or any other thing of value for the benefit of any person or Entity;
- D. Seeking to obtain orders or prospective customers for Goods or Services.
- E. Seeking to engage an individual in conversation at a Residence for the purpose of promoting or facilitating the receipt of information regarding Religious Belief, Political Position, Charitable Conduct, or a Home Solicitation Sale.
- F. Other activities falling within the commonly accepted definition of soliciting, such as hawking or peddling.

(32) **“Solicitor” or “Solicitors”** means a person(s) engaged in Door-to-Door Solicitation.

(33) **“Submitted in Writing”** means the information for an appeal of a denial or suspension of a Certificate, submitted in any type of written statement to the City offices by certified, registered, priority, overnight or delivery confirmation mail, facsimile, or hand delivery.

(34) **“Substantiated Report”** means an oral, written, or electronic report:

A. That is submitted to and documented by the City;

B. By any of the following:

1. A Competent Individual who is willing to provide law enforcement or other City employees with publicly available identification of their name, address, and any other reliable means of contact;
2. City law enforcement or Licensing Officer; or
3. Any other regularly established law enforcement agency at any level of government;

C. That provides any of the following information regarding a Registered Solicitor:

1. Documented verification of a previously undisclosed Disqualifying Status of a Registered Solicitor;
2. Probable cause that the Registered Solicitor has committed a Disqualifying Status which has not yet been determined to be a Disqualifying Status;
3. Documented, eye-witness accounts that the Registered Solicitor has engaged in repeated patterns of behavior that demonstrates failure by the Registered Solicitor to adhere to the requirements of this Chapter; or
4. Probable cause that continued licensing of the Registered Solicitor creates exigent circumstances that threaten the health, safety, or welfare of any individuals or entities within the City.

(35) **“Waiver”** means the written form provided to Applicant by the City wherein Applicant agrees that the City may obtain a name/date of birth BCI background check on the Applicant for licensing purposes under this Chapter, and which contains Applicant’s notarized signature.

D. Exemptions from Chapter. The following are exempt from Registration under this Chapter:

(1) Persons specifically invited to a Residence by a Competent Individual prior to the time of the person’s arrival at the Residence;

(2) Persons whose license, permit, certificate or registration with the State of Utah permits them to engage in Door to Door Solicitation to offer Goods or Services to an occupant of the Residence;

(3) Persons delivering goods to a Residence pursuant to a previously made order, or persons providing Services at a Residence pursuant to a previously made request by a Competent Individual;

(4) Persons advocating or disseminating information for, against, or in conjunction with, any Religious Belief, or Political Position regardless of whether Goods, Services, or any other consideration is offered or given, with or without any form of commitment, contribution, donation, pledge, or purchase; and

(5) Persons representing a Charitable Organization. The charitable exemption shall apply to students Soliciting contributions to finance extracurricular social, athletic, artistic, scientific or cultural programs, provided that the Solicitation has been approved in writing by the school administration, and that such student Solicitors carry current picture student identification from the educational institution for which they are soliciting.

Those Persons exempt from Registration are not exempt from the duties and prohibitions outlined in Item Q. (1)(2)(3)(4) while advocating or soliciting.

E. Solicitation Prohibited. Unless otherwise authorized, permitted, or exempted pursuant to the terms and provisions of this Chapter, the practice of being in and upon a private Residence within the City by Solicitors, for the purpose of Home Solicitation Sales or to provide Goods or Services, is prohibited and is punishable as set forth in this Chapter.

F. Registration of Solicitors. Unless otherwise exempt under this Chapter, all persons desiring to engage in Door-to-Door Solicitation within the City, prior to doing so, shall submit a Completed Application to the Licensing Officer and obtain a Certificate.

G. Application Form. The Licensing Officer shall provide a standard Application Form for use for the Registration of Solicitors. Upon request to the Licensing Officer any person or Entity may obtain in person, by mail, or facsimile, a copy of this Application Form. Each Application Form shall require disclosure and reporting by the Applicant of the following information, documentation, and fee:

(1) **Review of Written Disclosures.** An affirmation that the Applicant has received and reviewed the disclosure information required by this Chapter

(2) **Contact Information.**

- A. Applicant's true, correct and legal name, including any former names or aliases used during the last ten (10) years;
- B. Applicant's telephone number, home address and mailing address, if different;
- C. If different from the Applicant, the name, address, and telephone number of the Responsible Person or Entity; and
- D. The address by which all notices to the Applicant required under this Chapter are to be sent.

(3) **Proof of Identity.** An "in-person" verification by the Licensing Officer of the Applicant's true identity by use of any of the following which bear a photograph of said Applicant:

- A. A valid driver's license issued by any State;

- B. A valid passport issued by the United States;
- C. A valid identification card issued by any State;
- D. A valid identification issued by a branch of the United States military.

Upon verification of identity, the original identification submitted to establish Proof of Identity shall be returned to the Applicant.

(4) **Proof of Registration with Department of Commerce.** The Applicant shall provide proof that either the Applicant, or the Responsible Person or Entity, has registered with the Utah State Department of Commerce;

(5) **Special Events Sales Tax Number.** The Applicant shall provide a special events sales tax number for either the Applicant, or for the Responsible Person or Entity for which the Applicant will be soliciting;

(6) **Marketing Information.**

- A. The Goods or Services offered by the Applicant, including any commonly known, registered or trademarked names;
- B. Whether the Applicant holds any other licenses, permits, registrations, or other qualifications required by federal or state law to promote, provide, or render advice regarding the offered Goods or Services.

(7) **BCI Background Check.** The Applicant shall provide:

- A. An original or a copy of a BCI background check as defined in Section C (6); and
- B. A signed copy of a Waiver whereby Applicant agrees to allow the City to obtain a name/date of birth BCI background check on Applicant for purposes of enforcement of this Chapter.²

(8) **Responses to Questions Regarding “Disqualifying Status.”** The Applicant shall be required to affirm or deny each of the following statements on the Application Form:

- A. Has the Applicant been Criminally Convicted of: (i) felony homicide, (ii) physically abusing, sexually abusing, or exploiting a minor, (iii) the sale or distribution of controlled substances, or (iv) sexual assault of any kind.
- B. Are any criminal charges currently pending against the Applicant for: (i) felony homicide, (ii) physically abusing, sexually abusing, or exploiting a minor, (iii) the sale or distribution of controlled substances, or (iv) sexual assault of any kind.
- C. Has the Applicant been Criminally Convicted of a felony within the last ten (10) years;

See Utah Code Ann. §53-10-108(1)(b). Public Safety Code

- D. Has the Applicant been incarcerated in a federal or state prison within the past five (5) years;
- E. Has the Applicant been Criminally Convicted of a misdemeanor within the past five (5) years involving a crime of: (i) moral turpitude, or (ii) violent or aggravated conduct involving persons or property;
- F. Has a Final Civil Judgment been entered against the Applicant within the last five (5) years indicating that: (i) the Applicant had either engaged in fraud, or intentional misrepresentation, or (ii) that a debt of the Applicant was non-dischargeable in bankruptcy pursuant to 11 U.S.C. § 523(a)(2), (a)(4), (a)(6), or (a)(19);
- G. Is the Applicant currently on parole or probation to any court, penal institution, or governmental entity, including being under house arrest or subject to a tracking device;
- H. Does the Applicant have an outstanding arrest warrant from any jurisdiction; or
- I. Is the Applicant currently subject to a protective order based on physical or sexual abuse issued by a court of competent jurisdiction.

(9) **Fee.** The Applicant shall pay such fees as determined applicable by the City, which shall not exceed the reasonable cost of processing the application and issuing the Certificate and/or Identification Badge.

(10) **Execution of Application.** The Applicant shall execute the Application Form, stating upon oath or affirmation, under penalty of perjury, that based on the present knowledge and belief of the Applicant, the information provided is complete, truthful and accurate.

H. Written Disclosures. The Application Form shall be accompanied by written disclosures notifying the Applicant of the following:

- (1) The Applicant's submission of the Application authorizes the City to verify information submitted with the Completed Application including:
 - A. the Applicant's address;
 - B. the Applicant's and/or Responsible Person or Entity's state tax identification and special use tax numbers, if any;
 - C. the validity of the Applicant's Proof of Identity;
- (2) The City may consult any publically available sources for information on the Applicant, including but not limited, to databases for any outstanding warrants, protective orders, or civil judgments.
- (3) Establishing Proof of Identity is required before Registration is allowed;
- (4) Identification of the fee amount that must be submitted by Applicant with a Completed Application;

- (5) The Applicant must submit a BCI background check with a Completed Application;
- (6) To the extent permitted by State and/or federal law, the Applicant's BCI background check shall remain a confidential, protected, private record not available for public inspection;
- (7) The City will maintain copies of the Applicant's Application Form, Proof of Identity, and Identification Badge. These copies will become public records available for inspection on demand at the City offices whether or not a Certificate is denied, granted, or renewed.
- (8) The criteria for Disqualifying Status, denial, or suspension of a Certificate under the provisions of this Chapter.
- (9) That a request for a temporary Certificate will be granted or denied the same business day that a Completed Application is submitted.

I. When Registration Begins. The Licensing Officer shall not begin the Registration process unless the Applicant has submitted a Completed Application. The original identification submitted to establish Proof of Identity shall be returned after the Licensing Officer verifies the Applicant's identity. A copy of the identification may be retained by the Licensing Officer. If an original B.C.I. background check is submitted by the Applicant, the Licensing Officer shall make a copy of the B.C.I. and return the original to the Applicant.

J. Issuance of Certificates. The Licensing Officer shall review the Completed Application submitted by the Applicant and issue a Certificate in accordance with the following:

(1) **Temporary Certificate.**

- A. A temporary Certificate shall issue allowing the Applicant to immediately begin Door-to-Door Solicitation upon the following conditions:
 - (i) Applicant's submission of a Completed Application;
 - (ii) Applicant's submission of the required fee;
 - (iii) Applicant establishes Proof of Identity;
 - (iv) The Applicant's representations on the Application Form do not affirmatively show a Disqualifying Status;
 - (v) The B.C.I. does not affirmatively show a Disqualifying Status; and
 - (vi) The Applicant has not previously been denied a Certificate by the City, or had a Certificate revoked for grounds that still constitute a Disqualifying Status under this Chapter.
- B. A temporary Certificate will automatically expire after twenty-five (25) calendar days from issuance, or upon grant or denial of an annual Certificate, whichever period is shorter.

- (2) **Annual Certificate.** Within twenty-five (25) calendar days of the issuance of a temporary Certificate the City shall:
- A. Take any and all actions it deems appropriate to verify the truthfulness and completeness of the information submitted by the Applicant, including, but not limited to those disclosed with the Application Form.
 - B. Issue written notice to the Applicant and the Responsible Person or Entity, if any, that the Applicant either:
 - (i) will be issued an annual Certificate, eligible for renewal one year from the date of issuance of the temporary Certificate; or
 - (ii) will not be issued an Annual Certificate for reasons cited in Section C (8) of this Chapter.

(3) **Renewal Certificate.** An annual Certificate shall be valid for one year from the date of issuance of the temporary Certificate and shall expire at midnight on the anniversary date of issuance. Any annual Certificate that is not suspended, revoked, or expired may be renewed upon the request of the Registered Solicitor and the submission of a new Completed Application and payment of the Fee, unless any of the conditions for the denial, suspension or revocation of a Certificate are present as set forth in Section C, Definitions, or a Disqualifying Status is present.

K. Form of Certificate and Identification Badge.

(1) **Certificate Form.** Should the Licensing Officer determine that the Applicant is entitled to a Certificate, the Licensing Officer shall issue a Certificate to the Applicant. The Certificate shall list the name of the Registered Solicitor and the Responsible Person or Entity, if any, and the date on which the Certificate expires. The Certificate shall be dated and signed by the License Officer. The Certificate shall be carried by the Registered Solicitor at all times, while Soliciting in the City.

(2) **Identification Badge.** With both the temporary and annual Certificates, the City shall issue each Registered Solicitor an Identification Badge that shall be worn prominently on his or her person while Soliciting in the City. The Identification Badge shall bear the name of the City and shall contain: (a) the name of the Registered Solicitor; (b) address and phone number of the Registered Solicitor, or the name, address, and phone number of the Responsible Person or Entity is provided; (c) a recent photograph of the Registered Solicitor; and (d) the date on which the Certificate expires.

L. Maintenance of Registry. The Licensing Officer shall maintain and make available for public inspection a copy or record of every Completed Application received and the Certificate or written denial issued by the City. The Applicant's BCI background check shall remain a confidential, protected, private record not available for public inspection. The Licensing Officer may furnish to the head of the City's law enforcement agency a listing of all Applicants, those denied, and those issued a Certificate.

M. Non-Transferability of Certificates. Certificates shall be issued only in the name of the Applicant and shall list the Responsible Party or Entity, if any. The Certificate shall be non-transferable. A Registered Solicitor desiring to facilitate or attempt to facilitate Home Solicitation Sales with different: (a) Goods or Services; or (b) Responsible Person or Entity, from those designated in the originally submitted Completed Application, shall submit a written change request to the Licensing Officer. A new Certificate based on the amended information shall issue for the balance of time remaining on the Solicitor's previous Certificate before the amendment was filed. Before the new Certificate is given to

the Registered Solicitor, the Registered Solicitor shall obtain a revised Identification Badge from the City, after payment of the Fee for the Identification Badge.

N. Denial, Suspension or Revocation of a Certificate of Registration.

(1) **Denial.** Upon review, the Licensing Officer shall refuse to issue a Certificate to an Applicant for any of the following reasons:

A. Denial of Temporary Certificate.

- (i) the Application Form is not complete;
- (ii) the Applicant fails to (1) establish Proof of Identity, (2) provide a B.C.I. or (3) pay the Fees;
- (iii) the Completed Application or B.C.I. indicates that the Applicant has a Disqualifying Status; or
- (iv) The Applicant has previously been denied a Certificate by the City, or has had a Certificate revoked for grounds that still constitute a Disqualifying Status under this chapter.

B. Denial of Annual Certificate.

- (i) The information submitted by the Applicant at the time of the granting of the temporary Certificate is found to be incomplete or incorrect;
- (ii) Since the submission of the Completed Application, the Applicant is subject to a previously undisclosed or unknown Disqualifying Status;
- (iii) Failure to complete payment of the Fees;
- (iv) Since the submission of the Application, the City has received a Substantiated Report regarding the past, present, or future conduct of the Applicant;
- (v) Since the submission of the Application, the City or other governmental entity has either Criminally Convicted or obtained a civil injunction against the Applicant for violating this Chapter or similar Federal, State, or municipal laws in a manner rising to the level of a Disqualifying Status; or
- (vi) Since the submission of the Application, a Final Civil Judgment has been entered against the Applicant indicating that: (i) the Applicant had either engaged in fraud, or intentional misrepresentation, or (ii) that a debt of the applicant was non-dischargeable in bankruptcy pursuant to 11 U.S.C. § 523(a)(2), (a)(4), (a)(6), or (a)(19).

C. Denial of Annual Certificate Renewal.

- (i) The information submitted by the Applicant when seeking renewal of a Certificate is found to be incomplete or incorrect;
- (ii) Since the submission of the renewal Application, the Applicant is subject to a previously undisclosed or unknown Disqualifying Status;
- (iii) Failure to complete payment of the Fees;
- (iv) Since the submission of the Application or granting of a Certificate, the City has received a Substantiated Report regarding the past, present, or future conduct of the Solicitor;

- (v) The City or other governmental entity has either Criminally Convicted or obtained a civil injunction against the Applicant for violating this Chapter or similar Federal, State, or municipal laws in a manner rising to the level of a Disqualifying Status; or
 - (vi) Since the submission of the Application, a Final Civil Judgment has been entered against the Applicant indicating that: (I) the Applicant had either engaged in fraud, or intentional misrepresentation, or (ii) that a debt of the applicant was non-dischargeable in bankruptcy pursuant to 11 U.S.C. § 523(a)(2), (a)(4), (a)(6), or (a)(19).
- (2) **Suspension or Revocation.** The City shall either suspend or revoke a Certificate when any of the reasons warranting the denial of a Certificate occurs.
- (3) **Notice of Denial or Suspension.** Upon determination of the Licensing Officer to deny an Applicant's Completed Application or to suspend a Registered Solicitor's Certificate, the City shall cause written notice to be sent to the Applicant or Registered Solicitor by the method indicated in the Completed Application. The Notice shall specify the grounds for the denial or suspension, the documentation or information the City relied on to make the decision, the availability of the documentation for review by Applicant upon one (1) business day notice to the City, and the date upon which the denial or suspension of the Certificate shall take effect. It shall further state that the Applicant or Registered Solicitor shall have ten (10) business days from the receipt of the notice of denial or suspension to appeal the same. The denial or suspension of the Certificate shall be effective no sooner than two (2) calendar days from the date the notice is sent, unless that suspension is because of exigent circumstances outlined in Section C, Definitions-Disqualifying Status, in which case, the suspension is effective immediately. The denial or suspension shall remain effective unless and until the order is rescinded, overturned on appeal, or determined by a court to be contrary to equity or law. Failure to appeal the suspension of a Certificate automatically results in its revocation.

O. Appeal. An Applicant or Registered Solicitor whose Certificate has been denied or suspended shall have the right to appeal to the City Council or its designee. Any appeal must be submitted by either the Applicant, the Responsible Person or Entity, or legal counsel for either who: (a) documents the relationship with the Applicant or Responsible Person or Entity; or (b) is licensed or authorized by the State of Utah to do so, and makes the assertion of an agency relationship. The following procedures and requirements shall apply:

- (1) Any appeal must be submitted in writing to the City Recorder with a copy to the License Officer within ten (10) business days of the decision from which the appeal is taken. Such appeal shall describe in detail the nature of the appeal, the action complained of and the grounds for appeal.
- (2) Upon request of the Applicant or Registered Solicitor, within one business day, the City will make available any information upon which it relied in making the determination to either deny or suspend the Certificate.
- (3) The Appeals Officer shall review, de novo, all written information submitted by the Applicant or Registered Solicitor to the Licensing Officer, any additional information relied upon by the Licensing Officer as the basis for denial, suspension or revocation, and any additional information supplied by the City, Applicant or Registered Solicitor. Any

additional information submitted by any party to the appeal to the Appeals Officer shall be simultaneously submitted to the opposing party. If desired, any party shall have three (3) business days to submit rebuttal documentation to the Appeals Officer regarding the additional information submitted by the opposing party.

- (4) The Appeals Officer will render a decision no later than fifteen (15) calendar days from the date the appeal was taken, unless an extension of time is agreed upon by the parties. In the event that any party to the appeal submits rebuttal information as allowed in Section 0., Appeals, the fifteen (15) calendar days shall be extended to include the additional three (3) days for rebuttal.
 - A. The denial or suspension of the Certificate shall be reversed by the Appeals Officer if upon review of the written appeal and information submitted, the Appeals Officer finds that the Licensing Officer made a material mistake of law or fact in denying or suspending the Applicant or Registered Solicitor's Certificate.
 - B. If the written appeal and information submitted indicates that the Licensing Officer properly denied or suspended the certificate of the Applicant or Registered Solicitor, the denial or suspension of the Certificate shall be affirmed and constitute a determination that the suspended Certificate is revoked.
 - C. The decision of the Appeals Officer shall be delivered to the Applicant or Registered Solicitor by the means designated in the completed Application, or as otherwise agreed upon when the Appeal was filed.
- (5) After the ruling of the Appeals Officer, the Applicant or Solicitor is deemed to have exhausted all administrative remedies with the City.
- (6) Nothing herein shall impede or interfere with the Applicant's, Solicitor's, or City's right to seek relief in a court of competent jurisdiction.

P. Deceptive Soliciting Practices Prohibited.

- (1) No Solicitor shall intentionally make any materially false or fraudulent statement in the course of Soliciting.
- (2) A Solicitor shall immediately disclose to the consumer during face-to-face Solicitation; (i) the name of the Solicitor; (ii) the name and address of the entity with whom the Solicitor is associated; and (iii) the purpose of the Solicitor's contact with the person and/or Competent Individual. This requirement may be satisfied through the use of the Badge and an informational flyer.
- (3) No Solicitor shall use a fictitious name, an alias, or any name other than his or her true and correct name.
- (4) No Solicitor shall represent directly or by implication that the granting of a Certificate of Registration implies any endorsement by the City of the Solicitor's Goods or Services or of the individual Solicitor.

Q. "No Solicitation" Notice.

- (1) Any occupant of a Residence may give notice of a desire to refuse Solicitors by displaying a "No Solicitation" sign which shall be posted on or near the main entrance door or on or near the property line adjacent to the sidewalk leading to the Residence.
- (2) The display of such sign or placard shall be deemed to constitute notice to any Solicitor that the inhabitant of the Residence does not desire to receive and/or does not invite Solicitors.
- (3) It shall be the responsibility of the Solicitor to check each Residence for the presence of any such Notice.
- (4) The provisions of this Section shall apply also to Solicitors who are exempt from Registration pursuant to the provisions of this Chapter.

R. Duties of Solicitors.

- (1) Every person Soliciting or Advocating shall check each Residence for any "No Soliciting" sign or placard or any other notice or sign notifying a solicitor not to solicit on the premises, such as, but not limited to, "No Solicitation" signs. If such sign or placard is posted such Solicitor shall desist from any efforts to solicit at the Residence or dwelling and shall immediately depart from such property. Possession of a Certificate of Registration does not in any way relieve any solicitor of this duty.
- (2) It is a violation of this Chapter for any person Soliciting or Advocating to knock on the door, ring the doorbell, or in any other manner attempt to attract the attention of an occupant of a Residence that bears a "No Solicitation" sign or similar sign or placard for the purpose of engaging in or attempting to engage in Advocating, a Home Solicitation Sale, Door-to-Door Soliciting, or Soliciting.
- (3) It is a violation of this Chapter for any Solicitor through ruse, deception, or fraudulent concealment of a purpose to Solicit, to take action calculated to secure an audience with an occupant at a Residence.
- (4) Any Solicitor who is at any time asked by an occupant of a Residence or dwelling to leave shall immediately and peacefully depart.
- (5) The Solicitor shall not intentionally or recklessly make any physical contact with, or touch another person without the person's consent;
- (6) The Solicitor shall not follow a person into a Residence without their explicit consent;
- (7) The Solicitor shall not continue repeated Soliciting after a person and/or Competent Individual has communicated clearly and unequivocally their lack of interest in the subject, Goods or Services of the Solicitor;
- (8) The Solicitor shall not use obscene language or gestures.

S. Time of Day Restrictions. It shall be unlawful for any person, whether licensed or not, to Solicit at a Residence before 9:00 a.m. or later than 30 minutes after the official sunset time, unless the Solicitor has express prior permission from the resident to do so.

T. Buyer's Right to Cancel. In any Home Solicitation Sale, unless the buyer requests the Solicitor to provide Goods or Services without delay in an emergency, the seller or Solicitor shall present to the buyer and obtain buyer's signature to a written statement which informs the buyer of the right to cancel within the third business day after signing an agreement to purchase. Such notice of "Buyer's right to cancel" shall be in the form required by § 70C-5-103, Utah Code Annotated, 1953, or a current version thereof or any State or Federal law modifying or amending such provision.

U. Penalties. Any person who violates any term or provision of this Chapter shall be guilty of a Class B Misdemeanor and shall be punished by a fine of not to exceed \$1,000.00 and/or a jail sentence of not to exceed six (6) months. (Revised 11-19-08)

9-459. REQUIREMENTS FOR INSTALLERS OF SECURITY SYSTEMS. Alarms: No person shall engage in the business of selling, leasing, monitoring, maintaining, repairing, altering, replacing, removing or installing an alarm system until, in addition to complying with other requirements of this Chapter, the applicant shall provide the licensing personnel verification of compliance with Utah State Statute, Burglar Alarm Certification, Title 58-65-101 through 58-65-202.

Both users of alarm systems and alarm companies shall comply with all guidelines established by the Public. False alarms are costly and dangerous because they divert police officers from calls that may be real emergencies; therefore to discourage repeated false alarms, a service fee will be assessed by Enoch City to the user of said alarm system for responding to false alarms as follows:

1. Three false alarms per calendar year or any portion thereof - No Charge.
2. Fourth through the tenth false alarms within a calendar year will be assessed as specified in the fee schedule.
3. Eleventh and each subsequent false alarm within a calendar year will be assessed as specified in the fee schedule.

Each alarm system shall have a responsible party available to meet police officers in a timely manner when an alarm has been activated. Those responsible parties must maintain a 24-hour contact number with the Cedar Communications Dispatch Center or must be posted on the business entrance door, i.e. in an emergency contact person for this business.

Any violations of the provisions hereof or any regulations promulgated by the Department of Public Safety may result in a petition to revoke or suspend the right of the individual to maintain their business license.

Revised 10-7-09

CHAPTER 9-500 BUILDING REGULATIONS.

PART 9-510. BUILDING OFFICIAL.

9-511. BUILDING OFFICIAL. There is hereby created the position of building official who shall also be known as the municipal building inspector.

9-512. STOP ORDER. The building inspector shall have the power to order all work stopped on construction, alteration or repairs of buildings in the municipality when such work is being done in violation of any provisions of any ordinance relating thereto, or in violation of the subdivision or zoning ordinance. Work shall not be resumed after the issuance of such order except on the written permission of the inspector; provided that, if the stop order is an oral one, it shall be followed by a written stop order within one hour. Such written stop order may be served by any peace officer or other authorized person.

9-513. ENTRY POWERS. The building inspector shall have the power to enter into any building or the premises where the work of altering, repairing or constructing any building or structure is going on, for the purpose of making inspections at any reasonable hour, pursuant to any of the provisions of chapters 9-500 and 9-600 and title 10-000 of this code.

9-514. ADDITIONAL DUTIES OF BUILDING INSPECTOR. The building official (inspector) shall in addition to all other duties imposed on him by this municipality:

- A. Enforce the provisions of the International Building Code.
- B. Inspect all buildings, structures, ditches, signs, fences and objects to determine their safety and effect on the persons who are within this municipality.
- C. Until such time as a plumbing inspector is appointed or designated, the building inspector shall be responsible for enforcing part 9-560 of this title.
- D. Review all building permit applications for new construction or substantial improvements to determine whether proposed building sites will be reasonably safe from flooding. If a proposed building site is in a location that has a flood hazard, any proposed new construction or substantial improvement (including prefabricated and mobile homes) must (i) be designed (or modified) and anchored to prevent flotation, collapse, or lateral movement of the structure, (ii) use construction materials and utility equipment that are resistant to flood damage, and (iii) use construction methods and practices that will minimize flood damage.
- E. Review subdivision proposals and other proposed new developments to assure that (i) all such proposals are consistent with the need to minimize flood damage, (ii) all public utilities and facilities, such as sewer, gas, electrical, and water systems are located, elevated, and constructed to minimize or eliminate flood damage, and (iii) adequate drainage is provided so as to reduce exposure to flood hazards.
- F. Require new or replacement water supply systems and/or sanitary sewage systems to be designed to minimize or eliminate infiltration of flood waters into the systems and discharges from the systems into flood waters, and require onsite waste disposal systems to be located so as to avoid impairment of them or contamination from them during flooding.

PART 9-520. GENERAL PROVISIONS.

9-521. PERMIT REQUIRED - EXCEPTIONS.

- A. It shall be a class C misdemeanor for any homeowner and a class B misdemeanor for any person who receives payment or anything of value to construct or alter any building or structure, except a fence, without first securing the permit required by this chapter.
- B. This section shall not apply where the retail cost of the materials used in the construction or alteration is less than \$150.00, except that it shall apply in all cases where the construction or alteration results in an enlarged structure or affects the walls of the building or structure.

9-522. APPLICATION FOR PERMIT. A building permit shall be secured from the recorder/clerk on written application accompanied by plans and specifications in duplicate, which must state the specific nature of the construction or alterations to be made. The plan must be verified by the person who will perform or be in charge of the construction or alteration.

9-523. APPROVAL OF PLAN, VERIFICATION OF INSTALLATION.

- A. An application for municipal water service and/or copies of the proposed construction plans shall be filed with the Enoch City Recorder/Clerk. Said documents shall thereafter be forwarded from the recorder/clerk to the building inspector, who shall review the application/plans to determine whether the proposed construction, alteration or location of the home or mobile home conforms to the building codes and ordinances of this municipality.
 - 1. On all new construction or on all new locations of mobile homes, the building inspector shall insure that a water pressure reduction valve is installed and verification thereof filed with the recorder/clerk prior to commencing municipal water service to said home, structure, or mobile home, said water pressure reduction valve being mandatory
 - 2. On alterations to existing homes or structures involving or affecting the existing culinary water system, the building inspector shall determine advisability and/or necessity of installation of a water pressure reduction valve and said determination requiring installation shall make the same mandatory.
- B. As verification, the building inspector shall return the plans and/or application to the recorder/clerk within ten (10) days with the statement "Approved" or "Disapproved" affixed thereto. If the plans/application are disapproved, the reasons therefore shall be separately set forth in writing and annexed thereto.
- C. On receipt of an approved plan, the recorder/clerk shall issue a building permit to the applicant, together with one set of the approved plans. One set of the plans shall be retained by the building inspector. The building inspector may revoke at any time a building permit, which has been issued for any building constructed or being constructed and/or altered, or which if constructed and/or altered would be in violation of any ordinance of this municipality. An approved plan and/or application shall empower the recorder/clerk to begin municipal water service to the approved lot, site or location.

9-524. VARIATIONS OF PLAN PROHIBITED. No material variation from the approved plan shall be allowed unless such variations shall first have been approved in writing by the building inspector.

9-525. FEE SCHEDULE. The recorder/clerk shall collect a fee for the application of a permit in the amount set forth in the fee schedule.

PART 9-530. BUILDING CODE.

9-531. ADOPTION OF BUILDING CODE. The International Building Code and the International Residential Code, Current Editions, published by the International Conference of Building Officials and printed as a code in book form, three copies of which have been previously filed with the recorder/clerk for use and examination by the public, hereby are approved and adopted as the current and effective building code of this municipality.

9-532. RESERVED.

9-533. ESTABLISHMENT OF FIRE DISTRICTS OR ZONES. The areas described in the appropriate appendix are hereby established as fire districts or zones.

PART 9-540. ELECTRICAL CODE. The National Electric Code, Current Edition, published by the National Electrical Contractors Association and approved by the National Board of Fire Underwriters, American Standards Association and the National Fire Protection Association and printed as a code in book form, three copies of which have been previously filed with the recorder/clerk for use and examination by the public, hereby is approved and adopted as the current and effective electric code of this municipality.

9-541. ELECTRICAL INSPECTIONS. The building inspector shall perform all functions of electrical inspection and shall among other things, inspect and supervise the construction installation, and repairs of all electric light and power wiring, fixtures, appliances, or apparatus installed within the limits of the municipality and shall require compliance with the provisions of the electrical code. Wiring, fixtures and apparatus heretofore installed need not necessarily be made to conform strictly to all the provisions of the electrical code. The building official shall require the correction of such defects, as he deems actually dangerous to life or property. Those same enforcement standards established in the Uniform Building Code shall be followed by the building inspector for all electrical work.

9-542. PERMITS AND INSPECTIONS. No alterations or additions shall be made in existing wiring, nor shall any wiring or any apparatus which generates, transmits, transforms or utilizes any electricity be installed without first obtaining a permit therefore except minor repair work such as repairing flush and snap switches, replacing fuses, changing lamp sockets and receptacles, taping bare joints and repairing drop cords. Applications for such permit describing such work shall be made in writing and shall conform as far as practicable to the requirements set forth in section 9-522 of this title. This section shall not apply to installations in powerhouses and substations belonging to electric light companies. No permit shall be issued to any applicant for a permit during the time that he shall fail to correct any defective electrical installations after he has been duly notified to correct such defective work by the building inspector.

9-543. PERMIT FEES. The electrical permit fees applicable in this municipality for use under the National Electrical Code, Current Edition, shall be the amount set forth in the fee schedule.

9-544. 9-544. ELECTRICAL DISTURBANCES.

A. Electrical installations, for signs, equipment or other facilities, which create electrical disturbances that cause interference with normal radio or television reception beyond the immediate vicinity of such electrical installations, are hereby declared to be a nuisance. The owners or operators thereof shall so install and maintain such installations as to avoid

or eliminate such interference, using all known means and devices for such purpose, such as proper grounding, connections, condensers, resistors and live chokes.

- B. The building official shall withhold or withdraw approval of any electrical installation causing the above disturbance and is hereby authorized to take all steps necessary for the abatement of such conditions.

PART 9-550. ELECTRICAL INSTALLATIONS.

9-551. ELECTRICAL INSTALLATIONS - BUSINESS LICENSE REQUIRED. No person shall engage in the installation, alteration, repair, or construction of any electrical work, wiring, fixtures, appliances, or equipment inside or outside of any building, except work done for or on the property of the municipality, without first securing a business license and paying the fee therefore as provided in section 9-543 of this chapter.

9-552. NOTIFICATION. It shall be unlawful for any person to do or cause to be done any electrical wiring or other electrical installation in the building or structure within the municipality without first notifying the building inspector of the kind and nature of such electric wiring or other electrical installation and the location of the building or structure in which the same is to be installed.

9-553. INSPECTION. All electric wiring or other electrical installations shall be subject to supervision and inspection by the building inspector. It shall be unlawful for any person to do or cause to be done any electrical wiring or electrical installations without first obtaining the permit required by 9-542 of this chapter.

9-554. UNLAWFUL INSTALLATION - DISCONNECTION.

- A. If the building inspector shall find any part of any electric light or power wiring, appliances, apparatus, or fixtures in or upon any building in the municipality to have been installed without permit, or installed not in accordance with the provisions of the Electrical Code or to be dangerous to life or property, the inspector shall have the right and power to disconnect such defective work, fixtures, appliances, or apparatus and place a seal upon the same, and shall at the same time give written notice of such disconnection to the owner or occupant of the building.
- B. After such disconnected wiring, fixtures, appliances or apparatus have been put in the condition required by this part, the seal so placed shall be removed by order of the inspector.

9-555. NOTIFICATION TO INSPECT.

- A. Upon completion of the installation of any electrical wiring, fixtures, appliances or apparatus in or on any building, it shall be the duty of the person doing the work to notify the building inspector who shall cause the same to be inspected and, if approved, to issue a certificate of inspection which shall contain the date of such inspection and a statement that the installation is approved.
- B. It shall be unlawful for any person to turn on or connect the current with such installation until such certificate shall be issued and it shall also be unlawful to make any change, alteration, or extension in or to the installation of any electrical wiring, fixtures, appliances, or apparatus in or on any building after inspection without notifying the municipal wiring inspector and securing a permit to do so.
- C. The requirement of permits, inspection, and supervision shall not apply to minor repair work such as repairing flush and snap switches, replacing fuses, changing lamp sockets

and receptacles, taping bare joints, and repairing drop cords, and wiring for appliances and devices operating at less than 25 volts.

PART 9-560. PLUMBING CODE.

9-561. PLUMBING AND MECHANICAL CODE ADOPTED. The International Plumbing Code and the International Mechanical Code, Current Editions, published by the International Conference of Building Officials and printed as a code in book form, three copies of which have been previously filed with the recorder/clerk for use and examination by the public, hereby are approved and adopted as the current and effective plumbing and mechanical code of this municipality.

9-562. APPLICATION AND SCOPE. The provisions of this part shall apply to, but not be limited to, all new construction, relocated buildings, and to any installation, alteration, repair or reconstruction of a plumbing system within the municipality except as otherwise provided for in this part.

9-563. PLUMBING INSPECTOR - DUTIES.

- A. There is hereby created the position of plumbing inspector.
- B. The plumbing inspector shall issue permits to properly licensed, bonded and registered person. Licensing should be for work to be done within the scope of this part. The plumbing inspector:
 - 1. Shall order changes in workmanship and/or materials essential to enforce compliance with all provisions of the plumbing code.
 - 2. Shall investigate any construction or work regulated by this part and issue such notices and orders as are necessary to prevent or correct dangerous or unsanitary conditions.
 - 3. May recommend the revocation of any license to the state department of business regulation for cause, and report to the department of business regulation all violations of this part by journeymen, apprentices or contractors.

9-564. ALLOWANCE FOR EXCEPTION TO ORDINANCE. Where structural conditions impose extreme difficulty in fully complying with the plumbing regulations of this part, any aggrieved party may apply in writing to the plumbing inspector for special permission to deviate from the regulations. If in the judgment of the plumbing inspector such deviation is reasonable and does not create an unsanitary or unsafe condition, he shall recommend to the governing body that the request for deviation be approved or disapproved, or that approval is subject to such conditions as the governing body may require. The governing body, on review, may approve or disapprove the application or vary the conditions on which approval is granted.

9-565. RIGHT OF ENTRY GRANTED. The plumbing inspector shall have the right of entry within reasonable hours to any building or premise for the purpose of inspection or to investigate any work or conditions governed by this part.

9-566. POWER TO CONDEMN GRANTED. The plumbing inspector is hereby empowered to condemn and order repaired, removed, replaced or changed any plumbing found in any unsanitary condition or not in accordance with this part. Failure to comply with the order within a reasonable time is an infraction.

9-567. INTEREST IN SALE OR INSTALLATION OF EQUIPMENT PROHIBITED. The plumbing inspector and his assistants shall not in any way engage in the sale or installation of plumbing equipment upon which they are required to make inspection hereunder.

9-568. PERMITS REQUIRED. No plumbing shall be installed, nor additions or alterations made in existing plumbing, except as provided in section 9-572 without first obtaining a permit. Application for such permits shall be in writing to the recorder/clerk and shall describe the nature of the work to be done and affirm that the plumbing will conform to the plumbing code. No permit shall be issued to any applicant during the time that he shall fail to correct any defective plumbing installed by him after he has been notified in writing by the plumbing inspector of the defective work.

9-569. REVOCATION OF PERMIT. The plumbing inspection may revoke any permit when the person to whom the permit is issued fails, neglects, or refuses to do the work there under in conformance with this part, or when the permit is issued in error.

9-570. EXPIRATION OF PERMIT. Every permit issued by the plumbing inspector shall expire and become null and void if the work authorized by such permit is not commenced within sixty days from the date such permit is issued, or if the work authorized by such permit is suspended or abandoned at any time after the work is commenced for a period of one hundred and twenty days or more.

9-571. DENIAL OF PERMIT. The plumbing inspector may refuse to issue permits for any plumbing work to any person who has had a permit revoked in accordance with this part during such time as such person fails to perform plumbing work in conformance with this part.

9-572. PERMITS NOT REQUIRED.

- A. Repairs which involve only the working parts of a faucet or valve, the clearance of stoppages, the repairing of leaks or the replacement of defective faucets or valves may be made without a permit provided that the permits shall be procured to replace fixtures, traps, soil, waste, and vent pipes unless waived by the plumbing inspector.
- B. Any person regularly employed by an owner or lessee of property, or his agents, for the sole purpose of operating and maintaining such property and to make minor repairs thereof, and any owner or lessee of property shall be exempt from the provisions of this part when doing work for which permits are not required.

9-573. HOME OWNER PERMITS. Any permit required by this part may be issued to any person to do any plumbing or drainage work regulated by this part in a single family dwelling used exclusively for living purposes, including the usual accessory buildings and quarters in connection with such buildings in the event that any such person is the bona fide owner of any such dwelling and accessory buildings and quarters and that the same are occupied by or designed to be occupied by the owner, and further provided that the owner shall furnish the plumbing inspector with a complete layout drawing of the proposed work, satisfies the plumbing inspector that he has a working knowledge of the requirements contained in this part, pays the necessary fees, and calls for all inspections required by this part.

9-574. PERMIT FEES. Before a permit shall be issued, permit fees in the amount set forth in the fee schedule shall be paid to the treasurer.

9-575. REINSPECTION CHARGE. After notice that any plumbing work is ready for inspection, if the plumbing inspector calls at the place designated to make such inspection and

finds the work not ready for inspection, he shall charge an additional fee as stated in fee schedule for each additional inspection required, except that the governing body may from time to time change the inspection fee required in this part by resolution.

9-576. REFUSAL TO COMPLY WITH ORDER OF INSPECTOR. It shall be unlawful for any owner, agent or occupant of any building or premises to fail, neglect or refuse to repair, remove, replace or change within ten days after written notice to do so from the plumbing inspector, any plumbing condemned by such inspector, provided that this section shall not apply to any occupant not responsible for the installation or repair of the condemned plumbing.

9-577. PENALTY.

- A. The violation of any provision of this part by any homeowner, building owner or manager or manager of any building, apartment, hotel, motel, or other structure shall be an infraction.
- B. The violation of any provision of this part by any person who receives payment or anything of value for performing such work shall be a class B misdemeanor.

9-578. SOLID WASTE DISPOSAL CONTAINERS AND SANITARY FACILITIES AT CONSTRUCTION SITES.

- A. No construction of any type shall be permitted within the city unless a bin, receptacle or other adequate enclosure is provided within one hundred feet (100') of any construction activity for the disposal of garbage, waste and construction debris of all types. Such bin, receptacle or enclosure shall be considered adequate only if it is able to fully protect its contents from being scattered or disbursed by the wind or otherwise, and it must be amenable to ready transfer of its contents to the landfill when full. Burning at construction sites shall be unlawful unless expressly made the subject of a permit by the appropriate fire authority.
- B. No construction of any type shall be permitted within the city unless adequate sanitary facilities are provided at the job site and available at all times that workers are present. Such sanitary facilities shall be within three hundred fifty feet (350') of any construction area and in the event such facilities are already so located, the contractor shall have written consent of the owner or renter of said facility for use of same by workers on the job.
- C. Failure to comply with the above stated requirements will subject the offending construction site to a "stop work" order and no progress inspections will be made by the City Building Inspector until the above stated items are in place as required above.

CHAPTER 9-600. OTHER BUILDING OR CONSTRUCTION CODES.

PART 9-610. INDIVIDUAL WASTEWATER (SEWAGE) DISPOSAL CODE ADOPTED.

The Department of Environmental Quality, Title 317-1 and 317-2, which established rules and regulations relating to the disposal of domestic wastewater discharge from single homes, multiple dwellings containing not more than four individual units, and commercial installations serving not more than 50 persons per day, is hereby adopted by the municipality as the ordinance relating to individual waste water disposal systems within the municipality except as such code may be altered or modified by the provisions of this part.

PART 9-620. SMALL UNDERGROUND WASTEWATER DISPOSAL SYSTEM CODE ADOPTED. The Department of Environmental Quality, Title 317-3 and 317-4 is hereby adopted by the municipality as the small underground wastewater disposal systems code within the municipality except as it may be altered or modified by the provisions of this or the preceding chapter. Occupancies in existing building may be continued as provided in section 104 (g) of the Uniform Building Code, except as to those structures that are found to be substandard as defined in the Housing Code.

PART 9-630. CODE FOR INSTALLING GAS PIPING AND APPLIANCES ADOPTED.

9-631. CODE ADOPTED. Recommended good practices for gas piping, appliance installation and venting, revised in July, 2002 and/or the current edition in book form, one copy of which has been filed for use and examination by the public in the office of the recorder, and the International Fuel Gas Code, Current Edition, published by the International conference of Building Officials and printed as a code in book form, one copy of which has been filed for use and examination by the public in the office of the recorder, are hereby adopted by this municipality.

9-633. CONSTRUCTION OF GAS CODE. The practices recommended, suggested or described by the word “should” are hereby made mandatory unless the building inspector or the gas company determine that it is in the best interest of and safe for the gas user and municipality to vary the requirements of the gas code, provided that such variation shall be in accordance with generally accepted gas use standards.

9-634. VIOLATIONS DECLARED NUISANCE. Violation of this part is hereby made a nuisance and shall be abated, provided that conditions which present an immediate danger to life may be abated by causing the gas to be immediately turned off.

PART 9-640. UNIFORM SIGN CODE ADOPTED. Reserved.

PART 9-650. UNIFORM HOUSING CODE.

9-651. ADOPTION OF A HOUSING CODE. The International Residential Code, Current Edition, printed as a code in book form by the International Conference of Building Officials (providing minimum requirements for the protection of life, limb, health, safety, and welfare of the general public and the owners and occupants of residential buildings), one copy of which has been filed for use and examination by the public in the office of the clerk of this municipality, is hereby approved and adopted as the Housing Code of this municipality.

9-652. APPLICATION. The provisions of the Housing Code shall apply to all buildings or portions thereof use, designed for or intended to be used for human habitation. Occupancies in existing buildings may be continued as provided in International Building Code, section 101, except for such structures as are found to be substandard as defined in the Housing Code.

9-653. ALTERATION. Existing buildings that are altered or enlarged shall be made to conform to the housing code insofar as the new work is concerned, in accordance with section 34 of the International Building Code.

9-654. RELOCATION. Existing buildings, which are moved or relocated, shall be considered as new buildings and shall comply with all requirements of the Housing Code.

9-655. ESTABLISHMENT OF A HOUSING ADVISORY AND APPEALS BOARD. In order to interpret the provisions of the Housing Code and to hear appeals provided for hereunder, there is hereby established the Land Use Appeal Authority consisting of five members who shall not be employees of the municipality. The building official shall be an *ex officio* member of that board and the City Recorder shall act as secretary to the board. The Land Use Appeal Authority may adopt reasonable rules and regulations for conducting its business. Its decisions and findings shall be in writing, copies of which shall go to the appellant and to the building official. Appeals to the board shall be processed in accordance with Utah Code Annotated 10-9-a-701. Copies of all rules or regulations adopted by the board shall be delivered to the building official who shall make them available to the public without cost.

9-656. VIOLATIONS. It shall be unlawful for any person, firm, or corporation, whether as owner, lessee, sub-lessee, or occupant, to erect, construct, enlarge, alter, repair, move, improve, remove, demolish, equip, use, occupy, or maintain any building or premises, or cause or permit the same to be done, contrary to or in violation of any of the provisions of the Housing Code or any order issued by the building official pursuant thereto.

9-657. PERMITS AND INSPECTIONS. It shall be unlawful for any person, firm or corporation to erect, construct, enlarge, alter, repair, move, improve, remove, convert, or demolish any building or structure, cause or allow the same to be done, without first obtaining a separate building permit for each such building or structure from the building official in the manner and according to the applicable conditions prescribed in the Housing Code.

9-665. ADMINISTRATIVE APPLICATION OF BUILDING CODE. Notwithstanding the foregoing, the provisions contained in the Building Code relating to administration, permits and inspections shall be applicable to family fallout shelters.

Revised 10-7-09

TITLE 10-000. FIRE, HEALTH, SAFETY AND WELFARE.

CHAPTER 10-100. FIRES - DEPARTMENT - CODE.

PART 10-110. DEPARTMENT.

10-111. CREATION. When the circumstances prescribe, there shall be created a fire department to be known as the Enoch City Fire Department.

PART 10-120. PERSONNEL AND DUTIES.

10-121. CREATION OF POSITION OF CHIEF. There is hereby created the position of chief of the fire department.

10-122. POWERS AND DUTIES OF CHIEF.

- A. The chief shall have 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 estimate loss there from 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.

10-123. EMPLOYEES. The chief may make recommendations to the mayor relating to the employment of firemen 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.

PART 10-130. POWERS OF FIRE DEPARTMENT.

10-131. EMERGENCY VEHICLES. Fire trucks are hereby designated authorized emergency vehicles.

10-132. 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.

10-133. CONTROL OF PERSONS. All persons present at a fire shall obey the orders of any firemen.

10-134. INTERFERENCE WITH FIREMEN IN DISCHARGE OF DUTIES. Every person at the scene of any fire who disobeys the lawful orders of any public officer or fireman, or offers any resistance to or interference with the efforts of any fireman, or company of firemen 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.

10-135. UNLAWFUL INTERFERENCE WITH OFFICERS, APPARATUS, WATER, ETC. Any person who shall willfully hinder any officer or fireman in the discharge of his duty at a fire, or in any manner injure, deface or destroy any engine, 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 injure any water pipe, or interfere with the water or its source of supply shall be deemed guilty of a class B misdemeanor and shall be punished accordingly.

10-136. INVESTIGATION AFTER FIRE REPORT. The chief, or such other persons as he shall designate, shall, after extinguishing a fire, make a 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 record the same in a record book kept for the purpose in the office of the department and shall report the same to the governing body at such time as it may direct.

10-137. 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.

10-138. MALES PRESENT AT FIRE SUBJECT TO ORDERS. Every male 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.

10-139. 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.

PART 10-150. UNIFORM FIRE CODE.

10-151. UNIFORM 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, that certain code known as the International Fire Code, Current Edition, printed as a code in book form by the International Conference of Building Officials, except to the extent it is hereinafter modified or amended by section 10-156 of this part, one copy of which has been and is now filed in the office of the clerk for use and inspection by the public.

10-152. ESTABLISHMENT AND DUTIES OF BUREAU OF FIRE PREVENTION.

A. The Uniform 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. The chief of the fire department may detail such members of the fire department, as inspectors as shall from time to time be necessary. The chief of the fire department shall recommend to the mayor the employment of technical inspectors, who, when such authorization is made, shall be selected through an examination to determine their fitness for the position. The examination shall be open to members and nonmembers of the fire department, and appointments made after examination shall be for an indefinite term with removal only for cause.

10-153. DEFINITIONS.

- A. The word "Jurisdiction" as used in the Uniform Fire Code shall mean the boundaries of this municipality.
- B. The term "corporation counsel" as used in the Uniform Fire Code shall mean the attorney for this municipality.

10-154. ESTABLISHMENT OF LIMITS OF DISTRICTS IN WHICH STORAGE OF FLAMMABLE OR COMBUSTIBLE LIQUIDS IN OUTSIDE ABOVEGROUND TANKS IS TO BE PROHIBITED.

- A. The limits referred to in Section 15.201 of the Uniform Fire Code in which storage of flammable or combustible liquids in outside aboveground tanks is prohibited, are hereby established in an appendix to this code.
- B. The limits referred to in Section 15.601 of the Uniform Fire Code, in which new bulk plants for flammable or combustible liquids are prohibited, are hereby established in an appendix to this code.

10-155. ESTABLISHMENT OF LIMITS FOR WHICH BULK STORAGE OF LIQUEFIED PETROLEUM GASES IS TO BE RESTRICTED. The limits referred to in Section 20.105(a) of the Uniform Fire Code, in which the bulk storage of liquefied petroleum gas is restricted, are hereby established in the appropriate appendix attached to this code.

10-156. ESTABLISHMENT OF LIMITS OF DISTRICTS FOR WHICH STORAGE OF EXPLOSIVES AND BLASTING AGENTS IS PROHIBITED. The limits referred to in Section 11.106(b) of the Uniform Fire Code, in which the storage of explosives and blasting agents is prohibited, are hereby established in the appropriate appendix attached to this code.

10-157. AMENDMENTS MADE IN THE UNIFORM FIRE CODE.. Any amendments to the Uniform Fire Code shall be set forth in the appropriate appendix to this code.

10-158. APPEALS. Whenever the chief shall disapprove an application, refuse to grant a permit for which application has been received, or when it is claimed that the provisions of the fire code do not apply or that the true intent and meaning of the fire code have been misconstrued or wrongly interpreted, the applicant may appeal the decision of the chief of the governing body within 30 days from the date of such decision.

10-159. NEW MATERIALS, PROCESSES OR OCCUPANCIES THAT MAY REQUIRE PERMITS. The building inspector and the chief of the bureau of fire prevention 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. The chief of the bureau of fire prevention shall post such list in a conspicuous place in his office and distribute copies thereof to interested person.

10-160. PENALTIES.

- A. Any person who shall violate any of the provisions of the Uniform Fire Code or fail to comply therewith, or who shall violate or fail to comply with any order made there under, or who shall build in violation of any detailed statement of specifications or plans submitted and approved there under, or any certificate or permit issued there under, 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 punishable by a fine and or by imprisonment as set by the court of jurisdiction. The imposition of one penalty for any violation shall not excuse the violation or permit it to continue. 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.

PART 10-170. STANDARD FIRE-FIGHTING EQUIPMENT.

10-171. EQUIPMENT FOR NEW FIRE PROTECTION SYSTEMS. - STANDARD EQUIPMENT. See U.C.A. Section 11-4-1.

10-172. DUTY OF LOCAL GOVERNING BODY TO MAINTAIN AND COMPLY. See U.C.A. Section 11-4-2.

10-173. PROHIBITED SALES AND PENALTIES. See U.C.A. Section 11-4-3 and 11-4-4.

Revised 10-7-09

CHAPTER 10-200. HEALTH

PART 10-210. BOARD OF HEALTH AND HEALTH OFFICER.

10-211. BOARD OF HEALTH ESTABLISHED. The Southwestern District Health Department is hereby designated as the board of health of this municipality.

10-212. DUTIES AND POWERS OF BOARD OF HEALTH.

- A. The municipality may contract with the Southwestern 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.

10-213. PERMITS. It shall be unlawful for any person to engage in any of the following businesses or activities without first obtaining a permit from the board of health.

- 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. Commercially operating any public dump, garbage or refuse collection or disposal facility, or cleaning out or installing any privy, cesspool or septic tank.
- D. Fumigating or eradicating pests, insects, vermin or any other infestation from any building occupied or to be occupied by humans.

PART 10-220. HEALTH DIRECTOR.

10-221. POSITION CREATED. The health director of the Southwestern District Health Department is hereby designated as the health director of this municipality.

10-222. 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 with the Southwestern 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 ordinance of this municipality.
- 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 good manufactured, stored, or kept within the municipality for the purposes of enforcing this chapter.

10-223. UNWHOLESOME FOOD. It is a class B misdemeanor for any person to sell for sale any unwholesome food or beverage which has been condemned by any government food inspector.

10-224. 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 premise 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.

10-225. 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 public 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.

10-226. 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.

PART 10-240. OFFENSIVE BUSINESS AND FACILITIES.

10-241. 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 part, shall include but not be limited to, packing houses, dairies, tanneries, canneries, renderies, junk or salvage yards, bone factories, slaughter houses, butcher shops, soap factories, foundries, breweries, distilleries, livery stables, blacksmith shops, or any other enterprise or establishment which creates excessive odors, fumes, smoke, gasses, 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.

10-242. 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 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.

10-243. 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, gasses, 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 decided 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.

10-244. 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 within the boundaries of Enoch City 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. Rev. 6-2011
- 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.
- 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.

10-245. KEEPING ANIMALS deleted 6-2011

CHAPTER 10-300. DANGEROUS BUILDINGS

PART 10-310. ADOPTION OF A CODE FOR THE ABATEMENT OF DANGEROUS BUILDINGS.

The "International Code for the Abatement of Dangerous Buildings," current edition, printed as a code in book form by the International Conference of Building Officials, as adopted by the State of Utah.

10-311. APPLICATION.

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

10-312. ALTERATIONS, ADDITIONS AND REPAIRS.

All buildings or structures that are required to be repaired under the provisions of the Abatement of Dangerous Buildings Code shall be subject to the provisions of Section 109 of the International Building Code.

10-313. 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.

PART 10-320. ADMINISTRATIVE NOTICE - HEARING - DISPOSAL OF BUILDING - LIEN - PENALTY FOR VIOLATION.

10-321. APPOINTMENT AND DUTIES OF INSPECTOR.

A. There is hereby established the position of inspector whose duties it shall be to enforce the provisions of this part. Until another person is designated, the building inspector shall enforce the provisions of this chapter. More than one person may be appointed to act as inspector under this section.

B. The inspector is authorized to:

1. Perform all functions necessary to enforce the provisions of the 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 an objectionable condition exists 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 owners 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 not

more than 90 days 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 stay the time within which the person must conform to the provisions of the notice.
- c. Inform the person that in the event he fails or neglects to correct the objectionable condition, the municipality may 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 cost together with reasonable attorney's 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.

10-322. HEARING.

A. 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 objectionable conditions or objects from the property, the governing body shall conduct an informal hearing (which need not be reported) wherein such persons 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. The governing body shall also permit the presentation of evidence and argument by the inspector and other interested parties. 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 90 days from the date of notice of the decision within which to conform thereto, unless additional time, not to exceed 90 additional days, is authorized by the inspector.

C. 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 that 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. The owner or occupant shall be required to conform to the decision of the governing body within 90 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.

10-323. 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 objects or structures, the inspector shall employ all necessary assistance to cause such objectionable objects or conditions to be removed or destroyed at the expense of the municipality.

10- 324. ITEMIZED STATEMENT.

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. 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.

10-325. 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 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.

10-326. 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.

10-327. COLLECTION THROUGH TAXES.

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 objects or structures. Thereupon, the costs of the work shall be pursued by the county treasurer in accordance with the provisions of Utah Code Annotated, as amended, and the recalcitrant owner shall have such rights and shall be subject to such powers as are thereby granted.

10-328. CRIMINAL PROCEEDING.

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 objects or structures. 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.

10-329. PENALTY FOR FAILURE TO COMPLY.

A. Any owner, occupant or person having responsibility for 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 and further sum of \$25.00 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.

CHAPTER 10-400. GARBAGE AND LITTER.

PART 10-410. GARBAGE REGULATION.

10-411. DEFINITIONS.

- A. “*Garbage*” means waste from the preparation, handling, storing, cooking or consumption of food and food products.
- B. “*Residential garbage*” refers to garbage produced in places of private residence and dining halls not open to the public.
- C. “*Commercial garbage*” refers to garbage produced in commercial establishments, public or quasi-public institutions or establishments, including restaurants, hotels, motels and similar establishments.
- D. “*Refuse*” means all waste matter, except garbage, attending or resulting from the occupancy of residences, apartments, hotels, or other places of dwelling and from the operation of a business. Refuse shall not be deemed to include industrial waste or waste matter resulting from the construction, demolition or repair of a building or other structure.
- E. “*Community waste*” means lawn cuttings, clippings from bushes and shrubs, leaves and trees and tree branches.
- F. “*Container*” or “*regulation container*” means a type of garbage or trash container furnished and owned by Enoch City.

10-412. COLLECTION OF GARBAGE.

- A. The municipality or its agent shall collect, remove and dispose of all residential garbage. Commercial garbage must be contracted for removal by a private sanitation business. All garbage and refuse shall be collected, removed and disposed of with such frequency and in such manner as the governing body may from time to time establish by regulation.
- B. Except as otherwise expressly permitted by this part, no garbage or refuse shall be moved or hauled away or transported upon the streets or public ways of the municipality except by the municipality or its agent and except by authorized persons hauling commercial garbage or refuse as hereinafter provided. It is hereby declared to be unlawful for any person, except as permitted in this part, to haul or remove garbage or refuse in the municipality.
- C. Commercial establishments, public or quasi-public, institutions and establishments creating commercial garbage, may remove commercial garbage themselves or may employ the services of authorized contractors to remove commercial garbage. Haulage of refuse must be done in the manner, at such times and in such vehicles as may be approved for such purposes as the governing body may from time to time by regulation provide.
- D. Nothing contained in this section shall preclude persons from hauling their own garbage, trash or community waste over the streets and alleys of the municipality in vehicles and containers approved by a sanitary inspector or such other personnel of the municipality as the governing body may authorize.
- E. Nothing in this section shall be construed as eliminating the charge made for garbage service.

10-413. SERVICE CHARGE.

- A. All residents and all business establishments within the municipality shall pay the municipality the following garbage service charges as designated in the fee schedule.

- B. Charges shall apply to all residences and business establishments whether or not they have also elected to haul their own garbage or employ the services of authorized garbage haulers.
- C. If a dwelling unit or a place of business has remained vacant for an entire month, the owner or possessor of the site may make arrangements with the recorder/clerk for no garbage collection charges during the continued vacancy of the premises.
- D. The mayor, with the consent of the governing body, may excuse needy widows and elderly persons who are not reasonably capable of paying the monthly charge for residential collection of garbage from the payment of the residential rate for such period of time as may be deemed proper or necessary.

10-414. METHOD OF PAYMENT OF SERVICE CHARGES.

- A. The garbage service charges above imposed by this part shall be added to the charge made for water furnished through the water system of the municipality and shall be billed and collected in the same manner as water service charges are billed and collected.
- B. In the event that the obligee for the water service charges and the obligee for the garbage service charges do not coincide, or in the event that practical economic and administrative reasons do not make combined billing and collection feasible in the opinion of the governing body, the garbage service charges may be collected with such frequency and in such manner as the governing body shall by regulation provide.

10-415. NO ACCUMULATION OF GARBAGE. It shall be unlawful for any person to accumulate garbage or refuse or cause garbage or refuse to be deposited upon any street or alley or upon any premises in the municipality without express permission from the municipal health officer. The health officer may permit the feeding or processing of garbage or refuse upon premises properly equipped and maintained so as to prevent the creation of a nuisance or a hazard to health, or permit the depositing of ashes and other dry materials for filling purposes at such places as the health officer may designate and under such restrictions as the governing body may by regulation impose. Additionally, the health officer may grant to any person permission for sorting, bailing and marketing trade waste upon premises properly equipped and maintained.

10-416. CONTAINERS.

- A. All garbage and refuse shall be placed in suitable and sufficient garbage receptacles, either receptacles with tight fitting lids or properly and sufficiently treated water resistant paper bags manufactured specifically for use in garbage and refuse collection, or plastic bags manufactured specifically for use in garbage and refuse collection.
- B. Containers shall not exceed a 30-gallon capacity for receiving and holding garbage, market waste or other refuse, which may accumulate.
- C. Receptacles shall not be filled to exceed 75 pounds in weight including the weight of the receptacle. Metal receptacles shall be provided with handles for convenient lifting.

10-417. CLOSING OF GARBAGE CONTAINERS REQUIRED. All garbage and market waste must be placed in rainproof and fly proof receptacles of the type herein required, and the receptacle shall be tightly closed in such manner as to prevent offensive odors or flies.

10-418. TIME AND PLACE OF PICKUP.

- A. All garbage and refuse subject to garbage collection by the municipality shall be placed at a pickup point at or near the premises designated from time to time by regulations adopted by the governing body and at such time or times as shall be designated by regulations of the governing body.

- B. Until otherwise provided by regulation, garbage and refuse must not be set out upon the street for collection prior to the evening of the day before collection and must be set out on the day of collection before the hour of collection designated by regulations of the governing body.
- C. All empty receptacles must be removed from the street as soon as practicable after being emptied, and in every case, must be removed from the street the same day they are emptied. Receptacles shall not be permitted to remain on any street longer than may be necessary for the removal of the contents.

10-419. DISPOSAL OF COMMUNITY WASTE.

- A. Community waste may be disposed of by residents and business establishments in vehicles provided by them subject to regulation by the governing body as to the places of disposal and as to the type of vehicle used to avoid spillage upon the public ways of the municipality, hazards to safety and the prevention of nuisances.
- B. The governing body from time to time may provide for the collection and disposal of such types of community waste as it may decide to collect and haul in connection with its regular garbage, waste collection and disposal service. In the event community waste disposal service should require a charge to be made by the municipality, the determination of the charge will be made by negotiation with the residents or business enterprises and the residents or business enterprises will be given an opportunity to choose from amount services offered by persons other than the municipality.

10-420. BURNING OF REFUSE PROHIBITED. It shall be unlawful for any person to burn garbage, market waste, manure or other refuse in the open air or in any furnace or stove within the municipality.

10-421. DUMPING REFUSE PROHIBITED. It shall be unlawful for any person to place, deposit, or dump garbage, ashes, market waste, paper boxes, cartons, trade waste, manure or night soil, or any other refuse upon any lot within the municipality whether such lot is occupied or vacant and whether such person so placing, depositing or dumping such refuse is the owner, tenant, occupant or lessor thereof or has the same under his jurisdiction and control.

10-422. LIMITATIONS UPON DUMPING. Dumping waste and garbage shall be permitted only in such places as are designated by the governing body. Dumping shall be subject to such rules and regulations as may be formulated by the governing body.

10-423. REGULATIONS. The governing body may adopt such regulations as in its opinion are necessary to implement this part and its objectives.

PART 10-430. LITTER - HANDBILLS.

10-431. DEFINITIONS.

- 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 performances, 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.
 - 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 putrescible and non-putrescible solid wastes (except body wastes), including garbage, rubbish, ashes, street cleanings, dead animals, and solid market and industrial wastes.
 - I. *"Rubbish"* is non-putrescible 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.

10-432. LITTER IN PUBLIC PLACES. No person shall throw or deposit litter in or on any street, sidewalk or other public place except:

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

10-433. PLACEMENT OF LITTER IN 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.

10-434. 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.

10-435. MERCHANTS' DUTY TO KEEP SIDEWALKS FREE OF LITTER. No 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.

10-436. 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.

10-437. 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.

10-438. 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.

10-439. 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.

10-440. 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 distribute, without charge to the receiver thereof, any non-commercial handbill to any person willing to accept it.

10-441. 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.

10-442. 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.

10-443. 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.

10-444. 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.

10-445. 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.

10-446. POSTING NOTICE PROHIBITED. No person shall post or affix any notice, poster or other paper or device, calculated to attract the attention of the public, to any lamppost, public utility pole or shade tree, or on any public structure or building, except as may be authorized or required by law.

10-447. 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.

10-448. 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.

10-449. HANDBILLS AND POSTERS. (Deleted 9-2-2015)

TITLE 11-000. TRANSPORTATION, STREETS AND PUBLIC WAYS.

CHAPTER 11-100. RESERVED.

CHAPTER 11-200. RESERVED.

CHAPTER 11-300. STREETS AND PUBLIC WAYS.

PART 11-310. SUPERVISION OF STREETS.

11-311. DEPARTMENT – ENOCH CITY MANAGER OR DESIGNEE.

- A. There is hereby created a department of streets, which shall have general supervision of streets, sidewalks, bridges, and other public ways.
- B. The department shall be under the direction and control of the Enoch City Manager or designee.

11-312. POWERS AND DUTIES OF STREET DEPARTMENT. The department shall:

- A. Have charge of the construction, maintenance and repair of streets, sidewalks, bridges, curbs, gutters, culverts, drains, waterways and other public ways. It shall have control of all water flowing on the streets, sidewalks and public ways whether originating from storm, flood, drainage or irrigation waters.
- B. Keep a record of and promptly investigate all complaints of defective streets, culverts, drains, ditches, sidewalks, and other public ways and, when proper, repair, replace or take such action as deemed best, and shall record the action taken on each complaint.
- C. Enforce the provisions of this chapter 11-300 and all other ordinances relating to the maintenance and use of the streets, culverts, drains, ditches, waterways, curbs, gutters, sidewalks and other public ways.
- D. Repair, or cause to be repaired, all defects coming to the department's attention and take reasonable precautions to protect the public from injuries due to such defects pending their repair.

PART 11-320. STREETS - TRAFFIC CONTROL.

11-321. ADOPTION OF THE STATE TRAFFIC CODE.

- A. The traffic code of the State of Utah set forth as, Title 41-1-1 through 41-1a-1402, Utah Code Annotated, 1953, renumbered in 1992 and amendments thereto is hereby approved and adopted as the traffic code for the City of Enoch, Iron County, Utah, except as hereinafter specifically altered and by this reference is made a part of this Ordinance as though set forth verbatim herein.
- B. Whenever any amendment, revision or supplement is made to the traffic code of the State of Utah, the same shall become a revision, supplement and amendment to this Ordinance. The City Recorder, the City Attorney or the Mayor shall keep a copy of the traffic code and any revision, supplements, or amendments thereto on file for reference.

11-322. DEFINITIONS CONTAINED IN CODE. Unless the context otherwise requires, all references in the traffic code to:

- A. The State Road Commission or State Department of Transportation shall mean this municipality and its officers, departments, agencies and agents.
- B. Local Authorities shall mean the governing body of this municipality.
- C. The Department of Public Safety of this State of Utah shall mean the Chief of Police of this municipality or his agent.
- D. Magistrate shall mean the Justice of the Peace or Judge of this municipality.

11-322A. VIOLATIONS OF ENOCH CITY ORDINANCES. Any law enforcement officer working within the city limits of Enoch City who becomes aware of a violation of law which is covered by Enoch's City Ordinances, shall file any complaint or information or traffic citation arising from said violation in the court having jurisdiction over such matters.

11-323. PRIMA FACIE SPEED - DESIGNATED STREETS.

- A. When appropriate street signs giving notice of the maximum permitted speed thereon are erected, the prima facie speed limits designated in the appropriate appendix of this code shall apply to the appropriate streets listed therein.
- B. Unless otherwise provided in this part or in any other ordinance of this municipality, the prima facie speed limits on the streets of this municipality shall be 30 miles per hour.

11-324. ANGLE PARKING. Angle parking shall be permitted upon the streets or parts of streets described in the appropriate appendix of this code. The chief law enforcement officer shall mark or sign such streets or parts of streets and also indicate the angle of such parking.

11-325. THROUGH STREETS DESIGNATED. Those streets and parts of streets described in the appropriate appendix are hereby declared to be through streets.

11-326. AUTHORITY TO ERECT STOP OR YIELD SIGNS. It shall be the duty of the chief law enforcement officer or the Enoch City Manager or designee to place and maintain a stop sign or, where safety and efficiency require at any intersection, a yield sign on each and every street intersecting such through street unless traffic at such intersection is controlled at all times by traffic control signals. However, at the intersection of two through streets or at the intersection of a through street and a heavily traveled street, stop signs shall be erected at the approaches to either streets as determined by the chief law enforcement officer and on the basis of an engineering and traffic study.

11-327. PENALTIES. Any person violating, causing or permitting violation of any provisions of this part shall be guilty of a misdemeanor. Notwithstanding other language or provisions in the "Utah Traffic Code - Rules of the Road, 1980" hereby adopted, any violator of this part, upon conviction, shall be punished by a fine and/or jail sentence as set by the court of jurisdiction.

PART 11-330. ANIMALS ON STREETS.

11-331. DRIVING ANIMALS ON STREETS.

- A. Every person who drives any herd of sheep or band of horses, cattle or other animals upon any public street or highway without first obtaining a permit from the chief of police to do so is guilty of an infraction.
- B. No person shall drive livestock through this municipality upon streets not designated for that purpose except upon permission and according to the direction of the chief of police.

- C. The following city streets are designated as livestock trails: 5600 North, Midvalley road (4800 North), 4200 North, 3600 North, Highway 91, Enoch Road and Grimshaw Lane (600 East).

PART 11-340. PARKING REGULATIONS.

11-341. PARKING OR BLOCKING STREETS OR HIGHWAYS. In addition to the parking provisions contained in the Utah Traffic Code, as adopted by this municipality, it shall be a class B misdemeanor for any person to:

- A. Remain standing, lying or sitting on any street or highway in such a manner as to obstruct the free passage of vehicular or pedestrian traffic hereon.
- B. Willfully remain standing, lying or sitting on any street or highway in such manner for more than one minute after being requested to move by any police officer.
- C. Willfully remain on such street or highway in such manner as to obstruct the free passage of any person or vehicle into or out of any property abutting upon the street or highway or any property having access to such street or highway.

11-342. SIGNS. The governing body may authorize or direct any person employed by the municipality to erect or install any sign or traffic control device required to enforce the provisions of this part.

11-343. NO PARKING. It shall be a class B misdemeanor to park or leave standing at any time a motor vehicle, as defined in the "Utah Traffic Code - Rules of the Road, 1980" as adopted by this municipality, in any of the places described in the appropriate appendix attached to this code, when properly posted, except when necessary to avoid interference with other traffic or in compliance with the directions of a policeman or traffic control device.

11-344. UNLAWFUL PARKING.

- A. **Parking at Curb.** No motor vehicle shall be parked with the left side of the vehicle next to the curb, except on one-way streets. It shall be unlawful to stand or park any motor vehicle in a street other than parallel with the curb and with the two right wheels of the vehicle within twelve inches of the regularly established curb line except on those streets which have been marked for angle parking; then vehicles shall be parked at the angle to the curb indicated by such marks.
- B. **Vehicles for Sale.** It shall be unlawful to park any vehicle on any street for the purpose of displaying it for sale, or to park any vehicle from which merchandise is peddled on any business street.
- C. **Loading Zone.** When so posted, it shall be unlawful for the driver of a passenger vehicle to stand or park such vehicle for a period of time longer than is permitted by the posted sign for the loading or unloading of passengers, or for the driver to stand or park any freight carrying motor vehicle for a period of time longer than is necessary to load, unload and deliver materials in any place designated as a loading zone and marked as such.
- D. **Parking Prohibited.** It shall be unlawful for any person, except physicians on emergency calls or designated emergency vehicles when properly posted, to park any motor vehicle on any street in violation of the posted restrictions.
- E. **Alleys.** No person shall park a motor vehicle within an alley in such manner or under such conditions as to leave less than ten feet of the width of the roadway available for the free movement of vehicular traffic. No person shall stop, stand or park a vehicle within an alley in such a position as to block the driveway entrance to any abutting property.

- F. **Cab Stands - Bus Stands.** No motor vehicle other than a licensed taxicab shall be parked in any area designated by ordinance as a taxicab stand and no vehicle other than a bus shall be parked in a place so designated as a bus-loading zone.
- G. **Parking Prohibited.** It shall be an infraction for any person to park or leave standing on any public road, street, alley or municipal property any motor vehicle for 48 or more consecutive hours, and any vehicle so parked or left standing may be impounded or removed by the chief of police. For purposes of impoundment and removal, the chief of police may impound and remove any motor vehicle, which reasonably appears to have remained unmoved for 48 consecutive hours. The cost of impoundment and removal shall be charged to the owner or any person who claims the impounded motor vehicle.
- H. **Parking Vehicles with Hazardous Cargo.** It shall be a class B misdemeanor for any person, firm, corporation, or other entity, owning or operating any vehicle containing the following listed hazardous materials, to leave said vehicle stopped or parked, whether attended or unattended, within the city limits of Enoch without prior written permission of the City of Enoch:
 - 1. Explosive materials of any kind.
 - 2. Flammable fluids in excess of 100 gallons.
 - 3. Corrosive, caustic, or radioactive materials of any kind.
 - 4. Gases or other materials dangerous to life or property.
- I. **Truck Parking Restricted.** No corporation, firm, person, or other entity, owning or operating any truck or other vehicle over 35 feet in length, exempting school buses, shall leave said vehicle stopped or parked, whether attended or not attended, in the following manner:
 - a. On a road right-of-way within 50 feet from an intersection,
 - b. On a road right-of-way around the perimeter of a school or church,
 - c. In a manner that obstructs the use of real and personal property by a separate property owner.
 - d. In a manner that obstructs traffic or creates a safety hazard.
 - e. In a manner that damages or impedes the purposes of infrastructure.

A violation of this subsection (I) is a Class C Misdemeanor. Any subsequent offense of this same subsection (I) within a 12 month period is a Class B Misdemeanor.

PART 11-350. CONSTRUCTION AND REPAIR OF STREETS AND SIDEWALKS.

11-351. CONSTRUCTION BY PERSONS. It shall be unlawful for any person either as owner, agent, servant, contractor, or employee to construct a street or sidewalk that does not conform to specifications established by the municipal engineer or other authorized representative of the municipality, unless special permission to deviate from such specification is first obtained from the governing body.

11-352. PERMIT REQUIRED - SUPERVISION.

- A. No person, either as owner, agent, servant, contractor, or employee, shall construct any permanent sidewalk without first obtaining from the recorder/clerk a permit so to do. The permit shall specify that the sidewalk be constructed of cement, the character and quality of the cement, the consistent parts of the mixture, and the thickness of the walk.
- B. It shall be unlawful to construct a sidewalk in violation of the specifications given by a proper municipal official.
- C. All sidewalks shall be constructed under the inspection of the Enoch City Manager or designee or his duly authorized representative.

11-353. CONSTRUCTION OF DRIVEWAYS OR CHANGES OF CONSTRUCTION. It shall be unlawful for any person to construct a driveway across a sidewalk, or cut or change the construction of sidewalk, curb, or gutter without first making written application and obtaining from the recorder/clerk a permit to do so. The acceptance of such permit shall be deemed an agreement on the part of such person to construct said driveway in accordance with specifications furnished by the municipality.

11-354. BUILDING MATERIALS IN STREET - PERMIT. It shall be unlawful for any person to occupy or use any portion of the public streets when erecting or repairing any building upon land abutting thereon, without first making application to and receiving from the governing body a permit for the occupation or use of such portions of streets for such periods of time and under such limitations and restrictions as may be required by the governing body. Any such permit may be revoked by the governing body at any time when the holder thereof fails to comply with any rule or regulation under which it is granted, or when, in the opinion of the governing body, the public interest requires such revocation.

11-355. PLACING OR MIXING SAND OR GRAVEL ON PAVED STREET OR SIDEWALK. Unless a permit from the Enoch City Manager or designee has been obtained, it shall be unlawful to:

- A. Place or pile, or permit to be placed or piled, any sand, gravel, lime, cement, mortar, plaster, concrete, or any like substance or mixture, or allow the same to remain on any portion of any paved street or sidewalk.
- B. Make or mix or permit to be made or mixed any mortar, plaster, concrete or any like substance or mixture on any portion of any paved street or sidewalk.

11-356. OVERFLOWING OF WATER ON PUBLIC PROPERTY. It shall be unlawful for any person to allow water to overflow from any ditch, canal, well, or irrigation stream onto the streets, sidewalks or property of the municipality.

11-537. IRRIGATION DITCHES ACROSS SIDEWALKS. All owners or occupants of lots in this municipality who require water from a main ditch for irrigation or other purposes shall dig ditches, erect flumes, lay pipes and install culverts, as needed, and maintain the same to convey water under sidewalks to or from their respective lots. All culverts, ditches, pipes and flumes conveying water under sidewalks shall meet such reasonable standards and specifications as may be established by the Enoch City Manager or designee.

11-358. REMOVAL OF SOD, EARTH FROM STREETS OR OTHER PROPERTY. No person shall dig, cut or remove any sod or earth from any street or other public place without a permit from the Enoch City Manager or designee.

11-359. PENALTIES. Any person violating causing or permitting violation of any provision of this part shall be issued warnings and/or penalties as follows: First violation will result in a written warning. Second violation shall be classified as a Class "B" misdemeanor and punishable as such. Third violation shall be classified as a Class "B" misdemeanor and will result in a shutdown order for the project.

PART 11-360. SIDEWALK REGULATIONS.

11-361. REMOVAL OF SNOW.

- A. It shall be unlawful for the owner, occupant, lessor, or agent of any property, abutting on a paved sidewalk to fail to remove, or have removed from such paved sidewalk, all hail,

snow, or sleet thereon within a reasonable time after such snow, hail, or sleet has fallen. In the case of a storm between the hours of 5:00 p.m. and 6:00 a.m., such sidewalks shall be cleaned before 9:00 a.m. of the same day.

- B. It shall be unlawful for any person removing snow from the sidewalk, to deposit snow, dirt, leaves or any other material in the gutter so as to clog or prevent the free flow of water therein.

11-362. PLACING TRASH OR OTHER OBSTRUCTION IN STREETS, GUTTER, SIDEWALKS. It shall be unlawful for any person owning, occupying or having control of any premise to place, or permit to be placed upon or in the sidewalk, parking area, gutter, or on the half of the street next to such premise:

- A. Any broken ware, glass, filth, rubbish, sweepings, refuse matter, ice, snow, water, garbage, ashes, tin cans or other like substances.
- B. Any wagon, lumber, wood boxes, fencing, building material, dead trees, tree stumps, merchandise or other thing which shall obstruct such public street, gutter, parking area or sidewalk, or any part thereof, or the passage over and upon the same, or any part thereof, except as expressly authorized by ordinance, without first obtaining the permission of the governing body.
- C. Any permanent or temporary structure, mechanism, device, vehicle or other thing of any kind or character except trees planted pursuant to the provisions of applicable ordinances.

11-363. OPENING IN STREET.

- A. It shall be unlawful for the owner or occupant of any building having a cellar, which opens upon any street or sidewalk, to fail to keep the door or other covering in good repair and safe for the passage of the customary traffic on the street or sidewalk. If the owner or occupant of any such building shall neglect or refuse to repair properly any such door or covering within 24 hours after notice from the Enoch City Manager or designee to do so, the Enoch City Manager or designee shall forthwith cause such repairs to be made at the expense of the owner or occupant.
- B. It shall be unlawful to construct or maintain coalholes or other openings in streets or sidewalks, except with the special permission of the governing body, and under the direction and supervision of the Enoch City Manager or designee.

11-364. DOORS OPENING INTO STREETS. It shall be unlawful for any person, firm, or corporation owning or having the control or management of any alley, road, or passageway to construct or hang gates or doors to such alley, road, or passageway so that the gates or doors thereto, when open, shall project outwardly more than two feet over or upon the sidewalk beyond the property line.

11-365. DISCHARGE OF WATER ON STREET. It shall be unlawful for any person owning, occupying or having control of any premise to fail, refuse or neglect to prevent water from the roof or eaves of any house, building or other structure, or from any other source under the control of such person to be discharged upon the surface of any sidewalk.

11-366. CROSSING AT INTERSECTIONS. It shall be unlawful for any person to drive or park a self-propelled vehicle or lead, drive, or ride any animal upon any sidewalk except across a sidewalk at established crossings.

11-367. BUSINESS TO KEEP SIDEWALK CLEAN. It shall be unlawful for any owners or occupants of any place of business to refuse neglect or fail to cause the sidewalk abutting thereon to be swept or cleaned each morning before the hour of 9:00 a.m.

11-368. PLACING GOODS ON SIDEWALKS FOR SALE OR SHOW. No goods, wares or merchandise shall be placed, maintained or permitted for sale or show in or on any parking area, street or sidewalk beyond two feet from the front line of the lot, without first obtaining the written approval of the governing body. Such approval shall be granted only when such sale or show shall be a promotional activity not exceeding 48 hours and when participated in by a majority of firms seeking approval in their business area. The governing body's written approval shall specifically provide that no goods, wares, or merchandise shall be placed in such a manner as to leave less than a six-foot passageway for pedestrians.

11-369. PLACING GOODS ON SIDEWALKS FOR RECEIPT OR DELIVERY. It shall be unlawful for any person to place, or suffer to be placed or kept upon any sidewalk, any goods, wares or merchandise, which he may be receiving or delivering, without leaving a foot passageway upon such sidewalk. It shall be unlawful for any person receiving or delivering such goods, wares or merchandise to suffer the same to be or remain on such sidewalk for a longer period than six hours.

11-370. PLAYING ON SIDEWALKS. Every person who obstructs the sidewalk or street by playing any game or engaging in any activity, which obstructs the free travel thereon, is guilty of an infraction.

11-371. CONGREGATING ON SIDEWALKS. It is an infraction for any person or persons to congregate about or upon any sidewalk, stairway, doorway, window or in front of any business or dwelling house, theater, lecture room, church or elsewhere and by so doing to obstruct or interfere with the free passage of persons entering, leaving or occupying such building or premises.

11-372. PENALTIES. Any person violating, causing or permitting violation of any provision of this part shall be issued warnings and/or penalties as follows: First violation will result in a written warning. Second violation will be classified as a Class "B" misdemeanor and punishable as such. Third violation shall be classified as a Class "B" and punishable as such and will result in a shutdown order for the project.

PART 11-380. EXCAVATIONS.

11-381. PERMIT FRANCHISE REQUIRED.

- A. No person shall make any excavation in any street, lane or alley, or remove any pavement or other material from any street or improvement thereon without first obtaining a permit from the Enoch City Manager or designee or other authorized representative of the municipality.
- B. No person shall excavate any sidewalk without first obtaining a permit from the Enoch City Manager or designee or other authorized personnel.
- C. Nothing contained in this part shall be construed to waive the franchise required for any person by the ordinances of this municipality or laws of Utah.

11-382. EXCLUDED EXCAVATIONS. Excavations of any kind in municipal streets in projects designed, contracted for, and inspected by the municipal engineer or other authorized personnel of the municipality do not come within the scope of this part.

11-383. SUBJECT EXCAVATIONS. Excavations for installation or repair of water lines, sewer lines, gas lines, electrical cable and conduits, telephone cable and conduits, and all other

excavations for any other purpose within the street rights-of-way of the municipality or in other public places are subject to the provisions of this part.

11-384. PREPARATION. The pavement, sidewalk, driveway or other surface shall be cut vertically along the lines forming the trench in such a manner as to not damage the adjoining pavement or hard surfacing. An undercut bevel at the rate of one inch per foot of thickness will be provided at the proposed junction between the old and new surfaces. The portion to be removed shall be broken up in a manner that will not cause damage to the pavement outside the limits of the trench. However, any pavement damaged by operations outside the limits of the trench shall be replaced. All waste material resulting from the excavation shall be removed immediately from the site of the work.

11-385. BACKFILL.

- A. Materials for backfill will be of select nature. All broken concrete, peat, decomposed vegetable matter and similar materials obtained from excavation will be removed from the site prior to beginning of backfilling. All backfill will be placed in layers not over eight inches loose measure in thickness. Compaction will be obtained by mechanical rollers, mechanical tampers or similar means. Material for backfilling will have optimum moisture to insure compaction to a degree equivalent to that of the undisturbed ground in which the trench was dug. Jetting or internal vibrating methods of compacting sand fill or similar methods of compacting sand or similar granular free draining materials will be permitted.
- B. The density (dry) of the backfill under pavements, sidewalks, curbs or other structures will be not less than that existing prior to excavation. The fill shall be restored and placed in a good condition, which will prevent settling.

11-386. RESTORATION OF SURFACES.

- A. **General.** All street surfacing, curbs, gutters, sidewalks, driveways, or other hard surfaces falling in the line of the excavation which must be removed in performance of the work shall be restored in kind by the excavator, unless otherwise directed by the governing body, in accordance with the specifications contained herein governing the various types of surfaces involved.
- B. **Protection of Paved Surfaces.** In order to avoid unnecessary damage to paved surfaces, track equipment shall use pavement pads when operating on or crossing paved surfaces.
- C. **Time.** In traffic lanes of paved streets, the excavator shall provide temporary gravel surfaces or cold mulch in good condition immediately after backfill has been placed, and shall complete permanent repairs on the street, sidewalk, curb, gutter, driveway and other surfaces, within five days from the date of completion of the backfill except for periods:
 - 1. When permanent paving material is not available.
 - 2. When weather conditions prevent permanent replacement.
 - 3. When an extension of time is granted by the Enoch City Manager or designee.
- D. **Temporary Repair.** If temporary repair has been made on paved street with gravel and a permanent repair cannot be made within the time specified above due to any of the above-mentioned conditions, then the excavator shall be required to replace the gravel with cold mulch as soon as possible.

11-387. RESTORING BITUMINOUS. Concrete or asphalt street surfaces.

- A. **Temporary Grade Surface.** Where excavations are made in paved areas, the surface shall be replaced with a temporary gravel surface. The gravel shall be placed deep enough to provide a minimum of six inches below the bottom of the bituminous or

concrete surface. Normally, this will require nine inches of gravel for bituminous surfaces, twelve inches of gravel for concrete and concrete base for asphalt wearing surfaces. The gravel shall be placed in the trench at the time it is backfilled. The temporary gravel surface shall be maintained by blading, sprinkling, rolling, adding gravel, to maintain a safe, uniform surface satisfactory to the inspector until the final surface is laid. Excess material for use on temporary gravel surfaces shall be obtained from sound, tough, durable gravel or rock meeting the following requirements for grading:

Passing 1-inch sieve	100 percent
Passing 3/4-inch sieve	85-100 percent
Passing No. 4 sieve	45-65 percent
Passing No. 10 sieve	30-50 percent
Passing No. 200 sieve	5-10 percent

B. **Bituminous Surface.** The exposed edges of existing pavement shall be primed with Type MC-1 bituminous material. The type, grade and mixture of the asphalt to be used for street surface replacement shall be approved by the Enoch City Manager or designee. The thickness shall be equal to the adjacent surface thickness, but not less than three inches. The complete surface shall not deviate more than one-half inch between old and new work.

11-388. CONCRETE SURFACES. The sub-base for concrete surfaces shall be sprinkled just before placing the concrete. Joints and surfaces shall be made to match the original surfaces. The thickness of concrete shall be equal to the adjacent concrete, but in no case less than six inches thick. The mixing, cement, water content, proportion, placement and curing of the concrete will be approved by the Enoch City Manager or designee. In no case shall the concrete have less compressive strength than 3,000 pounds per square inch at the end of 28 days.

11-389. CONCRETE BASE, BITUMINOUS WEARING SURFACES. This type of surfacing shall be constructed as above described.

11-390. GRAVEL SURFACES. Trenches excavated through gravel-surfaced area, such as gravel roads and shoulders and unpaved driveways, shall have the gravel restored and maintained as described in part 110-388 of this part, except that the gravel shall be a minimum of one inch more than the thickness of the existing gravel.

11-391. PROTECTION OF PUBLIC DURING EXCAVATION PROJECTS. Excavation operations shall be conducted in such a manner that a minimum amount of interference or interruption of street traffic will result. Inconvenience to residents and businesses fronting on public streets shall be minimized. Suitable, adequate and sufficient barricades shall be available and used where necessary to prevent accidents involving property or persons. Barricades must be in place until all of excavator's equipment is removed from site, excavation has been backfilled and proper temporary gravel surface is in place. From sunset to sunrise, all barricades and excavations must be clearly outlined by acceptable warning lights, lanterns, flares, and other devices. Police and fire departments shall be notified at least 24 hours in advance of any planned excavation requiring street closures or detour.

11-392. RELOCATION AND PROTECTION OF UTILITIES. An excavator shall not interfere with any existing utility without the written consent of the governing body and without advance notice to the owner of the utility. If it becomes necessary to relocate an existing utility, it shall be done by its owner unless the owner otherwise directs. No utility, whether owned by the municipality or by a private enterprise, shall be moved to accommodate the permittee unless the

cost of such work is borne by the permittee or an expressly written agreement is made whereby the utility owner and the excavator make other arrangements relating to such cost. The permittee shall support and protect by timbers or otherwise all pipes, conduits, poles, wires, or other apparatus which may be in any way affected by the excavation work, and shall do everything necessary to support, sustain and protect them under, over, along, or across the work. In case any of the pipes, conduits, poles, wires, or apparatus should be damaged (and for this purpose pipe coating or other encasement or devices are to be considered as part of a substructure), they shall be repaired by the agency or person owning them, but the utility owner shall be reimbursed for the expense of such repairs by the permittee. It is the intent of this part that the permittee shall assume all liability for damage to substructures, and any resulting damage or injury to anyone because of such substructure damage and such assumption of liability shall be deemed a contractual obligation, which the permittee accepts upon acceptance of an excavation permit. The municipality need not be made a party to any action because of this part. The permittee shall inform itself as to the existence and location of all underground utilities and protect the same against damage.

11-393. JETTING PIPE. Jetting pipe by means of water under pressure, or compressed air, is permitted only when approved by the municipality.

11-394. INSPECTION AND ACCEPTANCE.

- A. In order to insure proper backfill and restoration of surface, the permittee shall deposit a surety bond or cash deposit with the recorder/clerk payable to the municipality, except that a public utility operating or using any of the streets under a franchise from the municipality will not be required to furnish such bond, providing such franchise obligates the holder thereof to restore the streets and to hold the municipality harmless in the event negligence of such holder in conducting excavation and restoration operations under such franchise. The required surety bond must be:
1. With good and sufficient surety.
 2. By a surety company authorized to transact business in the state.
 3. Satisfactory to the municipal attorney in form and substance.
 4. Conditioned upon the permittee's compliance with this part in order to secure and hold the municipality and its officers harmless against any and all claims, judgments, or other costs arising from the excavation and other work covered by the excavation permit or for which the municipality, the governing body or any municipal officer may be made liable by reason of any accident or injury to any person or property through the fault of the permittee arising out of failure to properly guard the excavation or for any other negligence of the permittee.
 5. Conditioned to fill up, restore and place in good and safe condition, as near as may be to its original condition, and to the satisfaction of the municipality, all openings and excavations made in streets, and to maintain any street where excavation is made in as good condition for the period of 24 months after the work shall be done, usual wear and tear excepted, as it was before the work shall have been done.
- B. The amount of the surety bond or cash deposit shall be established by resolution and may be changed from time to time, but until such resolution is passed the amount of the surety or cash deposit shall be \$100.00 and \$100.00 for each foot of street the permittee shall excavate.

11-395. APPLICATION FOR STREET EXCAVATION PERMIT. It shall be unlawful for any person to break, excavate, tunnel, undermine, or in any manner affect the surface or base of

any street or to place, deposit or leave upon any street any earth or any other excavated material obstructing or tending to interfere with the free use of the street, unless such persons shall first have obtained an excavation permit therefore from the recorder/clerk. Any public utility regulated by the state of Utah or holding a franchise from the municipality which in the pursuit of its calling has frequent occasion to open or make excavations in streets, may, upon application, receive a general permit from the municipality to cover all excavations such utilities may make within the street of the municipality. All permits shall be subject to revocation and the municipality may refuse to issue a permit for failure of the permittee or applicant to abide by the terms and conditions of this part. Excavation permits will not be requested prior to excavation in case of emergency endangering life or property, providing the municipality is notified as soon as practicable and a permit is applied for upon the next regular working day following the emergency. (Revised 11-15-06 and 10-7-09)

CHAPTER 11-400. STREET ADDRESSES AND SIGNS.

PART 11-401. HOUSE NUMBERS REQUIRED.

- A. Every home, building, lot, resident or parcel of real property within the limits of the City of Enoch shall be assigned a street number for identification and location purposes. Every owner of a home, building or residence shall be required hence forth to display in a prominent location on the side of the structure facing the adjacent public street to which the street number belongs, that number assigned to that particular property.
- B. Failure to so display an assigned identification number shall constitute a misdemeanor and may be punished as a Class C misdemeanor upon conviction by a fine and/or jail time as designated by the court of jurisdiction. Rev. 10-7-09.

11-402. CIVIL REMEDIES. If any owner of a home, building or residence fails to display his identification number as required in the foregoing section, the City of Enoch may, through its designated agent display such number without the owner's consent and charge any cost of said display against the owner of the property. Said charge shall become a lien recorded with the County Recorder's Office and collected in the fashion of special improvement district assessments.

CHAPTER 11-500. TELECOMMUNICATIONS RIGHT-OF-WAY.

PART 11-510. DECLARATION OF FINDINGS AND INTENT; SCOPE OF ORDINANCE.

11-511. DECLARATION OF FINDING AND INTENT.

- A. **Findings Regarding Rights-of-Way.** The City of Enoch finds that the Rights-of-Way within the City:
1. are critical to the travel and transport of persons and property in the business and social life of the City;
 2. are intended for public uses and must be managed and controlled consistent with that intent;
 3. can be partially occupied by the facilities of utilities and other public service entities delivering utility and public services rendered for profit, to the enhancement of the health, welfare, and general economic well-being of the City and its citizens; and
 4. are a unique and physically limited resource requiring proper management to maximize the efficiency and to minimize the costs to the taxpayers of the foregoing uses and to minimize the inconvenience to and negative effects upon the public from such facilities' construction, placement, relocation, and maintenance in the Rights-of-Way.
- B. **Finding Regarding Compensation.** The City finds that the City should receive fair and reasonable compensation for use of the Rights-of-Way.
- C. **Finding Regarding Local Concern.** The City finds that while Telecommunications Systems are in part an extension of interstate commerce; their operations also involve Rights-of-Way, municipal franchising, and vital business and community service, which are of local concern.
- D. **Finding Regarding Promotion of Telecommunications Services.** The City finds that it is in the best interests of its taxpayers and citizens to promote the rapid development of Telecommunications Services, on a nondiscrimination basis, responsive to community and public interest, and to assure availability for municipal, educational and community services.
- E. **Findings Regarding Franchise Standards.** The City finds that it is in the interests of the public to Franchise and to establish standards for franchising Providers in a manner that:
1. fairly and reasonably compensates the City on a competitively neutral and non-discriminatory basis as provided herein;
 2. encourages competition by establishing terms and conditions under which Providers may use the Rights-of-Way to serve the public;
 3. fully protects the public interests and the City from any harm that may flow from such commercial use of Rights-of-Way;
 4. protects the police powers and Rights-of-Way management authority of the City, in a manner consistent with federal and state law;
 5. otherwise protects the public interests in the development and use of the City infrastructure;
 6. protects the public's investment in improvements in the Rights-of-Way; and
 7. ensures that no barriers to entry of Telecommunications Providers are created and that such franchising is accomplished in a manner that does not prohibit or have the effect of prohibiting Telecommunication Services, within the meaning of the Telecommunications Act of 1996 ('Act:.) [PL. No. 104-104].

- F. **Power to Manage Rights-of-Way.** The City adopts this Telecommunications Ordinance pursuant to its power to manage the Rights-of-Way, pursuant to common law, the Utah Constitution and statutory authority, and receive fair and reasonable, compensation for the use of Rights-of-Way by Providers as expressly set forth by Section 253 of the Act.

11-512. SCOPE OF ORDINANCE. This Ordinance shall provide the basic local scheme for Providers of Telecommunications Services and Systems that require the use of the Rights-of-Way, including Providers of both the System and Service, those Providers of the System only, and those Providers who do not build the System but who only provide Services. This Ordinance shall apply to all future Providers and to all Providers in the City prior to the effective date of this Ordinance, whether operating with or without a Franchise as set forth in Section 12.2.

11-513. EXCLUDED ACTIVITY.

- A. **Cable TV.** This Ordinance shall not apply to cable television operators otherwise regulated by the "Cable Television Ordinance".
- B. **Wireless Services.** This Ordinance shall not apply to Personal Wireless Service Facilities.
- C. **Provisions Applicable to Excluded Providers.** Providers excused by other law that prohibits the City from requiring a Franchise shall not be required to obtain a Franchise, but all of the requirements imposed by this Ordinance through the exercise of the City's police power and not preempted by other law shall be applicable.

PART 11-520. DEFINED TERMS

11-521. DEFINITIONS. For purposes of this Ordinance, the following terms, phrases, words, and their derivatives, shall have the meanings set forth in this Section, unless the context clearly indicates that another meaning is intended. Words used in the present tense include the future tense, words in the single number include the plural number, and words in the plural number include the singular. The word "shall" and "will" are mandatory, and "may" is permissive. Words not defined shall be given their common and ordinary meaning.

- A. *"Application"* means that process by which a Provider submits a request and indicates a desire to be granted a Franchise to utilize the Rights-of-Way of all, or a part, of the City. An Application includes all written documentation, verbal statements and representations, in whatever form or forum, made by a Provider to the City concerning: the construction of a Telecommunications System over, under, on or through the Rights-of-Way; the Telecommunications Services proposed to be provided in the City by a Provider; and any other matter pertaining to a proposed System or Service.
- B. *"City"* means Enoch City, Utah.
- C. *"Completion Date"* means the date that a Provider begins providing Services to customers in the City.
- D. *"Construction Costs"* means all costs of constructing a System, including make ready costs, other than engineering fees, attorneys or accountants fees, or other consulting fees.
- E. *"Control" or "Controlling Interest"* means actual working control in whatever manner exercised, including, without limitation, working control through ownership, management, debt instruments or negative control, as the case may be, of the System or of a Provider. A rebuttable presumption of the existence of Control or a Controlling Interest shall arise from the beneficial ownership, directly or indirectly, by a Person, or group of Persons acting in concert, of more than twenty-five percent (25%) of any Provider (which Person or group of Persons is hereinafter referred to as "Controlling Person"). "Control" or "Controlling Interest" as used herein may be held simultaneously by more than one Person or group of Persons.

- F. *"FCC"* means the Federal Communications Commission or any successor thereto.
- G. *"Franchise"* means the rights and obligation extended by the City to a Provider to own, lease, construct, maintain, use or operate a System in the Rights-of-Way within the boundaries of the City. Any such authorization, in whatever form granted, shall not mean or include:
1. any other permit or authorization required for the privilege of transacting and carrying on a business within the City required by the ordinances and laws of the City;
 2. any other permit, agreement or authorization required in connection with operations on Rights-of-Way of public property including, without limitation, permits and agreements for placing devices on or in poles, conduits or performing other work in or along the Rights-of-Way.
- H. *"Franchise Agreement"* means a contract entered into in accordance with the provisions of this Ordinance between the City and a Franchisee that sets forth, subject to this Ordinance, the terms and conditions under which a Franchise will be exercised.
- I. *"Gross Revenue"* includes all revenues of a Provider that may be included as gross revenue within the meaning of Chapter 26, Title 11 Utah Code annotated, 1953, as amended.
- J. *"Infrastructure Provider"* means a Person providing to another, for the purpose of providing Telecommunication Services to customers, all or part of the necessary System that uses the Rights-of-Way.
- K. *"Open Video Service"* means any video programming services provided to any Person through the use of Rights-of-Way, by a Provider that is certified by the FCC to operate an Open Video System pursuant to sections 651, *et seq.*, of the Telecommunications Act (to be codified at 47 U.S.C. Title VI, Part V), regardless of the System used.
- L. *"Open Video System"* means the system of cables, wires, lines, towers, wave guides, optic fiber, microwave, laser beams, and any associated converters, equipment, or facilities designed and constructed for the purpose of producing, receiving, amplifying or distributing Open Video Services to or from subscribers or locations within the City.
- M. *"Operator"* means any Person who provides Service over a Telecommunications System and directly or through one or more Persons owns a Controlling Interest in such System, or who otherwise controls or is responsible for the operation of such a System.
- N. *"Ordinance" or "Telecommunications Ordinance"* means this Telecommunications Ordinance concerning the granting of Franchises in and by the City for the construction, ownership, operation, use or maintenance of a Telecommunications System.
- O. *"Person"* includes any individual, corporation, partnership, association, joint-stock company, trust, or any other legal entity, but not the City.
- P. *"Personal Wireless Services Facilities"* has the same meaning as provided in Section 704 of the Act (47 U.S.C. 332(c)(7)(c)), which includes what is commonly known as cellular and PCS Services, that do not install any System or portion of a System in the Rights-of-Way.
- Q. *"Provider"* means an Operator, Infrastructure Provider, Reseller or System Lessee.
- R. *"PSC"* means the Public Service Commission or any successor thereto.
- S. *"Reseller"* refers to any Person that provides local exchange service over a System for which a separate charge is made, where that Person does not own or lease the underlying System used for the transmission.
- T. *"Rights-of-Way"* means the surface of and the space above and below any public street, sidewalk, alley, or other public way of any type whatsoever, now or hereafter existing as such within the City.
- U. *"Signal"* means any transmission or reception of electronic, electrical, light or laser or radio frequency energy or optical information in either analog or digital format.

- V. *"System Lessee"* refers to any Person that leases a System or a specific portion of a System of provided Services.
- W. *"Telecommunications"* means the transmission, between or among points specified by the user, of information of the user's choosing (e.g., data, video, and voice), without change in the form of content of the information sent and received.
- X. *"Telecommunications System" or "System"* means all conduits, manholes, poles, antennas, transceivers, amplifiers and all other electronic devices, equipment, wire and appurtenances owned, leased, or used by a Provider, located in the Rights-of-Way and utilized in the provision of Services, including fully digital or analog, voice, data and video imaging and other enhanced Telecommunications Services. Telecommunications System or Systems also includes an Open Video System.
- Y. *"Telecommunications Service(s)" or "Services"* means any telecommunications services provided by a Provider within the City that the Provider is authorized to provide under federal, state and local law, and any equipment and/or facilities required for and integrated with the Services provided within the City, except that these terms do not include "cable service" as defined in the Cable Communications Policy Act of 1984, as amended by the Cable Television Consumer Protection and Competition Act of 1992 (47 U.S.C. § 521, *et seq.*), and the Telecommunications Act of 1996. Telecommunications System or Systems also includes an Open Video System.
- Z. *"Wire"* means fiber optic Telecommunications cable, wire, coaxial cable, or other transmission medium that may be used in lieu thereof for similar purposes.

PART 11-530. FRANCHISE REQUIRED

11-531. NON-EXCLUSIVE FRANCHISE. The City is empowered and authorized to issue non-exclusive Franchises governing the installation, construction and maintenance of Systems in the City's Rights-of-Way, in accordance with the provisions of this Ordinance. The Franchise is granted through a Franchise Agreement entered into between the City and Provider.

11-532. EVERY PROVIDER MUST OBTAIN. Except to the extent preempted by federal or state law, as ultimately interpreted by a court of competent jurisdiction, including any appeals, every Provider must obtain a Franchise prior to constructing a Telecommunications System or providing Telecommunications Services using the Rights-of-Way, and every Provider must obtain a Franchise before constructing and Open Video System or providing Open Video Services via an Open Video System. Any Open Video System or Service shall be subject to the customer service and consumer protection provisions applicable to the Cable TV companies to the extent the City is not preempted or permitted as ultimately interpreted by a court of competent jurisdiction, including any appeals. The fact that particular Telecommunications Systems may be used for multiple purposes does not obviate the need to obtain a Franchise for other purposes. By way of illustration and not limitation, a cable operator of a cable system must obtain a cable franchise, and, should it intend to provide Telecommunications Services over the same System, must also obtain a Telecommunications Franchise.

11-533. NATURE OF GRANT. The Franchise shall not convey title, equitable or legal, in the Rights-of-Way. A Franchise is only the right to occupy Rights-of-Way on a non-exclusive basis for the limited purposes and for the limited period stated in the Franchise; the right may not be subdivided, assigned or subleased. A Franchise does not excuse a Provider from obtaining appropriate access or pole attachment agreements before co-locating its System on the property of others, including the City's property. This section shall not be construed to prohibit a Provider from leasing conduit to another Provider, so long as the Lessee has obtained a Franchise.

11-534. CURRENT PROVIDERS. Except to the extent exempted by federal or state law, any Provider acting without a Franchise on the effective date of this Ordinance shall request issuance of a Franchise from the City within 90 days of the effective date of this Ordinance. If such request is made, the Provider may continue providing service during the course of negotiations. If a timely request is not made, or if negotiations cease and a Franchise is not granted, the Provider shall comply with the provisions of Section 9.4.

11-535. NATURE OF FRANCHISE. The Franchise granted by the City under the provisions of this Ordinance shall be a nonexclusive Franchise providing the right and consent to install, repair, maintain, remove and replace its System on, over and under the Rights-of-Way in order to provide Services.

11-536. REGULATORY APPROVAL NEEDED. Before offering or providing any Services pursuant to the Franchise, a Provider shall obtain any and all regulatory approvals, permits, authorizations or licenses, for the offering or provision of such Services from the appropriate federal, state and local authorities, if required, and shall submit to the city, upon the written request of the City, evidence of all such approvals, permits, authorizations or licenses.

11-537. TERM. No Franchise issued pursuant to this Ordinance shall have a term of less than five (5) years or greater than fifteen (15) years. Each Franchise shall be granted in a nondiscriminatory manner.

PART 11-540. COMPENSATION AND OTHER PAYMENTS.

11-541. COMPENSATION. As fair and reasonable compensation for any Franchise granted pursuant to this Ordinance, a Provider shall have the following obligations:

- A. **Application Fee.** In order to offset the cost to the City to review an Application for a Franchise and in addition to all other fees, permits or charges, a Provider shall pay to the City, at the time of Application, \$500 as a non-refundable Application Fee.
- B. **Franchise Fees.** The Franchise fee, if any, shall be set forth in the Franchise Agreement. The obligation to pay a Franchise fee shall commence on the Completion Date. The Franchise fee is offset by any business license fee or business license tax enacted by the City.
- C. **Excavation Permits.** The Provider shall also pay fees required for an excavation permit as provided in Resolution 97-06-18D "Road Breaking and Trenching Permit Fee and Penalty."

11-542. TIMING. Unless otherwise agreed to in the Franchise Agreement, all Franchise Fees shall be paid on a monthly basis within forty-five (45) days of the close of each calendar month.

11-543. FEE STATEMENT AND CERTIFICATION. Unless a Franchise Agreement provides otherwise, each fee payment shall be accompanied by a statement showing the manner in which the fee was calculated and shall be certified as to its accuracy.

11-544. FUTURE COSTS. A Provider shall pay to the City or to third parties, at the direction of the City, an amount equal to the reasonable costs and reasonable expenses that the City incurs for the services of third parties (including but not limited to attorneys and other consultants) in connection with any renewal or Provider-initiated renegotiation, or amendment of this Ordinance or a Franchise, provided, however, that the parties shall agree upon a reasonable financial cap at the outset of negotiations. In the event the parties are unable to agree, either party may submit the

issue to binding arbitration in accordance with the rules and procedures of the American Arbitration Association.

11-545. TAXES AND ASSESSMENTS. To the extent taxes or other assessments are imposed by taxing authorities, other than the City on the use of the City property as a result of a Provider's use or occupation of the Rights-of-Way, the Provider shall be responsible for payment of its pro rata share of such taxes, payable annually unless otherwise required by the taxing authority. Such payment shall be in addition to any other fees payable pursuant to this Ordinance.

11-546. INTEREST ON LATE PAYMENTS. In the event that any payment is not actually received by the City on or before the applicable date fixed in the Franchise, interest thereon shall accrue from such date until received at the rate charged for delinquent state taxes.

11-547. NO ACCORD AND SATISFACTION. No acceptance by the City of any fee shall be construed as an accord that the amount paid is in fact the correct amount, nor shall such acceptance of such fee payment be construed as a release of any claim the City may have for additional sums payable.

11-548. NOT IN LIEU OF OTHER TAXES OR FEES. The fee payment is not a payment in lieu of any tax, fee or other assessment except as specifically provided in this Ordinance, or as required by applicable law. By way of example, and not limitation, excavation permit fees and fees to obtain space on the City owned poles are not waived and remain applicable.

11-549. CONTINUING OBLIGATION AND HOLDOVER. In the event a Provider continues to operate all or any part of the System after the Term of the Franchise, such operator shall continue to comply with all applicable provisions of this Ordinance and the Franchise, including, without limitation, all compensation and other payment provisions throughout the period of such continued operation, provided that any such continued operation shall in no way be construed as a renewal or other extension of the Franchise, nor as a limitation on the remedies, if any, available to the City as a result of such continued operation after the term, including, but not limited to, damages and restitution.

11-550. COSTS OF PUBLICATION. A Provider shall assume any publication costs associated with its Franchise that may be required by law.

PART 11-560. FRANCHISE APPLICATION.

11-561. FRANCHISE APPLICATION. To obtain a Franchise to construct, own, maintain or provide Services through any System within the city, to obtain a renewal of a Franchise granted pursuant to this Ordinance, or to obtain the City approval of a transfer of a Franchise, as provided in Subsection 7.1.2, granted pursuant to this Ordinance, an Application must be filed with City on the form attached to this Ordinance as Exhibit A, which is hereby incorporated by reference. The Application form may be changed by the Mayor or City Manager so long as such changes request information that is consistent with this Ordinance. Such Application form, as amended, is incorporated by reference.

11-562. APPLICATION CRITERIA. In making a determination as to an Application filed pursuant to this Ordinance, the City may, but shall not be limited to, request the following from the Provider:

- A. A copy of the order from the PSC granting a Certificate of Convenience and Necessity.

- B. Certification of the Provider's financial ability to compensate the City for Provider's intrusion, maintenance and use of the Rights-of-Way during the Franchise term proposed by the Provider.
- C. Provider's agreement to comply with the requirements of Section 6 of this Ordinance.

11-563. FRANCHISE DETERMINATION. The City, in its discretion, shall determine the award of any Franchise on the basis of these and other considerations relevant to the use of the Rights-of-Way, without competitive bidding.

PART 11-570. CONSTRUCTION AND TECHNICAL REQUIREMENTS

11-571. GENERAL REQUIREMENT.

No Provider shall receive a Franchise unless it agrees to comply with each of the terms set forth in this Section governing construction and technical requirements for its System, in addition to any other reasonable requirements or procedures specified by the City of the Franchise, including requirements regarding locating and sharing in the cost of locating portions of the System with other Systems or with City utilities. A Provider shall obtain an excavation permit, pursuant to the excavation ordinance, before commencing any work in the Rights-of-Way.

11-572. QUALITY.

All work involved in the construction, maintenance, repair, upgrade and removal of the System shall be performed in a safe, thorough and reliable manner using materials of good and durable quality. If, at any time, it is determined by the FCC or any other agency granted authority by federal law or the FCC to make such determination, that any part of the System, including, without limitation, any means used to distribute Signals over or within the System, is harmful to the public health, safety or welfare, or quality of service or reliability, then a Provider shall, at its own cost and expense, promptly correct all such conditions.

11-573. LICENSES AND PERMITS.

A Provider shall have the sole responsibility for diligently obtaining, at its own cost and expense, all permits, licenses or other forms of approval or authorization necessary to construct, maintain, upgrade or repair the System, including but not limited to any necessary approvals from Persons and/or the City to use private property, easements, poles and conduits. A Provider shall obtain any required permit, license, approval or authorization, including but not limited to excavation permits, pole attachment agreement, etc., prior to the commencement of the activity for which the permit, license, approval or authorization is required.

11-574. RELOCATION OF THE SYSTEM.

- A. **New Grades or Lines.** If the grades or lines of any Rights-of-Way are changed at any time in a manner affecting the System, then a Provider shall comply with the requirements of the excavation ordinance.
- B. **The City Authority to Move System in Case of an Emergency.** The City may, at any time, in case of fire, disaster or other emergency, as determined by the City in its reasonable discretion, cut or move any parts of the System and appurtenances on, over or under the Rights-of-Way of the City, in which event the City shall not be liable therefore to the Provider. The City shall notify a Provider in writing prior to, if practicable, but in any event as soon as possible and in no case later than the next business day following any action taken under this Section. Notice shall be given as provided in Section 11.4.

- C. **A Provider Required to Temporarily Move System for Third Party.** A Provider shall, upon prior reasonable written notice by the City of any Person holding a permit to move any structure, and within the time that is reasonable under the circumstances, temporarily move any part of its System to permit the moving of said structure. A Provider may impose a reasonable charge on any Person other than the City for any such movement of its Systems.
- D. **Rights-of-Way Change - Obligation to Move System.** When the city is changing a Right-of-Way and makes a written request, a Provider is required to move or remove its System from the Rights-of-Way, without cost to the City, to the extent provided in the excavation ordinance. This obligation does not apply to Systems originally located on private property pursuant to a private easement, which property was later incorporated into the Rights-of-Way, if that private easement grants a superior vested right. This obligation exists whether or not the Provider has obtained an excavation permit.

11-575. PROTECT STRUCTURES. In connection with the construction, maintenance, repair, upgrade or removal of the System, a Provider shall, at its own cost and expense, protect any and all existing structures belonging to the City, as well as all other structures within any designated landmark district. A Provider shall obtain the prior written consent of the City to alter any water main, power facility, sewerage or drainage system, or any other municipal structure on, over or under the Rights-of-Way of the City required because of the presence of the System. Any such alteration shall be made by the City or its designee on a reimbursable basis. A Provider agrees that it shall be liable for the costs incurred by the City to replace or repair and restore to its prior condition in manner as may be reasonable specified by the City, any municipal structure or any other Rights-of-Way of the City involved in the construction, maintenance, repair, upgrade or removal of the System that may become disturbed or damaged as result of any work thereon by or on behalf of a Provider pursuant to the Franchise.

11-576. NO OBSTRUCTION. In connection with the construction, maintenance, upgrade, repair or removal of the System, a Provider shall not unreasonably obstruct the Rights-of-Way of fixed guide way systems, railways, passenger travel or other traffic to, from or within the City without the prior consent of the appropriate authorities.

11-577. SAFETY PRECAUTIONS. A Provider shall, at its own cost and expense, undertake all necessary and appropriate efforts to prevent accidents at its work sites, including the placing and maintenance of proper guards, fences, barricades, security personnel and suitable and sufficient lighting, and such other requirements prescribed by OSHA and Utah OSHA. A Provider shall comply with all applicable federal, state and local requirements including but not limited to the National Electric Safety Code.

11-578. REPAIR. After written reasonable notice to the Provider, unless, in the sole determination of the City, an eminent danger exists, and Rights-of-Way within the City which are disturbed or damaged during the construction, maintenance or reconstruction by a Provider of its System may be repaired by the City at the Provider's expense, to a condition as good as that prevailing before such work was commenced. Upon doing so, the City shall submit to such a Provider an itemized statement of the cost for repairing and restoring the Rights-of-Ways intruded upon. The Provider shall, within thirty (30) days after receipt of the statement, pay to the city the entire amount thereof.

11-579. SYSTEM MAINTENANCE. A provider shall:

- A. Install and maintain all parts of its System in a non-dangerous condition throughout the entire period of its Franchise.

- B. Install and maintain its System in accordance with standard prudent engineering practices and shall conform, when applicable, with the national Electrical Safety Code and all applicable other federal, state and local laws or regulations.
- C. At all reasonable times, permit examination by any duly authorized representative of the city of the System and its effect on the Rights-of-Way.

11-580. TRIMMING OF TREES. A Provider shall have the authority to trim trees, in accordance with all applicable utility restrictions, ordinance and easement restrictions, upon and hanging over Rights-of-Way so as to prevent the branches of such trees from coming in contact with its System.

PART 11-590. FRANCHISE AND LICENSE NON-TRANSFERABLE.

11-591. NOTIFICATION OF SALE.

- A. **Notification and Election.** When a Provider is the subject of a sale, transfer, lease, assignment, sublease or disposed of, in whole or in part, either by forced or involuntary sale, or by ordinary sale, consolidation or otherwise, such that it or its successor entity is obligated to inform or seek the approval of the PSC., the Provider or its successor entity shall promptly notify the City of the nature of the transaction. The notification shall include either:
 - 1. the successor entity's certification that the successor entity unequivocally agree to all of the terms of the original Provider's Franchise Agreement, or
 - 2. The successor entity's Application in compliance with Section 5 of this Ordinance.
- B. **Transfer of Franchise.** Upon receipt of a notification and certification in accordance with Subsection 7.1.1(a), the city designee, as provided in Subsection 9.1., shall send notice affirming the transfer of the Franchise to the successor entity. If the City has good cause to believe that the successor entity may not comply with this Ordinance or the Franchise Agreement, it may require an Application for the transfer. The Application shall comply with Section 5.
- C. **If PSC Approval No Longer Required.** If the PSC no longer exists, or if its regulations or state law no longer requires approval of transactions described in Section 7.1, and the city has good cause to believe that the successor entity may not comply with this ordinance or the Franchise Agreement, it may require an Application. The Application shall comply with Section 5.

11-592. EVENTS OF SALE. The following events shall be deemed to be a sale, assignment or other transfer of the Franchise requiring compliance with Section 7.1:

- A. the sale, assignment or other transfer of all or a majority of a Provider's assets to another person;
- B. the sale, assignment or other transfer of capital stock or partnership, membership or other equity interests in a Provider by one or more of its existing shareholders, partners, members or other equity owners so as to create a new Controlling Interest in a Provider;
- C. the issuance of additional capital stock or partnership, membership or other equity interest by a Provider so as to create a new Controlling interest in such a Provider; or
- D. the entry by a provider into an agreement with respect to the management or operation of such Provider or its System.

PART 11-600. OVERSIGHT AND REGULATION.

11-601. INSURANCE, INDEMNITY, AND SECURITY. Prior to the execution of a Franchise, a Provider will deposit with the City an irrevocable, unconditional letter of credit or surety bond as required by the terms of the Franchise, and shall obtain and provide proof of the insurance coverage required by the Franchise. A Provider shall also indemnify the City as set forth in the Franchise.

11-602. OVERSIGHT. The City shall have the right to oversee, regulate and inspect periodically the construction, maintenance and upgrade of the System, and any part thereof, in accordance with the provisions of the Franchise and applicable law. A provider shall establish and maintain managerial and operational record, standards, procedures and controls to enable a provider to prove, in reasonable detail, to the satisfaction of the City at all times throughout the Term, that a Provider is in compliance with the Franchise. A Provider shall retain such records for not less than the applicable statute of limitations.

11-603. MAINTAIN RECORDS. A Provider shall at all times maintain:

- A. On file with the City, a full and complete set of plans, records and "as-built" hard copy maps and, to the extent the maps are placed in an electronic format, they shall be made in electronic format compatible with the City's existing GIS system, of all existing and proposed installations and the types of equipment and Systems installed or constructed in the Rights-of-Way, properly identified and described as to the types of equipment and facility by appropriate symbols and marks which shall include annotations of all Rights-of-Ways where work will be undertaken. As used herein, "as-built" maps includes "file construction prints." Maps shall be drawn to scale. "As-built" maps, including the compatible electronic format, as provided above, shall be submitted within 30 days of completion of work or within 30 days after completion of modification and repairs. "As-built" maps are not required of the Provider who is the incumbent local exchange carrier for the existing System to the extent they do not exist.
- B. Throughout the term of the Franchise, a Provider shall maintain complete and accurate books of account and records of the business, ownership and operations of a Provider with respect to the System in a manner that allows the City at all times to determine whether a Provider is in compliance with the Franchise. Should the City reasonably determine that the records are not being maintained in such a manner, a Provider shall alter the manner in which the books and/or records are maintained so that a Provider comes into compliance with this Section. All financial books and records which are maintained in accordance with the regulations of the FCC and any governmental entity that regulates utilities in the State of Utah, and generally accepted accounting principles shall be deemed to be acceptable under this Section.

11-604. CONFIDENTIALITY. If the information required to be submitted is proprietary in nature or must be kept confidential by federal, state or local law, upon proper request by a Provider, such information shall be classified as a Protected Record within the meaning of the Utah Government Records Access and Management Act ("GRAMA"), making it available only to those who must have access to perform their duties on behalf of the City, provided that a Provider notifies the city of, and clearly labels the information which a Provider deems to be confidential, proprietary information. Such notification and labeling shall be the sole responsibility of the Provider.

11-605. PROVIDER'S EXPENSE. All reports and records required under this Ordinance shall be furnished at the sole expense of a Provider, except as otherwise provided in this Ordinance or a Franchise.

11-606. RIGHT OF INSPECTION. For the purpose of verifying the correct amount of the franchise fee, the books and records of the Provider pertaining thereto shall be open to inspection or audit by duly authorized representatives of the City at all reasonable times, upon giving reasonable notice of the intention to inspect or audit the books and record, provided that the city shall not audit the books and records of the Provider more often than annually. The Provider agrees to reimburse the City the reasonable costs of an audit, if the audit discloses that the Provider has paid ninety-five percent (95%) or less of the compensation due the City for the period of such audit. In the event the accounting rendered to the City by the Provider herein is found to be incorrect, then payment shall be made on the corrected amount within thirty (30) calendar days of written notice, it being agreed that the City may accept any amount offered by the Provider, but the acceptance thereof by the City shall not be deemed a settlement of such item if the amount is in dispute or is later found to be incorrect.

PART 11-610. RIGHTS OF CITY.

11-611. ENFORCEMENT AND REMEDIES.

- A. **Enforcement - City Designee.** The City is responsible for enforcing and administering this Ordinance, and the City or its designee, as appointed by the Mayor or City Manager, is authorized to give any notice required by law or under and Franchise Agreement.
- B. **Enforcement Provision.** Any Franchise granted pursuant to this Ordinance shall contain appropriate provisions for enforcement, compensation and protection of the public, consistent with the other provisions of this Ordinance, including, but not limited to, defining events of default, procedures for accessing the Bond/Security Fund, and rights of termination or revocation.

11-612. FORCE MAJEURE. In the event a Provider's performance of any of the terms, conditions or obligations required by this Ordinance or a Franchise is prevented by a cause or event not within a Provider's control, such inability to perform shall be deemed excused and no penalties or sanctions shall be imposed as a result thereof. For the purpose of this section, causes or events not within the control of a Provider shall include, without limitation, acts of God, strikes, sabotage, riots or civil disturbances, failure or loss of utilities, explosions, acts of public enemies, and natural disasters such as floods, earthquakes, landslides, and fires.

11-613. EXTENDED OPERATION AND CONTINUITY OF SERVICES.

- A. **Continuation After Expiration.** Upon either expiration or revocation of a Franchise granted pursuant to this Ordinance, the City shall have discretion to permit a Provider to continue to operate its System or provide Services for an extended period of time not to exceed six (6) months from the date of such expiration or revocation. A Provider shall continue to operate its System under the terms and conditions of this Ordinance and the Franchise granted pursuant to this Ordinance.
- B. **Continuation by Incumbent Local Exchange Carrier.** If the Provider is the incumbent local exchange carrier, it shall be permitted to continue to operate its System and provide Services without regard to revocation or expiration, but shall be obligated to negotiate a renewal in good faith.

11-614. REMOVAL OR ABANDONMENT OF FRANCHISE PROPERTY.

- A. **Abandoned System.** In the event that:

1. the use of any portion of the System is discontinued for a continuous period of twelve (12) months, and thirty (30) days after no response to written notice from the City to the last known address of Provider;
 2. any System has been installed in the Rights-of-Way without complying with the requirements of this Ordinance or Franchise; or
 3. the provisions of Section 3.5 are applicable and no Franchise is granted, a Provider, except the Provider who is an incumbent local exchange carrier, shall be deemed to have abandoned such System.
- B. **Removal of Abandoned System.** The City, upon such terms as it may impose, may give a Provider written permission to abandon, without removing, any System, or portion thereof, directly constructed, operated or maintained under a Franchise. Unless such permission is granted or unless otherwise provided in this Ordinance, a Provider shall remove within a reasonable time the abandoned System and shall restore, using prudent construction standards, any affected Rights-of Way to their former state at the time such System was installed, so as not to impair their usefulness. In removing its plant, structures and equipment, a Provider shall refill, at its own expense, any excavation necessarily made by it and shall leave all Rights-of-Ways in as good condition as that prevailing prior to such removal without materially interfering with any electrical or telephone cable or other utility wires, poles or attachments. The City shall have the right to inspect and approve the condition of the Rights-of-Way cables, wires, attachments and poles prior to and after removal. The liability, indemnity and insurance provisions of this Ordinance and any security fund provided in a Franchise shall continue in full force and effect during the period of removal and until full compliance by a Provider with the terms and conditions of this Section.
- C. **Transfer of Abandoned System to City.** Upon abandonment of any System in place, a Provider, if required by the City, shall submit to the City a written instrument, satisfactory in form to the City, transferring to the City the ownership of the abandoned System.
- D. **Removal of Above-Ground System.** At the expiration of the term for which a Franchise is granted, or upon its revocation or earlier expiration, as provided for by this Ordinance, in any such case without renewal, extension or transfer, the City shall have the right to require a Provider to remove, at its expense, all above-ground portions of a System from the Rights-of-Way within a reasonable period of time, which shall not be less than one hundred eighty (180) days. If the Provider is the incumbent local exchange carrier, it shall not be required to remove its Systems, but shall negotiate a renewal in good faith.
- E. **Leaving Underground System.** Notwithstanding anything to the contrary set forth in this Ordinance, a Provider may abandon any underground System in place so long as it does not materially interfere with the use of the Rights-of-Way or with the use thereof by any public utility, cable operator or other person.

PART 11-620. OBLIGATION TO NOTIFY.

11-621. PUBLICIZING WORK. Before entering onto any private property, a Provider shall make a good faith attempt to contact the property owners in advance, and describe the work to be performed.

PART 11-630. GENERAL PROVISIONS.

11-631. CONFLICTS. In the event of a conflict between any provision of this Ordinance and a Franchise entered pursuant to it, the provisions of this Ordinance in effect at the time the Franchise is entered into shall control.

11-632. SEVERABILITY. If any provision of this Ordinance is held by any federal, state or local court of competent jurisdiction, to be invalid as conflicting with any federal or state statute, or is ordered by a court to be modified in any way in order to conform to the requirements of any such law and all appellate remedies with regard to the validity of the Ordinance provisions in question are exhausted, such provision shall be considered a separate, distinct, and independent part of this Ordinance, and such holding shall not affect the validity and enforceability of all other provisions hereof. In the event that such law is subsequently repealed, rescinded, amended or otherwise changed, so that the provision which had been held invalid or modified is no longer in conflict with such law the provision in question shall return to full force and effect and shall again be binding on the city and the Provider, provided that the City shall give the Provider thirty (30) days, or a longer period of time as may be reasonably required for a Provider to comply with such a rejuvenated provision, written notice of the change before requiring compliance with such provision.

11-633. NEW DEVELOPMENTS. It shall be the policy of the City to liberally amend this Ordinance, upon Application of a Provider, when necessary to enable the Provider to take advantage of any developments in the field of Telecommunications, which will afford the Provider an opportunity to more effectively, efficiently, or economically serve itself or the public.

11-634. NOTICES. All notices from a Provider to the City required under this Ordinance or pursuant to a Franchise granted pursuant to this Ordinance shall be directed to the officer as designated by the Mayor or City Manager. A Provider shall provide in any Application for a Franchise the identity, address and phone number to receive notices from the City. A Provider shall immediately notify the City of any change in its name, address or telephone number.

11-635. EXERCISE OF POLICE POWER. To the full extent permitted by applicable law either now or in the future, the City reserves the right to adopt or issue such rules, regulations, orders, or other directives that it finds necessary or appropriate in the lawful exercise of its police powers.

PART 11-640. FEDERAL, STATE AND CITY JURISDICTION.

11-641. CONSTRUCTION. This Ordinance shall be construed in a manner consistent with all applicable federal and state statutes.

11-642. ORDINANCE APPLICABILITY. This Ordinance shall apply to all Franchises granted or renewed after the effective date of this Ordinance. This Ordinance shall further apply, to the extent permitted by applicable federal or state law to all existing Franchises granted prior to the effective date of this Ordinance and to a Provider providing Services, without a Franchise, prior to the effective date of this Ordinance.

11-643. OTHER APPLICABLE ORDINANCES. A Provider's rights are subject to the police powers of the City to adopt and enforce ordinances necessary to the health, safety and welfare of the public. A Provider shall comply with all applicable general laws and ordinances enacted by the City pursuant to its police powers. In particular, all Providers shall comply with the City zoning and other land use requirements.

11-644. CITY FAILURE TO ENFORCE. A Provider shall not be relieved of its obligation to comply with any of the provisions of this Ordinance or any Franchise granted pursuant to this Ordinance by reason of any failure of the city to enforce prompt compliance.

11-645. CONSTRUED ACCORDING TO UTAH LAW. This Ordinance and any Franchise granted pursuant to this Ordinance shall be construed and enforced in accordance with the substantive laws of the State of Utah. (11-500 Telecommunications Right-of-Way adopted 12-3-97)

CHAPTER 11-700. OFF-HIGHWAY VEHICLE.

PART 11-701. OFF-HIGHWAY VEHICLE OPERATION AND EQUIPMENT. In an effort to make the use of off-highway vehicle (OHV) operations a simple, safe and legal part of the community lifestyle and to allow accessibility to the mountains we live in and around, the following rules and regulations are adopted:

- A. All operators of off-highway vehicles shall comply with all state laws, rules and regulations, including registration and the obtaining of a safety driving certificate issued by the Division of Parks and Recreation, as applicable.
- B. All operators of off-highway vehicles, who are ages eight (8) through sixteen (16) inclusive, shall be accompanied by a parent or guardian while operating such vehicles within city limits.
- C. Off-highway vehicle use shall be restricted to roads which constitute the most direct route to and from homes, farms, business, and those roads leading from Enoch City to nearby mountain and riding areas. Further, to the full extent possible, off-highway vehicles shall be operated only on the dirt area immediately adjacent to the paved roadway or same area of unimproved gravel or dirt roads within Enoch City limits.
- D. Off-highway vehicles shall be operated at all times in accordance with all applicable state, county and city laws and regulations and shall not be operated at speeds in excess of twenty (20) miles per hour on Enoch City roadways. Furthermore, if equipped with a headlight, the OHV shall be operated with the headlights functioning and turned on at all times.
- E. Off-highway vehicles shall not be permitted on any trails, walking paths and sidewalks within the Enoch City limits.
- F. Off-highway vehicles shall not be permitted in or on city parks for recreation or to use city roadways as an area for recreation. Roadways should only be used as the most direct route possible to obtain the destination in accordance with the above regulations and laws.
- G. Off-highway vehicles shall not be permitted on any privately owned property without obtaining written permission from the owner of the property.

(Chapter 11-700 Off-Highway Vehicle adopted 8-18-99)

(Part 11-701 G was added 8-20-2003)

(Item B. was modified on 10/18/06)

TITLE 12-000. PLANNING AND ZONING.

CHAPTER 12-100. PLANNING.

PART 12-110. ADMINISTRATION.

12-111. PLANNING COMMISSION ESTABLISHED.

- A. There is hereby created a planning commission to be composed of five members, appointed by the Mayor, with the advice and consent of the City Council.
- B. The Mayor and City Council may fix, by resolution, per diem compensation for the members of the planning commission based on necessary and reasonable expenses and on meetings actually attended.
- C. The Mayor and City Council may designate, by resolution, the composition of the planning commission. It is the intent of this Ordinance that the planning commission, not consist, of members all of whom, are from the same field of expertise. The five members of the planning commission shall be residents of Enoch City and owners of property within said City. Members of the governing body may be appointed to the planning commission. At least three of the five members shall hold no other public office or position within the local jurisdiction.
- D. The Mayor, with the consent of the City Council, shall appoint a representative from among its members to act as a liaison between the city council and the planning commission. Such representative may also be a member of the planning commission. (Amended 12-16-92)

12-112. TERM OF OFFICE.

- A. The term of office of the planning commission shall be for two years, except that the first five appointments shall be two members appointed for one year and three members appointed for two years.
- B. Term of members of the planning commission shall begin on or before the first Monday in February of each year.
- C. The Mayor and City Council may remove any member of the planning commission for cause, which may include misconduct or non-performance of duty. Non-performance of duty shall include a repeated failure to attend planning commission meetings. A public hearing will be held, if one is requested.
- D. Vacancies shall be promptly filled in the same manner as the original appointment, for the remainder of the unexpired term. (Amended 12-16-92)

12-113. ORGANIZATION AND PROCEDURES.

- A. The planning commission shall elect a chairperson and a chairperson pro-tem from its members. They shall hold office for one (1) year or until a successor is elected and qualified. They may be re-elected, but may not serve more than two (2) consecutive terms in a single office. (12-113A amended 2-26-94)
- B. The planning commission may adopt policies and procedures for the conduct of its meetings, the processing of applications, and for any other purposes considered necessary for the functioning of the planning commissions, with the policies and procedures being approved by the Mayor and City Council before taking effect.

- C. The planning commission shall keep a record of its proceedings, which shall be filed in the City Office. The public shall have access to this record during regular Enoch City office hours.
- D. Reports of official acts and recommendations of the planning commission shall be public and made by the chairman in writing to the Mayor and City Council and shall indicate how each member of the commission voted with respect to such act or recommendation. Any member of the commission may also make a concurring or dissenting report or recommendation to the Mayor and City Council.
- E. The planning commission shall meet at least monthly and shall be compensated for up to two meetings per month. Revised 3-5-08.
- F. Three members of the planning commission shall constitute a quorum. Evidence shall not be presented unless a quorum is present. A majority vote shall be constituted of a least a majority of members present.
- G. The planning commission may, upon the approval of the Mayor and City Council, employ experts and staff, including consultants and a secretary, and pay such expenses, exclusive of gifts, as may be reasonable and necessary for carrying out its duties, providing that such expenditures may not exceed the amount appropriated for the operation of the planning commission by the Mayor and City Council. (Amended 12-16-92)

12-114. POWERS AND DUTIES. The planning commission shall:

- A. Prepare and recommend a general plan and amendments to the general plan to the Mayor and City Council.
- B. Recommend zoning ordinances and maps, and amendments to zoning ordinances and maps, to the Mayor and City Council.
- C. Administer provisions of the zoning ordinance, where specifically provided for in the zoning ordinance adopted by the Mayor and City Council.
- D. Recommend subdivision regulations and amendments to those regulations to the Mayor and City Council.
- E. Recommend approval or denial of subdivision applications.
- F. Advise the Mayor and City Council on matters as they direct.
- G. Hear or decide any matters that the Mayor and City Council designates, including the approval or denial of or recommendations to approve or deny conditional use permits.
- H. Exercise any other powers that are necessary to enable it to perform its functions or delegated to it by the Mayor and City Council. (Amended 12-16-92)

12-115. ENTRANCE UPON LAND. The planning commission or its authorized agents may enter upon any land at reasonable times to make examinations and surveys or otherwise in the exercise of any of its powers and duties. (Amended 12-16-92)

PART 12-120. LAND USE APPEAL AUTHORITY

12-121. ESTABLISHMENT. In order to provide for just and fair treatment in the administration of Enoch City Zoning Ordinances and to ensure that substantial justice is done, there is hereby created a Land Use Appeal Authority. (“Appeal Authority”) (Rev. 4-16-14)

12-122. TERM OF OFFICE.

- A. The Appeal Authority shall consist of five members. The Mayor shall appoint the members with the advice and consent of the city council for a term of five years. The Mayor shall appoint members of the first Appeal Authority to terms so that the term of

one member expires each year. Terms of members of the Appeal Authority shall begin on or before the first Monday in February of each year. (Rev. 4-16-14)

- B. The Mayor may remove any member of the Appeal Authority for cause, if written charges are filed against the member with the Mayor. The Mayor shall provide the member with a public hearing, if requested.
- C. The Mayor, with the advice and consent of the city council, shall fill any vacancy. The person appointed shall serve for the unexpired term of the member whose office is vacant. (Rev. 4-16-14)

12-123. ORGANIZATION AND PROCEDURES.

- A. The Appeal Authority shall organize and elect a chairperson and adopt rules that comply with all ordinances adopted by the city council.
- B. The Appeal Authority shall meet at the call of the chairperson and at any other times that the Appeal Authority determines.
- C. The chairperson, or in the absence of the chairperson, the acting chairperson may administer oaths and compel the attendance of witnesses.
- D.
 - 1. All meetings of the Appeal Authority shall comply with the requirements of Title 52, Chapter 4, Open and Public Meetings, Utah Code Unannotated.
 - 2. The Appeal Authority shall keep a record of its proceedings, showing the vote of each member upon each question, or if absent or failing to vote, indicating that fact and keep records of its examinations and other official actions.
 - 3. The Appeal Authority may have its proceedings contemporaneously transcribed by a court reporter and shall have the minutes taken by the city recorder and all proceedings are required to be electronically recorded.
 - 4. The Appeal Authority shall file its records in the City Office. The public shall have access to this record during regular Enoch City office hours and in compliance with GRAMA.
- E. A quorum shall be considered three members of the Appeal Authority and no evidence shall be presented to the Appeal Authority unless a quorum is present. A majority vote shall be constituted of at least a majority of members present.
- F. Decisions of the Appeal Authority become effective at the meeting in which the decision is made unless a different time is designated in the Appeal Authority's rule or at the time the decision is made.
- G. The Mayor and City Council may fix per diem compensation for the members of the Appeal Authority based on necessary and reasonable expenses and on meetings actually attended.
- H. Each appeal to the Appeal Authority shall be on a form provided by the Appeal Authority and all information called for by such form shall be furnished by the appellant.
- I. Before making its decision, the Appeal Authority shall hold a hearing upon the appeal. Notice of the time and place of such hearing shall be sent by mail to the appellant, to the planning commission and to the building inspector, at least fifteen days prior to the day fixed for the hearing. Such notice shall contain the name of the appellant, the time and place fixed for the hearing and a brief statement of the error alleged by the appellant or other question of variance for which the appellant appeals.
- J. The appellant shall pay to the City of Enoch a filing and processing fee as set in the fee schedule. Such payment shall be paid with the filing of the appeal. The Appeal Authority may give notice to other interested persons and organizations.
- K. Each appeal, filed in proper form with the required dates, shall be numbered serially, docketed, and shall be placed upon the calendar of the Appeal Authority and shall be heard in the order in which they appear on the calendar, unless advanced for hearing by order of the Appeal Authority for good cause shown. However, the cost of the advanced

hearing, including the salary of the Appeal Authority members and recorder, will be added to the filing fee cost and shall be paid by the appellant. (Rev. 4-16-14)

12-124. POWERS AND DUTIES.

- A. The Appeal Authority shall hear and decide:
 - 1. appeals from decisions applying land use ordinances;
 - 2. appeals from a land use fee charged; and
 - 3. requests for variances from the terms of the land use ordinances. (Rev. 4-16-14)

12-125. APPEALS.

- A.
 - 1.
 - a) The applicant or any other person or entity adversely affected by a decision administering or interpreting a land use ordinance may appeal that decision applying the land use ordinance by alleging that there is error in any order, requirement, decision or determination made by an official in the administration or interpretation of the land use ordinance.
 - b) Appeals to the Appeal Authority of decisions administering or interpreting a land use ordinance must be filed within 30 days of the decision.
 - 2. Any officer, department, board or bureau of a municipality affected by the grant or refusal of a building permit or by any other decisions of the administrative officer in the administration or interpretation of the land use ordinances may appeal any decision to the Appeal Authority.
- B. The Appeal Authority shall hear and decide appeals from planning commission decisions regarding conditional use permits unless the Zoning Ordinance designates another body to hear conditional use permit appeals.
- C. The person or entity making the appeal has the burden of proving that an error has been made.
- D. Only zoning decisions applying the zoning ordinances may be appealed to the Appeal Authority. A person may not appeal, and the Appeal Authority may not consider, any Zoning Ordinance amendments.
- E. Appeals may not be used to waive or modify the terms or requirements of the Zoning Ordinance. (Rev. 4-16-14)

12-126. ROUTINE AND UNCONTESTED MATTERS.

- A. With the consent of the City Council, the Mayor may appoint an administrative officer to decide routine and uncontested matters before the Appeal Authority. The Appeal Authority shall designate which matters may be decided by the administrative officer and establish guidelines for the administrative officer to comply with in making decisions.
- B. Any person affected by a decision of the administrative officer may appeal the decision to the Appeal Authority. (Rev. 4-16-14)

12-127. SPECIAL EXCEPTIONS.

- A. In enacting the Zoning Ordinance, the Mayor and City Council may provide for special exceptions and grant jurisdiction to the Appeal Authority to hear and decide some or all special exceptions.
- B. The Appeal Authority may hear and decide special exceptions only if authorized to do so by the Zoning Ordinance and based only on the standards contained in the Zoning Ordinance.
- C. The Mayor and City Council may provide that conditional use permits be treated as special exceptions in the Zoning Ordinance. (Rev. 4-16-14)

12-128. VARIANCES.

- A. Any person or entity desiring a waiver or modification of the requirements of the Zoning Ordinance as applied to a parcel of property that he owns, leases, or in which he holds some other beneficial interest may apply to the Appeal Authority for a variance from the terms of the Zoning Ordinance.
- B.
 - 1. The Appeal Authority may grant a variance only if:
 - a) literal enforcement of the Zoning Ordinance would cause an unreasonable hardship for the applicant that is not necessary to carry out the general purpose of the land use ordinance;
 - b) there are special circumstances attached to the property that do not generally apply to other properties in the same zone;
 - c) granting the variance is essential to the enjoyment of a substantial property right possessed by other property in the same zone;
 - d) the variance will not substantially affect the General Plan and will not be contrary to the public interest; and
 - e) the spirit of the land use ordinance is observed and substantial justice done.
 - 2.
 - a) In determining whether or not enforcement of the land use ordinance would cause unreasonable hardship under Subsection B (1), the Appeal Authority may not find an unreasonable hardship unless the alleged hardship is located on or associated with the property for which the variance is sought; and comes from circumstances peculiar to the property, not from conditions that are general to the neighborhood.
 - b) In determining whether or not enforcement of the Zoning Ordinance would cause unreasonable hardship under Subsection B(1), the Appeal Authority may not find an unreasonable hardship if the hardship is self-imposed or economic.
 - 3. In determining whether or not there are special circumstances attached to the property under Subsection B(1), the Appeal Authority may find that special circumstances exist only if the special circumstances relate to the hardship complained of and deprive the property of privileges granted to other properties in the same zone.
- C. The applicant shall bear the burden of proving that all of the conditions justifying a variance have been met.
- D. Variances run with the land.
- E. Neither the Appeal Authority nor any other body may grant use variances.
- F. In granting a variance, the Appeal Authority may impose additional requirements on the applicant that will mitigate any harmful effects of the variance; or serve the purpose of the standard or requirement that is waived or modified. (Rev.4-16-14)

12-129. DISTRICT COURT REVIEW OF APPEAL AUTHORITY DECISION.

- A. Any person adversely affected by any decision of an Appeal Authority may petition the district court for a review of the decision.
- B. In the petition, the plaintiff may only allege that the Appeal Authority's decision was arbitrary, capricious, or illegal.
- C. The petition is barred unless it is filed within 30 days after the Appeal Authority's decision is final.
- D. The Appeal Authority shall transmit to the reviewing court the record of its proceeding including its minutes, findings, order and, if available, a true and correct transcript of its

- proceedings. If the proceeding was electronically recorded a transcript of that electronic recording is a true and correct transcript for purposes of this subsection.
- E. If there is a record, the district court's review is limited to the record provided by the Appeal Authority. The court may not accept or consider any evidence outside the Appeal Authority's record unless that evidence was offered to the Appeal Authority and the court determines that it was improperly excluded by the Appeal Authority. If there is no record, the court may call witnesses and take evidence.
 - F. The court shall affirm the decision of the Appeal Authority, if the decision is supported by substantial evidence in the record.
 - G.
 - 1. The filing of a petition does not stay the decision of the Appeal Authority.
 - 2.
 - a) Before filing the petition, the aggrieved party may petition the Appeal Authority to stay its decision.
 - b) Upon receipt of a petition to stay, the Appeal Authority may order its decision stayed pending district court review, if the Appeal Authority finds it to be in the best interest of the municipality.
 - c) After the petition is filed, the petitioner may seek an injunction staying the Appeal Authority's decision. (Rev. 4-16-14)
 - d) Provisions of Utah State Code 10-9a-801 regarding appeals will be in effect.

PART 12-130. BUILDING PERMITS.

- A. The building inspector shall not issue any building permit for any building, construction or repair of any building unless such fully conforms to all zoning regulations or ordinances of this municipality in effect at the time of application.
- B. No permit shall be issued for any building or structure or part thereof on any land located between the mapped lines of any street, as shown on any official street map adopted by the governing body. However, the Appeal Authority shall have the power, upon an appeal filed with it by the owner of any such land, to authorize the granting of a permit for a building or structure or any part thereof, within any mapped street located in any case in which the Appeal Authority, upon the evidence, finds:
 - 1. that the property of the appellant, of which such mapped street location forms a part, will not yield a reasonable return to the owner unless such permit be granted, or
 - 2. that balancing the interest of the municipality in preserving the integrity of the official map and the interest of the owner in the use and benefits of the property, the granting of such permit is required by consideration of justice and equity.
- C. Before taking any such action, the Appeal Authority shall hold a public hearing thereon. In the event that the board of adjustment decided to authorize a building permit, it shall have the power to specify the exact location, ground area, height, and other details and conditions of extent and character and also the duration of the building, structure, or part thereof to be permitted.

12-131. ADOPTION OF MAJOR STREET PLAN - EFFECT ON RIGHT TO FILE PLAT - APPROVAL OF PLANNING COMMISSION AS CONDITION PRECEDENT TO FILING PLAT - REGULATIONS GOVERNING SUBDIVISION OF LAND. See UCA. § 10-9-25.

12-132. NOTIFICATION OF COUNCIL. Before any application for a variance or building permit shall be issued, the Appeal Authority shall give the governing body at least 15 days' notice of the application. The governing body shall have the opportunity to respond and comment on the application within the 15 days.

PART 12-140. CHANGES IN ZONING.

12-141. POWERS OF THE GOVERNING BODY TO CHANGE ZONING. It shall be lawful for the governing body from time to time, as necessity may arise, to change or modify any regulation or restrictions with respect to zoning or building or uses of land.

12-142. PETITION FOR CHANGE. In each instance where any person shall desire to have such change made, petition shall be made to the governing body definitely setting out such request and particularizing the change desired.

12-143. FILING FEE AND PUBLICATION CHARGE. At the time the petition is filed, requesting change with respect to zoning or building or uses of land as contemplated by this part, there shall be paid to the treasurer a filing fee as set in the fee schedule, to cover all costs associated with the zone change. The recorder/clerk shall notify such petitioner of such charge for advertising and shall not proceed with the advertising until such charge has been paid.

12-144. REFERRAL OF PETITION TO PLANNING COMMISSION. Such petition, together with any protests thereto, shall be referred to the planning commission for consideration and recommendation. The planning commission shall return such petition, together with its recommendation, to the governing body no later than thirty days after referral to it.

TITLE 13-000. POLICE AND PUBLIC OFFENSES.

CHAPTER 13-100. POLICE.

PART 13-110. POLICE DEPARTMENT.

13-111. POLICE DEPARTMENT - ESTABLISHED. There is hereby established a regularly constituted police force to be known as the police department which shall consist of a chief of police and such other police officers as shall be employed by the municipality.

13-112. MARSHAL - CHIEF OF POLICE.

- A. Powers. Towns see U.C.A. §§ 17-25-1 et.seq.
- B. He shall organize, supervise and be responsible for all the activities of the police department and shall define and assign the duties of the different police officers.
- C. He shall, when required, attend meetings of the governing body to consult with and advise them on matters of public safety. He shall execute all lawful orders of the mayor and governing body and see that all orders and judgments of the justice of the peace are carried into effect.

13-113. ADDITIONAL POWERS AND DUTIES OF POLICEMEN. The chief of police and all police officers of the municipality shall have the following powers and duties in addition to those that may be assigned to them as above provided:

- A. To suppress riots, disturbances, and breach of the peace, and to apprehend all persons committing any offense against the laws of the state or ordinances of the municipality.
- B. To execute and serve all warrants, processes, commitments, and writs whatsoever issued by the justice of the peace.
- C. To preserve the public peace, prevent crime, detect and arrest offenders, protect persons and property, remove nuisances existing in the public streets, road, highways and other public places, enforce every law relating to the suppression of offenses, render such assistance in the collection of licenses as may be required by the license collector and perform all duties enjoined upon them by law and ordinance.

13-114. REGISTER OF ARREST. The chief of police shall provide and cause to be kept a register of arrest. Upon such register shall be entered a statement showing the date of such arrest, the name of the person arrested, the name of the arresting officer, the offense charged and a description of any property found upon the person arrested.

13-115. PROPERTY TAKEN FROM THE PERSON ARRESTED - TRIPLICATE RECEIPTS. When money or other property is taken from a person arrested upon a charge of a public offense, the officer taking it must at the time issue triplicate receipts therefore specifying particularly the amount of money or kind of property taken. One of the receipts he must deliver to the person arrested. Another he must forthwith file with the clerk of the court to which the complaint and other papers in the case are required by law to be sent. The third receipt must be sent at once to the office of the police department.

13-116. REGISTER OF PROPERTY TO BE KEPT. The chief of police must enter or cause to be entered in a suitable book a description of every article of property alleged to be stolen or

embezzled and brought into his office or taken from the person of the prisoner and must attach a number of each article and make a corresponding entry thereof.

13-117. STOLEN PROPERTY DISPOSITION. It shall be the duty of the chief of police to keep all lost or stolen property that comes into the possession of the police department or any of its members. He shall make all reasonable efforts to discover the owners thereof.

PART 13-120. JAIL.

13-121. GOVERNING BODY TO PROVIDE.

- A. The governing body shall provide for a place of incarceration which shall be the municipal jail.
- B. The governing body may contract with any person, county, municipality, or combination thereof for the purpose of providing suitable premises and facilities to be used by the municipality as the municipal jail.

13-122. JAILER. Until another person is appointed, the chief of police shall be *ex officio* jailer. The jailer shall:

- A. Receive and safely keep all persons duly committed to his custody and file and preserve all commitments by which persons are committed.
- B. Keep a record of each showing the date of arrest, offense charged, term of commitment, date of release and the name, age and place of birth and description of the person committed in a book kept for that purpose.

13-123. RULES. The jailer shall formulate a system of prison rules and discipline and keep a record in which shall be entered a statement of every infraction thereof committed by any person confined therein.

13-124. DUTIES OF JAILER. The jailer shall receive all persons committed to jail by competent authority, and provide them with necessary food, clothing, and bedding. He shall cause the prison to be warmed and lighted, when necessary, and to be kept in a sanitary condition. He shall enforce all rules prescribed by the governing body for the government of the prison.

13-125. PRISONERS TO LABOR ON PUBLIC WORKS. Any prisoner committed to the jail or other place of incarceration as a punishment or in default of the payment of a fine or fine and costs, arising from a violation of the ordinances of this municipality shall be required to work for the municipality at such labor on public works and ways as his strength will permit, not exceeding eight hours in each working day.

13-126. WORK TO BE PERFORMED UNDER THE DIRECTION OF THE JAILER. The labor on public works and ways shall be designated by and performed under the direction of the jailer, which labor may include, among other things, clerical, janitorial, car washing, common and menial labor performed in and upon any building, road, or property owned or maintained by the municipality. The labor required by this section shall be performed in addition to that labor required by jail regulations to be performed by all prisoners confined in the jail in cleaning and maintaining their cells.

13-127. TIME OFF FOR WORK PERFORMED. For each month in which a prisoner confined or committed to the jail has actually and satisfactorily performed work as reported and recorded by the officer in charge, five days shall be deducted from his period of confinement. The reduction of sentence allowed pursuant to this part shall be in addition to the reduction

allowed by section 13-129, but no prisoner shall be granted a total reduction of sentence under this part in excess of ten days for any single month. Proportionate reductions shall be made for the fractional period of a month included in any sentence.

13-128. FAILURE TO PERFORM WORK MADE BREACH OF RULES. Failure to perform the specified labor, except when the strength of the prisoner will not permit, shall constitute a breach of the rules of the municipal jail, and no reduction of sentence shall be allowed under section 13-129.

13-129. TIME OFF FOR GOOD BEHAVIOR.

- A. Every person undergoing sentence for thirty days or more who has not been guilty of a breach of the rules of the prison shall be entitled to a reduction for the period of his sentence as follows: 1) from a term of one month, five days; 2) from a term of two months, ten days; 3) from a term of three months, fifteen days; 4) from a term of four months, twenty days; 5) from a term of five months, twenty-five days; 6) from a term of six months, thirty days.
- B. Proportionate reductions shall be made for the fractional parts of a month included in any sentence.

CHAPTER 13-200. ANIMAL CONTROL.

PART 13-210. POUND MASTER.

13-211. OFFICE OF POUNDMASTER CREATED. The position of municipal pound master hereby is created. The term pound master is interchangeable with animal control officer throughout this chapter. Until such time as the pound master is appointed, the chief of police shall be pound master ex officio. (Part 13-211 amended 12-3-97)

13-212. DUTIES OF POUNDMASTER. The pound master shall perform the following duties:

- A. Carry out and enforce the provisions of this chapter.
- B. Take into his possession and impound all strays running at large and dispose of the same as hereinafter provided.
- C. Enforce the licensing of and control all dogs within the municipality as hereinafter provided.
- D. File complaints in the courts against any person, firm, or corporation failing to comply with the provisions of this chapter and obtain licenses when required there under.
- E. Capture and secure all dogs found running at large contrary to the provisions of this chapter and impound such dogs in a humane manner.
- F. Provide for a good and sufficient pound in which all animals duly committed to his charge or otherwise impounded by him shall be maintained.
- G. Enter a description thereof in records kept for that purpose stating the kind of animal, the circumstance under which received or impounded, and a description thereof sufficient to provide identification, the cost expended for the maintenance of the animal and amounts received arising out of maintenance or sale of animals.

12-213. INTERFERENCE WITH OFFICER PROHIBITED. It shall be unlawful for a person to interfere, molest, hinder or obstruct the pound master or any of his authorized representatives in the discharge of their duties as herein prescribed.

12-214. FEES - SERVICES OF POUNDMASTER. The pound master shall charge, and the owners of animals taken into his possession for impound, disposal or other services shall pay, such fees and charges for services performed by the pound or pound master as the governing body shall establish from time to time by resolution. All fee received by the pound master shall be paid over to the municipal treasurer.

13-215. FILE COMPLAINT. When the pound master observes any animal that is causing a health or safety situation, a complaint may be filed. Here to, when the pound master receives three (3) separate complaints from three (3) separate sources affected by a nuisance or violation under this chapter, a complaint shall be filed. (Part 13-215 added 12-3-97)

PART 13-220. CARE AND KEEPING.

13-221. ANIMALS AT LARGE. No cattle, horses, mules, sheep, goats, or swine shall be allowed to run at large or to be herded, picketed, or staked out upon any street, sidewalk, or other public place within the limits of this municipality, and all such animals so found may be impounded. Nothing herein contained shall be so construed as to prevent any person from driving cows, horses, mules or other animals from outside municipal limits to any enclosure within the municipal limits or from any enclosure in the municipality to a place outside the municipality or from one enclosure to another within limits of the municipality.

13-222. ABANDONMENT. It shall be unlawful for any person to abandon or turn out at large any sick, diseased, or disabled animal, but such animal shall, when rendered useless by reason of sickness or other disability, be killed by the owner thereof and its carcass disposed of in such manner as to create no nuisance or hazard to health.

13-223. TRESPASSING ANIMALS AND FOWL. It shall be unlawful for any owner or caretaker of any domestic fowl, animal or livestock to permit such fowl, animal or livestock to trespass upon the premises of another person. (Revised 6-17-09 by City Council)

13-224. KILLING OR POISONING PROHIBITED. It shall be unlawful for any person willfully to kill any domestic animal, or to administer poison to any such animal or to expose any poisonous substance with the intent that it shall be taken by any such animal.

13-225. DEAD ANIMALS. The owner of any animal or fowl, that has died or been killed, shall remove or bury the carcass of such animal within ten hours after its death; provided that no horse, cow, ox, or other animal shall be buried within the closely-inhabited portions of this municipality. A violation of this section is a class C misdemeanor.

13-226. DISEASED ANIMALS. It is a class C misdemeanor for any person to bring into the municipality for sale or have in his possession with intent to sell or offer for sale, any animal which has a communicable disease or which has been exposed to or which is liable to carry infection from a communicable disease.

13-227. SALE OF DISEASED ANIMALS. It is a class C misdemeanor for any person to bring into the municipality for sale or to sell, or offer for sale any cattle, sheep, swine, fish, game, fowl, or poultry which is diseased, unsound, and unwholesome or which for any reason is unfit for human food.

13-228. REPORTING OF RABID ANIMALS. Anyone having knowledge of the whereabouts of an animal known to have or suspected of having rabies shall report the fact immediately to the pound master. The pound master shall likewise be notified of any person or animal bitten by a rabid or suspected rabid animal. (Part 13-228 amended 12-3-97)

13-229. BITING ANIMAL QUARANTINED FOR OBSERVATION. Any dog or other animal of a species subject to rabies, which is known to have bitten or injured any person so as to cause an abrasion of the skin, shall be placed in confinement under observation of a veterinary hospital or the municipal pound and shall not be killed or released until at least ten (10) days after the biting or injury has occurred, in order to determine whether or not the animal has rabies. If the animal dies or has been killed, its head shall be removed and immediately taken to the state health laboratory to be examined for rabies. (Part 13-229 amended 12-3-97)

13-230. RABIES CONTACTS QUARANTINED. Any animal, of a species subject to rabies, which has been bitten by a known rabid animal or has been in intimate contact with a rabid animal, shall be isolated in a suitable place approved by the pound master for a period of 30 days or destroyed.

13-231. UNLAWFUL ACTS. It shall be unlawful for any person to:

- A. Overdrive, overload, drive when overloaded, overwork, torture, cruelly beat, mutilate, or needlessly kill, or carry or transport in any vehicle or other conveyance in a cruel and inhuman manner, any animal or cause any of these acts to be done.

- B. Fail to provide, or cause to be provided to, any animal in his charge or custody, or on his property, with necessary sustenance, drink, medical treatments, other care, and facilities reasonably necessary to keep such animal in good condition and good health. This includes providing adequate area for the keeping of animal(s) which allow free movement of such animals for exercise and which provides adequate protection from the elements. (Rev. 6-2011)
- C. Maintain any place where fowls or any animals are suffered to fight upon exhibition or for sport upon any wager.
- D. Intentionally exhibit any stud, horse or bull or other animal indecently, or let any male animal to any female animal for the purpose of providing entertainment or viewing to any person.
- E. Keep any animal(s), or combination of animals, in numbers large enough so as to create a nuisance by odor, noise, flies, or other condition, or in numbers such that adequate care or housing cannot be, or is not being, given to such animal(s).(Rev.6-11)

PART 13-240. DOGS.

13-241. DEFINITIONS. As used in this ordinance, unless the context otherwise indicates, the following words shall mean:

- A. *"Dog"* shall mean any male, female, or spayed female dog of any age.
- B. *"Unlicensed dog"* is hereby defined and declared to mean a dog for which the license for the current year has not been paid, or to which the tag provided for in this part is not attached.
- C. *"Owner,"* when applied to the proprietorship of a dog, shall mean any person or persons, firm, association or corporation owning, keeping or harboring a dog.
- D. The term *"at large"* shall be intended to mean off the premises of the owner and not under the control of the owner or a member of his immediate family either by leash, cord, chain or otherwise.
- E. *"Pound"* shall mean an animal shelter, lot, premises, or buildings maintained by or authorized or employed by the city for the confinement or care of dogs seized either under the provision of this chapter or otherwise.
- F. *"Impounded"* shall mean having been received into the custody of the municipal pound or into the custody of any authorized agent or representative of the municipality.
- G. *"Vicious dog"* means a dog that has bitten a person without provocation or a dog that has a known propensity to attack or bite human beings.
- H. *"Pound master"* shall mean the custodian selected by the governing body to be responsible for the operation of the dog pound.

13-242. LICENSE AND REGISTRATION REQUIRED.

A. It is unlawful for any person to keep, harbor or maintain any dog six (6) or more months old, unless such dog has been registered and licensed in the manner herein provided.

B. Application for registration and licensing shall be issued by the Chief of Police or such other person as the Chief of Police may authorize to receive such applications.

C. A dog license shall be issued by the Chief of Police or such other person as the Chief of Police may authorize.

D. No dog license shall be issued by the municipality until the fee required herein is paid. Until otherwise changed by resolution of the governing body, the fee shall be charged as set in the fee schedule based on the following criteria.

- 1. Each spayed female

2. Each neutered male
3. Each un-spayed female
4. Each un-neutered male

E. The fee due and payable pursuant to this section shall be due within 30 days of the dog reaching 6 months of age, and/or within 30 days of acquisition of the yearly or tri-yearly vaccination shots. Monthly fee will be charged on all months over the 30 day limit.

F. The owner shall provide proof of current rabies vaccination, as well as give information for the license including his/her name, address, phone number and gender, breed, and name of each dog owned or kept by owner. The licensing fee shall be as set in the Enoch City Fee Schedule. The license shall expire the same month as the current rabies vaccination, or on the annual basis whichever is preferred by the owner/applicant.

G. The provisions of this section shall not be intended to apply to dogs whose owners are non-residents temporarily within the municipality, nor to dogs brought to the municipality for the purpose of participating in any dog show, nor to commercial kennels.

H. Dogs used as guides, for blind persons and commonly known as seeing-eye dogs, shall be licensed and registered as other dogs herein above provided; except that the owner or keeper of such dog shall not be required to pay any fee therefore. (Rev. 2-17-16)

13-243. TAG AND COLLAR Upon payment of the license fee, the recorder/clerk shall issue to the owner a license certificate and a metallic tag for each dog so licensed. The tag shall be changed at the expiration of the date on the tag. Every dog owner, except those operating a kennel, shall provide each dog with a collar to which the license tag shall be affixed, and shall see that the collar and tag are constantly worn. In case a dog tag is lost or destroyed, a duplicate will be issued by the recorder/clerk upon presentation of a receipt showing the payment of the license fee for the current year and the payment as set in the fee schedule for such duplicate. Dog tags shall not be transferable from one dog to another, and no refunds shall be made on any dog license fee because of death of the dog or the owner leaving the municipality before expiration of the license period. It shall be unlawful to deprive a registered dog of its collar and/or tag. (Rev. 2-17-16)

13-244. RUNNING AT LARGE PROHIBITED.

- A. It shall be unlawful for the owner or keeper of any dog to permit such dog to run at large.
- B. It shall be unlawful for an owner of a dog to permit such dog to go upon or be upon the private property of any person without the permission of the owner or person entitled to the possession of such private property.
- C. The owner of any dog running at large shall be deemed in violation of this section regardless of the precautions taken to prevent the escape of the dog and to prohibit it from running at large.
- D. Any dog running at large in violation of the provisions of this section is hereby declared to be a nuisance and a menace to the public health and safety, and the dog shall be taken up and impounded as provided herein.
- E. Any dog residing on premises within the Enoch City boundaries, either permanent or temporary, must be reported missing to the pound master within 24 hours of being determined missing. Failure to do so will result in a citation being issued.
- F. A violation of part 13-244 constitutes an infraction. (Rev. 2-4-15)

13-244A. SPECIAL PUBLIC ZONE.

- A. A school safety zone is declared, whose perimeter shall be at a distance of 500 feet on all sides of any public school within the City limits, such perimeter to be measured from the exterior property boundary of such school.
- B. Any violation of Part 13-244 occurring within a school safety zone shall cause the normal impound charge payable to redeem a dog pursuant to Part 12-214 and 13-254 to be increased by two times. Such additional charge is intended to have a penal effect by reason of the danger posed to children on the school grounds by dogs at large. It shall be in addition to any criminal prosecution that may arise by virtue of a violation of Part 13-244. (Part 13-244A added 3-15-2000 & amended 4-21-2004)

13-245. FEMALE IN HEAT. The owner of a female dog in heat shall cause such dog to be penned or enclosed in such a manner as to preclude other dogs from attacking such female dog or being attracted to such female dog so as to create a public nuisance.

13-246. STRAYS. It shall be unlawful for any person to harbor or keep within the municipality any lost or strayed dog. Whenever any dog shall be found which appears to be lost or strayed, it shall be the duty of the finder to notify the recorder/clerk or pound master who shall impound for running at large contrary to the terms of this part. If there shall be attached to such dog a license tag for the then current fiscal year, the pound master shall notify the person to whom such license was issued, at the address given in the license.

13-247. RABIES. Every owner of any dog over the age of six months within the municipality shall have the dog vaccinated against rabies by a duly licensed veterinarian, shall secure from the veterinarian a certificate thereof, and shall attach to the collar or harness, which such person is hereby required to place upon the dog, a tag showing that such vaccination has been done, provided that the governing body may, by resolution provide that the owners of any dog may themselves purchase serum and vaccinate their own dogs. The resolution shall also prescribe the conditions with which the owner must comply to obtain the tag hereinafter required.

13-248. DOGS REQUIRED TO HAVE RABIES SHOT. It shall be unlawful for the owner of any dog to suffer, allow, or permit such dog to be or go upon any sidewalk, street, alley, public place, or square within the municipality without first having had such dog vaccinated every two years against rabies as above provided within the past two years, and without there being on such dog a collar or harness with a license tag thereon showing that such dog has been so vaccinated.

13-249. DOGS THAT DISTURB NEIGHBORHOOD. No person, persons, firm, or corporation shall own, keep, or harbor any dog which by loud, continued, or frequent barking, howling, yelping, or by noxious or offensive odors shall annoy, disturb, or endanger the health and welfare of any person or neighborhood. A violation of this section shall be a class C misdemeanor and such is hereby declared to be a nuisance, and each day a violation is permitted to exist or continue shall constitute a separate offense. This section shall not apply to the municipal dog pound, veterinary hospitals, or medical laboratories.

13-250. VICIOUS ANIMALS - SPECIAL PROVISIONS.

- A. It shall be unlawful for any person to own and possess a vicious dog within the municipality. Whenever a prosecution for this offense is commenced under this section, the dog so involved may not be redeemed, pursuant to the provisions of this part, while awaiting final decision of the court as to the disposition to be made of such dog.
- C. Upon the trial of any offense under this part, the court may, upon conviction and in addition to the usual judgment of conviction, order the pound master or other authorized

personnel of the municipality to put the dog to death or may order such other disposition of the dog as will protect the inhabitants of the municipality.

13-251. DOG POUND. The governing body may contract with some humane person as pound master, with an adjoining municipality or with the county for the purpose of providing suitable premises and facilities to be used by the municipality as the dog pound. It shall be maintained in some convenient location and shall be sanitary and so operated as to properly feed, water and protect the dogs from injury.

13-252. IMPOUNDING. It shall be the duty of every police officer or other designated official to apprehend any dog found running at large, not wearing his tag, or which is in violation of this part and to impound such dog in the pound or other suitable place. The pound master or some other designated official, upon receiving any dog, shall make a complete registry, entering the breed, color and sex of such dog and whether licensed. If licensed, he shall enter the name and address of the owner and number of the license.

13-253. RECORD OF IMPOUNDING ANIMALS. The pound master shall keep a record of each animal impounded by him, the date of receipt of such animal, the date and manner of its disposal and if redeemed, reclaimed, or sold, the name of the person by whom redeemed, reclaimed, or purchased, the address of such person, the amounts of all fees received or collected for or because of the impounding, reclaiming or purchasing thereof, together with the number of any tag and the date of any tag exhibited or issued upon the redemption or sale of such animal.

13-254. REDEMPTION OF IMPOUNDED DOGS. Any dog impounded as a licensed or unlicensed dog may be redeemed and taken from such pound by the owner or any authorized person, upon exhibiting to the supervisor or person having charge of said pound, verification that the license imposed by this part has been paid for such dog and upon paying the person in charge of the pound the required impounding fee for each and every day such dog shall have been impounded. All impounded dogs not redeemed within five days of the date of impounding may be sold to the person first making written request for purchase at such price as may be deemed agreeable and such monies received shall be paid to the City Treasurer; any dogs not sold or redeemed in the required time shall be disposed of in a humane manner.

13-255. DISPOSITION OF UNCLAIMED AND INFECTED DOGS. All impounded dogs not redeemed within five days of the date of impounding may be destroyed or sold to the person first making written request for purchase at such price as may be deemed agreeable. In the case of dogs severely injured or having contagious disease other than rabies and which in the pound master's judgment are suffering and recovery is doubtful, the pound master may destroy the dog without awaiting the five-day period.

13-256. INTERFERENCE WITH IMPOUNDING PROHIBITED. It shall be unlawful for any person to hinder, delay, interfere with, or obstruct the pound master or any of his assistants while engaging in capturing, securing, or taking to the dog pound any dog or dogs liable to be impounded, or to break open or in any manner directly or indirectly aid, counsel, or advise the breaking open of any dog pound or ambulance, wagon, or other vehicle used for the collecting or conveying of dogs to the dog pound.

13-257. CLASSIFICATION OF OFFENSES AND PENALTIES FOR REPEATED VIOLATIONS OF THIS PART.

A. Unless otherwise specified, every person who is convicted of any violation of this part is guilty of a Class B Misdemeanor. (Rev. 2-4-15)

- B. Upon a subsequent conviction for any violation of this part within six months of the most recent conviction for any violation of this part, the Court shall, in addition to any other penalties imposed, impose the minimum fines as set by the court of jurisdiction for second, third, fourth and all subsequent convictions.

13-258. ANIMAL ENCLOSURE.

- A. Any person who owns, holds, maintains or houses more than three (3) dogs as household pets, as defined by the Enoch City Zoning Ordinance, that would require licensure pursuant to Section 13-242, Enoch City Ordinances, shall keep and maintain such dogs in an enclosure complying with the following minimum specifications:
 - 1. a minimum area of thirty (30) square feet per dog;
 - 2. all sides and top enclosed with fencing or similar materials suitable for preventing escape by any of the dogs;
 - 3. hard surface floor with adequate drainage; and
 - 4. provision for suitable protection from the elements, including shade during warm weather.
- B. Dogs kept and maintained within a residence shall be deemed to comply within the specifications set forth in subsection (A) above.

(Part 13-257 and Part 13-258 adopted 10-07-92)

PART 13-260. ESTRAYS.

13-261. IMPOUNDING AND DISPOSAL OF ESTRAYS, GENERALLY. It is hereby made the duty of the pound master to take into his possession and impound all estrays running at large, and to dispose of the same as hereinafter provided. Whenever the word "estrays" appears in this part, it is defined to mean any valuable animal, except dogs or cats, not wild, found wandering from its owner.

13-262. NOTICE OF SALE OF ESTRAYS. Within three days after an estray shall come into the possession of the pound master, he shall advertise the same in a newspaper published in and having general circulation in the county by publishing a notice in at least one issue of the newspaper, and by posting notices for a period of ten days in three public places in the municipality, one of which places shall be at or near the post office. He shall immediately deliver a copy of such notice to the county clerk or mail the same to him by registered letter. The notice so filed with the clerk should be available during reasonable hours for inspection by the public free of charge. The notice herein provided for shall contain a description of the animals, including all marks and brands, when taken, and the date, hour, and place of sale, and may be substantially in the following form:

"NOTICE

*State of Utah, County of _____,
In the _____ of _____, I have
in my possession the following described estray animals, which, if not claimed and taken
away, will be sold at public auction to the highest cash bidder at the municipal pound in
the _____ of _____, on _____, the
_____ day of _____, 20____, at the hour of _____.*

(Description of Animals)

*The estrays were taken up by me, in this municipality on the _____ day of
_____, 20_____.*

Pound master of the _____ ”

13-263. RETURN TO OWNER ON PAYMENT OF COSTS - SALE. If at any time before the sale of any estrays, such animals shall be claimed and proved to be the property of any person, the pound master shall deliver them to the owner upon receiving from him the cost of impounding, keeping and advertising the same. If the animals are not so claimed and taken away, he shall, at the time and place mentioned in the notice, proceed to sell the same, one at a time, to the highest cash bidder, and shall execute and deliver a bill of sale transferring said animals to the purchaser or purchasers thereof, which bill of sale shall be substantially in the following form:

“I hereby certify that in pursuance of the law regulating the disposal of estrays and trespassing animals, I have this day sold to highest bidder, _____ head of _____ branded with the municipality estray brand and otherwise described as follows, to-wit:

(Description of Animals)

Witness my hand this _____ day of _____, 20_____.

Pound master _____ of _____ ”
State of Utah

The pound master shall immediately file a copy of such bill of sale with the county clerk or forward the same to him by registered mail. Such bill of sale shall transfer and vest in such purchases the full title to the animals thus sold.

13-264. RECORD OF ESTRAYS. The pound master shall keep an accurate record of all estrays received by him, their age, color, sex, marks, and brands, the time and place of taking and the expense of keeping and selling the same, all animals claimed and taken away, all animals sold and to whom sold and the amount paid, all moneys paid to owners after sale, all moneys paid into the treasury, and all other matters necessary to a compliance with the provisions of this part. The governing body shall provide the pound master with a suitable book in which shall be entered the records required by law to be kept by the pound master. Such records shall be open to the inspection of the public at all reasonable hours, and shall be deposited by the pound master with his successor in office.

13-265. TRESPASSING ANIMALS - DAMAGING - IMPOUNDING. If any cattle, horses, asses, mules, sheep, goats or swine shall trespass or do damage upon the premises of any person, the party aggrieved, whether he be the owner or the occupant of such premises, may recover damages by an action at law against the owner of the trespassing animals or by detaining and impounding the animals in the manner provided.

13-266. APPRAISEMENT OF DAMAGES. The owner or occupant of any property may detain any or all of said animals trespassing or doing damage thereon. He shall, within 24 hours then, deliver said animals to the pound master together with a certificate of the appraisement of the damage done by such animals. Such appraisement must be made by some disinterested person. It must state the amount of the damage, the time when committed, the name of the person damaged, the name of the owner of the animals, if known, and if not known, it must state that fact together with a description of the animals, including all visible marks and brands. If the animals appear to be owned by different parties, a separate appraisement and a separate certificate thereof shall be made of the damage done by the lot or group of animals which appear to belong to each of the different owners. In such cases, the owners shall be notified separately, and each lot or

group of animals shall be advertised and sold separately in the same manner as though the damage had been done by different animals at different times.

13-267. OWNER TO BE NOTIFIED. The person detaining the animals must, if the owner of the same be known to him and if he resides within ten miles of the place of the trespass, immediately deliver to such owner, or leave at his place of residence if he cannot be found, a copy of such certificate of appraisal; but if the owner does not live within ten miles of the place of trespass, the party detaining the animals may at his option deliver a copy of such certificate to the owner in person, or deposit the same in the nearest post office in a registered letter addressed to said owner. He shall be entitled to charge 50 cents a mile one way for the first ten miles necessarily traveled in delivering such certificate, and 25 cents for each additional mile, to be taxed as costs against the animals.

13-268. FAILURE TO NOTIFY WAIVES DAMAGES. If the party detaining any animals shall fail to deliver them or the certificate of appraisal to the pound master within 48 hours, or shall fail to deliver to the owners of the animals, if known, a copy of the certificate of appraisal within 24 hours after he receives the same or to deposit the same in a post office as herein provided, he shall not be entitled to recover damages under the provisions of this part.

13-269. WHERE OWNER UNKNOWN - DUTY OF POUNDMASTER. Whenever any animals are delivered to the pound master and the certificate of appraisal is filed with him as herein provided and such certificate states that the owner is unknown, the pound master shall immediately examine all brand books or brand sheets in his possession. If the owner be ascertained thereby or if the owner be already known to the pound master, he shall, if the owner lives within ten miles, immediately deliver a copy of such certificate of appraisal to such owner, or leave the same at his residence if he cannot be found. If the owner lives more than ten miles away, the pound master may at his option deliver such copy personally to the owner, or deposit the same in the nearest post office in a registered letter addressed to such owner. He shall, however, serve a copy in one of the ways provided herein; provided that whenever personal service of a copy of any paper is required by this chapter, service by agent shall be deemed sufficient.

13-270. NOTICE OF SALE OF DISTRAINED ANIMALS. As soon as any such animals are delivered to the pound master, he shall immediately proceed to advertise the same as hereinafter provided except when the owner is known and has been notified, in which case he shall hold said animals 48 hours before advertising the same. He shall advertise in a newspaper published in and having general circulation in the county, by publishing a notice in a least one issue of said paper, by posting notices in three public places in the municipality, one of which shall be at or near the post office, and he shall deliver a copy of the same to the county clerk or send the same by deputy or by registered mail. The clerk should preserve such notice and post a copy thereof. The notice herein provided for shall state the time when the damage was done and the amount thereof, the name of the party damaged, a description of the animals, including all visible marks and brands, and the day, hour, and place at which such animals will be sold, which shall be not less than ten or more than 20 days from the time of posting such notice. The notices shall be substantially in the following form:

“SALE OF ANIMALS FOR DAMAGE

*State of Utah, County of _____,
In the _____ of _____, I have in
possession the following described animals, which, if not claimed and taken away, will be
sold at public auction to the highest cash bidder at the municipal pound in the*

_____ of _____, on the _____ day of _____,
20____, at the hour of _____.

(Description of Animals)

The above described animals are held by me to secure the payment of
\$_____ damages done by those animals on the premises of
_____ on the _____ day of _____,
20_____.

Poundmaster of the _____ of _____.”

13-271. OWNER MAY PAY AND TAKE ANIMALS - DISPUTED APPRAISAL. The owner of any trespassing animals taken up under the provisions of this part may at any time before the sale thereof claim and take such animals away upon paying the amount of damages set forth in the certificate of appraisement and the accrued costs, and if such animals are included in a lot or group of animals belonging to other parties against which the damages and costs are assessed as a whole, he shall pay his proportion of the total amount of damages and costs assessed against such animals, according to the number of animals he owns when compared with the number of the entire lot or group. If he deems the appraisal too high, he may choose another appraiser having the qualifications herein provided who with the first appraiser shall make a new appraisal, and if they cannot agree, they shall choose a third appraiser, and the three shall proceed to make another appraisal, and the decision of the majority shall be final.

13-272. SALE - BILL OF SALE. If such animals are not claimed and taken away by the owner, the pound master shall, at the time and place set forth in the notice of sale, proceed to sell such animals, one at a time, to the highest cash bidder. If the owner of any lot of animals to be sold is known, the pound master shall sell only enough of said animals to pay the damages and costs, the remainder maybe turned over to the owner at any time thereafter; but if the owner be unknown, the pound master shall proceed to sell all of said animals so advertised for sale. He shall execute and deliver a bill of sale therefore, and file a copy with the county clerk as hereinbefore provided.

13-273. REDEMPTION WITHIN NINETY DAYS. The owner of any trespassing animals sold under the provisions of this part may, at any time within 90 days of the date of such sale, redeem such animals from the purchaser or assignee having the same in his possession, upon paying to such purchaser or assignee the sum for which such animals were originally sold, together with an additional ten percent and reasonable compensation for the care and keeping of the same. If such purchaser or assignee refuses to give up such animals on the owner proving his title to the same and on this tendering the amount due as herein provided, such owner may maintain an action at law to recover the same, provided that the purchaser or any assignee who has disposed of such animals shall not be liable to such owner in any amount. If redemption of such animals is not made within 90 days after the date of such sale, such sale shall be absolute and shall vest the title to such animals in the purchaser or assignee. Any person selling or disposing of any such animal within 90 days of its sale under the provisions of this part shall notify the purchaser of the same of the date of the original sale and the amount paid for such animal at that time, and if he fails to do so, he shall be liable for any loss that may accrue to such purchaser by reason of such animal being redeemed for an amount less than he paid therefore.

13-274. OWNER ENTITLED TO RESIDUE OF PROCEEDS. If any estrays or trespassing animals sold under the provisions of this part shall, within a period of six months following the date of sale, be claimed and proved to be the property of any person, it shall be the duty of the

treasurer at the expiration of such time to pay the money received for such animals to the owner thereof, less the amount of damages and the expense of taking, keeping, and selling the same. In the event such animals are not claimed as aforesaid, such money shall become the property of the municipality, provided that in case there is a contest between two or more persons claiming to be the owners of any such animals, the treasurer shall pay the residue to the party who shall establish by action his right to the same.

13-275. RECORD OF TRESPASSING ANIMALS. The pound master shall keep an accurate record of all trespassing animals received by him, which record shall contain all the items required by this part together with the names of the injured party and the owner of the animals, the amount of the damages claimed, and all other matters necessary to a complete account of the transaction. Such record shall be open for inspection at all reasonable hours without charge.

13-276. RETAKING ANIMAL UNLAWFULLY. It shall be unlawful for anyone to take any animal out of the possession of anyone lawfully holding the same under the provisions of this part, either by stealth, force, fraud, or to intercept or hinder any person lawfully taking up or attempting to take up such animals.

CHAPTER 13-300. GENERAL POLICE POWERS.

PART 13-310. OFFENSES RE: MINORS.

13-311. PURCHASE, POSSESSION PROHIBITED. Any person who maintains in his place of business a tobacco vending machine accessible to persons under the age of 19 or provides any method of self-help for the disposition to persons under the age of 19 by gift, sale or otherwise of any cigarette or cigarette paper or wrapper or any paper made or prepared for the purpose of making cigarettes or tobacco in any form whatsoever is guilty of a class C misdemeanor. Cigarette vending machines shall be deemed accessible to persons under the age of 19 except:

- A. Where they are in locations where persons under the age of 19 are prohibited.
- B. Where the machine can be operated only by the owner or his employee, either directly or through a remote control device that is inaccessible to the customer and must be operated for each sale.
- C. In private industrial locations where only adult employees are customarily allowed, provided such locations are inaccessible to persons under the age of 19.
- D. In adult-private clubs, provided that such locations are inaccessible to persons under the age of 19.

13-312. CURFEW - MINORS - EXCEPTIONS. No person under the age of 15 years shall be or remain upon any of streets, alleys or public places or vacant lots at night between the hours of 10:00 p.m. and 6:00 a.m. following, unless such person is accompanied by a parent, guardian or other person having legal custody of such minor person, or unless the employment or lawful business of such minor makes it necessary to be upon the streets, alleys or public places between such specified hours, in which event such minor person shall obtain a permit from the chief of police to be upon the streets, alleys or public places during such hours. On any night when school, civic or church functions are taking place, the hours of curfew shall be 12:01 a.m. to 6:00 a.m. following, in order to provide adequate time to attend such functions provided for minor persons. Where a permit is required from the chief of police under this section, such permit shall be kept upon the person and it shall be unlawful to be upon the streets, alleys or public places within such curfew hours without such permit.

13-313. RESPONSIBILITY OF PARENTS, GUARDIANS FOR CURFEW. No person, guardian or other person having legal charge or custody of any person under 15 years of age shall allow or permit any such person or child, ward or other person under such age, while in such legal custody, to go or be in or upon any of the streets, alleys, or public places when such going or being in or upon such streets, alleys, or public places would be a violation by such minor person of any provision of section 13-312.

13-314. MINOR PROHIBITED WHERE BEER IS SOLD.

- A. It is unlawful for any person to operate any pool or billiard hall in this municipality if beer as defined in this code is kept, sold or consumed without first making a regulation and enforcing the same, keeping posted in a conspicuous place the terms of such regulation, which shall read, "No person under 21 years to enter upon or remain in said premises for any purpose.
- B. It is unlawful for any person in charge of or employed in such pool or billiard hall to permit any person under the age of 21 years of age to enter upon or remain in any such premises or for any person under the age of 21 years to enter upon or remain in said premises for any purpose.

- C. Pool or billiard halls may be kept open to minors where no beer as defined in this code is kept or consumed or sold.

PART 13-320. INTOXICANTS AND LIQUOR.

13-321. PUBLIC INTOXICATION PROHIBITED.

- A. It is a class C misdemeanor for any person to be under the influence of intoxicating liquor, a controlled substance or of any substance having the property of releasing toxic vapors, to a degree that the person may endanger himself or another in a public place or in a private place where he unreasonably disturbs another person.
- B. A peace officer or magistrate may release from custody an individual arrested under this section if he believes imprisonment is unnecessary for the protection of the individual or another.

13-322. ILLEGAL SALE, MANUFACTURING, STORAGE OF INTOXICATING LIQUOR. It shall be unlawful for any person, except as permitted by state law, and the ordinances of this municipality to knowingly have in his possession any intoxicating liquor or to manufacture, keep, sell, or store for sale, offer or expose for sale, import, carry, transport, advertise, distribute, give away, dispense, or serve intoxicating liquor.

13-323. POSSESSION OF LIQUOR. It shall be unlawful except as permitted by state law and the ordinances of this municipality for any person to have or keep for sale or possession any liquor that has not been purchased from the state liquor store or package agency.

13-324. LIQUOR TO DRUNKEN PERSON. It shall be unlawful for any person to sell or supply any alcoholic beverage or to permit alcoholic beverages to be sold or supplied to any person who is apparently under the influence of liquor.

13-325. ALCOHOLIC BEVERAGES AND MINORS.

- A. It shall be unlawful for alcoholic beverages to be given, sold, or otherwise supplied to any person under the age of 21 years, but this shall not apply to supplying liquor to such person for medicinal purposes only by the parent or guardian of such person or to the administering of liquor to such person by a physician in accordance with the provisions of this part.
- B. It shall be unlawful for any person under the age of 21 years to have possession of beer or any intoxicating liquor.

13-326. CANVASSING OR SOLICITING. It shall be unlawful for any person to canvass or solicit for alcoholic beverages by mail, telephone, or other manner, and the person is hereby prohibited from engaging in such activities, except to the extent that such prohibition may be in conflict with the laws of the United States or the State of Utah.

13-327. SOLICITATION OF DRINKS. No person shall frequent or loiter in any tavern, cabaret, or night club, with the purpose of soliciting the purchase of alcoholic drinks. No proprietor or operator of any such establishment shall allow the presence in such establishment of any who violates the provisions of this section.

PART 13-330. DISTURBING THE PEACE.

13-331. NOISE. It is a class C misdemeanor for any person to disturb the peace or quiet of any neighborhood, family, or person by loud or unusual noises, by tumultuous or offensive conduct.

13-332. FIGHTING-THREATENING. It is a class C misdemeanor for any person to threaten physical force against another person or to challenge, invite or engage in a fight.

13-333. LOUDSPEAKERS.

- A. It is an infraction for any person to maintain, operate, connect or suffer or permit to be maintained, operated or connected any calliope or radio apparatus, sound device or any talking machine or loudspeaker attached thereto in such a manner that the loudspeaker or amplifier causes the sound from such radio apparatus or sound device or talking machine to be projected directly there from outside of any building, vehicle or out-of-doors, provided that the chief of police may grant a permit to so broadcast any events or happenings of cultural, political, intellectual or religious interest. Every person desiring a permit to so broadcast shall make application, file a statement showing the place where he proposes to broadcast, the times and probable duration, and the nature, topics or titles of said broadcast. Said permit shall not be arbitrarily denied and when an application for a permit is denied, the chief of police shall set forth in writing and with particularity the ground for so denying the application for a permit.
- B. Nothing herein contained shall be construed to prevent the operation of a radio apparatus, sound device, amplifier or talking machine used in a reasonable manner by any person within any building, vehicle or structure even though the sound there from may be heard on the outside of such building, vehicle or structure, provided that the said apparatus, sound device, amplifier or talking machine shall not project the sound there from directly outside of any building, vehicle or out-of-doors, and provided further that no such radio apparatus, sound device, amplifier or talking machine is in any way fastened to or connected with any outside wall or window in any building, vehicle or structure so that sound there from is projected outside of such walls or window.

13-334. SALE OR USE OF FIREWORKS/PUBLIC DISPLAY.

- A. It shall be unlawful for any person, firm, partnership or corporation to offer for sale, expose for sale, sell, possess, or use, or explode any toy cannon in which explosives are used; the type of balloon which requires fire underneath to propel the same; firecrackers, torpedoes, sky-rockets, roman candles, bombs, or other fireworks of like construction, or any fireworks containing explosive or inflammable compound or any tablets or other device commonly used and sold as fireworks containing nitrates, chlorates, oxaiates, sulphides of lead, barium, antimony, arsenic, mercury, nitroglycerine, phosphorus or any compound containing any of the same or other explosives, or any substance or combination of substances, or articles prepared for the purpose of producing a visible or an audible effect by combustion, explosion, deflagration or detonation, other than aviation and railroad signal lights flares, except as in this section provided; provided further, this section shall not prohibit the use of toy pistols, toy canes, toy guns, or sparklers.
- B. The city council, notwithstanding any of the provisions of this Ordinance to the contrary, may upon application in writing, upon the posting of a suitable bond, at the discretion of the city council, grant a permit for the public display of fireworks by religious, fraternal or civic organizations, fair associations, amusement parks, or other organizations or groups of individuals, approved by the city council when such display is to be handled by a competent operator, to be approved by the Chief of the Police Department and Chief of the Fire Department. Such display shall be of such a character, and so located, discharged, or fired as in the opinion of the Chiefs of the Police and Fire Departments, after proper inspection, shall not be hazardous to property or endanger any person or

persons. After such permit shall have been granted, sales, possession, use and distribution of fireworks for such display shall be lawful for that time and purpose only.

1. All such applications for permits shall set forth the date, the hour, and the place of storing fireworks prior to the display, the name or names of the person, persons, firm, partnership, corporation, association or group of individuals making the display, and the name of the person or persons in charge of the igniting, firing, setting off, exploding or causing to be exploded such fireworks. The location of the storage place shall be subject to the approval of the Chief of the Fire Department. No permit granted hereunder shall be transferable.
2. The city council may require a bond deemed adequate for the payment of all damages, which may be caused either to a person or persons or to property, by reason of the display of the licensee, and arising from any acts of the licensee, his agents or employees. Such bond shall run to the city and shall be for the use and benefit of any person injured or the owner of any property damaged, who is authorized to maintain an action thereon and prevails, or his heirs, executors, administrators, successors or assigns.

13-335. THROWING OBJECTS PROHIBITED. Every person who willfully or carelessly throws any stone, stick, snowball or other missile whereby any person is hit or any window broken or other property injured or destroyed, or in such manner as to render travel upon the public streets and places dangerous, or in such manner as to frighten or annoy any traveler, is guilty of an infraction.

13-336. VULGAR LANGUAGE. It shall be a class C misdemeanor for any person to use vulgar, profane, or indecent language on any public street or other public place or in any public dance hall, club dance, skating rink, or place of business open to public patronage.

13-337. INDECENT EXPOSURE.

- A. It shall be a class B misdemeanor for any person over ten years of age to indecently expose his body in public.
- B. For the purpose of this section:
 1. Indecent exposure means:
 - a. The exposed male genital or the covered male genital shown in a discernibly turgid state.
 - b. The exposed female genital or female breasts that are not covered with an opaque covering below a point immediately above the top of the nipple (or the breast with only the nipple covered).
 2. "Public" means any place open to or frequented by the public or which may be seen from any place open to or frequented by the public and includes private clubs, associations or other places where the public frequents.

13-338. OFFENSIVE, INDECENT ENTERTAINMENT. It shall be unlawful for any person to hold, conduct or carry on, or to cause or permit to be held, conducted or caused any motion pictures, exhibition or entertainment of any sort which is offensive to decency, or which is of an obscene, indecent or immoral nature, or so suggestive as to be offensive to the moral sense.

13-339. WINDOW PEEPING. It shall be a class C misdemeanor for any person to look, peer, or peep into or be found loitering around or within view of any window within a building occupied as the residence of another with the intent of watching or looking through the window to observe any person undressed, or in the act of dressing or undressing.

13-340. LOOK OUTS FOR ILLEGAL ACTS. It shall be a class C misdemeanor for any person to act as a guard or lookout for any building, premises, or establishment used for gambling, for illegal sale or purchase of intoxicating liquors, or for any person soliciting, offering or engaging in prostitution, gambling or any other form of vice, or illegal act, or any prostitute, on any street or sidewalk. Nor shall any person give any signal intended to, or calculated to warn, or give warning of the approach of any peace officer to any person in or about such building or premises or place mentioned herein.

13-341. UNLAWFUL USE OF RESTROOMS. No person over the age of eight years shall use the restroom and washrooms designated for the opposite sex.

PART 13-350. PUBLIC PROPERTY - DOCUMENTS.

13-351. PUBLIC PROPERTY. For the purpose of this part, “public property” means any publicly owned property except the traveled portion of public streets, and includes any park, sidewalk, curb or any part of any public right-of-way devoted to any planting or park like use.

13-352. UNLAWFUL ACTS.

On any public property it is unlawful for any person to:

- A. Willfully mark, deface, disfigure, injure, tamper with, displace or remove any building, railing, bench, paving, paving materials, water line or any facilities or property and equipment of any public utilities or parts or appurtenances thereof, signs, notices or placards, whether temporary or permanent, monuments, stakes, posts or other boundary markers, wall or rock border, or other structures or equipment, facilities or public property or appurtenances whatever, either real or personal.
- B. Soil or litter public restrooms and washrooms.
- C. Dig and remove any sand, soil, rock, stones, trees, shrubs, or plants, down timber or other wood or materials, or make any excavation by tool, equipment, blasting or other means or agency, unless permission is obtained.
- D. Construct or erect any building or structure of whatever kind, whether permanent or temporary in character, any tent, fly or windbreak, or run or string any rope, cord or wire into, upon or across any public property, except with special permit.
- E. Urinate or defecate, except in a public restroom in receptacles placed there for such purpose.
- F. Damage, cut, carve on, burn, transplant or remove any tree or plant or injure the bark or pick the flowers or seeds of any tree or plant. No person shall attach any rope, wire or other contrivance to any tree or plant. No person shall dig in or otherwise disturb, or in any other way injure or impair the natural beauty or usefulness of any park area. This subsection shall not apply to any person authorized to perform the act proscribed.
- G. Climb any tree or walk, stand or sit on monuments, fountains, railings, fences, planted areas or upon any other property not designed or customarily used for such purposes or to intentionally stand, sit or lie in or upon any street, sidewalk, stairway or crosswalk so as to prevent free passage of persons or vehicles passing over, along or across any street, sidewalk, stairway or crosswalk.
- H. Drop, throw, place, discard, dump, leave or otherwise deposit any bottles, broken glass, garbage, ashes, paper, boxes, cans, dirt, rubbish, waste, refuse or other trash on any public property except in waste containers provided therefore. No such refuse or trash shall be placed in any waters contiguous to any park or planted area or left anywhere on the grounds thereof.
- I. Sleep on seats, benches, sidewalks, curbs, planters, walls or other areas.

- J. Expose or offer for sale any article or thing or station or place any stand, cart or vehicle for the transportation, sale or display of any such article or thing, without first obtaining a license, except that the governing body may exempt designated areas from this subsection by resolution on such terms and conditions as it may prescribe.
- K. To beg or to go from door to door of private homes or commercial and business establishments or place himself in or upon any public way or public place to beg or to receive money or other things of value.

CHAPTER 13-400. INCHOATE OFFENSES.

PART 13-410. ATTEMPT.

13-411. ATTEMPT – ELEMENTS OF OFFENSE.

- A. For the purpose of this part, a person is guilty of an attempt to commit any act made an offense by any ordinance of this municipality if, acting with the kind of culpability otherwise required for the commission of the offense, he engages in conduct constituting a substantial step toward commission of the offense.
- B. For purposes of this part, conduct does not constitute a substantial step unless it is strongly corroborative of the actor's intent to commit the offense.
- C. No defense to the offense of attempt shall arise:
 - 1. Because of the offense attempted was actually committed; or
 - 2. Due to factual or legal impossibility if the offense could have been committed had the attendant circumstances been as the actor believed them to be.

13-412. ATTEMPT – CLASSIFICATION OF OFFENSES. Criminal attempt to commit:

- A. A class B misdemeanor is a class C misdemeanor;
- B. A class C misdemeanor is an infraction;
- C. An infraction is punishable by a penalty not exceeding one-half the penalty for an infraction.

PART 13-420. CRIMINAL CONSPIRACY.

13-421. CONSPIRACY – ELEMENTS OF OFFENSE. For purposes of this part, a person guilty of conspiracy when he, intending that conduct constituting an offense under these ordinances whether he specifically intends to violate the ordinances or not, agrees with one or more persons to engage in or cause the performance of such conduct and any one of them commits an overt act in pursuance of the conspiracy, except where the offense is arson, or burglary, the overt act is not required for the commission of the conspiracy.

13-422. CONSPIRACY – CLASSIFICATION OF OFFENSES. Conspiracy to commit:

- A. A class B misdemeanor is a class C misdemeanor;
- B. A class C misdemeanor is an infraction;
- C. An infraction is punishable by a penalty not exceeding one-half the penalty for an infraction.

PART 13-430. EXEMPTIONS AND RESTRICTIONS.

13-431. SPECIFIC ATTEMPT OR CONSPIRACY OFFENSE PREVAILS. Whenever any offense specifically designates or defines an attempt or conspiracy and provides a penalty for the attempt or conspiracy other than provided in this part, the specific offense shall prevail over the provisions of this part.

13-432. CONVICTION OF INCHOATE AND PRINCIPAL OFFENSE PROHIBITED. No person shall be convicted of both an inchoate and principal offense or of both an attempt to commit an offense and a conspiracy to commit the same offense.

CHAPTER 13-500. OFFENSES AGAINST THE PERSON.

PART 13-510. ASSAULT AND RELATED OFFENSES.

13-511. Reserved.

13-512. ASSAULT.

- A. Assault is:
 - 1. An attempt, with unlawful force or violence to do bodily injury to another; or
 - 2. A threat accompanied by a show of immediate force or violence, to do bodily injury to another.
- B. Assault is a class B misdemeanor.

13-513 through 13-515. Reserved.

13-516. HARASSMENT.

- A. A person is guilty of harassment if, with intent to frighten or harass another, he communicates in writing a threat to commit any violent felony.
- B. Harassment is a class C misdemeanor.

13-517. TERRORISTIC THREAT.

- A. A person commits terroristic threat if he threatens to commit any offense involving violence with intent:
 - 1. To cause action of any sort by an official or volunteer agency organized to deal with emergencies; or
 - 2. To place a person in fear of imminent serious bodily injury.
 - 3. To prevent or interrupt the occupation of a place of assembly; or aircraft, automobile or other form of conveyance, but shall not include a facility of public transportation operated by a common carrier.
- B. Terroristic threat is a class B misdemeanor.

PART 13-520. Reserved.

PART 13-530. INTERFERING WITH CUSTODIAL RIGHTS OR PERSONAL LIBERTY.

13-531 and 13-532. Reserved.

13-533. CUSTODIAL INTERFERENCE.

- A. A person, whether a parent or other, is guilty of custodial interference if, without good cause, he takes, entices, conceals, or detains a child under the age of sixteen from his parent, guardian, or other lawful custodian:
 - 1. Knowing he has no legal right to do so; and
 - 2. With intent to hold the child for a period substantially longer than the visitation or custody period previously awarded by a court of competent jurisdiction.
- B. A person, whether a parent or other, is guilty of custodial interference if, having actual physical custody of a child under the age of sixteen pursuant to a judicial award of any court of competent jurisdiction which grants to another person visitation or custody rights, and without good cause he conceals or detains the child with intent to deprive the other person of his lawful visitation or custody rights.

- C. A person is guilty of custodial interference if without good cause he takes, entices, conceals, or detains an incompetent or other person under the age of sixteen who has been committed by authority of law to the custody of another person or institution from the other person or institution, knowing he has no legal right to do so.
- D. Custodial interference is a class B misdemeanor.

13-534. UNLAWFUL DETENTION.

- A. A person commits unlawful detention if he knowingly restrains another unlawfully so as to interfere substantially with his liberty.
- B. Unlawful detention is a class B misdemeanor.

PART 13-540. SEXUAL OFFENSES.

- A. A male person commits unlawful sexual intercourse if he has sexual intercourse with a female, not his wife, who is under sixteen years of age when at the time of intercourse the male is no more than three years older than the female.
- B. Unlawful sexual intercourse is a class B misdemeanor. Evidence that the actor was not more than three years older than the victim at the time the intercourse shall be raised by the defendant.

13-541 through 13-542. Reserved.

13-543. SODOMY.

- A. A person commits sodomy when he engages in any sexual act involving the genitals of one person and the mouth or anus of another person, regardless of the sex of either participant.
- B. Sodomy is a class B misdemeanor.

13-544 through 13-546. Reserved.

13-547. MARRIED PERSONS' CONDUCT EXEMPT – LIMITATIONS OF ACTIONS – “PENETRATION” OR “TOUCHING” SUFFICIENT TO CONSTITUTE OFFENSE.

- A. The provisions of this part shall not apply to conduct between persons married to each other; provided, however, that for purposes of this part, persons living a part pursuant to a lawful order of a court of competent jurisdiction shall not be deemed to be married.
- B. No prosecution may be instituted or maintained under this part unless the alleged offense was brought to the notice of public authority:
 - 1. Within three months of its occurrence; or
 - 2. Where the alleged victim was less than eighteen years of age or otherwise incompetent to make complaint, within three months after a parent, guardian, or other competent person specifically interested in the victim, other than the alleged offender, learned of the offense.
- C. In any prosecution for unlawful sexual intercourse, or sodomy, any sexual penetration or, in the case of sodomy, any touching, however slight, is sufficient to constitute the offense.

CHAPTER 13-600. OFFENSES AGAINST PROPERTY.

PART 13-610. PROPERTY DESTRUCTION.

13-611. DEFINITIONS. For purposes of this chapter:

- A. "Property" means any form of real property or tangible personal property that is capable of being damaged or destroyed and includes a habitable structure.
- B. "Habitable structure" means any building, vehicle, trailer, railway car, aircraft, or watercraft used for lodging or assembling persons or conducting business whether a person is actually present or not.
- C. "Property" is that of another, if anyone other than the actor has a possessory or proprietary interest in any portion thereof.
- D. "Value" means:
 - 1. The market value of the property, if totally destroyed, at the time and place of the offense, or where cost of replacement exceeds the market value; or
 - 2. Where the market value cannot be ascertained, the cost of repairing or replacing the property within a reasonable time following the offense.
 - 3. If the property damaged has a value that cannot be ascertained by the criteria set forth in subsections 1 and 2 above, the property shall be deemed to have a value of \$50.00.

13-612. ARSON.

- A. A person is guilty of arson if, by means of fire or explosives, a person unlawfully and intentionally damages the property of another.
- B. Arson is a class B misdemeanor if the damage caused exceeds \$250.00 and is a class C misdemeanor if the damage is less than \$249.99.

13-613. Reserved.

13-614. RECKLESS BURNING.

- A. A person is guilty of reckless burning if he damages the property of another by reckless use of fire or causing an explosion.
- B. Reckless burning is a class B misdemeanor if the damage to property exceeds \$500.00 in value; and a class C misdemeanor if the damage to property exceeds \$50.00 in value. Any other violation under this section shall constitute an infraction.

13-615. Reserved.

13-616. CRIMINAL MISCHIEF.

- A. A person commits criminal mischief if:
 - 1. He intentionally damages, defaces or destroys the property of another;
 - 2. He recklessly or willfully shoots or propels a missile or other object at or against a motor vehicle, bus, airplane, boat, locomotive, train, railway car or caboose, whether moving or standing.
- B. Criminal mischief is defined herein as a class B misdemeanor if the actor's conduct causes or is intended to cause pecuniary loss in excess of \$250.00 and a class C misdemeanor if the actor's conduct causes or is intended to cause loss of less than \$250.00.

PART 13-620. BURGLARY AND CRIMINAL TRESPASS.

13-621. DEFINITIONS. For purposes of this part:

- A. A person “enters or remains unlawfully” in or upon premises when the premises or any portion thereof, at the time of the entry or remaining, are not open to the public and when the actor is not otherwise licensed or privileged to enter or remain on the premises or such portion thereof.

13-622 through 13-624. Reserved.

13-625. MANUFACTURE OR POSSESSION OF INSTRUMENT FOR BURGLARY OR THEFT. Any person who manufactures or possesses any instrument, tool, device, article or other thing adapted, designed, or commonly used in advancing or facilitating the commission of any offense under circumstances manifesting an intent to use or knowledge that some person intends to use the same in the commission of a burglary or theft is guilty of a class B misdemeanor.

13-626. CRIMINAL TRESPASS.

- A. For purposes of this section “enter” means intrusion of the entire body.
- B. A person is guilty of criminal trespass if under circumstances not amounting to burglary as defined in sections 76-6-202 through 76-6-205 of the Utah Code:
1. He enters or remains unlawfully on property; and
 - (a) intends to cause annoyance or injury to any person thereon or damage to any property thereon; or
 - (b) intends to commit any crime, other than theft or a felony; or
 - (c) is reckless as to whether his presence will cause fear for the safety of another.
 2. Knowing his entry or presence is unlawful, he enters or remains on property as to which notice against entering is given by:
 - (a) personal communication to the actor by the owner or someone with apparent authority to act for the owner; or
 - (b) fencing or other enclosure obviously designed to exclude intruders; or
 - (c) posting of signs reasonably likely to come to the attention of intruders.
- C. A violation of subsection B-1 is a class C misdemeanor unless it was committed in a dwelling, in which event it is a class B misdemeanor. A violation of subsection B-2 is an infraction.
- D. It is a defense to prosecution under this section:
1. That the property was open to the public when the actor entered or remained; and
 2. The actor’s conduct did not substantially interfere with the owner’s use of the property.

PART 13-630. TRESPASSING. It shall be unlawful for any person, without prior written permission from the person in charge of, in possession of, or owning the property involved, to intentionally commit any of the following acts:

- A. To ride or drive any animal or vehicle, or to walk, lodge, or camp upon the land of another; or
- B. To take down any fence or let down any bars or open any gate so as to open an enclosure on the property of another; or
- C. To operate any type of motor vehicle, including most motorcycles and similar vehicles, upon the land of another, either private or public, other than a city street; or

- D. To cut down, destroy, deface, or injure any kind of wood, or timber standing or growing on any public or private land; or
- E. To cut down, destroy, deface, or injure any monument, stature, or improvement to any private or public land; or
- F. To carry away any kind of wood or timber that has been cut down and is lying on the land of another; or
- G. To maliciously injure or sever from the property of another, anything attached thereto or a product thereof; or
- H. To dig, take, or carry away from the land of another any earth, soil, or stone; or
- I. To use any animal, vehicle, machine, or any other personal property of another without the consent of the owner thereof or the person having charge thereof; or
- J. To camp, reside, sojourn, or lodge overnight, or to park overnight, any trailer, mobile home, camper, or other vehicle being used as a temporary residence, upon any property or street belonging to or maintained by any government agency; or
- K. To empty any holding tank or drain any waste fluids from any trailer, mobile home, or other such vehicle being used or suitable for use as a temporary residence, except into facilities specifically designed and intended to receive such holding tank contents or waste fluids from said vehicles; or
- L. To violate any restrictions clearly posted by sign on any city airport, cemetery, park, power station, school ground, church, church park area, or any other public or private property.

Nothing contained in this section shall be construed as to prohibit the use of private or public land by any person who has a legal license or easement to use the same, or the use of any street or roadway over which the general public has the right to travel, or the property use of any street, roadway, path, or trail designated for a particular public use by the person or authority in charge thereof; nor shall anything herein be construed as to prohibit the use of private or public lands by emergency vehicles.

PART 13-640. THEFT.

13-640-1. DEFINITIONS. For the purposes of this part:

- A. "Property" means anything of value, including real estate, tangible and intangible personal property, captured or domestic animals and birds, written instruments or other writings representing or embodying rights concerning real or personal property, labor, services, or otherwise containing anything of value to the owner, commodities of a public utility nature such as telecommunications, gas, electricity, steam, or water, and trade secrets, meaning the whole or any portion of any scientific or technical information, design, process, procedure, formula or invention which the owner thereof intends to be available only to persons selected by him.
- B. "Obtain" means, in relation to property, to bring about a transfer of possession or of some other legally recognized interest in property, whether to the obtainer or another; in relation to labor or services, to secure performance thereof; and in relation to a trade secret, to make any facsimile, replica, photograph, or other reproduction.
- C. "Purpose to deprive" means to have the conscious object:
 - 1. To withhold property permanently or for so extended a period or to use under such circumstances that a substantial portion of its economic value, or of the use and benefit thereof, would be lost; or
 - 2. To restore the property only upon payment of a reward or other compensation; or
 - 3. To dispose of the property under circumstances that make it unlikely the owner will recover it.

- D. “Obtain or exercise unauthorized control” means, but is not necessarily limited to, conduct heretofore defined or known as common law larceny by trespassory taking, larceny by conversion, larceny by bailee, and embezzlement.
- E. “Deception” occurs when a person intentionally:
 - 1. Creates or confirms by words or conduct an impression of law or fact that is false and that the actor does not believe to be true and that it is likely to affect the judgment of another in the transaction; or
 - 2. Fails to correct a false impression of law or fact that the actor previously created or confirmed by words or conduct that is likely to affect the judgment of another and that the actor does not now believe to be true; or
 - 3. Prevents another from acquiring information likely to affect his judgment in the transaction; or
 - 4. Sells or otherwise transfers or encumbers property without disclosing a lien, security interest, adverse claim, or other legal impediment to the enjoyment of the property, whether the lien, security interest, claim, or impediment is or is not valid or is or is not a matter of official record; or
 - 5. Promises performance that is likely to affect the judgment of another in the transaction, which performance the actor does not intend to perform or knows will not be provided, however, that failure to perform the promise in issue without other evidence of intent or knowledge is not sufficient proof that the actor did not intend to perform or knew the promise would not be performed.

13-640-2. PRESUMPTIONS AND DEFENSES. The following presumption shall be applicable to this part:

- A. Possession of property recently stolen, when no satisfactory explanation of such possession is made, shall be deemed prima facie evidence that the person in possession stole the property.
- B. It is no defense under this part that the actor has an interest in the property or service stolen, if another person also has an interest that the actor is not entitled to infringe, provided an interest in property for purposes of this subsection shall not include a security interest for the repayment of a debt or obligation.
- C. It is a defense under this part that the actor:
 - 1. Acted under an honest claim of right to the property or service involved; or
 - 2. Acted in the honest belief that he had the right to obtain or exercise control over the property or service as he did; or
 - 3. Obtained or exercised control over the property or service honestly believing that the owner, if present, would have consented.

13-640-3. THEFT – EVIDENCE TO SUPPORT ACCUSATION. Conduct denominated theft in this part constitutes a single offense embracing the separate offenses as those heretofore known as larceny, larceny by trick, larceny by bailees, embezzlement, false pretense, extortion, blackmail, and receiving stolen property. An accusation of theft may be supported by evidence that it was committed in any manner specified in sections 13-640-3 through 13-640-11 subject to the power of the court to ensure a fair trial by granting a continuance or other appropriate relief where the conduct of the defense would be prejudiced by lack of fair notice or by surprise.

13-640-4. THEFT – ELEMENTS. A person commits theft if he obtains or exercises unauthorized control over the property of another with a purpose to deprive him thereof.

13-640-5. THEFT BY DECEPTION.

- A. A person commits theft if he obtains or exercises control over property of another by deception and with a purpose to deprive him thereof.
- B. Theft by deception does not occur, however, when there is only falsity as to matters having no pecuniary significance, or puffing by statements unlikely to deceive ordinary persons in the group addressed. "Puffing" means as exaggerated commendation of wares or worth in communications addressed to the public or to a class or group.

13-640.6. THEFT BY EXTORTION.

- A. A person is guilty of theft if he obtains or exercises control over the property of another by extortion and with a purpose to deprive him thereof.
- B. As used in this section, extortion occurs when a person threatens to:
 - 1. Cause physical harm in the future to the person threatened or to any other person or to property at any time; or
 - 2. Subject the person threatened or any other person to physical confinement or restraint; or
 - 3. Engage in other conduct constituting a crime; or
 - 4. Accuse any person of a crime or expose him to hatred, contempt or ridicule; or
 - 5. Reveal any information sought to be concealed by the person threatened; or
 - 6. Testify or provide information or withhold testimony or information with respect to another's legal claim or defense; or
 - 7. Take action as an official against anyone or anything, or withhold official action, or cause such action or withholding; or
 - 8. Bring about or continue a strike, boycott or other similar collective action to obtain property which is not demanded or received for the benefit of the group which the actor purports to represent; or
 - 9. Do any other act which would not in itself substantially benefit him but which would harm substantially any other person with respect to that person's health, safety, business, calling, career, financial condition, reputation, or personal relationships.

13-640-7. THEFT OF LOST, MISLAID OR MISTAKENLY DELIVERED PROPERTY.

A person commits theft when:

- A. He obtains property of another which he knows to have been lost or mislaid, or to have been delivered under a mistake as to the identity of the recipient or as to the nature or amount of the property, without taking reasonable measures to return it to the owner; and
- B. He has the purpose to deprive the owner of the property when he obtains the property or at any time prior to taking the measures designated in paragraph A.

13-640-8. RECEIVING STOLEN PROPERTY – DUTIES OF PAWNBROKERS.

- A. A person commits theft if he receives, retains, or disposes of the property of another knowing that it has been stolen, or believing that it probably has been stolen, or who conceals, sells, withholds or aids in concealing, selling, or withholding any such property from the owner, knowing the property to be stolen, with a purpose to deprive the owner thereof.
- B. The knowledge or belief required for paragraph A is presumed in the case of any actor who:
 - 1. Is found in possession or control of other property stolen on a separate occasion; or
 - 2. Has received other stolen property within the year preceding the receiving offense charged; or

3. Being a dealer in property of the sort received, retained or disposed, acquires it for a consideration that he knows is far below its reasonable value.
 4. Every pawn broker or person who has or operates a business dealing in or collecting used or secondhand merchandise or personal property, and every agent, employee or representative of the pawnbroker or person who buys, receives or obtains property shall require the seller or person delivering the property to certify, in writing, that he has the legal rights to sell the property, if the value given for the property exceeds \$20.00, the pawnbroker or person shall also require the seller or person delivering the property to obtain a legible print, preferably the right thumb, at the bottom of the certificate next to his signature or any other positive form of identification:
 - (a) Every pawnbroker or person who has or operates a business dealing in or collecting used or secondhand merchandise or personal property, and very agent, employee or representative of the pawnbroker or person who fails to comply with the requirements of paragraph number four shall be presumed to have bought, received or obtained the property knowing it to have been stolen or unlawfully obtained. This presumption may be rebutted by proof.
 - (b) When in a prosecution under this section, it appears from the evidence that the defendant was a pawnbroker or a person who has or operates a business dealing in or collecting used or secondhand merchandise or personal property, or was an agent, employee or representative of a pawnbroker or person, that the defendant bought, received, concealed or withheld the property without requiring the person from whom he bought, received, or obtained the property to sign the certificate required in paragraph 4 and in the event the transaction involves an amount exceeding \$20.00 also place his legible print, preferably the right thumb, on the certificate, then the burden shall be upon the defendant to show that the property bought, received or obtained was not stolen.
- C. As used in this section:
1. "Receives" means acquiring possession, control, or title or lending on the security of the property;
 2. "Dealer" means a person in the business of buying or selling goods.

13-640-9. THEFT OF SERVICES.

- A. A person commits theft if he obtains services which he knows are available only for compensation by deception, threat, force, or any other means designed to avoid the due payment therefore.
- B. A person commits theft if, having control over the disposition of services of another, to which he knows he is not entitled, he diverts such services to his own benefit or to the benefit of another who he knows is not entitled thereto.
- C. As used in this section "services" includes, but it not necessarily limited to, labor, professional service, public utility, and transportation services, restaurant, hotel, motel, tourist cabin, rooming house and like accommodations, the supplying of equipment, tools, vehicles, or trailers for temporary use, telephone or telegraph service, gas, electricity, water or steam, and the like, admission to entertainment, exhibitions, sporting events, or other events for which a charge is made.

13-640-10. THEFT BY PERSON HAVING CUSTODY OF PROPERTY PURSUANT TO REPAIR OR RENTAL AGREEMENT. A person is guilty of theft if:

- A. Having custody of property pursuant to an agreement between himself or another and the owner thereof whereby the actor or another is to perform for compensation a specific service for the owner involving the maintenance, repair, or use of such property, he intentionally uses or operates it, without the consent of the owner, for his own purposes in a manner constituting a gross deviation from the agreed purpose; or
- B. Having custody of any property pursuant to a rental or lease agreement where it is to be returned in a specified manner or at a specified time, intentionally fails to comply with the terms of the agreement, concerning return so as to render such failure a gross deviation from the agreement.

13-640-11. Reserved

13-640-12. THEFT – CLASSIFICATION OF OFFENSES. Theft of property and services as provided in this chapter shall be punishable as a class B misdemeanor.

PART 13-650. FRAUD.

13-650-1. FORGERY – “WRITING” DEFINED.

- A. A person is guilty of forgery, if, with purpose to defraud anyone, or with knowledge that he is facilitating a fraud to be perpetrated by anyone, he:
 - 1. Alters any writing of another without his authority or utters any such altered writing; or
 - 2. Makes, completes, executes, authenticates, issues, transfers, publishes, or utters any writing so that the writing, completion, execution, authentication, issuance, transference, publication, or utterance purports to be the act of another, whether the person is existent or nonexistent, or purports to have been executed at a time or place or in a numbered sequence other than was in fact the case, or to be a copy of an original when no such original existed.
- B. As used in this section “writing” includes printing or any other method of recording information, checks, tokens, stamps, seals, credit cards, badges, trademarks, money, and any other symbols of value, right, privilege, or identification.
- C. Forgery is a class B misdemeanor.

13-650-2. POSSESSION OF FORGED WRITING OR DEVICE FOR WRITING. Any person who, with intent to defraud, knowingly possesses any writing that is a forgery as defined in section 13-650-1, or who with intent to defraud knowingly possesses any device for making any such writing, is guilty of a class B misdemeanor.

13-650-3. FRAUDULENT HANDLING OF RECORDABLE WRITINGS. Any person who with intent to deceive or injure anyone falsifies, destroys, removes or conceals any will, deed, mortgage, security instrument, or other writing for which the law provides public recording is guilty of fraudulent handling or recordable writings is a class B misdemeanor.

13-650-4. TAMPERING WITH RECORDS.

- A. Any person who, having no privilege to do so, knowingly falsifies, destroys, removes, or conceals any writing, other than the writings enumerated in section 13-650-3, or record, public or private, with intent to deceive or injure any person or to conceal any wrong doing is guilty of tampering with records.
- B. Tampering with records is a class B misdemeanor.

13-650-5. ISSUING A BAD CHECK – PRESUMPTION.

- A. Any person who issues or passes a check for the payment of money, for the purpose of obtaining from any person, firm, partnership, or corporation, any money, property, or other thing of value or paying for any services, wages, salary, labor or rent, knowing it will not be paid by the drawee and payment is refused by the drawee, is guilty of issuing a bad check.
- B. For purpose of this section, a person who issues a check for which payment is refused by the drawee is presumed to know the check would not be paid if he had no account with the drawee at the time of issue.
- C. An offense of issuing a bad check shall be punished as a class B misdemeanor.

13-650-6. FRAUDULENT USE OF A CREDIT CARD – “CREDIT CARD” DEFINED.
Section 76-6-506 through 76-6-506.7, are hereby incorporated herein by reference.

13-650-7. DECEPTIVE BUSINESS PRACTICES – DEFINITIONS – DEFENSE.

- A. A person is guilty of a class B misdemeanor if, in the course of business, he:
 - 1. Uses or possesses for use a false weight or measure, or any other device for falsely determining or recording any quality or quantity; or
 - 2. Sells or offers or exposes for sale or delivers less than the represented quantity or quality of any commodity or service; or
 - 3. Takes or attempts to take more than the represented quantity of any commodity or service when as buyer he furnishes the weight or measure; or
 - 4. Sells, offers or exposes for sale adulterated or mislabeled commodities.
 - (a) “Adulterated” means varying from the standard of composition or quality prescribed, or pursuant to any statute or ordinance providing criminal penalties for such variance, or set by established commercial usage.
 - (b) “Mislabeled” means varying from the standard of truth or disclosure in labeling prescribed by or pursuant to any statute or ordinance providing criminal penalties for such variance, or set by established commercial usage.
 - 5. Makes a false or misleading statement in any advertisement addressed to the public or to a substantial segment thereof for the purpose of promoting the purchase or sale of property or services.
 - 6. Offers, by advertising or other means of communication, to the public or a substantial number of persons, property, or services as part of the scheme or plan, with intent not to sell or provide the advertised property or services:
 - (a) at the price which he offered them; or
 - (b) in a quantity sufficient to meet the reasonably expected public demand, unless the quantity is specifically stated in the advertisement; or
 - (c) at all.
- B. It is affirmative defense to prosecution under this section that the defendant’s conduct was not knowing or reckless.

13-650-8. BRIBERY OF OR RECEIVING BRIBE BY PERSON IN THE BUSINESS OF SELECTION, APPRAISAL, OR CRITICISM OF GOODS OR SERVICES.

- A. A person is guilty of a class B misdemeanor when, without the consent of the employer or principal, contrary to the interests of the employer or principal:
 - 1. He confers, offers, or agrees to confer upon the employee, agent, or fiduciary of an employer or principal any benefit with the purpose of influencing the conduct

- of the employee, agent, or fiduciary in relating to his employer's or principal's affairs; or
2. He, as an employee, agent, or fiduciary of any employer or principal, solicits, accepts, or agrees to accept any benefit from another upon an agreement or understanding that such benefit will influence his conduct in relation to his employer's or principal's affairs; provided that this section does not apply to inducements made or accepted solely for the purpose of causing a change in employment by an employee, agent or fiduciary.
- B. A person is guilty of violation of this section if he holds himself out to the public as being engaged in the business of making disinterested selection, appraisal, or criticism of goods or services and he solicits, accepts, or agrees to accept any benefit to influence his selection, appraisal, or criticism.

13-650-9 and 13-650-10. Reserved.

13-650-11. DEFRAUDING CREDITORS. A person is guilty of a class B misdemeanor if:

- A. He destroys, removes, conceals, encumbers, transfers, or otherwise deals with property subject to a security interest with a purpose to hinder enforcement of that interest; or
- B. Knowing that proceedings have been or are about to be instituted for the appointment of a person entitled to administer property for the benefit of creditors, he:
 1. Destroys, removes, conceals, encumbers, transfers, or otherwise deals with any property with a purpose to defeat or obstruct the claim of any creditor, or otherwise to obstruct the operation of any law relating to administration of property for the benefit of creditors; or
 2. Presents to any creditor or to any assignee for the benefit of creditors, orally or in writing, any statement relating to the debtor's estate, knowing that a material part of such statement is false.

13-650-12 through 13-650-14. Reserved.

13-650-15. USING OR MAKING SLUGS.

- A. A person is guilty of a class B misdemeanor if:
 1. With a purpose to defraud the supplier of property or a service offered or sold by means of a coin machine, he inserts, deposits, or uses a slug in that machine; or
 2. He makes, possesses, or disposes of a slug with the purpose of enabling a person to use it fraudulently in a coin machine.
- B. As used in this section:
 1. "Coin machine" means any mechanical or electronic device or receptacle designed to receive a coin or bill of a certain denomination, or a token made for the purpose, and, in return for the insertion or deposit thereof, automatically to offer, provide, assist in providing or permit the acquisition of property or a public or private service.
 2. "Slug" means any object which, by virtue of its size, shape, or other quality, is capable of being inserted, deposited, or otherwise used in a coin machine as an improper substitute for a genuine coin, bill, or token.

13-650-16 through 13-650-17. Reserved.

13-650-18. CRIMINAL SIMULATION.

- A. A person is guilty of criminal simulation if, with intent to defraud another:

1. He makes or alters an object in whole or in part so that it appears to have value because of age, antiquity, rarity, source, or authorship that it does not have; or
 2. He sells, passes, or otherwise utters an object so made or altered; or
 3. He possesses an object so made or altered with intent to sell, pass, or otherwise utter it; or
 4. He authenticates or certifies an object so made or altered as genuine or as different from what it is.
- B. Criminal simulation is punishable as a class B misdemeanor.

13-650-19 and 13-650-20. Reserved

13-650-21. FALSE OR FRAUDULENT INSURANCE CLAIM - PUNISHMENT AS FOR THEFT. Every person who present, or causes to be presented, any false or fraudulent claim, or any proof in support of any such claim, upon any contract of insurance for the payment of any loss, or who prepares, makes or subscribes any account, certificate of survey, affidavit or proof of loss, or other book, paper or writing, with intent to present or use the same, or to allow it to be presented or used, in support of any such claim is punishable as in the manner prescribed for theft of property of like value.

CHAPTER 13-700. OFFENSES AGAINST THE FAMILY.

PART 13-710. MARITAL VIOLATIONS.

13-711 through 13-713. Reserved.

13-714. FORNICATION.

- A. Any unmarried person who shall voluntarily engage in sexual intercourse with another is guilty of fornication.
- B. Fornication is a class B misdemeanor.

CHAPTER 13-800. OFFENSES AGAINST GOVERNMENT.

PART 13-810. CORRUPT PRACTICES.

13-811. DEFINITIONS. For purposes of this chapter:

- A. “Public servant” means any officer or employee of the municipality, including judges, consultants, jurors, and persons otherwise performing a government function. A person is considered a public servant upon his election, appointment, or other designation as such, although he may not yet officially occupy that position.
- B. “Party official” means any person holding any post in a political party whether by election, appointment, or otherwise.
- C. “Pecuniary benefit” means any advantage in the form of money, property, commercial interest, or anything else, the primary significance of which is economic gain; it does not include economic advantage applicable to the public generally, such as tax reduction or increase prosperity generally.
- D. A person is a candidate for electoral office upon his filing or being nominated as a candidate for any municipal office.

13-812. CAMPAIGN CONTRIBUTIONS NOT PROHIBITED. Nothing in this chapter shall be construed to prohibit the giving or receiving of campaign contributions made for the purpose of defraying the costs of a political campaign. No person shall be convicted of any offense solely on the evidence that a campaign contribution was made and that an appointment or nomination was subsequently made by the person to whose campaign or political party the contribution was made.

13-813. BRIBERY TO INFLUENCE OFFICIAL OR POLITICAL ACTIONS. A person is guilty of a class B misdemeanor if:

- A. He promises, offers, or gives any pecuniary benefit to another with the purpose of influencing the other’s action, decision, opinion, recommendation, vote, nomination, or other exercise of discretion as a public servant, party official, or voter; or
- B. Being a public servant, party official, candidate for electoral office, or voter, he solicits, accepts, or agrees to accept any pecuniary benefit from another, knowing the other person’s purpose is as described above in paragraph A of this section.

13-814. THREATS TO INFLUENCE OFFICIAL OR POLITICAL ACTION.

- A. A person is guilty of a class B misdemeanor if he threatens any harm to a public servant, party official, or voter with a purpose of influencing his action, decision, opinion, recommendation, nomination, vote, or other exercise of discretion.
- B. “Harm”, as used in this section, means any disadvantage or injury, pecuniary or otherwise, including disadvantage or injury to any other person or entity in whose welfare the public servant, party official, or voter is interested.

13-815. RECEIVING BRIBE OR BRIBERY BY PUBLIC SERVANT.

- A. Being a public servant, he solicits, accepts, or agrees to accept any pecuniary benefit in return for having given a decision, opinion, recommendation, nomination, vote, otherwise exercised in his discretion, or for having violated his duty; or
- B. He promises, offers, or gives any pecuniary benefit, acceptance of which would be a violation of paragraph A.

13-816. RECEIVING BRIBE OR BRIBERY FOR ENDORSEMENT OF PERSON AS PUBLIC SERVANT. A person is guilty of a class B misdemeanor if:

- A. He solicits, accepts, agrees to accept for himself, another person, or a political party, money or any other pecuniary benefit as compensation for his endorsement, nomination, appointment, approval, or disapproval of any person for a position as a public servant or for the advancement of any public servant; or
- B. He knowingly gives, offers or promises any pecuniary benefit prohibited by paragraph A.

13-817. ALTERATION OF PROPOSED ORDINANCE OR RESOLUTION. Every person who fraudulently alters the draft of any ordinance or resolution which has been presented to the governing body of any municipality to be passed or adopted, with intent to procure it being passed or adopted by the governing body or signed by the mayor in language different from that intended by the governing body, is guilty of a class B misdemeanor.

13-818. ALTERATION OF ENGROSSED COPY OF ORDINANCE OR RESOLUTION. Every person who fraudulently alters any ordinance or resolution that has been passed or adopted by the governing body with intent to have it printed or published as part of the ordinances or resolutions of this municipality in language different from that in which it was passed or adopted by the legislature, is guilty of a class B misdemeanor.

13-819. FAILURE OF MEMBER OF GOVERNING BODY TO DISCLOSE INTEREST IN ORDINANCE OR RESOLUTION. Every member of the governing body who has a personal or private interest in any measure, ordinance or resolution proposed or pending before the governing body and does not disclose the fact to the governing body and votes thereon is guilty of a class B misdemeanor.

PART 13-820. ABUSE OF OFFICE.

13-321. OFFICIAL MISCONDUCT - UNAUTHORIZED ACTS OR FAILURE OF DUTY. A public servant is guilty of a class B misdemeanor if, with an intent to benefit himself or another or to harm another, he knowingly commits an unauthorized act which purports to be an act of his office, or knowingly refrains from performing a duty imposed on him by law or clearly inherent in the nature of his office.

13-822. OFFICIAL MISCONDUCT - UNLAWFUL ACTS BASED ON 'INSIDE' INFORMATION. A public servant is guilty of a class B misdemeanor if, knowing that official action is contemplated or in reliance on information which he has acquired by virtue of his office or from another public servant which information has not been made public, he:

- A. Acquires or divests himself of a pecuniary interest in any property, transaction, or enterprise which may be affected by such action or information; or
- B. Speculates or waters on the basis of such action or information; or
- C. Knowingly aids another to do any of the foregoing.

13-823. UNOFFICIAL MISCONDUCT.

- A. A person is guilty of unofficial misconduct if he exercises or attempts to exercise any of the functions of a public office when:
 - 1. He has not taken and filed the required oath of office; or
 - 2. He has failed to execute and file the required bond; or
 - 3. He has not been elected or appointed to office; or

4. He exercises any of the functions of his office after his term has expired and the successor has been elected or appointed and has qualified, or after his office has been legally removed.
 5. He knowingly withholds or retains from his successor in office or other person entitled to the official seal or any records, papers, documents or other writings appertaining or belonging to his office or mutilates or destroys or takes away the same.
- B. Unofficial misconduct is a class B misdemeanor.

PART 13-830. OBSTRUCTING GOVERNMENTAL OPERATIONS.

13-830-1. INTERFERENCE WITH PUBLIC SERVANT. A person is guilty of a class B misdemeanor if he uses force, violence, intimidation, or engages in any other unlawful act with a purpose to interfere with a public servant performing or purporting to perform an official function.

13-830-2. PICKETING OR PARADING IN OR NEAR COURT. A person is guilty of a class B misdemeanor if he pickets or parades in or near a building which houses a court of this municipality with intent to obstruct access to that court or to affect the outcome of a case pending before that court.

13-830-3. PREVENTION OF GOVERNING BODY OR PUBLIC SERVANT FROM MEETING OR ORGANIZING. A person is guilty of a class B misdemeanor if he intentionally and by force or fraud:

- A. Prevents the governing body of this municipality or any of the members thereof, from meeting or organizing; or
- B. Prevents any other public servant from meeting or organizing to perform a lawful governmental function.

13-830-4. DISTURBING GOVERNING BODY OR OFFICIAL MEETING.

- A. A person is guilty of a class B misdemeanor if:
 1. He intentionally disturbs the governing body while in session; or
 2. He intentionally commits any disorderly conduct in the immediate view and presence of the governing body of this municipality which tends to interrupt its proceeding or impair the respect of its authority; or
 3. Intentionally disturbs an official meeting or commits any disorderly conduct in immediate view and presence of participants in an official meeting which tends to interrupt its proceedings.
- B. "Official meeting," as used in this section, means any lawful meeting of municipal officials for the purpose of carrying on governmental functions.

13-830-5. INTERFERENCE IN ARREST BY LAW ENFORCEMENT OFFICIAL.
Reserved.

13-830-6. OBSTRUCTING JUSTICE.

- A. A person is guilty of an offense if, with intent to hinder, prevent, or delay the discovery, apprehension, prosecution, conviction or punishment of another for the commission of a crime, he:
 1. Knowing an offense has been committed, conceals it from a magistrate; or
 2. Harbors or conceals the offender; or

3. Provides the offender a weapon, transportation, disguise, or other means for avoiding discovery or apprehension; or
 4. Warns such offender of impending discovery or apprehension; or
 5. Conceals, destroys, or alters any physical evidence that might aid in the discovery, apprehension, or conviction of such person; or
 6. Obstructs by force, intimidation, or deception anyone from performing an act that might aid in the discovery, apprehension, prosecution or conviction of such person.
- B. An offense under this section is a class B misdemeanor.

13-830-7. FAILURE TO AID PEACE OFFICER. A person is guilty of a class B misdemeanor if, upon command by a peace officer identifiable or identified by him as such, he unreasonably fails or refuses to aid the peace officer in effecting an arrest or in preventing the commission of any offense by another person.

13-830-8. ACCEPTANCE OF BRIBE OR BRIBERY TO PREVENT CRIMINAL PROSECUTION - DEFENSE.

- A. A person is guilty of a class B misdemeanor if he:
1. Solicits, accepts, or agrees to accept any benefit as consideration for his refraining from initiating or aiding in a criminal prosecution; or
 2. Confers, offers, or agrees to confer any benefit upon another as consideration for the person refraining from initiating or aiding in a criminal prosecution;
- B. It is an affirmative defense that the value of the benefit did not exceed an amount which the actor believed to be due as restitution or indemnification for the loss caused or to be caused by the offense.

13-830-9. ESCAPE - TERM FOR ESCAPE FROM MUNICIPAL JAIL.

- A. A person is guilty of a class B misdemeanor if he escapes from official custody.
- B. "Official custody," for the purpose of this section, means arrest, custody in the municipal jail, or any other institution for confinement to which an offender has been confined pursuant to an order of the municipal court. For purposes of this section a person is deemed to be confined in the municipal jail if he has been sentenced and committed and the sentence has not been terminated or voided or the prisoner is not on parole.
- C. The term imposed upon a person escaping confinement in the municipal jail shall commence from the time the actor would otherwise would have been discharged from the jail on the term or terms which he was serving.

13-830-10 and 13-830-11. Reserved.

13-830-12. BAIL - JUMPING.

- A. A person is guilty of an offense when having been released on bail or on his own recognizance by court order or by other lawful authority upon condition that he subsequently appear personally upon a charge of an offense, he fails without just cause to appear at the time and place which have been lawfully designated for his appearance.
- B. Bail-jumping is an infraction.

PART 13-840. OFFENSE AGAINST PUBLIC PROPERTY.

13-840-1. "PUBLIC MONEY" DEFINED. As used in this part, "public moneys" includes all bonds and evidences of indebtedness and all money belonging to the municipality and all money,

bond, and evidences of indebtedness received or held by municipal officials in their official capacity.

13-841-2. MISUSING PUBLIC MONEYS.

- A. Every officer of this municipality and every other person charged with the receipt, safekeeping, transfer or disbursement of moneys of this municipality commits an offense if he:
1. Without authority of law appropriates the money or any portion thereof to his own use, or to the use of another; or
 2. Loans the money or any portion thereof without authority of law; or
 3. Fails to keep the money in his possession until disbursed or paid out by authority of law; or
 4. Unlawfully deposits the money or any portion in any bank or with any other person; or
 5. Knowingly keeps any false account, or makes any false entry or erasure in any account of or relating to the money; or
 6. Fraudulently alters, falsifies, conceals, destroys, or obliterates any such account; or
 7. Willfully refuses or omits to pay over, on demand, any public moneys in his hands, upon the presentation of a draft, order, or warrant drawn upon such money by competent authority; or
 8. Willfully omits to transfer the money when the transfer is required by law; or
 9. Willfully omits or refuses to pay over, to any officer or person authorized by law to receive it, any money received by him under any duty imposed by law so to pay over the same.
- B. A violation of this section is a class B misdemeanor.

13-840-3. FAILURE TO KEEP AND PAY OVER PUBLIC MONEYS. Every officer charged with the receipt, safekeeping, or disbursement of public moneys that neglects or fails to keep and pay over the money, in the manner prescribed by law, is guilty of a class B misdemeanor.

13-840-4. MAKING PROFIT OUT OF OR MISUSING PUBLIC MONEYS. Any public officer who shall make a profit out of public moneys, or shall use the same for a purpose not authorized by law, is guilty of a class B misdemeanor.

13-840-5. FAILURE TO PAY OVER FINE, FORFEITURE, OR FEE. Every public officer who receives any fine, forfeiture, or fee and refuses or neglects to pay it over within the time prescribed by law is guilty of a class B misdemeanor.

13-840-6. OBSTRUCTING COLLECTION OF REVENUE. Every person who willfully obstructs or hinders any public officer from collecting any revenue, taxes, or other sums of money in which the people of this municipality have an interest and which such officer is by law empowered to collect, is guilty of a class B misdemeanor.

13-840-7. REFUSING TO GIVE TAX ASSESSMENT INFORMATION OR GIVING FALSE INFORMATION. Every person who unlawfully refuses, upon demand, to give to any county assessor or deputy county assessor or the municipal assessor a list of his property subject to taxation, or to swear to such list, or who gives a false name, or fraudulently refuses to give his true name when demanded by the assessor in the discharge of his official duties, is guilty of a class B misdemeanor.

13-840-8. GIVING FALSE TAX RECEIPT OR FAILING TO GIVE RECEIPT. Every person who uses or gives any receipt, except that prescribed by the ordinances, resolutions or rules of this municipality, as evidence of the payment for the tax or license of any kind, or who receives payment for the tax or license without delivering the receipt prescribed, is guilty of a class B misdemeanor.

13-840-9. REFUSING TO GIVE TAX ASSESSOR OR TAX OR LICENSE COLLECTOR LIST OF OR DENYING ACCESS TO EMPLOYEES. Every person who, when requested by the assessor or collector of taxes or license fees, refuses to give to any assessor or collector the name and residence of each man in his employ, or to give the assessor or collector access to the building or place where such men are employed, is guilty of a class B misdemeanor.

13-840-10. DOING BUSINESS WITHOUT LICENSE. Every person who commences or carries on any business, trade, profession, or calling, for the transaction or carrying on of which a license is required by any ordinance of this municipality, without taking out the license required is guilty of a class B misdemeanor.

13-840-11. TRAFFICKING IN WARRANTS. No officer of this municipality shall, either directly or indirectly, contract for or purchase any warrant or order issued by this municipality at any discount whatever upon the sum due on the warrant or order, and, if any officer of this municipality shall so contract for or purchase any such order or warrant on a discount, he is guilty of a class B misdemeanor.

13-840-12. STEALING, DESTROYING OR MUTILATING PUBLIC RECORDS BY CUSTODIAN. Every officer having the custody of any record, map, or book or any paper or proceedings of any court, filed or deposited in any public office, or placed in his hands for any purpose, who is guilty of stealing, willfully destroying, mutilating, defacing, altering, falsifying, removing, or secreting the whole or any part thereof, or who permits any other person so to do, is guilty of a class B misdemeanor.

13-840-13. STEALING, DESTROYING OR MUTILATING PUBLIC RECORDS BY ONE NOT CUSTODIAN. Every person, not an officer such as is referred to in the proceeding section, who has committed any of the acts specified in that section is guilty of a class B misdemeanor.

13-840-14. RECORDING FALSE OR FORGED INSTRUMENTS. Every person who knowingly procures or offers any false or forged instrument to be filed, registered, or recorded in any office of this municipality, which instrument, if genuine, might be filed or registered or recorded under any law or ordinance of this state or municipality or of the United States, is guilty of a class B misdemeanor.

13-840-15. INJURING OR REMOVING MONUMENTS OF OFFICIAL SURVEYS. Every person who willfully injures, defaces, or removes any signal, monument, building, or appurtenance thereto, placed, erected or used by persons engaged in the United States or state survey or survey of this municipality is guilty of a class B misdemeanor.

13-840-16. TAKING TOLL OR MAINTAINING ROAD, BRIDGE, OR FERRY WITHOUT AUTHORITY - REFUSAL TO PAY LAWFUL TOLL. Any person who demands or receives compensation for the use of any bridge or ferry, or who sets up or keeps any road, bridge, or ferry, or constructed ford, for the purpose of receiving remuneration for its use

without authority of law; and any person who refuses to pay on demand the compensation of fee authorized to be collected for use of a licensed toll road, bridge, ferry, or constructed ford after having used it is guilty of a class B misdemeanor.

13-840-17. TAMPERING WITH OFFICIAL NOTICE OR PROCLAMATION. Every person who intentionally defaces, obliterates, tears down or destroys any copy or transcript or extract from or of any law of the United States or state of Utah, or this municipality, or any proclamation, advertisement, notice, resolution or ordinance, set up any place in this municipality by authority of any law of the United States or of the state of Utah or of this municipality, or by order of any court or of any public officer, before the expiration of the time for which the same was to remain, is guilty of an infraction.

13-840-18. INJURING JAILS. Every person who willfully and intentionally breaks down, pulls down, or otherwise destroys or injures any public jail or other place of confinement, is guilty of a class B misdemeanor.

13-340-19. INJURING HIGHWAYS OR BRIDGES. Every person who maliciously digs up, removes, displaces, breaks, or otherwise injures or destroys any public highway, or any private way laid out by authority of law, or any bridge upon such highway or private way, is guilty of a class B misdemeanor.

13-840-20. REMOVING OR INJURING ROAD SIGNS. Every person who maliciously removes or injures any milepost, milestone or guidepost or any inscription on them, erected upon any highway, street, road or alley is guilty of a class B misdemeanor.

PART 13-850. FALSIFICATION IN OFFICIAL MATTERS.

13-850-1. DEFINITIONS.

- A. "Official proceeding" means any proceeding before the governing body, court or administrative body of this municipality authorized by any state or ordinance of the governing body to take evidence under oath or affirmation, including a notary or other person taking evidence in connection with any of these proceedings.
- B. "Material" means capable of affecting the course or outcome of the proceeding. A statement is not material if it is retracted in the course of the official proceeding in which it was made before it became manifest that the falsification was or would be exposed and before it substantially affects the proceeding. Whether a statement is material is a question of law to be determined by the court.

13-850-2. FALSE OR INCONSISTENT MATERIAL STATEMENTS. A person is guilty of a class B misdemeanor if in any official proceeding of any proceeding conducted by this municipality or pursuant to its ordinances:

- A. He makes a false material statement under oath or affirmation or swears or affirms the truth of a material statement previously made and he does not believe the statement to be true; or
- B. He makes inconsistent material statements under oath or affirmation, both within the period of limitations, one of which is false and not believed by him to be true. In a prosecution under this section, it need not be alleged or proved which of the statements is false but only that one or the other was false and not believed by the defendant to be true.

13-850-3. FALSE OR INCONSISTENT STATEMENTS. In any proceeding conducted by this municipality or pursuant to its ordinances a person is guilty of a class B misdemeanor if:

- A. He makes a false statement under oath or affirmation or swears or affirms the truth of the statement previously made and he does not believe the statement to be true if:
 - 1. The falsification occurs in an official proceeding, or is made with a purpose to mislead a public servant in performing his official functions; or
 - 2. The statement is one which is required by law to be sworn or affirmed before a notary or other person authorized to administer oaths; or
- B. He makes inconsistent statements under oath or affirmation, both within the period of limitations, one of which is false and not believed by him to be true. In a prosecution under this section, it need not be alleged or proved which of the statements is false but only that one or other was false and not believed by the defendant to be true.
- C. No person shall be guilty under this section if he retracts the falsification before it becomes manifest that the falsification was or would be exposed.

13-850-4. WRITTEN FALSE STATEMENTS. A person is guilty of a class B misdemeanor if:

- A. He makes a written false statement which he does not believe to be true on or pursuant to a form bearing a notification authorized by law to the effect that false statements made therein are punishable; or
- B. With intent to deceive a public servant in the performance of his official function, he:
 - 1. Makes any written false statement which he does not believe to be true; or
 - 2. Knowingly creates a false impression in written application for any pecuniary or other benefit by omitting information necessary to prevent statements therein from being misleading, or
 - 3. Submits or invites reliance on any writing which he knows to be lacking in authenticity; or
 - 4. Submits or invites reliance on any sample, specimen, map, boundary mark, or other object which he knows to be false.
- C. No person shall be guilty under this section if he retracts the falsification before it becomes manifest that the falsification was or would be exposed.

13-850-5. PERJURY OR FALSE SWEARING - PROOF OF FALSITY OF STATEMENTS - DENIAL OR CRIMINAL GUILTY.

- A. On any prosecution for perjury or false swearing, except a prosecution upon inconsistent statements pursuant to 13-850-2(b) falsity of a statement may not be established solely through contradiction by the testimony of a single witness.
- B. No prosecution shall be brought under this part when the substance of the defendant's false statement is his denial of guilty in a previous criminal trial.

13-850-6. FALSE REPORTS OF OFFENSES TO LAW ENFORCEMENT OFFICER. A person is guilty of a class B misdemeanor if he:

- A. Knowingly gives or causes to be given false information to any law enforcement officer with a purpose of inducing the officer to believe that another has committed an offense; or
- B. Knowingly gives or causes to be given information to any law enforcement officer concerning the commission of an offense, knowing that the offense did not occur or knowing that he has no information relating to the offense or danger.

13-850-7. FALSE NAME OR ADDRESS TO LAW ENFORCEMENT OFFICER. A person commits a class C misdemeanor if, with intent of misleading a law enforcement officer as to his identity, he knowingly gives a false name or address to a law enforcement officer in the lawful discharge of his official duties.

13-850-8. TAMPERING WITH WITNESS - RETALIATION AGAINST WITNESS OR INFORMANT - BRIBERY. A person is guilty of a class B misdemeanor if:

- A. Believing that an official proceeding or investigation is pending or about to be instituted, he attempts to induce or otherwise cause a person to:
 - 1. Testify or inform falsely; or
 - 2. Withhold any testimony, information, document or thing; or
 - 3. Elude legal process summoning him to provide evidence; or
 - 4. Absent himself from any proceeding or investigation to which he has been summoned; or
- B. He commits any unlawful act in retaliation for anything done by another in his capacity as a witness or informant; or
- C. He solicits, accepts, or agrees to accept any benefit in consideration of his doing any of the things specified in paragraph A..

13-850-9. EXTORTION OR BRIBERY TO DISMISS CRIMINAL PROCEEDING.

- A. A person is guilty of a class B misdemeanor if by the use of force or by any threat which would constitute a means of committing the crime of theft by extortion under this title, if the threat were employed to obtain property, or by promise of any reward or pecuniary benefits, he attempts to induce an alleged victim of a crime to secure the dismissal of or to prevent the filing of a criminal complaint or summons.
- B. "Victim," as used in this section, includes a child or other person under the care or custody of a parent or guardian.

13-850-10. TAMPERING WITH EVIDENCE. A person commits a class B misdemeanor if, believing that an official proceeding or investigation is pending or about to be instituted by the municipality, he:

- A. Alters, destroys, conceals, or removes anything with a purpose to impair its verity or availability in the proceeding or investigation; or
- B. Makes, presents or uses anything which he knows to be false with a purpose to deceive a public servant who is or may be engaged in a proceeding or investigation.

13-850-11. FALSIFICATION OR ALTERATION OF GOVERNMENT RECORD. A person is guilty of a class B misdemeanor if he:

- A. Knowingly makes a false entry in or false alteration of anything belonging to, received, or kept by this municipality for information or record, or required by law to be kept for information of this municipality; or
- B. Presents or uses anything knowing it to be false and with a purpose that it be taken as a genuine part of information or records referred to in A: or
- C. Intentionally and unlawfully destroys, conceals or otherwise impairs the verity or availability of such thing.

13-850-12. IMPERSONATION OF OFFICER. A person is guilty of a class B misdemeanor if he impersonates a public servant or a peace officer of this municipality with intent to deceive another or with intent to induce another to submit to his pretended official authority or to rely upon his pretended official act.

13-850-13. FALSE JUDICIAL OR OFFICIAL NOTICE. A person is guilty of a class B misdemeanor who, with a purpose to procure the compliance of another with a request made by the person, knowingly sends, mails, or delivers to the person a notice or other writing which has no judicial or other sanction but which in its format or appearance simulates a summons,

complaint, court order, or process, or an insignia, seal, or printed form of any official of this municipality, or is otherwise calculated to induce a belief that it does have a judicial or other official sanction.

13-850-14. RESERVED.

PART 13-860. ABUSE OF PROCESS.

13-861. WRONGFUL COMMENCEMENT OF ACTION IN JUSTICES' COURT. Any party to any suit or proceeding, and any attorney or agent for the party, who knowingly commences, prosecutes, or maintains any action, suit, or proceeding in the court of this municipality, other than as provided by section 78-5-8 is guilty of a class B misdemeanor.

13-862. ASSUMING LIABILITY FOR CONFERRING JURISDICTION UPON JUSTICE. A person who binds himself, or voluntarily becomes liable jointly or jointly and severally with any other person, for the purpose of conferring jurisdiction of any cause upon the court of this municipality which otherwise would be without jurisdiction except for the liability of the joint obligor, and any person who induces a person to assume the liability for the purpose of conferring jurisdiction upon the court, is guilty of a class B misdemeanor.

13-863. WRONGFUL ATTACHMENT BY JUSTICE – LIABILITY. It is unlawful for the justice of the peace of this municipality to issue any writ of attachment, and for any party, agent or attorney of the party, to advise, induce, or procure the insurance thereof, in any action, suit, or proceeding before the affidavit therefore is filed, or where the affidavit filed therefore does not conform substantially with the requirements of Rule 64C of the Utah Rules of Civil Procedure. Any person violating any of the provisions of this section is guilty of a class B misdemeanor.

PART 13-870. RESERVED.

PART 13-880. SABOTAGE PREVENTION.

13-881. DEFINITIONS. For the purpose of this part:

- A. "Highway" includes any private or public street, way or other place used for travel to or from property within this municipality.
- B. "Public utility" includes any pipeline, gas, electric, heat, water, oil, sewer, telephone, telegraph, radio, railway, railroad, airplane, transportation communication or other system by whosoever owned or operated for public use.

13-882. POSTING OF SIGNS AT WAR OR DEFENSE FACILITIES – ENTERING POSTED PREMISES WITHOUT PERMISSION.

- A. Any individual, partnership, association, corporation or political subdivision of the State of Utah engaged in, or preparing to engage in, the manufacture, transportation or storage of any product to be used in the preparation of the United States or of any of the states for defense or for war in the prosecution of war by the United States, or the manufacture, transportation, distribution of storage or gas, oil, coal, electricity or water, or any natural or artificial persons operating any public utility, whose property, except where it fronts on water or where there are entrances for railway cars, vehicles, persons, or things is surrounded by a fence or wall, or a fence or wall and buildings, may post around his or its property at each gate, entrance, dock or railway entrance and every one hundred feet of water front a sign reading "No Entry Without Permission." The sign shall also designate

a point of entrance or place where application may be made for permission to enter, and permission shall not be denied to any loyal citizen who has a valid right to enter.

- B. Any person willfully entering property enumerated in A, without permission of the owner, shall be guilty of a class C misdemeanor.

13-883. CLOSING OR RESTRICTING USE OF HIGHWAYS ABUTTING DEFENSE OR WAR FACILITIES – POSTING OF NOTICES.

- A. Any individual partnership, association, corporation, or any political subdivision of the state engaged in or preparing to engage in the manufacture, transportation or storage of any product to be used in the preparation of the United States or any of the states for defense or for war or in the prosecution of war by the United States, or in the manufacture, transportation, distribution or storage of gas, oil, coal, electricity or water, or any of natural or artificial persons operating any public utility who has property so used which he or it believes will be endangered if public use and travel is not restricted or prohibited on one or more highways or parts thereof upon which the property abuts, may petition the governing body of this municipality to close one or more of the highways or parts thereof to public use and travel or to restrict by order the use and travel upon one or more of the highways or parts thereof. Upon receipt of the petition, the governing body shall by resolution set a date for hearing and give notice thereof by publication in a newspaper having general circulation in this municipality, which publication shall be made at least seven days prior to the date set for hearing. If, after hearing, the governing body determines that the public safety and the safety of the property of the petitioner so require, they shall by suitable order close to public use and travel or reasonably restrict the use of and travel upon one or more of the highways or parts thereof; provided the governing body may issue written permits to travel over the highway so closed or restricted to responsible and reputable persons for a term, under conditions and in a form as the governing body may prescribe. Appropriate notices in letters at least three inches high shall be posted conspicuously at each end of any highway so closed or restricted by an order. The governing body may at any time revoke or modify any order so made.
- B. Any person who violates any order made under this section shall be guilty of a class C misdemeanor.

13-884. BARGAINING RIGHTS OF EMPLOYEES NOT IMPAIRED BY SABOTAGE PREVENTION LAWS. Nothing in this part shall be construed to impair, curtail, or destroy the rights of employees and their representatives to self organize, to form, join, or assist labor organizations, to bargain collectively through representatives of their own choosing, and to engage in concerted activities, for the purpose of collective bargaining or other mutual aid or protection as provided by state or federal laws.

PART 13-890. Reserved.

CHAPTER 13-900. OFFENSES AGAINST PUBLIC ORDER AND DECENCY.

PART 13-910. BREACHES OF THE PEACE AND RELATED OFFENSES.

13-911. RIOT.

- A. A person is guilty of riot if:
 - 1. Simultaneously with two or more other persons he engages in tumultuous or violent conduct and thereby knowingly or recklessly creates a substantial risk of causing public alarm; or
 - 2. He assembles with two or more other persons with the purpose of engaging, soon thereafter, in tumultuous or violent conduct, knowing that two or more other persons in the assembly have the same purpose; or
 - 3. He assembles with two or more other persons with the purpose of committing an offense against a person or property of another who he supposes to be guilty of a violation of law, believing that two or more in the assembly have the same purpose.
- B. Any person who refuses to comply with a lawful order to withdraw given to him immediately prior to, during, or immediately following a violation of paragraph A is guilty of riot. It is no defense to a prosecution under this paragraph that withdrawal must take place over private property; provided, however, that no persons so withdrawing shall incur criminal or civil liability by virtue of acts reasonably necessary to accomplish the withdrawal.
- C. Riot is a class B misdemeanor.

13-912. DISORDERLY CONDUCT.

- A. A person is guilty of disorderly conduct if:
 - 1. He refuses to comply with the lawful order of the police to move from a public place or knowingly creates a hazardous or physically offensive condition, by any act which serves no legitimate purpose; or
 - 2. Intending to cause public inconvenience, annoyance, or alarm, or recklessly creating a risk thereof:
 - (a) He engages in fighting or in violent, tumultuous, or threatening behavior; or
 - (b) He makes unreasonable noises in a public place; or
 - (c) He makes unreasonable noises in a private place which can be heard in a public place; or
 - (d) He engages in abusive or obscene language or makes obscene gestures in a public place; or
 - (e) He obstructs vehicular or pedestrian traffic.
- B. "Public place," for the purpose of this section, means any place to which the public or a substantial group of the public has access and includes but is not limited to streets, highways, and the common areas of schools, hospitals, apartment houses, office buildings, transport facilities, and shops.
- C. Disorderly conduct is a class C misdemeanor if the offense continues after a request by a person to desist. Otherwise it is an infraction.

13-913. DISRUPTING A MEETING OR PROCESSIONS.

- A. A person is guilty of disrupting a meeting or procession if, intending to prevent or disrupt a lawful meeting, procession or gathering, he obstructs or interferes with the meeting, procession, or gathering by physical action, verbal utterance, or any other means.
- B. Disrupting a meeting or procession is a class B misdemeanor.

13-914. FAILURE TO DISPERSE.

- A. A person is guilty of failure to disperse when he remains at the scene of a riot, disorderly conduct, or an unlawful assembly after having been ordered to disperse by a peace officer.
- B. This section shall not apply to a person who attempted to but was unable to leave the scene of the riot or unlawful assembly.
- C. Failure to disperse is a class C misdemeanor.

13-915. GIVING A FALSE ALARM.

- A. A person is guilty of giving a false alarm if he initiates or circulates a report or warning of any fire, impending bombing, or other crime or catastrophe, knowing that the report or warning is false or baseless and is likely to cause evacuation of any building, place of assembly, or facility of public transport, to cause public inconvenience or alarm or action of any sort by any official or volunteer agency organized to deal with emergencies.
- B. Giving a false alarm is a class B misdemeanor.

PART 13-920. TELEPHONE ABUSE.

13-921. TELEPHONE HARASSMENT.

- A. A person is guilty of telephone harassment and subject to prosecution if, with intent to annoy or alarm another, he;
 - 1. Makes a telephone call, whether or not a conversation ensues, without purpose of lawful communication; or
 - 2. Makes repeated telephone calls at extremely inconvenient hours or in offensively coarse language; or
 - 3. Insults, taunts, or challenges another in a manner likely to provoke a violent or disorderly response.
- B. Telephone harassment is a class B misdemeanor.

13-922. EMERGENCY TELEPHONE ABUSE.

- A. A person is guilty of emergency telephone abuse if he:
 - 1. Intentionally refuses to yield or surrender the use of a party line or a public pay telephone to another person upon being informed that the telephone is needed to report a fire or summon police, medical, or other aid in case of emergency, unless the telephone is likewise being used for an emergency call; or
 - 2. Asks for or requests the use of a party line or a public pay telephone on the pretext that an emergency exists, knowing that no emergency exists.
- B. Emergency telephone abuse is a class C misdemeanor.
- C. For the purpose of this section (1) "party line" means a subscriber's line or telephone circuit consisting of two or more main telephone stations connected therewith, each station with a distinctive ring or telephone number.
- D. "Emergency" means a situation in which property or human life is in jeopardy and the prompt summoning of aid is essential to the preservation of human life or property.

PART 13-930. CRUELTY TO ANIMALS.

13-931. CRUELTY TO ANIMALS.

- A. A person commits cruelty to animals if he intentionally or knowingly:
 - 1. Tortures or seriously overworks an animal; or
 - 2. Fails to provide necessary food, care, or shelter for an animal in his custody; or
 - 3. Abandons an animal in his custody; or
 - 4. Transports or confines an animal in a cruel manner; or
 - 5. Kills, injures or administers poison to an animal without legal privilege; or
 - 6. Causes one animal to fight with another.
- B. It is a defense to the prosecution under this section that the conduct of the actor towards the animal was by a licensed veterinarian using accepted veterinary practice or directly related to a bona fide experimentation for scientific research not be unnecessarily cruel unless directly necessary to the veterinary purpose or scientific research involved.
- C. Cruelty to animals is a class B misdemeanor.

13-931.5. SPECTATOR AT ORGANIZED ANIMAL FIGHT.

- A. It is unlawful for any person to be a spectator at an organized animal fight.
- B. For the purpose of this section only, an organized animal fight means a fight between animals for the benefit of spectators. There is no requirement that an admission fee be charged.
- C. A violation of this section is a class C misdemeanor.

13-932 and 13-933. Reserved.

13-934. ALLOWING VICIOUS ANIMAL TO GO AT LARGE. Any owner of a vicious animal, knowing its propensities, who willfully allows it to go at large or who keeps it without ordinary care, and any animal, while at large or while not kept with ordinary care, causes injury to another animal or to any human being who has taken reasonable precaution which the circumstances permitted is guilty of a class B misdemeanor.

13-935. OFFICERS' AUTHORITY TO TAKE POSSESSION OF ANIMALS – LIEN FOR CARE. Section 76-9-305, Utah Code Annotated, 1953, is incorporated herein by reference.

PART 13-940. OFFENSES AGAINST PRIVACY.

13-941. DEFINITIONS. For purposes of this part:

- A. "Private place" means a place where one may reasonably expect to be safe from casual or hostile intrusion or surveillance.
- B. "Eavesdrop" means to overhear, record, amplify, or transmit any part of a wire or oral communication of others without the consent of at least one party thereto by means of any electronic, mechanical or other device.
- C. "Public" includes any professional or social group of which the victim of a defamation is a member.

13-942. PRIVACY VIOLATION.

- A. A person is guilty of privacy violation if, except as authorized by law, he:
 - 1. Trespasses on property with intent to subject anyone to eavesdropping or other surveillance in a private place; or
 - 2. Installs in any private place, without the consent of the person or persons entitled to privacy there, any device for observing photographic, recording, amplifying,

- or broadcasting sounds or events in the place or uses any such unauthorized installation; or
 - 3. Installs or uses outside of a private place any device for hearing, recording, amplifying, or broadcasting sounds originating in the place which would not ordinarily be audible or comprehensible outside, without the consent of the person or persons entitled to privacy there.
- B. Privacy violation is a class B misdemeanor.

13-943. COMMUNICATION ABUSE.

- A. A person commits communication abuse if, except as authorized by law, he:
- 1. Intercepts, without the consent of the sender or receiver, a message by telephone, telegraph, letter, or other means of communicating privately; this paragraph does not extend to:
 - (a) Overhearing of messages through a regularly installed instrument on a telephone party line or on an extension; or
 - (b) Interception by the telephone company or subscriber incident to enforcement of regulations limiting use of the facilities or to other normal operation and use; or
 - 2. Divulges without consent of the sender or receiver the existence or contents of any such message if the actor knows that the message was illegally intercepted or if he learned of the message in the course of employment with an agency engaged in transmitting it.
- B. Communication abuse is a class B misdemeanor.

13-944. CRIMINAL DEFAMATION.

- A. A person is guilty of criminal defamation if he knowingly communicates to any person orally or in writing any information which he knows to be false and knows will tend to expose any other living person to public hatred, contempt, or ridicule.
- B. Criminal defamation is a class B misdemeanor.

13-945. ABUSE OF PERSONAL IDENTITY.

- A. A person is guilty of abuse of personal identity if, for the purpose of advertising any articles of merchandise for purposes of trade or for any other advertising purposes, he uses the name, picture, or portrait of any individual or uses the name or picture of any public institution of this state, the official title of any public officer of this state, or of any person who is living, without first having obtained the written consent of the person or, if the person be a minor, the written consent of his parent or guardian, or, if the person is dead, without the written consent of his heirs or personal representatives.
- B. Abuse of personal identity is a class B misdemeanor.

PART 13-950. LIBEL AND SLANDER.

- 13-951. CONVEYING FALSE OR LIBELOUS MATERIALS TO NEWSPAPER OR BROADCASTING STATIONS.** Any person who willfully states, conveys, delivers, or transmits, by any means whatsoever, to the manager, editor, publisher, reporter, or agent of any radio station, television station, newspaper, magazine, periodical, or serial for publication therein, any false or libelous statement concerning any person, and thereby secures actual publication of the same, is guilty of a class B misdemeanor.

PART 13-960. OFFENSES AGAINST THE FLAG.

13-961. ABUSE OF A FLAG.

- A. A person is guilty of abuse of a flag if he:
 - 1. Intentionally places any unauthorized inscription or other things upon any flag of the United States or of any state of the United States; or
 - 2. Knowingly exhibits any such flag, knowing the inscription or other thing to be unauthorized; or
 - 3. For purposes of advertising a product or service for sale or for distribution, affixes a representation of the flag of the United States or of a state of the United States to the product or on any display where on the product or service is advertised; or
 - 4. Knowingly casts contempt upon the flag of the United States or of any state of the United States by publicly mutilating, defacing, defiling, burning, or trampling upon it.
- B. Abuse of a flag is a class B misdemeanor.

PART 13-970. MISCELLANEOUS PROVISIONS.

13-971. INTOXICATION – RELEASE OF ARRESTED PERSON.

- A. A person is guilty of intoxication if he is under the influence of intoxicating liquor, a controlled substance, or any substance having the property of releasing toxic vapors, to a degree that the person may endanger himself or another, in a public place or in a private place where he unreasonably disturbs other persons.
- B. A peace officer or a magistrate may release from custody an individual arrested under this section, if he believes imprisonment is unnecessary for the protection of the individual or another.
- C. An offense under this section is a class C misdemeanor.

13-972. LEWDNESS.

- A. A person is guilty of lewdness if he fornicates, exposes his genitals or private parts, or performs any other act of gross lewdness under circumstances which he should know will likely cause affront or alarm or does any such act in a public place.
- B. Lewdness is a class B misdemeanor.

13-973. LOITERING.

- A. A person is guilty of loitering if he appears at a place or at a time under circumstances that warrant alarm for the safety of persons or property in the vicinity, and upon inquiry by a law enforcement official, he fails to give a reasonably credible account of his identity, conduct, or purposes.
- B. No person shall be convicted under this section if the explanation he gave of his conduct and purposes was true and, if believed by the law enforcement official at the time, would have dispelled the alarm.
- C. Loitering is a class C misdemeanor.

13-974. ABUSE OF A CORPSE.

- A. A person is guilty of abuse of a corpse if he intentionally and unlawfully:
 - 1. Removes, conceals, dissects, or destroys a corpse or any part thereof; or
 - 2. Disinters a corpse that has been buried or otherwise interred.
- B. An offense under this section is a class B misdemeanor.

CHAPTER 13-1000. OFFENSES AGAINST PUBLIC SAFETY AND WELFARE.

PART 13-1001. REGULATION OF THE MANNER OF SALE OF TOBACCO PRODUCTS.

13-1002. DEFINITIONS.

- A. "Business" means any sole proprietorship, joint venture, corporation or other business entity formed for profit making purposes, including retail establishments where goods or services are sold as well as professional corporations and other entities where legal, medical, dental, engineering, architectural or other professional services are delivered.
- B. "Employee" means any person who is employed by any employer in consideration for direct or indirect monetary wages or profit, and any person who volunteers his or her services for a non-profit entity.
- C. "Employer" means any person, partnership, corporation, including a municipal corporation, or non-profit entity, that employs the services of one or more individual persons.
- D. "Minor" shall mean any individual who is less than 19 years old.
- E. "Person" shall mean any individual, partnership, cooperative association, private corporation, personal representative, receiver, trustee, assignee, or any other legal entity.
- F. "Place of business" means any and all places such as shops, stores, factories, public garages, offices, theaters, recreation and dance halls, poolroom, cafes, cafeterias, cabarets, restaurants, hotels, lodging houses, streetcars, buses, inter-urban and railway passenger coaches and waiting rooms.
- G. "Retailer" means a person who owns or is responsible for supervising the day-to-day operation of a business where tobacco products are displayed or otherwise offered for sale.
- H. "Self-service merchandising" means open display of tobacco products and tobacco promotional products that the public has access to without the intervention of an employee.
- I. "Tobacco product" means any tobacco cigarette, cigar, pipe tobacco, smokeless tobacco, snuff, or any other form of tobacco that may be utilized for smoking, chewing, inhalation or other manner of ingestion.
- J. "Tobacco promotional products" means baseball caps, tee-shirts, gym bags, coffee mugs, sunglasses, jackets and related items which have tobacco advertising logos, images, characters, messages and themes printed on them.
- K. "Tobacco retailer" shall mean any person or governmental entity that operates a store, stand, booth, concession, or other place at which sales of tobacco products are made to purchasers for consumption or use.
- L. "Tobacco vending machine" means any electronic or mechanical device or appliance, the operation of which depends upon the insertion of money, whether in coin or paper currency, or other things representative of value, which dispenses or releases a tobacco product.
- M. "Vendor-assisted" means only a store employee has access to the tobacco product and tobacco promotional product, and assists the customer by supplying the product. The customer does not take possession of the product until it is purchased.

13-1003. REGULATION OF MANNER OF SALE OF TOBACCO PRODUCTS.

- A. Any person, business, tobacco retailer or other establishment subject to this ordinance shall post plainly visible signs at the point of purchase of tobacco products which states, "THE SALE OF TOBACCO PRODUCTS TO PERSONS UNDER NINETEEN YEARS OF AGE IS PROHIBITED BY LAW. PHOTO IDENTIFICATION IS REQUIRED TO PURCHASE TOBACCO." The letters of these signs shall be at least one-quarter inch (1/4") high.
- B. No person, business, tobacco retailer, or owner, manager or operator of any establishment subject to this ordinance shall sell, offer to sell or permit to be sold any tobacco product to an individual without requesting and examining identification establishing the purchaser's age as nineteen years or greater.
- C. It shall be unlawful for any person, business, or tobacco retailer to sell, permit to be sold, offer for sale or display for sale any tobacco products or tobacco promotional product by means of self-service merchandising or by means other than vendor-assisted sales.
- D. No person, business, or tobacco retailer shall locate, install, keep, maintain or use or permit the location, installation, keeping, maintenance or use of his/her or its premises for any vending machine for the purposes of selling or distributing any tobacco product.

13-1004. ENFORCEMENT.

- A. Enforcement of this ordinance shall be the responsibility of the County Sheriff or his or her designee.
- B. Any citizen who desires to register a complaint under this ordinance may initiate a complaint with the Sheriff's department. The County Sheriff shall notify any establishment subject to this ordinance regarding apparent violation of this ordinance by said person, tobacco retailer, or any owner, manager or operator of any establishment subject to this ordinance.

13-1005. VIOLATIONS AND PENALTIES.

- A. It shall be unlawful for any person who owns, manages, operates or otherwise controls the use of any premises subject to this ordinance to fail to comply with any of its provisions.
- B. Any person, business, tobacco retailer, or owner, manager, or operator of any establishment subject to this ordinance who violates any provision of this ordinance shall be deemed guilty of a class B Misdemeanor.

13-1006. OTHER APPLICABLE LAWS. Distribution of tobacco product samples and use of tobacco vending machines are not permitted where they are otherwise restricted by other applicable laws.

13-1007. STATUTORY SEVERABILITY. If any provision, clause, sentence or paragraph of this ordinance or the application thereof to any person or circumstance shall be held invalid, such invalidity shall not affect the other provisions of this ordinance.

(Part 13-1001 through 13-1007 added 12-4-96)

PART 13-1010. CIGARETTES AND TOBACCO AND PSYCHO TOXIC CHEMICAL SOLVENTS. For the purpose of this part:

13-1011. "PLACE OF BUSINESS" AND "ENCLOSED PUBLIC PLACE" DEFINED.

- A. "Place of business" means any and all such places as shops, stores, factories, public garages, offices, theaters, recreation and dance halls, pool rooms, cafes, cafeterias,

cabarets, restaurants, hotels, lodging houses, streetcars, buses, inter-urban and railway passenger coaches and waiting rooms.

- B. "Enclosed public place" means the dining rooms in hotels, restaurants, cafes and cafeterias, theaters, arenas, passenger elevators, streetcars, busses, inter-urban and railway passenger coaches, motor and other passenger vehicles used by common carriers, railway station waiting rooms, and state, county and city buildings; but the owners or proprietor of any hotel dining room, restaurant, café, or cafeteria may designate the same as a public smoking room by a conspicuous sign at or near the entrance, and in any state, county, or city building any public officer who has a private office separate and apart from his public office may, if he so desires, designate the private office as a place where smoking may be permitted, and so long as the private office is so designated, smoking therein shall not be considered in violation of this section.

13-1012. CIGARETTES AND TOBACCO – ADVERTISING RESTRICTIONS. It is a class B misdemeanor for any person to display on any billboard, streetcar sign, streetcar, bus, placard, or on any other object or place of display, any advertisement of cigarettes, cigarette papers, cigars, chewing tobacco, or smoking tobacco or any disguise or substitute of either, except that a dealer in cigarettes, cigarette papers, tobacco or cigars, or their substitutes, may have a sign on the front of his place of business stating that he is a dealer in the articles; provided that nothing herein shall be construed to prohibit the advertising of cigarettes, cigarette papers, chewing tobacco or smoking tobacco, or any substitute of either, in any newspaper, magazine or periodical printed or circulating in this municipality.

13-1013. PERMITTING MINORS TO USE TOBACCO IN PLACE OF BUSINESS. It is a class C misdemeanor for the proprietor of any place of business to knowingly permit persons under age nineteen to frequent a place of business while they are using tobacco.

13-1014. FURNISHING CIGARS, CIGARETTES OR TOBACCO TO MINORS. Any person who sells, gives, or furnishes any cigars, cigarette or tobacco in any form, to any person under nineteen years of age, is guilty of a class C misdemeanor.

13-1015. BUYING OR POSSESSING CIGARS, CIGARETTES OR TOBACCO BY MINORS. Any person under the age of nineteen years, who buys, accepts, or who has in his possession any cigar, cigarette or tobacco in any form, is guilty of a class C misdemeanor or may be classified as a delinquent child and referred to the juvenile courts.

13-1016. USE OF CIGARS, CIGARETTES OR TOBACCO IN ENCLOSED PUBLIC PLACE. Section 76-10-106, Utah Code Annotated, 1953, as amended, is incorporated herein by reference.

13-1017. ABUSE OF PSYCHO TOXIC CHEMICAL SOLVENTS.

- A. A person is guilty of abuse of psycho toxic chemical solvents if:
1. For the purpose of causing a condition of intoxication, inebriation, excitement, stupefaction, or the dulling of his brain or nervous system, he intentionally:
 - (a) Smells or inhales the fumes of any psycho toxic chemical solvent; or
 - (b) Possesses, purchases, or attempts to possess or purchase any psycho toxic chemical solvent.
 2. Knowing or believing that a purchaser or another intends to use a psycho toxic chemical in violation of subsection (A) (1) and (A) (2), sells or offers to sell any psycho toxic chemical solvent.

- B. This section shall not apply to the inhalation of any anesthesia for medical or dental purpose.
- C. Abuse of psycho toxic chemical solvents is a class B misdemeanor.
- D. As used in this section, psycho toxic chemical solvent includes any glue, cement or other substance containing one or more of the following chemical compounds: acetone and acetate, benzene, butyl-alcohol, ethylene dichloride, isopropyl alcohol, methyl alcohol, methyl ethyl ketone, pentachlorophenol, petroleum ether, or other chemical substance capable of causing a condition of intoxication, inebriation, excitement, stupefaction, or the dulling of the brain or nervous system as a result of the inhalation of the fumes or vapors of such chemical substance. Nothing in this section shall be construed to include any controlled substance regulated by the provisions of Utah Code Annotated section 58-37-1 et seq.

13-1018. DESIGNATED SMOKING AREAS. Section 76-10-108, Utah Code Annotated, 1953, as amended, is incorporated herein by reference.

13-1019. DUTIES OF PROPRIETOR OF PUBIC PLACE. Section 76-10-109, Utah Code Annotated, 1953, as amended, is incorporated herein by reference.

13-1019.1. VIOLATIONS. Section 76-10-110, Utah Code Annotated, 1953, as amended, is incorporated herein by reference.

PART 13-1020. WATERS.

13-1021. INTERFERENCE WITH CONTROL OF WATER COMMISSIONER. Every person who in any way interferes with or alters the flow of water in any stream, ditch, or lateral while under the control or management of the water commissioner or superintendent is guilty of a class B misdemeanor.

13-1022. TAKING WATER OUT OF TURN OR EXCESS AMOUNT – INJURING FACILITIES. Every person who, in violation of any right of any other person, willfully turns or uses the water, or any part thereof, of any canal, ditch, pipeline, or reservoir, except at a time when the use of the water has been duly distributed to the person or willfully uses any greater quantity of water than has been duly distributed to him, or in any way changes the flow of water when lawfully distributed for irrigation or other useful purposes, except when duly authorized to make the change, or willfully and maliciously breaks or injures any dam, canal, pipeline, water gate, ditch, or other means of diverting or conveying water for irrigation or other useful purposes, is guilty of a class B misdemeanor.

13-1023. OBSTRUCTION OF WATER GATES BY LOGS. Every person who rafts or floats logs, timber, or wood down any river or stream and allows the logs, timber, or wood to accumulate at or obstruct the water gates owned by any person or irrigation company taking or diverting the water of the river or stream for irrigation or manufacturing purposes is guilty of a class B misdemeanor.

13-1024. INJURING BRIDGE, DAM, CANAL OR OTHER WATER-RELATED STRUCTURE. Every person who willfully and maliciously cuts, breaks, injures, or destroys any bridge, dam, canal, flue, aqueduct, levee, embankment, reservoir, or other structure erected to create hydraulic power, or to drain or reclaim any swamp and overflowed or marsh land, or to conduct water for mining, manufacturing, reclamation, or agricultural purposes, or for the supply of the inhabitants of municipality; or willfully or maliciously makes or causes to be made any

aperture in any such dam, canal, flue, aqueduct, reservoir, embankment, levee, or structure with intent to injure or destroy it; or draws up, cuts or injures any piles fixed in the ground and used for securing any lake or river bank or walls or any dock, quay, jetty, or lock is guilty of a class B misdemeanor.

PART 13-1030. EXPLOSIVES AND FIREWORKS.

13-1031. UNLAWFUL HANDLING OF EXPLOSIVES.

- A. Every person who makes or keeps nitroglycerin or other high explosive substances or five or more pounds of gunpowder within this municipality, or who carries it through the streets hereof, without first obtaining a permit therefore from the recorder/clerk, shall be guilty of a class B misdemeanor.
- B. The recorder/clerk may impose as a condition of receiving and keeping a permit under this section, requiring that the person comply with reasonable safety standards as the chief of police may require.

13-1032. MARKING OF CONTAINERS OF EXPLOSIVES BEFORE TRANSPORTATION OR STORAGE. Every person who knowingly leaves with or delivers to another, or to any express or railway company or other common carrier, or to any warehouse or storehouse, any package containing nitroglycerin, dynamite, guncotton, gunpowder, or other highly explosive compound, or any benzine, gasoline, phosphorus, or other highly inflammable substance, or any vitriol, sulphuric, nitric, carbolic, muriatic, or other dangerous acid, chemical or compound, to be handled, stored, shipped, or transported, without plainly marking and indicating on such package the name and nature of the contents thereof, is guilty of a class B misdemeanor.

13-1033. POWER HOUSES. Every person who builds, constructs, or uses within 300 feet of any residence or traveled county road any powder house, magazine, or building in which more than five pounds of gunpowder, dynamite or other explosive is kept in quantities exceeding 500 pounds is guilty of a class B misdemeanor.

13-1034. MARKING OF CONTAINERS OF EXPLOSIVES HELD FOR SALE OR USE. It shall be a class B misdemeanor to sell or offer for sale or take or solicit orders of sale, or purchase or use, or have on hand or in store for the purpose of sale or use, any Giant, Hercules, Atlas, Venture or any other high explosive containing nitroglycerin, unless on each box or package and wrapper containing any such high explosive there shall be plainly stamped or printed the name and place of business of the person, partnership, or corporation by whom or by which it was manufactured, and the exact and true date of its manufacture, and the percentage of nitroglycerin or other high explosive contained therein.

13-1035. DIFFERENT DATES ON CONTAINERS OF EXPLOSIVE PROHIBITED – REUSE OF CONTAINERS PROHIBITED. It shall be a class B misdemeanor for any person or persons, partnership, or corporation to have two or more different dates on any box or package containing Giant, Hercules, Atlas, or Venture, or any other high explosive containing nitroglycerin. It shall further be unlawful to use any box, package, or wrapper formerly used by any other person or persons, partnership, or corporation in the packing of such Giant, Hercules, Atlas, Venture, or other high explosive containing nitroglycerin and the name and date on the box or package shall be the same as on the wrapper containing the Giant, Hercules, Atlas, Venture, or other explosive containing nitroglycerin

13-1036. “INFERNAL MACHINE” DEFINED. An infernal machine is any box, package, contrivance, bomb, or apparatus containing or arranged with an explosive or acid or poisonous or

inflammable substance, chemical, or compound, or knife, loaded pistol, or gun, or other dangerous or harmful weapon or thing, constructed, contrived, or arranged so as to explode, ignite, or throw forth its contents, or to strike with any of its parts, unexpectedly when moved, handled, or opened, or after the lapse of time or under conditions or in a manner calculated to endanger health, life, limb, or property.

13-1037. INFERNAL MACHINE – DELIVERY TO COMMON CARRIER, MAILING, OR PLACEMENT ON PREMISES. Every person who delivers or causes to be delivered to any express or railway company or other common carrier, or to any person any infernal machine, knowing it to be such, without informing the common carrier or person of the nature thereof, or sends it through the mail, or throws or places it on or about the premises or property of another, or in any place where another may be injured thereby in his person or property, is guilty of a class B misdemeanor.

13-1038. INFERNAL MACHINE – CONSTRUCTION OR POSSESSION. Every person who knowingly constructs or contrives any infernal machine or with intent to injure another in his person or property, has any infernal machine in his possession is guilty of a class B misdemeanor.

13-1039. SALE OR USE OF FIREWORKS UNLAWFUL. It shall be unlawful for any person, firm, partnership or corporation to offer for sale, expose for sale, sell, or possess, or use, or explode any fireworks in violation of the State Fireworks Act of 1983 (11-3-1 et. seq., Utah Code Annotated), and all regulations promulgated pursuant thereto by the State of Utah. The sale of Class “C” fireworks permitted by said Act and regulations shall only be made in compliance with the restrictions set forth therein and after such person has purchased a business license as required in Section 9-314 of the Enoch City Ordinances with the exception of those persons only selling toy pistols, toy canes, toy guns, or sparklers. A violation of this Section or of the State Fireworks Act and its accompanying regulations shall be deemed to be in violation of the Ordinances of Enoch City subject to the penalty set forth in Section 1-313 of the Enoch City Code.

PART 13-1040. FENCES.

13-1041. FENCING OF SHAFTS AND WELLS. Any person who has sunk or shall sink a shaft or well for any purpose shall enclose it with a substantial curb or fence, which shall be at least four and one-half feet high. Any person violating the provisions of this section is guilty of a class B misdemeanor.

PART 13-1050. WEAPONS.

13-1050-1. DEFINITIONS: For the purposes of this part:

- A. (1) “Concealed dangerous weapon” means a dangerous weapon that is:
- a. Covered, hidden, or secreted in a manner that the public would not be aware of its presence; and
 - b. Readily accessible for immediate use.
- (2) A dangerous weapon is not a concealed dangerous weapon if it is a firearm which is unloaded and is securely encased.

B. “Dangerous Weapon” means:

- 1. a firearm; or
- 2. an object that in the manner of its use or intended use is capable of causing death or serious bodily injury.

3. The following factors are used in determining whether any object, other than a firearm, is a dangerous weapon:

- a. the location and circumstances in which the object was used or possessed;
- b. the primary purpose for which the object was made;
- c. the character of the wound, if any, produced by the object's unlawful use;
- d. the manner in which the object was unlawfully used;
- e. whether the manner in which the object is used or possessed constitutes a potential imminent threat to public safety; and
- f. the lawful purposes for which the object may be used.

C. "Firearm" means a pistol, revolver, shotgun, short barreled shotgun, rifle or short barreled rifle, or a device that could be used as a dangerous weapon from which is expelled a projectile by action of an explosive.

D. "Short barreled shotgun" or "short barreled rifle" means a shotgun having a barrel or barrels of fewer than 18 inches in length, or in the case of a rifle, having a barrel or barrels of fewer than 16 inches in length, or a dangerous weapon made from a rifle or shotgun by alteration, modification, or otherwise, if the weapon as modified has an overall length of fewer than 26 inches. (Rev. 4-15-15)

13-1050-2. WHEN WEAPON DEEMED LOADED. For the purpose of this part, any pistol, revolver, shotgun, rifle, or other weapon described in this part shall be deemed to be loaded when there is an unexpended cartridge, shell, or projectile in the firing position, except in the case of pistols and revolvers, in which case they shall be deemed loaded when the unexpended cartridge, shell, or projectile is in a position that the manual operation of any mechanism once would cause the unexpended cartridge, shell, or projectile to be fired; and a muzzle loading firearm shall be deemed to be loaded when it is capped or primed and has a powder charge and ball or shot in the barrel or cylinders.

13-1050-3. POSSESSION OF DANGEROUS WEAPON BY CONVICTED PERSON, DRUG ADDICT, OR MENTALLY INCOMPETENT PERSON PROHIBITED. Any person who is not a citizen of the United States or any person who has been convicted of any crime of violence under the laws of the United States, the State of Utah, or any other state, government, or country, or who is addicted to the use of any narcotic drug, or any person who has been declared mentally incompetent shall not own or have in his possession or under his custody or control any dangerous weapon as defined in this part. Any person who violates this section is guilty of a class B misdemeanor.

13-1050-4. CARRYING CONCEALED DANGEROUS WEAPON. Any person carrying a concealed dangerous weapon shall carry it in accordance with U.C.A. Title 53 Chapter 5 Part 7 (Concealed Firearm Act of the State of Utah). (Rev. 4-15-15)

13-1050-5. CARRYING LOADED FIREARM IN VEHICLE OR ON STREET. Every person who carries a loaded firearm in a vehicle or on any public street or in a prohibited area is guilty of a class B misdemeanor.

13-1050-6. THREATENING WITH OR USING DANGEROUS WEAPON IN FIGHT OR QUARREL. Every person who, not in necessary self-defense in the presence of two or more persons, draws or exhibits any dangerous weapon in an angry and threatening manner or unlawfully uses the same in any fight or quarrel is guilty of a class B misdemeanor.

13-1050-7. POSSESSION OF DEADLY WEAPON WITH INTENT TO ASSAULT. Every person having upon his person any dangerous weapon with intent to unlawfully assault another in guilty of a class B misdemeanor.

13-1050-8. DISCHARGE OF FIREARMS WITHIN CITY LIMITS.

- A. It shall be a class “B” misdemeanor for any person to discharge a firearm, a B-B gun or a pellet gun within the city limits under any of the following circumstances:
1. From or at any automobile or other vehicle,
 2. From, upon, or across any highway or roadway, or structure or at any livestock.
- B. EXCEPTION. It shall not constitute a violation of Section 13-1050-8 above if the discharge of a B-B gun, pellet gun, bow & arrow, sling shot, or other firearm not using combustion to propel a projectile is done under the following conditions:
1. Under responsible adult supervision, and
 2. Under conditions such as are not likely to create a hazard to persons or property.

13-1050-9. POSSESSION OF DANGEROUS WEAPON BY MINOR. A minor under the age of eighteen may not possess a dangerous weapon as defined herein unless he has the permission of his parent or guardian to have such a weapon or is accompanied by parent or guardian while he has such weapon in his possession. In any event, any minor who is under the age of fourteen years must be accompanied by a responsible adult.

13-1050-10. POSSESSION OF WEAPON AUTHORIZED – PERMIT OR LICENSE NOT REQUIRED. Nothing in this part shall be construed to prohibit a citizen of the United States over the age of eighteen years who resides or is temporarily within this municipality and who is not within the accepted classes as prescribed by section 13-1050-3 from owning, possessing, or keeping within his place of residence or place of business or any vehicle under his control any pistol, revolver, or other firearm or dangerous weapon capable of being concealed upon the person, and no permit or license to purchase, own, possess or to keep any such firearm or weapon at his place of residence, or place of business, or any vehicle under his control, shall be required of him.

13-1050-11. POSSESSION OF LOADED WEAPON AT RESIDENCE AUTHORIZED. Nothing in this part shall prevent any person, except persons described in section 13-1050-3, from having a loaded weapon at his place of residence, including any temporary residence or camp.

13-10-50-12. TARGET CONCESSIONS, TRAP FIELDS, SHOOTING RANGES, AND HUNTING EXCEPTED FROM PROHIBITIONS. The provisions of section 13-1050-3 and 13-1050-9 shall not apply to any of the following:

- A. Patrons firing at lawfully operated target concessions at amusement parks, piers, and similar locations provided that the firearms to be used are firmly chained or affixed to the counters.
- B. Patrons of commercial trap or skeet fields or shooting ranges during regular business hours.

13-1050-18. The State of Utah shall be the agency that issues permits to carry a concealed weapon.

13-1050-19. HAND GUN DEALERS’ RECORDS. Repealed.

13-1050-20. Reserved.

13-1050-21. UNLAWFUL MARKING OF PISTOL OR REVOLVER. Any person who places or stamps on any pistol or revolver any number except one assigned to it by the bureau is guilty of a class B misdemeanor. This section does not prohibit restoration by the owner of the name of the maker, model, or of the original manufacturer's number or other mark of identification when the restoration is authorized by the bureau, not prevent any manufacturer from placing in the ordinary course of business the name of the maker, model, manufacturer's number, or other mark of identification upon a new pistol or revolver.

13-1050-22. ALTERATION OF NUMBER OR MARK ON PISTOL OR REVOLVER. Any person, who changes, alters, removes, or obliterates the name of the maker, model, manufacturer's number, or other marks of identification, including any distinguishing number or mark assigned by the bureau, on any pistol or revolver, without first having secured written permission from the bureau to make the change, alteration or removal, shall be guilty of a class B misdemeanor.

13-1050-23. PERSONS EXEMPT FROM WEAPONS LAWS. The provisions of this part shall not apply to any of the following:

- A. United States marshals while engaged in the performance of their official duties.
- B. Federal officials required to carry firearms while engaged in the performance of their official duties.
- C. Law enforcement officials of this or any other jurisdiction while engaged in the performance of their official duties.
- D. Common carriers while engaged in the regular and ordinary transport of firearms as merchandise.
- E. Nonresidents traveling in or through this municipality, provided that any firearm is unloaded and enclosed in a case, gun box, or securely tied package or held securely in a gun rock or locked in the trunk of an automobile in which the nonresident is transporting the firearm.

13-1050-24. PURCHASE OF FIREARMS IN CONTIGUOUS STATES PURSUANT TO FEDERAL LAW. This part will allow purchase of firearms and ammunition by residents in contiguous states pursuant to the Federal Fire Arms Gun Control Act of 1968, section 922, paragraph B, no. 3.

13-1050-25. DISPOSITION OF WEAPONS AFTER. The police departments which has in its possession a weapon, after it has been used for court purposes, shall determine the true owner of the weapon and return it to him; however, if unable to determine the true owner of the weapon, or if the true owner is the person committing the crime for which the weapon was used as evidence, the department shall confiscate it and shall revert to the department for their use and/or disposal as the chief of police shall determine.

PART 13-1060. CHARITY DRIVES.

13-1061. DEFINITIONS. As used in this part:

- A. "Person" means any individual, organization, group, association, partnership, corporation, or any combination of them;
- B. "Professional fund raiser" means any person who for compensation or any other consideration plans, conducts, or manages the solicitation of contributions for or on behalf of any charitable organization or any other person, or who engages in the business of, or holds himself out to persons as independently engaged in the business of soliciting

contributions for such purpose, but shall not include a bona fide officer or employee of a charitable organization;

- C. “Professional solicitor” means any person who is employed or retained for compensation by a professional fund raiser to solicit contributions in this municipality for charitable purposes;
- D. “Charitable organization” means any organization that is benevolent, philanthropic, patriotic, or eleemosynary or one purporting to be such;
- E. “Contribution” means the promise or grant of any money or property of any kind or value.

13-1062. USE OF PERSON’S NAME WITHOUT CONSENT FOR SOLICITING CONTRIBUTIONS PROHIBITED – EXCEPTION. No charitable organization, professional fund raiser, or professional solicitor, seeking to raise funds for charitable purposes, shall use the name of any other person for the purpose of soliciting contributions without the written consent of the person; provided that this section shall not apply to religious corporations or organizations, charities, agencies, and organizations operated, supervised or controlled by or in connection with a religious corporation or organization.

13-1063. USE OF NAME WITHOUT CONSENT ON STATIONERY OR AS ONE WHO CONTRIBUTED TO ORGANIZATION PROHIBITED. It shall be deemed to be a violation of this part to use, without written consent, the name of a person for the purpose of soliciting contributions if the person’s name is listed on any stationery, advertisement, brochure, or correspondence or a charitable organization, or his name is listed or referred to as one who has contributed to, sponsored, or endorsed the charitable organization or its activities.

13-1064. VIOLATIONS – CLASSIFICATION OF OFFENSE. Any person who violates the provisions of this part is guilty of a class B misdemeanor.

PART 13-1070. CORPORATION FRAUDS.

13-1070-1. DEFINITIONS. As used in this part:

- A. “Bona fide shareholder of record” means a shareholder of record who has acquired shares in good faith and is acting for a proper purpose reasonably related to his interests as a shareholder.
- B. “Director” means any of the persons having by law the direction or management of the affairs of a corporation, by whatever name the persons are described in its charter or known by law.

13-1070-2. FRAUDULENT SIGNING OF SHARE SUBSCRIPTIONS. Every person who signs the name of a fictitious person to any subscription for, or agreement to take, shares in any corporation existing or proposed, and every person who signs to any subscription or agreement the name of any person, knowing that the person has no means or does not intend in good faith to comply with all the terms thereof, or under any understanding or agreement that the terms of the subscription or agreement are not to be complied with or enforced, is guilty of a class B misdemeanor.

13-1070-3. Reserved.

13-1070-4. MISREPRESENTING PERSON AS OFFICER, AGENT, MEMBER OR PROMOTER. Every person who, without being authorized so to do, subscribes the name of another to, or inserts the name of another in, any prospectus, circular, or other advertisement or

announcement of any corporation or joint stock association, existing or intended to be formed, with intent to permit it to be published, and thereby to lead persons to believe that the person whose name is so subscribed is an officer, agent, member or promoter of such corporation or association, is guilty of a class B misdemeanor.

13-1070-5. CONCURRENCE BY DIRECTOR IN DIVIDEND OR DIVISION OF CAPITAL IN VIOLATION OF LAW. Every director or any corporation issuing shares, except savings and loan or building and loan associations who concurs in any vote or act of the directors of the corporation or any of them, by which it is intended either:

- A. To make any dividend except as permitted by the Utah Business Corporation Act; or
- B. To divide, withdraw, or in any manner pay to the shareholders, or any of them, any part of the stated capital of the corporation except as permitted by the Utah Business Corporation Act is guilty of a class B misdemeanor.

13-1070-6. Reserved.

13-1070-7. FALSE REPORTS. Every director, officer, or agent of any corporation of joint stock association who knowingly makes or concurs in making or publishing any written report, exhibit, or statement of its affairs or pecuniary condition, containing any material statement which is false is guilty of a class B misdemeanor.

13-1070-8. REFUSING INSPECTION OF BOOKS. Every officer or agent of any corporation having or keeping an office, who has in his custody or control the books of such corporation, and who refuses to give a bona fide shareholder of record or member of the corporation, lawfully demanding during office hours, the right to inspect or take a copy of it or of any part thereof, is guilty of a class B misdemeanor.

13-1070-9. PRESUMPTION OF DIRECTOR'S KNOWLEDGE OF AFFAIRS. Every director of a corporation or joint stock association is deemed to possess knowledge of the affairs of his corporation as to enable him to determine whether any act, proceeding, or omission of its directors is a violation of this part.

13-1070-10. PRESUMPTION OF DIRECTOR'S CONCURRENCE IN ACTION IF PRESENT AT MEETING – WRITTEN DISSENT REQUIRED. Every director of a corporation or joint stock association who is present at a meeting of the directors at which any act, proceeding, or omission of the directors in violation of this part occurs is deemed to have concurred therein, unless he at the time causes, or in writing requires, his dissent there from to be entered in the minutes of the directors or forwards his dissent by registered mail to the secretary of the corporation immediately after the adjournment of the meeting.

13-1070-11. FOREIGN CORPORATIONS SUBJECT TO ORDINANCES. It is no defense to a prosecution for any violation of any of the provisions of this part that the corporation was one created by the laws of another state, government, or country if it was one carrying on business or keeping an office therefore within this municipality.

PART 13-1080. PUBLIC NUISANCES.

13-1081 “PUBLIC NUISANCE” DEFINED

A “public nuisance” is a crime against the public order of this municipality and consists in doing any act or omitting to perform any duty, which act or omission either:

- A. Injures, annoys or endangers the health, comfort, repose or safety of three or more persons; or
 - 1. Offends public morals or decency; or
 - 2. In any way renders three or more persons insecure in life or the use of property.
- B. An act which affects three or more persons in any of the ways specified in this chapter is still a nuisance regardless of the extent to which the annoyance or damage inflicted on individuals is unequal.

13-1082 AUTHOR OF NUISANCE DEFINED.

Where a nuisance exists upon property and is the outgrowth of the usual, natural or necessary use of the property, the landlord or his agent, the tenant or his agent, and all other persons having control of the property on which such public nuisance exists shall be deemed to be the authors thereof and shall be equally liable and responsible. Where any such public nuisance shall arise from the unusual or unnecessary use of such property or from the business thereon conducted, then the occupants and all other persons contributing to the continuance of such public nuisance shall be deemed the authors.

13-1083 NUISANCES DECLARED:

It shall be unlawful and declared a public nuisance for any person owning, renting, leasing, occupying or having charge or possession of any property in the City to allow any of the following conditions to exist on such property:

- A. A condition that impairs the reasonable and lawful use of property;
- B. Vegetation designated as noxious by the Utah Commissioner of Agriculture.
- C. Keeping or storing of any refuse and waste matter outside of a refuse container;
- D. Accumulation of abandoned, discarded or unused furniture, bedding, packing materials, rotting lumber, stoves, sinks, toilets, cabinets, or other fixtures or equipment stored so as to be visible from a public street, or which may attract flies, mosquitoes, disease-carrying insects, rats or where other vermin may breed. However, nothing herein shall preclude the placement of stacked firewood for personal non-commercial use on the premises;
- E. Any attractive nuisance dangerous to children and other persons including, but not limited to, abandoned, broken, or neglected household appliances, equipment and machinery, ponds, abandoned foundations or excavations, or improperly maintained pools;
- F. Dead, decayed, diseased, or hazardous trees, weeds, hedges, and overgrown or uncultivated vegetation which is an obstruction to pedestrian or vehicular traffic, or which may become a risk of fire or fire hazard to neighboring buildings;
- G. Inoperative, abandoned, wrecked or dismantled vehicles or vehicle parts, stored so as to be visible from a public street, and unregistered vehicles parked in any street right-of-way;
- H. Graffiti which remains on the exterior of any building, fence, sign or other structure and is visible from a public street;
- I. Maintenance of buildings and/or structures in such condition as to be deemed defective or in a condition of deterioration or disrepair including, but not limited to:
 - 1. Any building or structure which is unfit for human habitation, or which is an unreasonable hazard to the health of people residing in the vicinity thereof, or which presents an unreasonable fire hazard in the vicinity where it is located;
 - 2. Any building or structure set up, erected, constructed, altered, enlarged, converted, moved or maintained contrary to the provisions of Chapter 10-300, Enoch City Revised Ordinances;
 - 3. Buildings which are abandoned, partially destroyed, or left in an unreasonable state of partial construction for a period of six (6) months or longer. An "unreasonable state of partial construction" is defined as any unfinished building or structure where the appearance or other conditions violate conditions as listed in Subsection (a) above;

- 4. Buildings with missing doors and/or windows containing broken glass and/or no glass at all where the window is of a type which normally contains glass; and,
- 5. Buildings or conditions that violate any building, electrical, plumbing, fire, housing, or other code adopted by Enoch City;
- J. Surface storm water infrastructure directly adjacent to private property must be maintained by the property owner and/or tenant and if such is allowed to be restricted or stopped or to become unsanitary, any harm incurred to others as a result are the responsibility of the noncompliant property owner and/or tenant. The same may be subject to abatement;
- K. Failure to effectively secure any vacant structure.
- L. Noise of any kind which causes an annoyance or interference with the comfort or repose of three or more people after 10:00 p.m. and before 7:00 a.m.
- M. Agricultural activities not conducted in accordance with sound agricultural practices.

13-1084 DUTY OF MAINTENANCE OF PRIVATE PROPERTY.

No person owning, leasing, occupying or having charge of any premises shall maintain or keep any public nuisance thereon, nor shall any such person keep or maintain such premises in a manner causing substantial diminution in the value of the other property in the neighborhood in which such premises are located.

13-1085 MAINTAINING, COMMITTING OR FAILING TO REMOVE PUBLIC NUISANCE – CLASSIFICATION OF OFFENCE.

Every person who maintains or commits any public nuisance, the punishment for which is not otherwise prescribed, or who willfully omits to perform any legal duty relating to the removal of a public nuisance, is guilty of an infraction.

13-1086 NOT TO AFFECT OTHER PROVISIONS OF MUNICIPAL ORDINANCES.

Nothing contained in this Municipal Criminal Code shall affect any other provisions of these municipality’s ordinances, rules, or regulations that regulate, prohibit or affect public nuisances.

13-1087 ACTION FOR ABATEMENT OF PUBLIC NUISANCES.

- A. Notice. Except as otherwise provided by this chapter or city ordinance, whenever a nuisance is found to exist within the city, the enforcement officer shall serve written notice to the responsible person in person or by mailing notice, postage prepaid, addressed to the responsible person at the last-known post-office address as shown in the records of the county assessor, or by personally delivering a copy of Notice directly to the responsible person.
- B. Contents of Notice. The notice to abate a nuisance issued under the provisions of this chapter shall contain:
 - 1. The location of the nuisance, if the same is stationary;
 - 2. A description of what constitutes the nuisance;
 - 3. A statement of acts necessary to abate the nuisance;
 - 4. A statement that abatement must occur within thirty days of service of notice; and
 - 5. A statement that, if the nuisance is not abated as directed, the city will take necessary actions, as listed in this chapter, to abate the nuisance.
- C. Repeating Offense. If notice has already been served once during the calendar year directing abatement, no further notice need be served to compel such abatement during such calendar year.

13-1087.1 VIOLATION OF ORDER ENJOINING A PUBLIC NUISANCE.

A person who knowingly violates any judgment or order abating or otherwise enjoining a public nuisance is guilty of an infraction on the first offense and a class B misdemeanor on any subsequent offense of the same nature.

13-1087.2 VOLUNTARY CORRECTION AGREEMENT.

The enforcement officer, at the direction of the City, should attempt to obtain voluntary correction from the responsible person and to enter into a voluntary correction agreement with the responsible person before other remedies are undertaken. A voluntary correction agreement is a contract between the City and the responsible person in which the responsible person agrees to abate the nuisance within a specified time and according to specified conditions. The purpose of the voluntary correction agreement is to provide a mechanism for the responsible person to abate the nuisance voluntarily before more severe remedies are undertaken by the City. If the responsible person complies with the terms of the agreement, the City shall take no further action against the responsible person related to the nuisance(s) described in the agreement unless the nuisance(s) recurs. Because the maintenance of a nuisance is a criminal violation, this option is a privilege and not a right and the responsible person has no entitlement. Thus, the City may choose to abate the nuisance using one or more of the other procedures set forth in this chapter, state law, or common law.

- A. The voluntary correction agreement shall include the following:
1. The name and address of the responsible person;
 2. The street address of the nuisance, or a description sufficient to identify the building, structure, premises, or land upon or within which the nuisance is occurring;
 3. A description of the nuisance;
 4. The necessary corrective action to be taken and a date or time by which correction must be completed ("completion date"). The date or time by which correction must be completed shall not be longer than six months;
 5. An agreement by the responsible person that the city may inspect the premises as may be necessary to determine compliance with the voluntary correction agreement;
 6. An agreement by the responsible person that, if the terms of the agreement are not met, the city may:
 - a. Issue a criminal citation(s),
 - b. Abate the nuisance, recover its costs and expenses, and place a lien on the property,
 - c. Issue a monetary fine pursuant to this chapter, and/or
 - d. Pursue any other legal remedy available;
 7. An agreement by the responsible person acknowledging that he or she waives the right to appeal the finding that a nuisance exists and the right to appeal the specific corrective action required by the voluntary correction agreement to the City Council; and
 8. An agreement by the responsible person that failure to comply with the voluntary correction agreement may be grounds for criminal prosecution.
- B. Extension of Time. The enforcement officer may grant an extension of time for correcting or abating the nuisance pursuant to the voluntary correction agreement if the responsible person has shown due diligence and/or substantial progress in correcting or abating the nuisance but unforeseen circumstances render abatement under the original conditions unattainable.
- C. Other Remedies. If the enforcement officer and the responsible person cannot agree to terms for correcting or abating the nuisance, the City may abate the nuisance using one or more of the procedures set forth in this chapter, state law, or common law.

13-1087.3 ABATEMENT BY CITY.

- A. Abatement. When a responsible person fails to comply with the notice of abatement, the terms of a voluntary correction agreement, a criminal citation, or a court order, the City is authorized to employ necessary assistance and cause that such nuisance be destroyed or removed. The City shall prepare an itemized statement of all expenses incurred in the removal and destruction of the same and shall mail a copy thereof to the responsible person demanding payment within sixty days of the date of mailing. Such notice shall be deemed to be delivered when served upon the responsible person or when mailed by registered mail and addressed to the last known address of the responsible person.
- B. Emergency Abatement. Whenever a nuisance is occurring which constitutes an immediate and emergent threat to the public health, safety, or welfare or to the environment, the City may summarily and without prior notice abate the condition. Notice of such abatement, including the reason for it, shall be given to the responsible person as soon as reasonably possible after the abatement.
- C. Entering onto Property. Using any lawful means, the City may enter upon the subject property and may remove or correct the condition which is subject to abatement. The City may seek, but is not required to seek, such judicial process as it deems necessary to effect the removal or correction of such condition.
- D. Confiscation of Property. During an abatement proceeding, any personal property constituting a nuisance, as defined by this chapter, may be confiscated as part of the abatement process. Any property that has been confiscated by the city as part of an abatement will be held pending the resolution of the nuisance. The owner of the abated property may recover the property upon showing that the nuisance has been corrected or that substantial efforts, as determined by the enforcement officer, have been made to correct the nuisance. The property owner shall pay the cost of storage of the property. If, after ninety days of the property being confiscated, the property owner fails to claim the confiscated property, and after the city complies with the requirements of U.C.A. Section 77-24a-5 (as currently amended), the city may dispose of the property, including sale at auction, disposal, etc., and seek to collect the cost of storage from the property owner. The city may also pursue any other remedies as provided by law.
- E. Costs Declared Lien. Any and all costs incurred by the city in the abatement of a nuisance under the provisions of this chapter shall constitute a lien against the property upon which such nuisance existed, which lien shall be filed, proven, and collected as provided for by law. Such lien shall be notice to all persons from the time of its recording, and shall bear interest at the legal rate thereafter until satisfied.
- F. City Not Civilly Liable. Neither the city, nor its officers or agents or employees, shall be civilly liable to any responsible person for the abatement of a nuisance.

13-1087.4 CIVIL ACTIONS.

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

13-1087.5 ABATEMENT BY EVICTION.

Pursuant to U.C.A. Sections 78B-6-1108 and 78B-6-1111 (as currently amended), whenever there is reason to believe that a nuisance under this chapter is kept, maintained, or exists in Enoch City, the city attorney, any citizen or citizens of the state residing in the city, or any corporation, partnership, or business doing business in the city, in his or her or their own names, may maintain an action in a court of competent jurisdiction to abate the nuisance and obtain an order for the automatic eviction of the tenant.

13-1087.6 NONEXCLUSIVE REMEDIES.

The City may take any or all of the above mentioned remedies (administrative, civil, or criminal) to abate a nuisance and/or to punish any person or entity that creates, causes, or allows a nuisance to exist. The abatement of a nuisance does not prejudice the right of the city or any person to recover damages or penalties for its past existence.

13-1088 APPEALS.

A. Grounds. Any person receiving a notice to cure nuisance pursuant to 13-1087 may appeal the Notice to the hearing officer. Only the following issues may be appealed to the hearing officer.

1. The person charged in the Notice as the responsible person is not the responsible person as defined by this chapter.
2. The condition described as a nuisance in the Notice is not a nuisance as defined by this chapter.
3. The method required by the notice to cure nuisance to abate the nuisance is inappropriate or is not the most cost-effective method of effectively correcting or abating the nuisance.
4. The time period given to abate the nuisance is unreasonable.
5. The enforcement officer refused to approve a corrective action that met the requirements of the notice of nuisance or this chapter.

B. Filing. The person desiring to appeal the notice to cure nuisance must file a notice of appeal at the city clerk within thirty days of being served in person or by mail with the notice to cure nuisance.

1. The notice of appeal shall clearly and concisely set forth all the reasons for the appeal. The hearing officer shall examine the notice of appeal to determine whether a valid appeal has been stated. If the appellant has not stated a valid cause for appeal as set forth in this Section, or if the appellant has failed to show by a preponderance of the evidence that he or she has an appealable issue, the appeal shall be denied and no hearing shall be held.
2. If the appellant has not shown due diligence and/or substantial progress in correcting the nuisance or has made no attempt to correct the nuisance, the filing of an appeal will not stop enforcement of the abatement.
3. If the appellant has filed an appeal, the filing of such appeal will not prevent the City from responding to the property on reports of new nuisance violations.

C. Hearing. The hearing before the hearing officer shall be informal and proceed according to rules and procedures established by the hearing officer. The hearing officer may, with or without the party's present, visit the site of the alleged nuisance. The hearing officer shall schedule the hearing within thirty days of when the notice of appeal is filed with the City.

D. Burden of Proof. In appellant's notice of appeal, the appellant shall have the initial burden of proof to demonstrate by a preponderance of the evidence that he or she has stated a legitimate grounds for an appeal based upon reasons as set forth in this Section. If the appellant timely filed the appeal and a hearing has been scheduled, the burden then shifts to the City to show by a preponderance of the evidence that the Notice is appropriate.

E. Authority of Hearing Officer. The hearing officer shall have authority to affirm or vacate Notice or to modify or waive specific provisions of the Notice. If the appellant fails to attend the hearing, the hearing officer shall affirm the Notice. The hearing officer shall not vacate the Notice unless he or she finds that the city has not met its burden of proof. The hearing officer shall modify the Notice if he or she finds that a nuisance exists, but that one or more of the requirements of the Notice are improper or inappropriate. A requirement is improper if it is contrary to this chapter. A requirement is inappropriate if the hearing officer finds that there is a better means of resolving the problem or that the proposed solution is inappropriate given the

nature or severity of the problem. When determining whether to waive or modify a requirement of the Notice, the hearing officer may also consider:

1. Whether the appellant responded to the enforcement officer's attempts to contact the appellant and cooperated with efforts to correct the nuisance;
2. Whether the appellant has shown due diligence and/or substantial progress in correcting the nuisance; and
3. Any other relevant factors.

(Revised June 19, 2019)

PART 13-1090. TRADE AND COMMERCE.

13-1090-1. “JUNK DEALER” DEFINED. For the purpose of this part “junk dealer” means all persons, firms, or corporations engaged in the business of purchasing or selling secondhand, or castoff materials of any kind, such as old iron, copper, brass, lead, zinc, tin, steel, aluminum, and other metals, metallic cables, wires, ropes, cordage, bottles, bagging, rags, rubber, paper, and other like materials.

13-1090-2. FRAUDULENT PRACTICES TO AFFECT MARKET PRICE. Every person who willfully makes or publishes any false statement, spreads any false rumor, or employs any other false or fraudulent means or device, with intent to affect the market price of any kind of property, is guilty of a class B misdemeanor.

13-1090-3 through 13-1090-6. Reserved.

13-1090-7. JUNK DEALER’S RECORD OF SALES AND PURCHASES. Every junk dealer shall keep a book in which shall be written, in ink in the English language, at the time of each and every purchase and sale, a listing of the weight and metallic description of the sale or purchase, together with the full name and residence of the person or persons selling the junk, together with the date and place of the purchase and sale. No entry in the book shall be erased, mutilated, or changed. The book and entries shall at all times be open to inspection by the sheriff of the county or any of his deputies and by any member of the police force of this municipality, and any constable or other state, municipal, or county officials in this county, provided this part shall not apply to any sale of less than twenty pounds.

13-1090-8. VIOLATION BY JUNK DEALER – CLASSIFICATION OF OFFENSE. Any junk dealer who shall be found guilty of a violation of any of the provisions of this part shall be guilty of a class B misdemeanor; provided that this part shall not be construed to in any way affect any tax, license, or regulation otherwise imposed on any junk dealer.

13-1090-9. JUNK DEALER TO OBTAIN STATEMENT FROM SELLERS. At the time of purchase by any junk dealer of any copper wire, pig, or pigs of metal or of any junk, as defined in this part, he shall obtain a signed and dated statement from the person or persons selling it as to when, where, and from whom the property was obtained and also the residence, address, and place of employment of the seller or sellers. The statement shall be retained for five years by the junk dealer and shall be subject to the provisions of section 13-1090-7 relating to erasure, mutilation, or change and also to inspection.

13-1090-10. FALSIFICATION OR SELLER’S STATEMENT TO JUNK DEALER. Any seller who, in the making of his statement as required by this part in selling, offering, or trying to

sell junk willfully makes a false statement or give untrue information, shall be guilty of a class B misdemeanor.

PART 13-1100. TRADEMARKS, TRADE NAMES AND DEVICES.

13-1101. DEFINITIONS. For the purpose of this part:

- A. “Forged trademark,” “forged trade name,” “forged trade device,” and “counterfeited trademark,” “counterfeited trade name,” “counterfeited trade device,” or their equivalents, as used in this part, include every alteration or imitation of any trademark, trade name, or trade device so resembling the original as to be likely to deceive.
- B. “Trademark” or “trade name” or “trade device,” as used in this part, includes every trademark registerable with the secretary of state.

13-1102. FORGING OR COUNTERFEITING TRADEMARK, TRADE NAME OR TRADE DEVICE. Every person who willfully forges or counterfeits, or procures to be forged or counterfeited any trademark, trade name, or trade device, usually affixed by any person, or by any association or union of workingmen, to his or its goods, which has been filed in the office of the secretary of state, with the intent to pass off any goods to which the forged or counterfeited trademark, trade name, or trade device is affixed or intended to be affixed, as the goods of the person or association or union of workingmen, is guilty of a class B misdemeanor.

13-1103. SELLING GOODS UNDER COUNTERFEITED TRADEMARK, TRADE NAME OR TRADE DEVICE. Every person who sells or keeps for sale any goods upon or to which any counterfeited trademark, trade name, or trade device has been affixed, after it has been filed in the office of the secretary of state, intending to represent the goods as the genuine goods of another, knowing it to be counterfeited, is guilty of a class B misdemeanor.

13-1104. SALES IN CONTAINERS BEARING REGISTERED TRADEMARK OF SUBSTITUTED ARTICLES. Every person who has or uses any container or similar article bearing or having in any way connected with it the registered trademark of another for the purpose of disposing, with intent to deceive or defraud any article or substance other than that which the container of similar article originally contained or was connected with by the owner of such trademark is guilty of a class B misdemeanor.

13-1105. USING, DESTROYING, CONCEALING OR POSSESSING ARTICLES WITH REGISTERED TRADEMARK OR SERVICE MARK TO DEPRIVE OWNER OF USE OR POSSESSION – EXCEPTION. Every person who, without the consent of the owner of an article bearing the owner’s validly registered trademark or service mark, uses, destroys, conceals, or possesses the article or who defaces or otherwise conceals the trademark or service mark upon the article with intent to deprive the owner of the use or possession of that article is guilty of a class B misdemeanor; provided, however, that nothing contained in this part shall be construed to apply to or restrict the transfer or use of wooden boxes or the reuse of burlap or cotton bags or sacks when those bags or sacks have been reversed inside out or the markings thereon have been concealed or obliterated to effectively demonstrate that the products contained therein do not purport to be the products of the owner of the registered trademark or service mark theretofore put upon those bags.

13-1106. SELLING OR DEALING WITH ARTICLES BEARING REGISTERED TRADEMARK OR SERVICE MARK WITH INTENT TO DEFRAUD. Every person who, without the consent of the owner of an article bearing the owner’s validly registered trademark or

service mark, knowingly sells or traffics in the articles or who withholds the articles from the owner thereof with intent to defraud the owner thereof, is guilty of a class B misdemeanor.

13-1107. USE OF REGISTERED TRADEMARK WITHOUT CONSENT. Every person who adopts or in any way uses the registered trademark of another, without the consent of the owner thereof, is guilty of a class B misdemeanor.

PART 13-1110. GAMBLING.

13-1111. DEFINITIONS. For the purpose of this part:

- A. "Gambling" means risking anything of value for a return or risking anything of value upon the outcome of a contest, game, gaming scheme, or gaming device when the return or outcome is based upon an element of chance and is in accord with an agreement or understanding that someone will receive something of value in the event of a certain outcome, and gambling includes a lottery; gambling does not include:
 - 1. A lawful business transaction, or
 - 2. Playing an amusement device that confers only an immediate and unrecorded right of replay not exchangeable for value.
- B. "Lottery" means any scheme for the disposal or distribution of property by chance among persons who have paid or promised to pay any valuable consideration for the chance of obtaining property or portion of it, or for any share of any interest in property upon any agreement, understanding, or expectation that it is to be distributed or disposed of by lot or chance, whether called a lottery, raffle, or gift enterprise, or by whatever name it may be known.
- C. "Gambling bet" means money, checks, credit, or any other representation of value.
- D. "Gambling device or record" means anything specifically designed for use in gambling or used primarily for gambling.
- E. "Gambling proceeds" means anything of value used in gambling.

13-1112. GAMBLING.

- A. A person is guilty of gambling if he:
 - 1. Participates in gambling, or
 - 2. Knowingly permits any gambling to be played, conducted, or dealt upon or in any real or personal property owned, rented or under the control of the actor, whether in whole or in part.
- B. Gambling is a class B misdemeanor.

13-1113. GAMBLING FRAUD.

- A. A person is guilty of gambling fraud if he participates in gambling and wins or acquires to himself or another any gambling proceeds when he knows he has a lesser risk of losing or greater chance of winning than one or more of the other participants, and the risk is not known to all participants.
- B. A person convicted of gambling fraud shall be punished as in the case of theft of property of like value, provided that the penalty shall not exceed a class B misdemeanor.

13-1114. GAMBLING PROMOTION.

- A. A person is guilty of gambling promotion if he derives or intends to derive an economic benefit other than personal winnings from gambling and:
 - 1. He induces or aids another to engage in gambling; or
 - 2. He knowingly invests in, finances, owns, controls, supervises, manages, or participates in any gambling.
- B. Gambling promotion is a class B misdemeanor.

13-1115. POSSESSING A GAMBLING DEVICE OR RECORD.

- A. A person is guilty of possessing a gambling device or record if he knowingly possesses it with intent to use it in gambling.
- B. Possession of gambling device or record is a class B misdemeanor.

13-1116. FAILURE OF PROSECUTING ATTORNEY OR LAW ENFORCEMENT OFFICER TO PROSECUTE OFFENSES. Any prosecuting attorney or police officer who has reasonable cause to believe that any person has violated any provision of this part and shall thereafter fail or refuse to diligently prosecute such persons is guilty of a class B misdemeanor.

13-1117. SEIZURE AND SALE OF DEVICES OR EQUIPMENT USED FOR GAMBLING.

- A. Whenever the justice of the peace shall determine that any devices or equipment is used or kept for the purpose of being used for gambling, he may notify the governing body and/or the chief of police and may authorize the chief of police to seize such devices and to hold them for sale at the best price obtainable pending a hearing before the justice of the peace. After the hearing has been properly scheduled and all parties having an interest in the devices have been notified of the hearing, the justice of the peace may order the devices seized and declare them to be the property of this municipality. The Court may then order the devices sold for the best price obtainable. The sale shall be made to a person of good character and repute who is a bona fide resident of the state wherein it is lawful to use such equipment. The officials conducting the sale shall place the equipment on a public carrier, properly co-signed to the purchaser at his place of residence.
- B. The proceeds of any sale shall be paid to the municipal treasury.
- C. If no sale is consummated within ninety (90) days after authorization therefore, the devices or equipment shall be destroyed under the direction of the justice of the peace.

13-1118. SEIZURE AND DISPOSITION OF GAMBLING DEBTS OR PROCEEDS.

- A. At the commencement of any prosecution for a violation of this part, any gambling bets or gambling proceeds that are reasonably identifiable as having been used or obtained in violation of this part may be seized and they shall be held pending the disposition of the proceedings. At the conclusion of the proceedings, any person who is found guilty of a violation of this part shall forfeit any sums held by the Court that were acquired or being used in violation of this part. Any sums not identifiable, or in the event the individual is found not guilty, the sums shall be returned to him.
- B. A commencement of prosecution shall occur upon arrest, or issuance of a complaint, or citation, whichever occurs first.
- C. All sums forfeited under this section shall be paid into the treasury of the municipality conducting the prosecution.

13-1119. CONFIDENCE GAME – PUNISHMENT AS FOR THEFT – DESCRIPTION IN CHARGE.

- A. Any person who obtains or attempts to obtain from any other person any money or property by any means, instrument or device commonly called a confidence game shall be punished as in the case of theft of property of like value.
- B. In every complaint or citation under this section, it shall be deemed and held a sufficient description of the offense to charge that the accused did, on _____ (insert the date) unlawfully and knowingly obtain or attempt to obtain (as the case may be) from _____ (insert name of the person or

persons defrauded or attempted to be defrauded) his money or property (as the case may be) by means and by use of a confidence game.

CHAPTER 13-1200. PORNOGRAPHIC AND HARMFUL MATERIALS AND PERFORMANCES.

PART 13-1201. DEFINITIONS. For the purpose of this part:

- A. “Material” means anything printed or written or any picture, drawing, photograph, motion picture, or pictorial representation, or any statue or other figure, or any recording or transcription, or any mechanical, chemical or electrical reproduction, or anything that is or may be used as a means of communication. Material includes undeveloped photographs, molds, printing plates, and other latent representational objects.
- B. “Performance” means any physical human bodily activity, whether engaged in alone or with other persons, including but not limited to singing, speaking, dancing, acting, simulating, or pantomiming.
- C. “Distribute” means to transfer possession of materials whether with or without consideration.
- D. “Knowingly” means awareness, whether actual or constructive, of the character of material or of a performance. A person has constructive knowledge if a reasonable inspection or observation under the circumstances would have disclosed the nature of the subject matter and if a failure to inspect or observe is for the purpose of avoiding the disclosure or is criminally negligent.
- E. “Exhibit” means to show.
- F. “Nudity” means the showing of the human male or female genitals, public area, or buttocks, with less than a full, opaque covering, or the showing of a female breast with less than a full, opaque covering, or any portion thereof below the top of the nipple, or the depiction of covered male genitals in a discernibly turgid state.
- G. “Sexual conduct” means acts of masturbation, homosexuality, sexual intercourse, or physical contact with a person’s clothed or unclothed genitals, pubic area, buttocks, or if the person is a female, breast, whether alone or between members of the same or opposite sex or between humans and animals in an act of apparent or actual sexual stimulation or gratification.
- H. “Sexual excitement” means a condition of human male or female genitals when in a state of sexual stimulation or arousal, or the sensual experiences of humans engaging in or witnessing sexual conduct or nudity.
- I. “Sado-masochistic abuse” means flagellation or torture by or upon a person clad in undergarments, a mask, or in a revealing or bizarre costume, or the condition of being fettered, bound, or otherwise physically restrained on the part of one so clothed.

- J. “Minor” means any person less than 18 years of age.
- K. “Harmful to minors” means the quality of any description or representation, in whatsoever form, of nudity, sexual conduct, sexual excitement, or sado-masochistic abuse when it:
 - 1. Taken as a whole, appeals to the prurient interest in sex of minors;
 - 2. Is patently offensive to prevailing standards in the adult community as a whole with respect to what is suitable material for minors; and
 - 3. Taken as a whole does not have serious value for minors. Serious value includes only serious literary, artistic, political or scientific value for minors.
- L. “Contemporary community standards” means those current standards in the vicinage where an offense alleged under this act has occurred, is occurring, or will occur.
- M. “Public place” includes a place to which admission is gained by payment of a membership or admission fee, however designated, notwithstanding its being designated a private club or by words of like import.

13-1202. MATERIAL HARMFUL TO MINORS – NO EXPERT WITNESS REQUIRED.

- A. In any prosecution dealing with an offense relating to harmful material to minors, the question whether the predominant appeal of the material is to prurient interest shall be determined with reference to average minors.
- B. Neither the prosecution nor the defense shall be required to introduce expert witness testimony concerning the harmful character of the material or performance that is the subject of a prosecution.

13-1203. PORNOGRAPHIC MATERIAL OR PERFORMANCE – DETERMINATION OF PREDOMINANT APPEAL TO PRURIENT INTEREST – EXPERT TESTIMONY NOT REQUIRED.

- A. Any material or performance is pornographic if:
 - 1. The average person, applying contemporary community standards finds that, taken as a whole, it appeals to prurient interest in sex;
 - 2. It is patently offensive in the description or depiction of nudity, sexual conduct, sexual excitement, sado-masochistic abuse, or excretion; and
 - 3. Taken as a whole, it does not have serious literary, artistic, political or scientific value.
- B. In prosecutions under this part, where circumstances of production, presentation, sale, dissemination, distribution, exhibition, or publicity indicate that the matter is being commercially exploited by the defendant for the sale of its prurient appeal, this evidence is probative with respect to the nature of the matter and can justify the conclusion that, in the context in which it is used, the matter has no serious literary, artistic, political, or scientific value.
- C. Neither the prosecution nor the defense shall be required to introduce expert witness testimony as to whether the material or performance is or is not harmful to adults or minors or is or is not pornographic, or as to any element of the definition of pornographic, including contemporary community standards.

13-1204. DISTRIBUTING PORNOGRAPHIC MATERIAL.

- A. A person is guilty of distributing pornographic material when he knowingly:
 - 1. Sends or brings any pornographic material into this municipality with intent to distribute or exhibit it to others; or
 - 2. Prepares, publishes, prints, or possesses any pornographic material with intent to distribute or exhibit it to others; or
 - 3. Distributes or offers to distribute, exhibits or offers to exhibit, any pornographic material to others; or

4. Writes, creates, or solicits the publication or advertising of pornographic material; or
5. Promotes the distribution or exhibition of material which he represents to be pornographic; or
6. Presents or directs a pornographic performance in any public place or any place exposed to public view or participates in that portion thereof which makes it pornographic.

Each distributing of pornographic material, as defined in this subsection A is a separate offense under this section. A separate offense shall be regarded as having been committed for each day's exhibition of any pornographic motion picture film and for each day in which any pornographic publication is displayed or exhibited in a public place with intent to distribute or exhibit it to others.

- B. Each separate offense under this section is a class B misdemeanor punishable by a minimum mandatory fine as set by the court of jurisdiction and by incarceration, without suspension of sentence in any way, for a term as set by the court of jurisdiction.

13-1205. INDUCING ACCEPTANCE OF PORNOGRAPHIC MATERIAL.

- A. A person is guilty of inducing acceptance of pornographic material when he knowingly:
 1. Requires or demands as a condition to a sale, allocation, consignment, or delivery for resale of any newspaper, magazine, periodical, book, publication, or other merchandise that the purchaser or consignee receive any pornographic material or material reasonably believed by the purchaser or consignee to be pornographic; or
 2. Denies, revokes, or threatens to deny or revoke a franchise, or to impose any penalty, financial or otherwise, because of the failure or refusal to accept pornographic material or material reasonably believed by the purchaser or consignee to be pornographic.
- B. A violation of this section is a class B misdemeanor punishable by a fine and by incarceration as set by the court of jurisdiction.

13-1206. DEALING IN HARMFUL MATERIAL TO A MINOR.

- A. A person is guilty of dealing in harmful material when, knowing that a person is a minor, or having failed to exercise reasonable care in ascertaining the proper age of a minor, he:
 1. Knowingly distributes or offers to distribute, exhibits or offers to exhibit, any harmful material to a minor; or
 2. Produces, presents, or directs any performance before a minor, harmful to minors, or participates in any performance before a minor, harmful to minors; or
 3. Falsely pretends to be the parent or legal guardian of a minor and thereby causes the minor to be admitted to an exhibition of any harmful material.
- B. This section does not prohibit any parent or legal guardian from distributing any harmful material to his minor child or ward or for permitting his minor child or ward to attend an exhibition of any harmful material if the minor child or ward is accompanied by him. This section does not prohibit a person from exhibiting any harmful material to a minor child who is accompanied by his parent or legal guardian or by any person whom he reasonably believes to be the parent or legal guardian of that child.
- C. Each separate offense under this section is a class B misdemeanor punishable by a minimum mandatory fine of not less than \$100.00 plus \$10.00 for each article exhibited up to a maximum \$299.00 and by incarceration, without suspension of sentence in any way, for a term of not less than 14 days.

13-1206.1. SEXUAL EXPLOITATION OF MINORS.

- A. A person is guilty of sexual exploitation of a minor who knowingly employs, uses, persuades, induces, entices or coerces any minor to engage in any sexual or simulated sexual conduct for the purpose of photographing, filming, recording or displaying in any the sexual or simulated sexual conduct.
- B. Any person who photographs, films, or records, in any way minors engaged in any sexual or simulated sexual conduct is guilty of sexual exploitation of a minor.
- C. It is not a defense to this section that the person who is charged with sexual exploitation of a minor is parent, legal guardian or other person exercising legal control of the child who was the subject of the exploitation.
- D. A violation of this section is a class B misdemeanor.

13-1207. ALLOWING PROPERTY OR LAND TO BE USED FOR LEWDNESS OR OBSCENITY. It shall be unlawful for a landlord or landowner to willfully or knowingly allow his property or land to be used for the commercial exploitation of lewdness or obscenity.

- A. If a tenant or occupant of real property uses this property for an activity for which he or his employee is convicted under any provision of this part, the conviction makes void the lease or other title under which he holds at the option of the fee owner or any intermediate lessor; and ten days after the fee owner or any intermediate lessor gives notice in writing to the tenant or occupant that he is exercising the option, the right of possession to the property reverts to the person exercising the option. This option does not arise until all avenues of direct appeal from the conviction have been exhausted or abandoned by the tenant or occupants, or his employee.
- B. It shall be unlawful for a fee owner or intermediate lessor of real property to knowingly allow this property to be used for the purpose of distributing or exhibiting pornographic materials, or for pornographic performances, by a tenant or occupant if the tenant or occupant, or his employee, has been convicted under any provision of this part of an offense occurring on the same property and all avenues of direct appeal from the conviction have been exhausted or abandoned.
 - 1. "Allow" under this subsection B means a failure to exercise the option arising under subsection A within ten days after the fee owner or lessor receives notice in writing from the county attorney of the county where the property is situated, or if situated in a city of the first or second class, from the city attorney of that city, that the property is being used for a purpose prohibited by this subsection B.
 - 2. A willful violation of this subsection B is a class A misdemeanor and any fine assessed, if not paid within 30 days after judgment, shall become a lien upon the property.
- C. Any tenant or occupant who receives a notice in writing that the fee owner or intermediate lessor is exercising the option provided by subsection A and who does not quit the premises within ten days after giving of that notice is guilty of a class A misdemeanor.

13-1208. AFFIRMATIVE DEFENSES. The following shall be affirmative defenses to prosecution under this part:

- A. It is an affirmative defense to prosecution under this part that the distribution of pornographic material was restricted to institutions or persons having scientific, educational, governmental, or other similar justification for possessing pornographic material.
- B. It is not a defense to prosecution under this part that the actor was a motion picture projectionist, usher, ticket-taker, bookstore employee, or otherwise was required to violate any provision of this part incident to his employment.

13-1209. SEIZURE AND DISPOSITION OF PROHIBITED MATERIALS – INJUNCTIVE RELIEF AGAINST SALE AND DISTRIBUTION OF MATERIAL OR PERFORMANCES. Reserved.

13-1210 through 13-1226. Reserved.

13-1227. INDECENT PUBLIC DISPLAYS – DEFINITIONS. For purposes of this chapter:

- A. “Description or depictions of illicit sex or sexual immorality” means:
 - 1. Human genitals in a state of sexual stimulation or arousal;
 - 2. Acts of human masturbation, sexual intercourse, or sodomy; or
 - 3. Fondling or other erotic touching of human genitals, pubic region, buttock, or female breast.
- B. “Nude or partially denuded figures” means:
 - 1. Less than completely and opaquely covered:
 - (a) Human genitals;
 - (b) Pubic regions;
 - (c) Buttock; and
 - (d) Female breast below a point immediately above the top of the areola; and
 - 2. Human male genitals in a discernibly turgid state, even if completely and opaquely covered.

13-1228. INDECENT PUBLIC DISPLAYS – PROHIBITIONS – PENALTY. Every person who shall willfully or knowingly engage in the business of selling, lending, giving away, showing, advertising for sale or distributing to any person under the age of 18 or has in his possession with intent to engage in the said business or to otherwise offer for sale or commercially distribution to any individual under the age of 18 or who shall publicly display at newsstands or any other establishment frequented by minors under the age of 18 or where said minors are or may be invited as a part of the general public, any motion picture, or any live, taped, or recorded performance, or any still picture or photograph or any book, pocket book, pamphlet or magazine the cover or content of which exploits, is devoted to, or is principally made up of indecent descriptions or depictions of illicit sex or sexual immorality or which consists of pictures of nude or partially denuded figures posed or presented in a manner to provoke or arouse lust or passion or to exploit lust or perversion for commercial gain is guilty of a class B misdemeanor punishable by a minimum mandatory fine and by incarceration, as set by the court of jurisdiction.

CHAPTER 13-1300. PROSTITUTION.

PART 13-1301. DEFINITIONS. For the purpose of this part:

- A. "Sexual activity" means intercourse or any sexual act involving the genitals of one person and the mouth or anus of another person, regardless of the sex of either participant.
- B. "House of prostitution" means a place where prostitution or promotion of prostitution is regularly carried on by one or more persons under the control, management, or supervision of another.
- C. "Inmate" means a person who engages in prostitution in or through the agency of a house of prostitution.
- D. "Public place" means any place to which the public or any substantial group thereof has access.

13-1302. PROSTITUTION.

- A. A person is guilty of prostitution when:
 - 1. He engages or offers or agrees to engage in any sexual activity with another person for a fee; or
 - 2. Is an inmate of a house of prostitution; or
 - 3. Loiters in or within view of any public place for the purpose of being hired to engage in sexual activity.
- B. Prostitution is a class B misdemeanor.

13-1303. PATRONIZING A PROSTITUTE.

- A. A person is guilty of patronizing a prostitute when:
 - 1. He pays or offers or agrees to pay another person a fee for the purpose of engaging in an act of sexual activity; or
 - 2. He enters or remains in a house of prostitution for the purpose of engaging in sexual activity.
- B. Patronizing a prostitute is a class C misdemeanor.

13-1304. AIDING PROSTITUTION.

- A. A person is guilty of aiding prostitution if he:
 - 1. Solicits a person to patronize a prostitute; or
 - 2. Procures or attempts to procure a prostitute for a patron; or
 - 3. Leases or otherwise permits a place controlled by the actor, alone or in association with another, to be used for prostitution or the promotion of prostitution; or
 - 4. Solicits, receives, or agrees to receive any benefit for doing any of the acts prohibited by this subsection.
- B. Aiding prostitution is a class B misdemeanor.

13-1305. EXPLOITING PROSTITUTION.

- A. A person is guilty of exploiting prostitution if he:
 - 1. Procures an inmate for a house of prostitution or place in a house of prostitution for one who would be an inmate; or
 - 2. Encourages, induces or otherwise purposely causes another to become or remain a prostitute; or

3. Transports a person into or within this municipality with a purpose to promote that person's engaging in prostitution or procuring or paying for transportation with that purpose; or
 4. Not being a child or legal dependent of a prostitute, shares the proceeds of prostitution with a prostitute pursuant to their understanding that he is to share therein; or
 5. Owns, controls, manages, supervises, or otherwise keeps alone or in association with another a house of prostitution or a prostitute business.
- B. Exploiting prostitution is a class B misdemeanor.

13-1306. Reserved.

13-1307. PERVERSION. It shall be a class B misdemeanor for any person to:

- A. Commit or offer or agree to commit a lewd act or an act of moral perversion.
- B. Secure or offer another for the purpose of committing a lewd act or an act of moral perversion.
- C. Be in or near any place frequented by the public, or any public place, for the purpose of inducing, enticing, or procuring another to commit a lewd act or an act of prostitution or moral perversion.
- D. Make a meretricious display in or near any public place, any place frequented by the public, or any place open to the public view.
- E. Knowingly transport any person to any place for the purpose of committing a lewd act or an act of moral perversion.
- F. Knowingly receive, or offer or agree to receive any person into any place or building for the purpose of performing a lewd act, or an act of moral perversion, or to knowingly permit any person to remain in any place or building for any such purpose.
- G. Direct or offer to direct any person to any place or building for the purpose of committing any lewd act or act of prostitution or moral perversion.
- H. Aid, abet, allow, permit, or participate in the commission of any of the acts prohibited in subsection (A) through (G) above.

TITLE 14-000. UTILITIES.

CHAPTER 14-100. WATER

PART 14-110. WATER DEPARTMENT AND SYSTEM. The water department of the municipality is hereby created. It shall administer the operation and maintenance of the water system of the municipality.

14-111. SUPERINTENDENT. There is hereby created the position of superintendent of the water department.

14-112. DUTIES OF THE SUPERINTENDENT. The superintendent of the water system shall manage and supervise the municipal water system pursuant to the provisions of the part and pursuant to resolutions, rules and regulations adopted by the governing body from time to time prescribing his powers and duties and directing the manner and frequency with which he shall make reports relating to the water system. All of the functions and activities of the superintendent shall be carried on under the direction of the mayor or a member of the city council the mayor may designate. (Part 14-112 amended 1-19-94)

14-113. APPLICATION FOR WATER CONNECTION. Any person other than a subdivider or developer seeking multiple connections, who desires or is required to secure a new connection to the municipal water system, shall file with the water department for each such connection a written and signed connection application provided by Enoch City staff.

A. If not completed previously, one (1) acre-foot of water shall be deeded to Enoch City Corporation for each single dwelling lot. Water rights requirements for all multi-residential, commercial and industrial/manufacturing properties will be determined in accordance with City ordinances. The applicant must pay any and all costs incurred for deeding and transferring the water. When deeding water to Enoch City, the water right must be in the Cedar City Valley Drainage on the north side of Highway 56 with a water right prefix of 73 and shall have a priority date no younger than 1934 or an official date set by the Utah State Engineer. A Water Rights Addendum will be required with the water deed. (Rev. 10-2016)

PART 14-114. APPLICATION FOR WATER CONNECTION BY SUBDIVIDER. Whenever a subdivider or developer desires or is required to install water connections and extensions for a subdivision or development, the subdivider or developer shall enter into a written extension agreement which shall constitute an application for permission to make the extensions and connections and an agreement specifying the terms and conditions under which the water extensions and connections shall be made and the payments that shall be required.

PART 14-115. APPLICATION FOR UTILITY SERVICE. Initiating account: Any person who desires or is required to secure utility services when such services are available from the municipal utility system shall file with the municipality a written application and agreement for the utility services noting that utility services must remain in the property owner's name. Under certain circumstances, application for service to property may be initiated by individuals desiring to purchase the same. (See Title 14-116) The required security deposit will need to be paid in full or at approval of staff, be paid in two payments with the first payment being made at time of submitting application, balance to be paid in the following month. Waiver of deposit can be

requested only by the property owner account by submitting two letters of good credit from two utility providers that the customer has had service with for at least 1 year for staff approval. If the property owner is a previous Enoch City resident with an excellent payment history on the previous account, they may request a deposit waiver for the city staff to review.

Rental Accounts: The owner can request that the renter or property management have an account by completing the following: The property owner will be required to complete an owner/renter/property management agreement, and initial and sign where indicated on the renter/property management application. A new application and agreement will need to be completed as the renter or property management changes. At any time that the renter/property management account is terminated, the services will stay on and revert to the landlord account for billing. The property owner will be responsible for any outstanding amount due owing on the renter or property management account. Collections and or lien of property may be placed on the property owner in the event that payment is not made at the time and manner required.

The renter or property management will need to complete the renter/property management application that has been initialed and signed by the property owner, and pay the required deposit. The property management company cannot put the sublease on the account. Rental / property management accounts are not eligible for a deposit waiver. (Rev. 11-7-12)

ENOCK CITY CORPORATION

APPLICATION FOR UTILITY SERVICES

TO THE MUNICIPALITY OF ENOCH, UTAH

The undersigned hereby applies for utility services from the municipality of Enoch, Utah, for premises located at _____, and hereby agrees:

- 1. To pay charges for such utility services as are fixed from time to time by the governing body until such time as I shall direct such services to be discontinued.*
- 2. In the event of a failure to pay utility charges within the due dates fixed by the governing body or of a failure of the occupant of the premises to conform to the ordinances and regulations established by the governing body regulating the use of the utility system, the municipality shall have the right to discontinue the water system service at its election, pursuant to fifteen (15) days or twenty-four (24) hour written notice of the municipality's intention, as defined in Part 14-121 and Part 14-236 of the Code of Revised Ordinances of Enoch, until all utility charges and any reconnection fees imposed are paid in full or until any failure to conform to this ordinance or regulation issued there under is eliminated.*
- 3. To be bound by the rules, regulations, resolutions or ordinances enacted or adopted by the governing body applicable to the municipality's utility system. Applicant does hereby deposit \$_____ with the municipality on the filing of this application for utility service, and it is agreed and understood that the municipality may, but need not apply the deposit upon bills due for prior service and that the right of the municipality to shut off service as above provided shall exist even though the deposit has not been applied to the payment of past due bills for services. On final settlement of applicant's account, any unused balance of the deposit will be refunded to applicant upon return of the security deposit receipt issued by the municipality at the time the deposit is made.*

4. *That the deposit shall not be considered as an advance payment for any service. Charges and unpaid accounts shall be considered delinquent notwithstanding the existence of the deposit, and the applicant or user of water service shall not have the right to compel the municipality to apply the deposit to any account to avoid delinquency. In addition, by affixing my signature to this agreement I hereby signify that I have inspected the premises to insure that it is ready for water service, and hereby authorize the City to turn on water service to my property. I also agree that I will indemnify, defend, and hold harmless Enoch City, its agents and employees, elected and appointed officials, from and against all claims, damages, losses that occur due to any condition on the applicant's property arising out of or resulting from the act of turning on water service to the mentioned property. Rev. 5-7-08.*

Dated this ____ day of _____, 20 .. _____
Applicant

14-116. TEMPORARY OCCUPANCY PENDING FINANCING APPLICATION. Under certain circumstances, property may be occupied by individuals desiring to purchase the same. In the event that a closing date for the purchase of property by such individuals has been determined, and/or financing is pending approval, the occupant may make application with the City in writing for water service to said premises, where such service is available. Such service when granted shall be available up and until the closing date as verified by an Earnest Money Sales Agreement or similar document. Thereafter, the property owner shall be subject to Section 14-115 above. Any occupant qualifying under the circumstances set forth above must make written application to the City Recorder and file an agreement with the City, which in substance and form shall duplicate the agreement provided by Enoch City staff. (Rev. 10-2016)

14-117. RATES AND CONNECTION FEES. The rates, penalty fee for delinquency in payment, connection fee, reservoir fee, inspection fee and other charges incidental to connection and services from the municipal water system shall be fixed from time to time by resolution enacted by the governing body. The governing body may from time to time promulgate rules for levying, billing, guaranteeing and collecting charges for water services and all other rules necessary for the management and control of the water system. Rates for services furnished shall be uniform with respect to each class or classes of service established or that may hereafter be established.

14-118. SPECIAL RATES. The governing body may from time to time fix by agreement or resolution special rates and conditions for users using exceptionally large amounts of water service or making use of the water system under exceptional circumstances, upon such terms and conditions as they may deem proper.

14-119. BOARD OF EQUALIZATION, RATES, AND REBATES. The governing body is hereby constituted a board of equalization of water rates to hear complaints and make corrections of any assessments deemed to be illegal, unequal, or unjust. They may, if they see fit, rebate all or any part of the water bill of any indigent person.

14-120. USE WITHOUT PAYMENT PROHIBITED. It shall be unlawful for any person by himself, family, servants, or agents to utilize the municipal water or sewer system without paying therefore, as herein provided or, without authority, to open any fire hydrant, stopcock, valve, or other fixtures attached to the system of water supply unless it is done pursuant to proper application, agreement, or resolution. It shall be unlawful to injure, deface, or impair any part or

appurtenance of the water or sewer system, or to cast anything into any reservoir or tank belonging to the water system.

PART 14-121. DELINQUENCY - DISCONTINUANCE OF SERVICE.

- A. The water department personnel, sewer department personnel, or such other person as the governing body may designate, shall furnish to each user, or mail to, or leave at his place of residence or usual place of business, a written or printed statement stating thereon the amount of utility service charges assessed against him once each month or at such other regular interval as the governing body shall direct.
- B. The statement shall specify the amount of the bill for the water service and other utility service and the place of payment and date due. If any person fails to pay the utility charges by thirty (30) days after the statement date, the water department personnel, sewer department personnel, or such other person as the governing body may designate, shall give the customer notice in writing of intent to discontinue the service to the customer unless the customer pays the bill in full within forty-five (45) days from the statement date.
- C. If the water service is thereafter discontinued for failure to make payment, then before the water service to the premises shall again be provided, all utility charges must have been paid in full or arrangements made for their payment in a manner satisfactory to the municipality.
- D. In the event water is turned off for nonpayment of utility charges, before the water service to the premises shall again be provided, the customer shall pay in addition to all utility charges, such extra charge for turning the water off and on as the governing body may have established by resolution. Until such a resolution has been adopted, there shall be added an extra charge, as set in the fee schedule, for turning on the water. Furthermore, in addition to such payments and penalties, a delinquent customer may be required to make and file a new application and deposit, if the previous deposit has therefore been applied to the payment of delinquent bills. (fee revised on 2-15-06)
- E. In the event payment for delinquent charges is made with a check and the check does not clear the bank, the water department personnel, sewer department personnel, or such other person as the governing body may designate, shall give the customer notice in writing of intent to discontinue water service to the customer unless the customer pays the amount of the check in cash or money order within twenty-four (24) hours from the date of the notice.
- F. The recorder/clerk is hereby authorized and empowered to enforce the payment of all delinquent utility charges, costs of collection, court costs and reasonable attorney fees, by an action at law in the name of the municipality.
(Amended 10-02-1996)

14-122. TURNING ON WATER AFTER BEING TURNED OFF PROHIBITED. It shall be unlawful for any person, after the water has been turned off from the premises for nonpayment of water charges or other violation of the ordinances, rules, regulations, or resolutions pertaining to the water supply, to turn on or allow the water to be turned on or used without authority from the superintendent or recorder/clerk.

14-123. SEPARATE CONNECTIONS. It shall be unlawful for two or more families or service users to be supplied from the same service pipe, connection or water meter unless special permission for such combination usage has been granted by the governing body and the premises served are owned by the same owner. In all cases, a failure on the part of any one of the users to comply with this section shall warrant a withholding of a supply of water through the service connections until compliance or payment has been made, and in any event, the property owner

shall be primarily liable to the municipality for all water services utilized on all such premises. Nothing herein shall be deemed to preclude the power of the municipality to require separate pipes, connections, or meters at a subsequent time.

14-124. UNAUTHORIZED USERS. It shall be unlawful for any water service user to permit any person from other premises or any unauthorized person to use or obtain water services regularly from his premises or water facilities, either outside or inside his premises.

14-125. PERIOD FOR VISITORS. Individuals visiting the premises of an authorized user in a recreational vehicle not including a mobile home and continuing to live therein during the period of visitation may receive water service from the service pipes or facilities of the host during the visitation period which shall not exceed one month. Continued use thereafter shall be deemed unauthorized and in violation of the provisions of this part relating to separate connections and unauthorized use.

14-126. PIPES TO BE KEPT IN GOOD REPAIR. All users of water services shall keep their service pipes and connections and other apparatus in good repair and protected from frost at their own expense. No person except under the direction of the water superintendent shall be allowed to dig into the street for the purpose of laying, removing or repairing any service pipe.

14-127. QUALITY OF SERVICE PIPE.

- A. All service and other pipe used in conjunction with the water services of the municipality shall be of such materials, quality, and specifications as the governing body may from time to time by resolution provide, and shall be installed at such distances below ground as may be specified by regulations relating to the water department. All work, alterations, or extensions affecting water pipes shall be subject to the acceptance of the water superintendent, and no connections with any water mains shall be made without first obtaining a permit therefore from the recorder/clerk.
- B. No consumer shall be permitted to conduct water pipes across lots or buildings to adjoining premises without permission from the water superintendent and subject to such requirements relating to controls as may be imposed by him.

14-128. FAULTY EQUIPMENT. It shall be unlawful for any water user to:

- A. Waste water.
- B. Allow it to be wasted by stops, taps, valves, leaky joints or pipes, or to allow tanks or watering troughs to leak or overflow.
- C. Wastefully run water from hydrants, faucets, or stops or through basins, water closets, urinals, sinks or other apparatus.
- D. Use the water for purposes other than for those for which he has applied, or to use water in violation of the rules and regulations for controlling the water supply.

14-129. SPRINKLING VEHICLES. Vehicles for sprinkling shall be regulated and controlled by the water department through the superintendent of the water department.

14-130. DEPARTMENT TO HAVE FREE ACCESS. The water superintendent and his agents shall at all ordinary hours have free access to any place supplied with water services from the municipal system for the purpose of examining the apparatus and ascertaining the amount of water service being used and the manner of its use.

14-131. NON-LIABILITY FOR DAMAGES. The municipality shall not be liable for any damage to a water service user by reason of stoppage or interruption of his or her water supply

service caused by fires, scarcity of water, accidents to the water system or its mains, or which occurs as the result of maintenance and extension operations, or from any other unavoidable cause. This section shall not be construed to extend the liability of the municipality beyond that provided in the Governmental Immunity Act.

14-132. WATER NOT SUPPLIED FOR MOTORS, SYPHONS, ETC. No water shall be supplied from the pipes of the municipal water system for the purpose of driving motor, syphon, turbine, or other wheels, or any hydraulic engines, or elevators, or for driving or propelling machinery of any kind whatsoever, nor shall any license be granted or issued for any such purpose except by special permission of the governing body.

14-133. SPRINKLERS.

- A. It shall be unlawful for any person to use such number of outlets simultaneously or to use such sprinkler or combinations of sprinkler or outlets as will in the opinion of the governing body materially affect the pressure or supply of water in the municipal water system or any part thereof, and the governing body may from time to time, by resolution, specify combinations or numbers of outlets which may have such effect.
- B. The governing body shall, after determining that such improper use exists, notify the affected water user or the owner of the premises whereon such use occurs of such determination in writing, order such use discontinued and advise that such continued usage constitutes a violation of this part.

14-134. SCARCITY OF WATER. In time of scarcity of water, whenever it shall be necessary in the judgment of the mayor and the governing body, the mayor shall by proclamation, limit the use of water to such extent as may be necessary. It shall be unlawful for any person, his family, servants, or agents, to violate any proclamation made by the mayor in pursuance of this part. Unless a separate proclamation is made, the following is enforced:

- A. Beginning on April 1 and ending on October 31 of each calendar year, outside irrigation of the lot using culinary or secondary water is prohibited between the hours of 10:00 a.m. and 6:00 p.m., except for the following situations:
 - 1. New lawns that require frequent irrigation for establishment purposes;
 - 2. Short cycles required for testing, inspecting, and maintaining irrigation systems provided that there is a person physically present to monitor the system test; or
 - 3. Use of culinary or secondary water for irrigation of commercial stock and commercial gardens or plant nurseries that are licensed by the City, provided that the licensee or a representative is personally on the premises at the time the irrigation is taking place.
- B. Within a calendar year culinary or secondary water users found violating this ordinance may be subject to the following penalties:
 - 1. Upon a first offense a notice reasonably designed to educate and inform the water user about the provisions of this ordinance shall be provided. The notice shall be deemed sufficient if mailed or left in a conspicuous location on the property where the ordinance violation occurs. An example is leaving a notice hanging on the front door of a residence, or the manager's door of a multi-unit dwelling.
 - 2. Upon a second violation the property owner will be contacted and verbally warned that the water supply to the property where the violation occurs may be shut off

3. Upon a third violation, and any proceeding violations, the water supply to the property where the violation occurs shall be shut off. Once the water is shut off it may only be turned back on by City staff after the fee established by this ordinance or the City's fee schedule and an additional one hundred dollar (\$100) penalty have been paid. All fines and penalties shall be paid in full prior to restoration of water service. (Rev. 10-2016)

14-135. WASTE OF WATER.

- A. Users of water from the municipal water system shall not permit water to continue to run wastefully and without due efforts to conserve water. If, in the judgment of the water superintendent or of any of the officers of the municipality, a user of municipal water engages in practices which result in the needless waste of water and continues so to do after reasonable notice to discontinue wastefulness has been given, the superintendent or any officer may refer the matter to the police department.
- B. Unless otherwise designated, any person violating any provision of this section either by failing to do the acts required herein or doing any act prohibited herein shall be guilty of an infraction and, upon conviction thereof, shall be subject to punishment by a fine not to exceed \$750.
- C. The governing body may thereupon consider terminating the right of the individual to use culinary water. If it elects to consider the matter of termination, it shall give notice to the water user of the intention to terminate his water connection at least ten days prior to the meeting of the governing body at which termination of water service is to be considered. The notice shall inform him of the time and place of the meeting and of the charges that led to the consideration of the termination.
- D. A water user whose right to utilize municipal water is being reviewed shall have opportunity to appear with or without counsel and present his reasons why his water service should not be discontinued.
- E. After due hearing, the governing body may arrive at a determination. If the determination is to discontinue the wasteful water user's service connection, it shall give written notification to the user of the decision and of the period during which the service will remain discontinued.

(Rev. 10-2016)

14-136. WATER METERS.

- A. Except as otherwise expressly permitted by this part, all structures, dwelling units, establishments and persons using water from the municipal water system must have such number of water meters connected to their water system as are necessary in the judgment of the superintendent to adequately measure use and determine water charges to the respective users.
- B. Meters will be furnished by the municipality upon application for a connection, and upon payment of such connection fees and other costs as may be established by the governing body from time to time by resolution
- C. Meters shall be deemed to be and remain the property of the municipality. Whenever a dispute between superintendent and the property owner arises as to the appropriate number of meters to be installed on any premises, the matter shall be heard and determined by the governing body after due notice in writing to the parties involved.
- D. The superintendent shall cause meter readings to be taken regularly and shall advise the recorder/clerk thereof for the purpose of recording the necessary billings for water service.

- E. Meters may be checked, inspected or adjusted at the discretion of the municipality, and they shall not be adjusted or tampered with by the customer. Meter boxes shall not be opened for the purpose of turning on or off the water except by an authorized representative of the municipality unless special permission is given by the municipality through its representatives to the customer to do so.
- F. If a customer submits a written request to the superintendent to test his water meter, the municipality may, if under the circumstances it deems it advisable and in its discretion, order a test of the meter measuring the water delivered to such customer. If such request is made within twelve months after the date of the last previous test, the customer may be required to pay the cost of such test. If the meter is found in such test to record from 97% to 103% of accuracy under methods of testing satisfactory to the governing body, the meter shall be deemed to accurately measure the use of water.
- G. If the municipality's meters fail to register at any time, the water delivered during the period of failure shall be estimated on the basis of previous consumption during a period that is not questioned. In the event a meter is found to be recording less than 97% or more than 103% of accuracy, the municipality shall make such adjustments in the customer's previous bills as are just and fair under the circumstances.
- H. All damages or injury to the lines, meters or other materials of the municipality on or near the customer's premises caused by any act or neglect of the customer shall in the discretion of the municipality be repaired by and at the expense of the customer, and the customer shall pay all costs and expenses, including a reasonable attorney fee, which may arise or accrue to the municipality through its efforts to repair the damage to the lines, meters or to other equipment of the department or collect such costs from the customer.

14-137. PERMITS FOR INSTALLATION. It shall be unlawful for any person to lay, repair, alter or connect any water line to the municipal culinary water system without first having received a construction permit from the office of the recorder/clerk or from the water superintendent.

14-138. APPLICATIONS FOR INSTALLATION PERMIT.

- A. Applications for permits to make water connections or other alteration or for laying or repairing lines connected directly or indirectly to the municipal water system must be made in writing by a licensed plumber, his authorized agent, or by the owner of the premises who shall describe the nature of the work to be done for which the application is made. The application shall be granted if the superintendent determines that:
 - 1. The connection, repair, alteration or installation will cause no damage to the street in which the water main is laid, or that it will not be prejudicial to the interests of persons whose property has been or may thereafter be connected to the water main.
 - 2. The connection conforms to the ordinances, regulations, specifications and standards of materials required by the municipality.All connections, alterations or installations shall be to the line and grade designated by the water superintendent.
- B. Fees for permits or for inspection services shall be of such amounts as the governing body shall from time to time determine by resolution.

14-139. MOVING OR REPLACEMENT OF WATER LINES. In the event that the municipality in its sole discretion determines that any water line of the municipality must be moved or replaced, the municipality shall bear that portion of the cost of such move or replacement that applies to main lines up to the property line of the customer. The cost of

reconnecting such new line or lines from the house of the customer to his property line shall be borne by the customer.

14-140. WHEN PERMITS SHALL NOT BE ISSUED. Permission to connect with the municipal water system shall not be given unless the plumbing in the house or building to be connected meets the provisions of the building and plumbing codes of the municipality.

14-141. DISCONTINUANCE OF SERVICE. Any customer desiring to discontinue service shall notify the municipality in writing of such fact at least ten days before the date when such service shall be discontinued. On giving such written notice, the customer shall not be responsible for water bills incurred after the date specified in the notice. Any credit balance in favor of the customer as a result of an advance payment of bills or a deposit made will be refunded upon discontinuance of service.

14-142. FIRE HYDRANTS. Water for fire hydrants will be furnished free of charge by the municipality. Installation and repairs on such hydrants shall be at the expense of the municipality and shall be made under the direction of the municipality. All customers shall grant the municipality, upon demand, a right-of-way or easement to install and maintain such hydrants on their premises if the municipality concludes that hydrants shall be so installed for the protection of the residents of the municipality.

14-143. EXTENSION OF WATER MAINS WITHIN THE MUNICIPALITY. Any person or persons, including any subdivider, who desires to have the water mains extended within the municipality, and is willing to advance the whole expense of such extension and receive the return of an agreed portion thereof, as hereinafter provided, may make application to the governing body by petition. The petition shall contain a description of such proposed extension accompanied by a map showing the location of the proposed extension together with an offer to advance the whole expense thereof, which cost shall be verified by the water superintendent. The governing body may grant or deny the petition as in its discretion seems best for the welfare of existing water users in the municipality.

14-144. COST OF EXTENSIONS DETERMINED. Upon the receipt of such petition and map and before the petition is granted, the governing body shall obtain from the water superintendent a certified statement showing the whole cost of expense of making such extension.

14-145. AMOUNT OF COST TO BE DEPOSITED WITH RECORDER. If the governing body grants the petition, the amount of the cost of making the extension, as certified by the superintendent shall be deposited with the recorder/clerk before any work shall be done on such extension. The deposit shall be made within 30 days, or such other time as the governing body shall indicate, after the granting thereof.

14-146. RETURN OF ANY MONEY – FORFEITURE.

- A. At the time the governing body decides whether or not to grant a petition for an extension, it shall also decide whether or not any portion of the costs is to be refunded and the manner and circumstances under which such refund shall be made or credited to the applicant, his successors or representatives. Such determination shall be duly recorded in writing and a copy thereof furnished to the applicant.
- B. In the event any deposit remains unclaimed for a period of five years after the depositor has discontinued water service, the deposit may be forfeited and then transferred to the water utility fund.

14-147. OWNERSHIP OF EXTENSION. Any such extension shall be deemed the property of the municipality.

PART 14-150. SERVICE OUTSIDE MUNICIPALITY.

14-151. SUPPLY OF WATER SERVICES TO PERSON OUTSIDE THE MUNICIPAL LIMITS. The municipality may furnish water service from its water system to persons outside the municipality in accordance with the provisions of this part.

14-152. PETITION FOR SERVICE. Any person located outside the municipal limits, who desire to be supplied with water services from the municipal water system and is willing to pay in advance the whole expense of extending the water system to his property, including the cost of extending any water main beyond its present location, may make application to the governing body by petition containing:

- A. A description of the proposed extension.
- B. A map showing the location thereof.
- C. An offer to pay the whole expense incurred by the municipality in providing such extension and to advance such expense as shall be verified to by the water superintendent. The governing body and the person or persons seeking such extension may enter into an agreement providing in detail the terms under which the extension may be utilized by others in the future and the terms under which all or any portion of the cost of installing such extension may be refunded.
- D. An acknowledgment that the municipality in granting the petition need supply only such water to the petitioner which from time to time the governing body deems beyond the requirements of water users within the municipal limits, and that such extension shall be the property of and subject to the control of the municipality.

14-153. EXTENSIONS MAY BE MASTER METERED. When an extension supplying more than one house or user outside the municipal limits is connected to municipal water mains, the water superintendent may require a master meter to be installed near the point where the connection is to be made to the municipal main. This installation will be at the expense of the persons served by such extension according to the regular rates for meter installation. Responsible parties must agree to pay all bills for water served through the meter at the applicable water rates.

14-154. COST OF EXTENSIONS TO BE DETERMINED BY WATER SUPERINTENDENT. Upon receipt of such petition and map and before the petition is granted, the governing body shall determine what portion, if any, of the extension of the municipal water mains to the municipal limits the municipality shall construct, and shall obtain from the water superintendent a verified statement showing the whole cost and expense of making such extension. Such costs and expenses shall include administrative and supervisory expenditures of the municipal water department, which shall in no event be deemed to be less than ten percent of the cost of materials and labor.

PART 14-160. DRINKING WATER SOURCE PROTECTION ORDINANCE.

14-161. SHORT TITLE AND PURPOSE.

- A. This ordinance shall be known as the “Drinking Water Source Protection Ordinance.”
- B. The purpose of this ordinance is to insure the provision of a safe and sanitary drinking water supply for Enoch City by the establishment of drinking water source protection zones surrounding the wellheads and springs which are the supply sources for the Enoch

City water system and by the designation and regulation of property uses and conditions which may be maintained within such zones.

14-162. DEFINITIONS. When used in this ordinance the following words and phrases shall have the meanings given in this section:

- A. Design Standard - means a control that is implemented by a potential contamination source to prevent discharges to the ground water. Spill protection is an example of design standard.
- B. Land Management Strategies - means zoning and non-zoning controls which include, but are not limited to, the following: zoning and subdivision ordinances, site plan reviews, design and operating standards, development rights, public education programs, ground water monitoring, household hazardous waste collection programs, water conservation programs, memoranda of understanding, written contracts and agreements, and so forth.
- C. Pollution Source - means point source discharges of contaminants to ground water or potential discharges of the liquid forms of “extremely hazardous substances” which are stored in containers in excess of “applicable threshold planning quantities” as specified in SARA Title III. Examples of possible pollution sources include, but are not limited to, the following: storage facilities that store the liquid forms of extremely hazardous substances, septic tanks, drain fields, class V underground injection wells, landfills, open dumps, land filling of sludge and septage, manure piles, salt piles, pit privies, and animal feeding operations with more than ten animal units. The following clarify the definition of pollution sources:
 - 1. Animal Feeding Operation - means a lot or facility where the following conditions are met: animals have been or will be stabled or confined and fed or maintained for a total of 45 days or more in any 12 month period; and crops, vegetation forage growth, or post-harvest residues are not sustained in the normal growing season over any portion of the lot or facility. Two or more animal feeding operations under common ownership are considered to be a single feeding operation if they adjoin each other, if they use a common area, or if they use a common system for the disposal of wastes.
 - 2. Animal Unit - means a unit of measurement for any animal feeding operation calculated by adding the following numbers: the number of slaughter and feeder cattle multiplied by 1.0, plus the number of mature dairy cattle multiplied by 1.4, plus the number of swine weighing over 55 pounds multiplied by 0.1, plus the number of horses multiplied by 2.0.
 - 3. Extremely Hazardous Substances - means those substances which are identified in the Section 302 (EHS) column of the “TITLE III LIST OF LISTS - Consolidated List of Chemicals Subject to Reporting under SARA Title III”, (EPA 560/4-91-011).
- D. Potential Contamination Source - means any facility or site which employs an activity or procedure that may potentially contaminate ground water. A pollution source is also a potential contamination source.
- E. Regulatory Agency - means any governmental agency with jurisdiction over hazardous waste as defined herein.
- F. Sanitary Landfill - means a disposal site where solid wastes, including putrescible wastes, or hazardous wastes, are disposed of on land by placing earth cover thereon.
- G. Septic Tank/Drain-Field Systems - means a system which is comprised of a septic tank and a drain field which accepts domestic wastewater from buildings or facilities for subsurface treatment and disposal. By their design, septic tank/drain field system discharges cannot be controlled with design standards.

- H. Spring - means the ground surface outlet of a natural underground spring including spring collection and control boxes, valves, piping and other attachments.
- I. Wellhead - means the upper terminal of a well, including adapter, ports, seals, valves and other attachments.

14-163. ESTABLISHMENT OF DRINKING WATER SOURCE PROTECTION ZONES.

There is hereby established, use districts to be known as zones one, two, three and four of the drinking water source protection area, identified and described as follows: (See Exhibit 1)

- A. "Zone One" is the area within a 100-foot radius from the wellhead or spring.
- B. "Zone Two" is the area within a 250-day ground-water time of travel to the wellhead or spring, the boundary of the aquifer(s) which supplies water to the ground-water source, or the ground-water divide, whichever is closer.
- C. "Zone Three" (waiver criteria zone) is the area within a 3-year ground-water time of travel to the wellhead or spring, the boundary of the aquifer(s) which supplies water to the ground-water source, or the ground-water divide, whichever is closer.
- D. "Zone Four" is the area within a 15-year ground water time of travel to the wellhead or spring, the boundary of the aquifer(s) which supplies water to the ground-water source, or the ground-water divide, whichever is closer.

14-164. PERMITTED USES. The following uses shall be allowed within the ground water protection zones:

- A. All Zones.
 - 1. Uses established before the Effective Date of this Ordinance and used continuously and in the same manner thereafter, which uses may continue, provided any such use is not judged by any court of competent jurisdiction to be a nuisance under the provisions of federal, state or local laws or regulations.
 - 2. Use of single or multiple-family residential dwellings, commercial or institutional uses established on or after the effective Date of this ordinance connected to a sanitary sewer system.
 - 3. Uses incidental and accessory to the uses set forth in the two immediately preceding subparagraphs.
- B. Zone 4.
 - 1. The tilling of the soil and the raising of crops, provided fertilizing and the use of pesticides is accomplished within federal, state and local guidelines.
 - 2. The pasturing of livestock provided all forage is raised on the pastured area.
 - 3. Uses incidental and accessory to the uses set forth in the two immediately preceding subparagraphs.

14-165. PROHIBITED USES. Except uses established before the Effective Date of this ordinance and used continuously and in the same manner thereafter, which uses may continue, on or after the Effective Date of this ordinance, the following uses or conditions shall be and hereby are prohibited within ground water protection zones.

- A. Zones 1 and 2.
 - 1. Sanitary sewer line within 150 feet of a wellhead or spring collection area.
 - 2. Underground storage tanks.
 - 3. Storm water infiltration structures.
 - 4. Uncontrolled potential contamination sources.
[14-165(A)(4) amended 04-17-2002]
- B. Zones 1, 2 and 3. Agriculture industries including, but not limited to, intensive feeding operations such as feed lots, dairies, fur breeding operations, poultry farms, etc.
- C. All Zones.

1. Surface use, storage, or dumping of hazardous waste or material, expressly including industrial or commercial uses of agricultural pesticides (except when such pesticides are used in farming applications within strict compliance of the manufacturer's recommendations of use, subject to inspection by local officials).
2. Sanitary landfills.
3. Hazardous waste or material disposal sites.
4. Septic tanks/drain field systems.

14-166. ADMINISTRATION. The policies and procedures or administration of any source protection zone established under this ordinance, including without limitation those applicable to nonconforming uses, exception, enforcement and penalties, shall be the same as provided in the existing zoning ordinance, as the same is presently enacted or may from time to time be amended. (Part 14-160 through 14-166 added 7-1-98)

PART 14-170. WATER BOARD.

There is hereby created the Enoch City Water Board, which shall consist of seven (7) members, two of which shall be ex-officio members. The Board shall be comprised of the City Water Superintendent and the City Council member appointed to oversee the City water department who shall be the ex-officio, non-voting members of the Board. Additionally, there shall be five (5) at large members appointed by the Mayor, with the approval of the City Council. The Board members shall serve for the terms, at the compensation, and with the powers and duties hereinafter provided. The Water Board shall act as an advisory body to the Mayor and City Council with respect to policy-related matters associated with the water department of the City.

14-171. TERM; COMPENSATION.

- A. The City Water Superintendent and City Council member appointed to the Board shall serve until removal by the Mayor or removal or expiration of their terms with regard to their respective positions with the City. Other Board members appointed as set forth above, shall serve for a term of five (5) years, with one term expiring each year. To effectuate such staggered terms, upon the initial appointment to the Board of the five (5) at large members, one member shall be appointed to a term to expire December 31st, and one term to expire each year. After the initial terms, each term shall continue for a period of five (5) years. Upon the expiration of any term of a Board member or upon the removal, resignation, or other termination of a Board member, the vacancy created thereby shall be filled as soon as practical, in the same manner as such position was originally filled. In the event a Board member is removed, resigns, or otherwise terminates membership with the Board prior to the expiration of his or her term. An appointment to fill such vacancy shall be only for the remainder of the unexpired term.
- B. Each member of the Board may be compensated for the performance of those duties required herein in an amount to be determined from time to time by the Mayor and City Council. Members shall be reimbursed for expenses incurred in carrying out their duties, including reasonable travel and other expenses

necessarily expended on behalf of the City while on Board business outside of Enoch City. Such reimbursement shall be made in the manner provided by the policies and ordinances of the City.

14-172. QUALIFICATIONS; ORGANIZATION.

To be eligible for appointment as an at large member of the Water Board, the candidate shall be a citizen of the United States, the State of Utah, and a resident of Enoch City or be a resident of the Enoch City annexation declaration boundary area. The candidate must be of good character and possess qualifications necessary for the administration of affairs connected with the efficient management of the water system of the City. The appointed at large members of the Board shall annually designate a chairman at the first meeting of the year and secretary, and at the request of the Mayor and City Council, may make recommendations regarding water related matters. The Board shall hold public meetings as needed at the City Office Building at a time designated by the Board members normally and all members shall attend such meetings; provided, however, that three (3) voting members of the Board shall constitute a quorum and may transact business of the Board, provided any formal action or recommendation by the Board shall require the unanimous vote of at least three (3) voting members. The City Council shall afford business quarters suitable for meetings and other business of the Board. Any member of the Board who fails to discharge the duties of the office hereby created, by failing to attend meetings or otherwise, or for other sufficient cause, may be removed from office by the Mayor and a new member appointed forthwith for the unexpired term of the member so removed.

14-173. WATER SYSTEM DEFINED.

The water system of the City shall comprise and include the development, production, acquisition and operation of culinary and irrigation water works, including distribution and sale of water therefrom.

14-174 DUTIES; POWERS OF BOARD.

The Water Board shall be responsible to the City Council for the following duties:

- A. It shall act as an advisory body and make recommendations to the Mayor and City Council regarding policies and procedures necessary to the operation of the City's water systems. Recommendations shall be compiled in written form and submitted to the City Manager for review and presentation to the Mayor and City Council for their consideration.
- B. It may review and make recommendations to the Water Superintendent regarding the content of the annual fiscal budget for the water department. The proposed budget will then be submitted to the City Manager for his review, modification, and submittal to the Mayor and City Council for their final approval.

(Part 14-170 through 14-174 added 3-5-03) Revised 04-20-11.

PART 14-180. CROSS CONNECTION ORDINANCE

14-181. SHORT TITLE AND PURPOSE.

- A. This ordinance shall be known as the "Cross Connection Ordinance" and may be so cited.

- B. The purpose of this ordinance is to protect the public potable water supply from contamination or pollution by isolating within its customers' internal distribution system(s) such contaminants or pollutants that could back-flow or back-siphon into the public potable water supply system.

14-182. DEFINITIONS. When used in this ordinance the following words and phrases shall have the meaning given in this section:

- A. Back-flow - The reversal of the normal flow of water in a potable water distribution system caused by either back-pressure or back-siphonage connection.
- B. Back-Pressure- The pressure, higher than the supply pressure, caused by a pump, elevated tank, boiler, or any other means that may cause back-flow.
- C. Back-Siphonage - The flow of water or other liquids, mixtures or substances into the distribution pipes of a potable water supply system from any source other than the intended source, caused by the reduction of pressure in the potable water supply system.
- D. Back-flow Prevention Device or Assembly - A device, assembly or means designed to prevent back-flow. See International Plumbing Code, as adopted, for specifications of such devices or assemblies.
- E. Cross Connection - Any connection which may allow non-potable water or industrial fluids or other materials of questionable quality to come into contact with potable water inside a distribution system, including any temporary connections, swing connections, removable connections, four-way plug valves, swivel change-over devices, or other similar plumbing arrangements.

14-183. DUTY TO INSTALL AND INSPECT ANNUALLY. It shall be the responsibility of the owner of property, where water is consumed, to purchase, install, test, inspect and maintain back-flow prevention devices or assemblies wherever it will be possible for used, unclean, polluted or contaminated water, mixtures, or substances to enter any portion of his potable water system, and to otherwise control cross connections. Such owner shall have certified inspections and operational tests made at least once a year at owner's own expense. Where the City deems the hazard to be great, the City may require the owner to have such inspections and tests at a more frequent interval as prescribed by the City. All such tests shall be made according to the standards set forth by the Utah State Department of Health, Bureau of Drinking Water and Sanitation.

14-184. NEW CONSTRUCTION. The Building Official of the City will review all plans for new construction to ensure that unprotected cross connections are not an integral part of the owner's water system. If a cross connection cannot be eliminated, protection will be required by installation of an air gap or other approved back-flow prevention device or assembly, in accordance with the International Plumbing Code, as adopted. Water vacating the drinking water supply must do so by means of an approved air gap or mechanical back-flow prevention device or assembly as required by said Code. The owner shall provide the Building Official with verification of a certified test of the back-flow prevention device or assembly before a Certificate of Occupancy is issued.

14-185. INSTALLATION REQUIRED. Whenever the City deems that a service connection's water usage contributes a sufficient hazard to the water supply and a property owner has not made appropriate installation, the installation of an approved back-flow prevention device or assembly shall be required on the lateral service line of the owner's water system, at or near the property line or immediately inside the building being served, but before the first branch line leading off the lateral service line in any event. The type of protective device or assembly required shall comply with local and state requirements. The City Water Department shall be provided, by the

owner, a certified test of such back-flow prevention devices or assemblies within ten (10) working days after their initial use in order to determine their adequacy.

14-186. EXISTING EQUIPMENT. All back-flow prevention assemblies existing at the time this ordinance is adopted, which do not meet the requirements hereof, shall nonetheless be required to comply with the requirements of this Ordinance, unless they are deemed by the Building Official or the Water Department to be nonetheless adequate for the purposes intended, in which event compliance with any particular provision hereof may be waived in writing by the City. Such previously existing assemblies shall be subject in any event to the periodic inspection and testing required by Part 14-183, above. Whenever an existing assembly is moved to another location, or requires more than minimum maintenance, or where it is determined to constitute a hazard to health, the unit shall be replaced by an approved back-flow prevention device or assembly meeting the requirements of this Ordinance.

14-187. REPAIR AND MAINTENANCE OF EQUIPMENT. The maintenance, including necessary repairs, of all back-flow prevention devices or assemblies and cross connection control devices required by this Ordinance shall be the responsibility of the owner of property where an assembly or device is installed. Failure to adequately maintain any required equipment shall be a violation hereof. All installations and repairs of such equipment shall be effected by a certified journeyman plumber or other agent of the owner, provided he is a Certified Back-flow Technician as provided in Part 14-189 in either case.

14-188. ACCESS FOR INSPECTION. All water systems shall be open for inspection at all reasonable times by authorized representatives of the City in order to determine whether cross connections or other structural or sanitary hazards including violations of this Ordinance exist. In order to make such determination, the inspection shall include access to above ceiling areas, pits, paneled interior areas, or other locations where cross connections might exist. The owner and any occupant shall be responsible to provide a route of access across the property for inspection purposes that is free from litter, overgrowth, the threat of a vicious animal, or other hindrance that may be detrimental to the safety of the inspector or obstructive to his ease of access.

14-189. CERTIFIED BACK-FLOW TECHNICIAN. All tests of mechanical devices shall be conducted by a Certified Back-Flow Technician. Such technician shall be responsible for the following:

- A. Assure that acceptable testing equipment and procedures are used for the testing, repairing or overhauling of back-flow prevention assemblies.
- B. Make reports of such testing and/or repair to the consumer, the City, and the Bureau of Drinking Water and Sanitation. Reports shall be in accordance with the Bureau's requirements.
- C. Include in all reports a list of any materials or replacement parts used.
- D. Assure that replacement parts are equal in quality to original parts and that any testing, repair and replacement does not change the design or operational characteristics of the assembly.
- E. Maintain license in current condition and testing equipment in proper operation conditions.
- F. Be competent to use all necessary equipment to properly test and maintain back-flow prevention assemblies.

14-190. PUBLIC NOTIFICATION. Although failure of an owner to be aware of this ordinance shall be no defense to violation, the water department shall use reasonable means to

notify its customers of the hazards of cross connections and the need for annual inspection of back-flow assemblies.

14-191. RECORDS. The water department shall keep reasonable records of cross connection hazards and the condition of back-flow devices and assemblies, including those records required by state and federal agencies. It shall provide the tags required by Part 14-189 (G) above upon request.

14-192. VIOLATIONS. A violation of this Ordinance exists:

- A. if back-flow prevention devices and assemblies required herein for control of cross connections are not installed, tested or maintained; or
- B. if it is found that a back-flow prevention assembly is removed or has been bypassed; or
- C. if an unprotected cross connection exists on the premises; or
- D. if the periodic system inspection has not been conducted.

Service of water to a consumer found to be in violation of this Ordinance shall be discontinued after written notification of a deficiency is provided by the City to the owner and the owner fails to take required corrective action within ten (10) days after the date of mailing such notice; unless the City, at the request of the owner, authorizes a longer time for completion. Water service will not be restored until all such conditions or defects are corrected. In the event that there exists a noncompliance with state and local law or other circumstances that pose a significant health hazard, the City may immediately discontinue water service until compliance is attained or the significant health hazard is removed.

In addition to any penalty provided herein, violation of this Ordinance shall be a Class B misdemeanor.

(Part 14-180 through 14-192 added 9-1-2004)

CHAPTER 14-200. SEWER

PART 14-201. SEWER DEPARTMENT AND SYSTEM. The sewer department of Enoch City Corporation is hereby created. It shall administer the operation and maintenance of the sewer system of Enoch City.

14-202. DEFINITIONS. Unless the context specifically indicates otherwise, the meaning of terms used in this Ordinance shall be as follows:

- (1) **Addendum.** The document appended hereto entitled "Service User Charge System". The addendum is incorporated in this Ordinance the same as though fully set forth herein. The Service User Charge System includes Section A through E.
- (2) **Biochemical oxygen demand.** (BOD) shall mean the quantity of oxygen utilized in the biochemical oxidation of organic matter under standard laboratory procedure in five (5) days at 20 degrees Centigrade, expressed in milligrams per liter.
- (3) **Building drain.** That part of the lowest horizontal piping of a drainage system which receives the discharge from soil, waste and other drainage pipes inside the walls of the building and conveys it to the building sewer, beginning five (5) feet (1.5 meters) outside the inner face of the building wall.
- (4) **Building sewer.** The extension from the building drain to the Public sewer or other place of disposal, also called house connection.
- (5) **Cesspool.** Underground reservoir for liquid waste (as household sewage).
- (6) **Easement.** An acquired legal right for the specific use by City of the land of others.
- (7) **Floatable oil.** Oil, fat or grease in physical state, such that it will separate by gravity from wastewater by treatment in an approved pretreatment facility. Wastewater shall be considered free of floatable fat if it is properly pretreated and the wastewater does not interfere with the collection system.
- (8) **Garbage.** The animal and vegetable waste resulting from processes, trade or business as distinct from domestic or sanitary wastes.
- (9) **Owner.** The owner(s) of the real property to which the sewer system is connected or to which the sewer system is required to be connected, which ownership is reflected on the records of the Iron County Recorder as of the date a charge or fee is assessed by the City. Any person who sells real property, subject to a charge or fee assessed under this Ordinance, by means of a contract or instrument that does not transfer legal title to the buyer but only purports to transfer equitable title to the buyer, shall be deemed the owner of the premises for purposes of this Ordinance.
- (10) **Industrial Waste.** The wastewater from industrial processes, trade, or business as distinct from domestic or sanitary wastes.
- (11) **Natural outlet.** Any outlet (including storm sewers), into a watercourse, pond ditch, lake or other body of surface or groundwater.
- (12) **May.** Is permissive (see "shall").
- (13) **Person.** Any individual, firm, company, association, society, corporation or group.
- (14) **Ph.** The logarithm of the reciprocal of the hydrogen ions concentration. The concentration is the weight of hydrogen ions, in grams, per liter of solution. Neutral water, for example, has a ph value of 7 and hydrogen ion concentration of 10.
- (15) **Privy.** Any small unplumbed building used primarily for toilet purposes.
- (16) **Properly shredded garbage.** The wastes from the preparation, cooking and dispensing of food that have been shredded to such a degree that all particles will be carried freely under the flow conditions normally prevailing in public sewers, with no particle greater than 1/2 inch (1.27 centimeters) in any dimension.

- (17) **Public sewer.** A common sewer controlled by a governmental agency, public utility or the City.
- (18) **Residential flows.** The flow strengths and the flow volume (usually 200 mg/L for BOD and 250 mg/L for TSS). Residential flow is based on winter-time culinary water usage. The average winter flow rate is 400 gallons per residential unit. The winter-time months are 1 October through 31 March.
- (19) **Commercial and Industrial users.** Commercial or Industrial users are those who discharges waste into the system requiring higher than normal biochemical oxygen demand, or greater than normal total suspended solids. These users will be subject to Cedar City's pretreatment, local limit requirements, and will be billed for any surcharge by Cedar City accordingly.
- (20) **Sanitary sewer.** A sewer that carries liquid and water-carried wastes from residences, commercial buildings, industrial plants, and institutions together with minor quantities of ground, storm and surface waters that are not admitted intentionally.
- (21) **Septic tank.** A tank in which the solid matter of continuous flowing sewage is disintegrated by bacteria.
- (22) **Sewage.** The spent water of a community. The preferred term is "wastewater".
- (23) **Sewer.** A pipe or conduit that carries wastewater.
- (24) **Shall.** Is mandatory (see "may").
- (25) **Slug.** Any discharge of water or wastewater which in concentration of any given constituent or in quantity of flow exceeds for any period of duration longer than fifteen (15) minutes more than five (5) times the average twenty-four (24) hour concentration or flows during normal operation and shall adversely affect the collection system and/or performance of the wastewater treatment works.
- (26) **Storm drain.** A drain for conveying water, groundwater, subsurface water or unpolluted water from any source.
- (27) **Superintendent.** The director of public works of Enoch City or his authorized deputy, agent, or representative as designated by the City.
- (28) **Suspended solids.** Total suspended matter that either floats on the surface of, or is in suspension in water, wastewater or other liquids, and that is removable by laboratory filtering as prescribed in "Standard Methods for the Examination of Water and Wastewater" and exclusive of non-filtered residue.
- (29) **System.** The sewer, wastewater or combined wastewater and storm or surface water facilities of the City.
- (30) **Unpolluted water.** The water of quality equal to or better than the effluent criteria in effect or water that would not cause violation of water quality standards and would not be benefited by discharge to the sanitary sewers and wastewater treatment facilities provided.
- (31) **Wastewater.** The spent water of a community. From the standpoint of source, it may be a combination of the liquid and water-carried wastes from residences, commercial buildings, industrial plants, and institutions, together with any incidental groundwater, surface water and storm water that may be present.
- (32) **Wastewater facilities.** The structures, equipment and processes required to collect, carry away and treat domestic and industrial wastes and dispose of the effluent.
- (33) **Watercourse.** A natural or artificial channel for the passage of surface water either continuously or intermittently.

14-203. WASTEWATER SUPERINTENDENT. There is hereby created the position of wastewater superintendent of the sewer department, who shall be the director of public works for the City. The superintendent of the sewer system shall manage and supervise the City sewer system pursuant to the provisions of this chapter and pursuant to resolutions, rules and regulations

adopted by the City Council from time to time, prescribing his powers and duties and directing the manner and frequency with which he shall make reports to the Mayor relating to the sewer system. All of the functions and activities of the superintendent shall be carried on under the direction of the Mayor or a member of the City Council the mayor may designate.

14-204. APPLICATION FOR SEWER CONNECTION.

- A. Any person, other than a subdivider or developer seeking multiple connections, who desires or is required to secure a new connection to the City sewer system, shall file with the City for each such connection a written and signed connection application on the form supplied by the City.
- B. Whenever a subdivider or developer desires or is required to install sewer connections and extensions for a subdivision or development, the subdivider or developer shall enter into a written agreement which shall constitute an application for permission to make the extensions and connections and an agreement specifying the terms and conditions under which the sewer extensions and connections shall be made and the payments that shall be required.
- C. All owners or other persons who use the sewer system shall adhere to these ordinances and to the Wastewater Treatment Service Agreement (Interlocal Agreement). In the event of a conflict, the Wastewater Treatment Service Agreement shall control.

PART 14-205. USE OF PUBLIC SEWER REQUIRED.

14-206. It shall be unlawful for any person to place, deposit, or permit to be deposited in any unsanitary manner on public or private property within the City of Enoch any human excrement, garbage, or other objectionable waste.

14-207. It shall be unlawful to discharge to any natural outlet within the City, any sewage or other polluted waters, except where suitable treatment has been provided in accordance with subsequent provisions of this ordinance.

14-208. Except as hereinafter provided, it shall be unlawful to construct or maintain any privy, privy vault, septic tank, cesspool, or other facility intended or used for the disposal of wastewater.

14-209. The owner(s) of all houses, buildings, or properties used for human occupancy, employment, recreation, or other purposes, situated within the City or County, or located above the cities aquifer within the well head protection area, is hereby required, at the owner(s) expense, to install suitable sewer facilities directly to the public sewer in accordance with the provisions of this ordinance, within sixty (60) days after date of official notice to do so, provided the sewer is within three hundred (300) feet of the owner's property line, or in the case of a subdivision, provided the sewer is within a lineal footage that is calculated to be equal to or less than the number of lots of the subdivision times three hundred (300) feet, of any boundary of the subdivision. The owner(s) will then be charged a monthly sewer fee when the certificate of occupancy is issued. (14-209 amended 4-1-98)

PART 14-210. PRIVATE WASTEWATER DISPOSAL.

14-211. Where a public sanitary sewer is not available, the building sewer shall be connected to a private wastewater disposal system complying with the provisions of this article.

14-212. Before commencement of construction of a private wastewater disposal system the owner(s) shall first obtain a written permit issued by the City. The application for such permit shall be made on a form furnished by the City, which the applicant shall supplement by any plans, specifications, and other information as deemed necessary. A permit and inspection fee shall be paid to the City at the time the application is filed.

14-213. Permission to use the system for a private wastewater disposal system shall not be authorized until the installation is completed in compliance with the approved plans applicable with all State and local codes and this ordinance. Authorized City employees shall be allowed to inspect the work at any stage of construction. The applicant for the permit shall notify the City when the work is ready for final inspection and before any underground portions are covered. The inspection shall be made within two (2) business days of the receipt of notice by the City.

14-214. The type, capacities, location and layout of a private wastewater disposal system shall comply with all recommendations of the Department of Environmental Quality of the State of Utah. No permit shall be issued for any private wastewater disposal system employing subsurface soil absorption facilities where the area of the lot is less than 18,000 square feet. No septic tank or cesspool shall be permitted to discharge to any natural outlet.

14-215. At such time as a public sewer becomes available to a property served by a private wastewater disposal system, (Pursuant to 14-209) the owner shall make a direct connection to the public sewer within sixty (60) days after receiving notice of availability from the City, in compliance with this ordinance, shall pay the monthly fee to the City and the private disposal system shall be disconnected and made inoperable.

14-216. When a public sewer is not available, the owner(s) shall operate and maintain the private wastewater disposal facilities in a sanitary manner at all times, and at no expense to the City.

14-217. No statement contained in this article shall be construed to interfere with any additional requirements that may be imposed by the Utah Department of Environmental Quality.

PART 14-220. SANITARY SEWERS, BUILDING SEWERS AND CONNECTIONS; RATES FOR USE; DELINQUENCY AND DISCONTINUANCE OF SERVICE.

14-221. No unauthorized person(s) shall uncover, make any connection with or opening into, use, alter, or disturb any public sewer or appurtenance thereof without first obtaining a written permit from the City.

14-222. There shall be two (2) classes of sewer connection permits:

- A. Class I for residential, and
 - B. Class II for services to commercial/industrial establishments producing industrial wastes.
- Class I for Residential and Light Commercial Services is defined to include users with less than four hundred (400) gallons of culinary water per day and Class II for Heavy Commercial Establishments defined to include users with over four hundred (400) gallons of culinary water use per day. In either case, the owner(s) or its agents shall make application on a form obtained from the City. The permit shall be supplemented by any plans, specifications, or other information considered pertinent in the judgment of the City water and sewer superintendent.

Attached to this ordinance as an addendum is a document entitled "**SERVICE USER CHARGE SYSTEM**". This addendum is incorporated by reference and made a part of this Ordinance and a

part of the Ordinance of the City and its title shall be known and it may be referred to as the "Addendum" in any document, pleading, or proceeding pertaining to the sewer or wastewater system. References to the "Addendum" shall be made only when there is an ambiguous declaration or statement in this or any other City Ordinance and any resolutions or proceeding affecting the City sewer and wastewater system.

Until otherwise provided by Resolution or any Amending Ordinance the rates shall be as follows:

- A. Class I Residential service users: As set in the fee schedule.
- B. Class II Commercial/Industrial user shall be assessed in accordance with the Addendum, paragraph D.

RATES AND CONNECTION FEES. The rates, penalty fee for delinquency in payment, connection fee, reconnection fee, inspection fee and other charges incidental to connection and services from the City sewer system shall be fixed from time to time by resolution enacted by the City Council. The City Council may from time to time promulgate rules for levying, billing, guaranteeing and collecting charges for water services and all other rules necessary for the management and control of the water system. Rates for services furnished shall be uniform with respect to each class or classes of service established or that may hereafter be established.

14-223. All costs and expenses incidental to the installation and connection of the building sewer shall be borne by the owner(s). The owner(s) shall indemnify the City from any loss or damage that may directly or indirectly be occasioned by the installation of the building sewer. Nothing herein shall preclude the City from turning off the water to the property as a result of nonpayment as provided in this chapter 14-200.

14-224. A separate and independent building sewer shall be provided for every building; except where one building stands at the rear of another on an interior lot and no private sewer is available or can be constructed to the rear building through an adjoining alley, court, yard or driveway, the building sewer from the front building may be extended to the rear building and the whole system will be considered as one building sewer. The City does not and will not assume any obligation or responsibility for damage caused by or resulting from any such single connection aforementioned.

14-225. Building sewers that formerly serviced buildings, which buildings no longer exist or are torn down, may be used in connection with newly constructed buildings only when the building sewer is examined and tested by the City wastewater superintendent and found to meet all requirements of this ordinance.

14-226. The size, slope, alignment, materials or construction of all sanitary sewers including building sewers, and the methods to be used in excavating, placing of the pipe, jointing, testing, and back filling the trench, shall all conform to the requirements of the building and plumbing code or other applicable rules and regulations of the City and the State of Utah.

14-227. Whenever possible, the building sewer shall be brought from the building at an elevation below the basement floor. In all buildings in which any building drain is too low to permit gravity flow to the public sewer, sanitary sewage carried by such building drain shall be lifted by an approved means and discharged to the building sewer. Where such means are necessary, the owner shall be responsible for all installation, maintenance, and operating costs for their operation.

14-228. No person(s) shall make connection of roof down spout, foundation drains, areaway drains, or other sources of surface runoff or groundwater to a building sewer or building drain which in turn is connected directly or indirectly to a public sanitary sewer unless such connection is approved by the City and the Utah Department of Environmental Quality for purposes of disposal of polluted surface drainage.

14-229. The connection of the building sewer into the public sewer shall conform to the requirements of the building and plumbing code or other applicable rules and regulations of the City, and the State of Utah. All such connections shall be made gas-tight and water tight, any deviation from the prescribed procedures and materials must be approved by the City before installation. All excavations for building sewer installation shall be adequately guarded with barricades and lights so as to protect the public from hazard. Streets, sidewalks, parkways and their public property disturbed in the course of the work shall be restored in a manner satisfactory to the City and to a condition equal to or better than the condition existing prior to the work being performed.

14-230. Unless otherwise agreed in writing, the building sewer from an owner's property line to the public sanitary sewer in the street or City easement shall become property of the City at the time it is connected to the public sanitary sewer, becoming subject at that time to its absolute control and supervision even though installed by the owner of the premises served. Notwithstanding, the City shall not be liable for blockage or flow interference at any point in a building sewer before it enters the public sanitary sewer line, unless the City was either negligent in permitting the obstruction or should have known of a condition that creates or would tend to create a stoppage or flow interference and thereafter failed to take remedial steps to remove it.

14-231. A separate assessment shall be made against each owner of real property for any and all charges, fees, assessments, obligations or liabilities under this ordinance on the same basis as provided in part 14-123 of the Enoch City water ordinance. The intent of this provision is to charge every user of sewer services who is also charged for water services under 14-123 of the Enoch City ordinances. A duplex or any other multi-unit housing structure shall be charged a separate connection fee for each unit and a separate monthly service fee for each unit.

14-232. Irrespective of the occupant, user, tenant, co-tenant, permissive user, contract purchase or any other person, firm, partnership, corporation or entity being in possession of the premises to which a connection is supplied or service is made available, the owner of the premises according to the records of the Iron County recorder as of the date the charge, fee or assessment is made, unless designated otherwise, shall be legally responsible for the payment of all charges, fees, assessment obligations, or liabilities of a user. Any person who sells property subject to this ordinance by means of a contract or instrument which does not transfer legal title to the buyer but only purports to transfer equitable title to the buyer and thus retains legal title to the property in the sellers' name shall be deemed the owner of the premises. If any delinquent sewer connection, sewer user charge, repairs, maintenance or any other obligation is imposed against any premises, property, building or structures, the obligation shall be deemed by the City as a lien upon all of the real property on which any use is made from a sewer connection. Water service to delinquent property shall be turned off by the City for failure to pay said fee, assessment, charge or liability in the manner provided in Section 14-121, and it will not be turned on again to those premises where a delinquency occurs unless and until all liabilities to the City for sewer service are paid in full. All payments for utilities, whether "water" or "sewer" shall be credited first to sewer assessments, fees or charges.

14-233. Penalty Charge on Delinquent or Past-Due Connection Fees: The Mayor and City Council may, at their discretion and at the highest legal rate impose a penalty charge or a late fee on all past-due accounts either for connection fees, user charges, maintenance, repair or any other charge which is provided for, imposed or authorized by Chapter 14-100 or Chapter 12-200.

14-234. Notification. Each user will be notified at least annually, in conjunction with a regular bill, of the rate and that portion of the user charges that are attributable to the operation and maintenance of wastewater treatment services as distinguished from other types of utility charges.

14-235. All bills for sewer service shall be rendered at the rates set by the City, together with surcharges, if any, on the same bill with the City's water bill. Each bill shall show the amount of the sewer charges separate from the water bill, but the total thereof shall be considered one charge for the combined use of water and services of the sewer system. The portion of the bill rendered for water service cannot be paid separately from the portion rendered for sewer services.

14-236. DELINQUENCY - DISCONTINUANCE OF SERVICE.

- A. The water department personnel, sewer department personnel, or such other person as the governing body may designate, shall furnish to each user, or mail to, or leave at his place of residence or usual place of business, a written or printed statement stating thereon the amount of utility service charges assessed against him once each month or at such other regular interval as the governing body shall direct.
- B. The statement shall specify the amount of the bill for the sewer service and other utility service and the place of payment and date due. If any person fails to pay the utility charges by thirty (30) days after the statement date, the water department personnel, sewer department personnel, or such other person as the governing body may designate, shall give the customer notice in writing of intent to discontinue the service to the customer unless the customer pays the bill in full within forty-five (45) days from the statement date.
- C. If the water service is thereafter discontinued for failure to make payment, then before the water service to the premises shall again be provided, all utility charges must have been paid in full or arrangements made for their payment in a manner satisfactory to the municipality.
- D. In the event water is turned off for nonpayment of utility charges, before the water service to the premises shall again be provided, the customer shall pay in addition to all utility charges, such extra charge for turning the water off and on as the governing body may have established by resolution. Until such a resolution has been adopted, there shall be added an extra charge, as set in the fee schedule for turning on the water. Furthermore, in addition to such payments and penalties, a delinquent customer may be required to make and file a new application and deposit, if the previous deposit has therefore been applied to the payment of delinquent bills. (revised 2-1-06)
- E. In the event payment for delinquent charges is made with a check and the check does not clear the bank, the water department personnel, sewer department personnel, or such other person as the governing body may designate, shall give the customer notice in writing of intent to discontinue water service to the customer unless the customer pays the amount of the check in cash or money order within twenty-four (24) hours from the date of the notice.
- F. The recorder/clerk is hereby authorized and empowered to enforce the payment of all delinquent utility charges, costs of collection, court costs and reasonable attorney fees, by an action at law in the name of the municipality.

PART 14-240. ANNUAL REVIEW OF OPERATIONAL COST; REVISION WHERE REQUIRED; DEPT SERVICE.

14-241. The City shall review the total annual cost of operation and maintenance, long-term debt service relating to the wastewater treatment works, as well as each user's wastewater contribution percentage at least once every year, and will revise the user charge system as necessary to assure equity of the system established herein and to assure that sufficient funds are obtained from the City's user charge system to : (a) adequately operate and maintain the wastewater treatment works; (b) cover said debt service; and (c) pay all other charges and assessments that may be reasonably necessary.

PART 14-245 USE OF THE PUBLIC SEWERS.

14-246. No person(s) shall discharge or cause to be discharged any unpolluted waters such as storm water, surface water, groundwater, roof runoff, subsurface drainage, or cooling water to any sewer. Storm water runoff from limited areas, which storm water may be polluted at times, may be discharged to the sanitary sewer by permission of the City and Utah Department of Environmental Quality.

14-247. Storm water other than that exempted under the previous paragraph and all other unpolluted drainage shall be discharged to such sewers as are specifically designated as storm sewers, or to natural outlets approved by the City and the Utah Department of Environmental Quality. Unpolluted industrial cooling water or process waters shall also be discharged to a storm sewer or natural outlet.

14-248. No person(s) shall discharge or cause to be discharged any of the following described water liquids or wastes to any public sewers: (a) any gasoline, benzene, naphtha, fuel oil, or other flammable or explosive liquid, solid or gas; (b) any waters containing toxic or poisonous solids or liquids, or other wastes that may contaminate or interrupt any sewage treatment process, constitute a hazard in or have an adverse effect on the waters receiving any discharge from the works; (c) any waters or wastes having a ph lower than 5.5 or having any other corrosive property capable of causing damage or hazard to structures, equipment, and personnel of the wastewater works; and (d) solid or viscous substances in quantities or of a size capable of causing obstruction to the flow in sewers, or other interference with the proper operation of the wastewater facilities such as, but not limited to, ashes, cinders, sand mud, straw, shavings, metal, glass, rags, feathers, tar, plastics, wood, underground garbage, whole blood, paunch manure, hair and fleshing, entrails and paper dishes, cups, milk containers, etc., either whole or ground by garbage grinders.

Each person or user who discharges any toxic pollutants that cause an increase in the cost of managing the effluent or the sludge of the wastewater treatment works shall pay for such increased costs.

14-249. The following described substances, materials, waters, or wastes shall be limited in discharges to municipal system to concentrations or quantities which will not harm either the sewers, the sludge of any municipal system, the wastewater treatment process or equipment, will not have an adverse effect on the receiving stream, or will not otherwise endanger lives, public property or constitute a nuisance. The City may set limitations stricter than those below if such more severe limitations are necessary to meet the above objectives. In setting these requirements the City will give consideration to such factors as the quantity of subject waste in relation to flows and velocities in the sewers, materials of construction of the sewers, the wastewater treatment process employed, capacity of the sewers, capacity of the wastewater treatment plant,

and other pertinent factors. The limitations or restrictions on materials or characteristics of waste or wastewater discharged to the sanitary sewer shall not be violated without approval of the City, are as follows:

- A. Wastewater having a temperature higher than 150 degrees Fahrenheit (65 degrees Celsius).
- B. Wastewater containing more than 25 milligrams per liter of petroleum oil, non-biodegradable cutting oils, or products of mineral oil origin.
- C. Wastewater from industrial plants containing floatable oils, fat or grease.
- D. Any garbage that has not been properly shredded. Garbage grinders may be connected to sanitary sewers from homes, hotels, institutions, restaurants, hospitals, catering establishments or similar places where garbage originates from the preparation of food in commercial kitchen for the purpose of consumption on the premises.
- E. Any waters or waste containing iron, chromium, copper, zinc and similar objectionable or toxic substances to such degree that any such material received in the composite wastewater at the wastewater treatment works exceeds the limits established by the State for such materials.
- F. Any waters or wastes containing odor-producing substances exceeding limits that may be established by the State.
- G. Any radioactive wastes or isotopes of such half-life of concentration as may exceed limits established in compliance with applicable State or Federal regulations.
- H. Quantities of flow, concentrations, or both which constitute a "slug" as defined herein.
- I. Water or wastes containing substances which are not amenable to treatment or reduction by the wastewater treatment processes employed or are amenable to treatment only to such degree that the wastewater treatment plant effluent cannot meet the requirements of other agencies having jurisdiction over discharge to the receiving waters.
- J. Any water or wastes which, by interaction with other water or wastes in the public sewer system, release obnoxious gases, form suspended solids which interfere with the collection system, or create a condition deleterious to structures and treatment processes.

14-250. If any water or wastes are discharged, or are proposed to be discharged to the public sewers, which waters contain the substances or possess the characteristics enumerated above, and which are determined by the City to have a deleterious effect upon the wastewater facilities, processes, equipment, or receiving waters, or which otherwise create a hazard to life or constitute a public nuisance, the City may:

- A. Reject the water;
- B. Require pretreatment to an acceptable condition for discharge to the public sewers;
- C. Require control over the quantities and rates of discharge, and/or wastes not covered by existing taxes or sewer charges under the provisions of this article. If the City permits pretreatment or equalization of waste flows, the design and installation of the plants and equipment shall be subject to the review and approval of the City and the Utah Department of Environmental Quality.
- D. Require a plot plan of sewers of the user's property showing sewer and pretreatment facility location.
- E. Require details of wastewater pretreatment facilities.
- F. Require details of systems to prevent and control the losses of materials through spills to the municipal sewer.

14-251. All persons owning vacuum or "cesspool" pump trucks or other liquid waste transport vehicles and desiring to discharge septic tank, chemical toilet, seepage pit, interceptor or cesspool contents, or industrial liquid wastes into the City system, regardless of where generated, shall first have a valid City waste hauler's discharge permit. Applicants shall provide the City in writing the

information it requests and pay the appropriate fee set by the City, and agree to comply with all regulations imposed by the City, before such permit shall be issued. A person holding a discharge permit and City business license, if appropriate, may discharge at the designated location only and at no other location with the City. Permits shall specify the type and concentration of waste discharged, and the City may refuse permission to discharge certain prohibited wastes. Permits shall be valid for one (1) year. Direct or indirect connection of a septic tank or cesspool with a public sanitary sewer shall be prohibited.

14-252. All measurements, tests and analyses of the characteristics of waters and wastes to which reference is made in this ordinance shall be determined in accordance with the latest edition of "Standard Methods for the Examination of Water and Wastewater" published by the American Public Health Association. Sampling methods, location, times, durations and frequencies are to be determined on an individual basis subject to approval by the City.

14-253. No statement contained in this article shall be construed as preventing any special agreement or arrangement between the City and any industrial concern whereby an industrial waste of unusual strength or character may be accepted by the City for treatment.

14-254. No persons shall maliciously, willfully or negligently break, destroy, uncover, deface or tamper with any structure, appurtenances or equipment that is a part of the wastewater facilities. Any persons violating this provision shall be subject to immediate arrest and charged according to law.

PART 14-260. POWERS AND AUTHORITY OF INSPECTORS.

14-261. Duly authorized employees of the City bearing proper credentials and identification shall be permitted to enter all properties for the purpose of inspection, observation, measurement, sampling and testing pertinent to the discharge to the community system in accordance with the provisions of this ordinance.

14-262. Duly authorized City employees are authorized to obtain information concerning industrial processes that have a direct bearing on the kind and source of discharge to the wastewater collection system. Industrial users may withhold information when they have established that the revelation of said information to the public might result in an advantage to competitors.

14-263. Grease, oil and sand interceptors shall be provided when liquid wastes containing floatable grease in excessive amounts as specified herein, or any flammable wastes, sand or other harmful ingredients may be introduced into public sewers; except that such interceptors shall not be required for private living quarters or dwelling units. All interceptors shall be of a type and capacity approved by the Utah State Plumbing Code, and shall be located as to be readily and easily accessible for cleaning and inspection. In the maintaining of these interceptors, the owner(s) shall be responsible for the proper removal and disposal by appropriate means of the captivated material and shall maintain records of the dates and means of disposal that are subject to review by the City. Any removal and hauling of the collected materials not performed by the owner(s) must be performed by currently licensed waste disposal firms.

14-264. Where pretreatment or flow-equalization facilities are provided or required for any water or wastes, they shall be maintained continuously in satisfactory and effective operation by the owner(s) at his expense.

14-265. When determined necessary by the City, the owner(s) of any property serviced by a building sewer carrying industrial wastes shall install a suitable structure together with such necessary meters and other appurtenances in the building sewer to facilitate observation, sampling and measurement of the wastes. Such structures, when required, shall be accessible and safely located, and shall be constructed in accordance with plans approved by the City. The structure shall be installed by the owner at his expense, and shall be maintained by him so as to be safe and accessible at all times.

14-266. The City may require any user of sewer services to provide information needed to determine compliance with this ordinance. These requirements may include:

- A. Wastewater's discharge peak rate and volume over a specified time period.
- B. Chemical analysis of wastewater.
- C. Information on raw materials, processes and products affecting wastewater volume and quality.
- D. Quantity and disposition of specific liquid, sludge, oil, solvent or other materials important to sewer control.

14-267. While performing the necessary work on private properties referred to herein, the duly, authorized employees of the City shall observe all safety rules applicable to the premises established by the owner(s), and the owner(s) shall be held harmless for injury or death of the City employees, and the City shall indemnify the owner(s) against loss or damage to his property for personal injury or property damage asserted against the owner(s) growing out of the gauging and sampling operation, except as such may be caused by negligence or failure of the owner(s) to maintain safe conditions.

14-268. Duly authorized employees of the City bearing proper credentials and identification shall be permitted to enter all private properties through which the City holds a valid easement for the purposes of, but not limited to, inspection, observation, measurement, sampling, repair and maintenance of any portion of the wastewater facilities lying within said easement. All entry and subsequent work, if any, on said easement shall be done in full accordance with the terms of the easement pertaining to the private property involved.

PART 14-270. PENALTIES.

14-271. Any person found to be violating any provision of this ordinance, except for the nonpayment of charges, shall be served by the City with written notice stating the nature of the violation and providing a reasonable time limit for the satisfactory correction thereof. The offender shall, within the period of time stated in such notice, permanently cease all violations.

14-272. Any person who shall continue any violation beyond the time limit provided for the notice, shall be guilty of a Class B misdemeanor.

14-273. Any person violating any of the provisions of this ordinance shall become liable to the City for the expense, loss, attorney's fees or damage occasioned the City by reason of such violation.

14-274. All ordinances or parts of ordinances in conflict herewith are hereby repealed.

14-275. The invalidity of any section, clause, sentence or provision of this ordinance shall not affect the validity of any other part of this ordinance that can be enforced without such invalid part or parts.

PART 14-280. ORDINANCE IN FORCE.

14-281. This ordinance shall be in full force and effect from and after its passage, approval, recording and publication as provided by law.

14-282. Passed and adopted by the Council of the City of Enoch, State of Utah, on the 4th day of May, 1994, by the following vote:

Ayes: Bill Athey
Vern Grimshaw
David Millett
Ron Perry
Scott Zingelman

Nayes: none

APPROVED this 4th day of May, 1994

This Code of Revised Ordinances was reviewed and edited/corrected regarding semantics, punctuation and other minor wording that does not affect the meaning of the ordinances. The editing was approved and accepted in two parts by the Enoch City Council on July 1, 2009 and on October 7, 2009. I certify that I made the corrections in accordance with instructions from the City Council. Julie Watson, Enoch City Recorder. Rev. 10-7-09.

ADDENDUM

Enoch City Corporation Service User Charge System

A. ESTIMATED ANNUAL SYSTEM COSTS

UTAH W LOAN	\$ 117,000.00
RURAL DEVELOPMENT AGENCY	10,000.00
ENOCH CITY REPAIR AND REPLACEMENT Q&M	10,000.00
ESTIMATED OPERATION AND MAINTENANCE- WASTEWATER TREATMENT SERVICES	41,000.00
SALARY, TRAINING FOR COLLECTION OPEATERS	5,100.00
ADMINISTRATION	<u>2,000.00</u>
 TOTAL YEARLY	 \$ 185,100.00
TOTAL MONTHLY	\$ 15,425.00

B. CURRENT AVERAGE FLOW PER RESIDENTIAL UNIT (BASED ON WINTER FLOW RATES)

AVERAGE DAILY FLOW PER RESIDENTIAL UNIT	400 GALLONS
AVERAGE RESIDENTIAL UNIT FLOW PER MONTH	
$30 \text{ DAYS} \times 400 \text{ GALS/DAY} = 12,000 \text{ GALLONS} = 1 \text{ ERU}$	

C. ESTIMATED AVERAGE FLOW FROM OTHER USERS - #OF ERU'S

CAFÉ OR RESTAURANT	36,000 GALLONS PER MONTH =	3
SMALL BUSINESS	12,000 GALLONS PER MONTH =	1
CHURCHES	24,000 GALLONS PER MONTH =	2
ELEMENTARY SCHOOLS	108,000 GALLONS PER MONTH =	9

D. RATE SCHEDULE

\$185,100.00/YEAR	
15,425.00/MONTH	
15,000.00/MONTH DIVIDED BY 600 RESIDENTIAL ERU'S =	\$ 25.00
100.00/MONTH DIVIDED BY 4 SMALL BUSINESSES =	\$ 25.00
100.00/MONTH DIVIDED BY 2 CHURCHES =	\$ 50.00
225.00/MONTH DIVIDED BY 1 SCHOOL =	\$225.00

ONE EQUIVALENT RESIDENTIAL UNIT (ERU)	\$25.00/MONTH	
RESIDENTIAL USERS =		\$ 25.00
CAFE OR RESTAURANT =		\$ 75.00
SMALL BUSINESS =		\$ 25.00
CHURCHES =		\$ 50.00
ELEMENTARY SCHOOL =		\$225.00

TITLE. 15-000. HISTORICAL PRESERVATION

CHAPTER 15-100. PRESERVING HISTORIC AND ARCHITECTURALLY SIGNIFICANT DISTRICTS AND LANDMARKS.

PART 15-110. PURPOSE. This chapter is enacted and intended for the purpose of more fully preserving historic and architecturally significant districts and landmarks which are among the City's most valuable cultural, educational and economic assets. The districts and landmarks herein will be preserved for the future use, observation, education, pleasure, and general welfare of the inhabitants of the City of Enoch.

15-111. DEFINITIONS. As used in this chapter, the following words shall have the following meanings:

- A. **DEMOLITION.** The act of tearing down, destroying, removing, or otherwise defacing the exterior of any structure within a historic district or landmark site.
- B. **HISTORIC DISTRICT.** A defined geographic territory within the City of Enoch, which is listed with any national or local historic society or which is designated pursuant to this chapter for action of the Historical Preservation Committee.
- C. **LANDMARKS.** Any structure, monument, or other historically significant object which is listed with any national or local historic society or which is designated pursuant to this chapter for action of the Historical Preservation Committee.
- D. **MONUMENT.** Any statue, structure, sign, masonry, or other devise or edifice designated for the purpose of commemorating or marking the location of a historically significant event, person, location or time.
- E. **NEW CONSTRUCTION.** Any attempt whatsoever to alter the existing condition of any property within a historic district or any landmark or monument as defined herein except such activity as falls within the definition of demolition set forth herein above.
- F. **REMODELING.** Repair, renovation, change, modification, deletion, or alteration of any structure existing within a historic preservation district or any landmark or monument as defined herein.
- G. **STREET SCAPE.** Any structure or vacant property visible from any public thoroughfare within a historic district.
- H. **STRUCTURES.** All buildings, walls, fences, signs, utility fixtures, poles, steps, sidewalks, facades or any appurtenant element thereto.

15-112. CREATION OF HISTORIC PRESERVATION COMMITTEE.

- A. **CREATION.** There is hereby created a Historic Preservation Committee for the City of Enoch. Said committee shall consist of seven members, five of whom, shall be qualified voters of the City of Enoch, with two at large advisors selected by the committee from the surrounding area (people with preservation experience). One member of the five to be a member of the City Planning Commission or the City Council without respect to his or her political affiliations. They shall serve without compensation, except for reasonable expenses as directed by the Enoch City Council.
- B. **TERMS OF OFFICE, VACANCIES.** The term of office for the designated member of the Historic Preservation Committee who is also a member of the City Council or Planning Commission shall correspond to tenure in the City Council or Planning Commission. The term of office for the appointed members of the historic Preservation Committee shall be for four (4) years. As an exception to this term, the terms of four (4)

members of the first appointed Historic Preservation Committee shall be one (1) year, two (2) years, three (3) years, and four (4) years respectively, so that no more than two (2) terms will expire in a given year. Each appointment thereafter shall be for a term of four (4) years. Vacancies, occurring otherwise than through the expiration of term, shall be filled by appointment by the Mayor with the consent of the City Council. The person thus appointed will fill the unexpired term. Members may be removed from the Historic Preservation Committee by a majority vote of the City Council for cause, which cause shall include a repeated and persistent failure to attend at least seventy-five (75) percent of the required meetings during the course of a year or for non-performance of other duties.

- C. **ELECTION OF OFFICERS, MEETINGS.** The Historic Preservation Committee shall elect from among its membership a chairman, a vice-chairman, and a secretary and shall adopt policies, rules, and regulations for its own organization and for the transaction of its business, not in conflict with other ordinances of the City of Enoch or laws of the State of Utah. Meetings of the Historic Preservation Committee shall be open to the public and shall be held in accordance with requirements of the laws of the State of Utah regarding public meetings. The Historic Preservation Committee shall keep a record of its proceedings in whatever form is deemed most convenient. The Historic Preservation Committee shall meet either regularly or at the call of its chairman with twenty-four (24) hours' notice to the public whenever there is business to be transacted by the committee.
- D. **COMMITTEE JURISDICTION.** The jurisdiction of the Historic Preservation Committee shall be limited to historic districts, landmarks and monuments. The committee shall be concerned only with those elements of development, redevelopment, rehabilitation and preservation that affect visual quality of historic districts, landmarks or monuments. The committee shall not consider interior design, interior arrangement, or building features except for the purpose of preventing development or demolition inconsistent with the standards set forth hereinafter. The committee will conduct design review for construction and signs in the places designated as historical. This review is to insure that attractive buildings and signs are built for the enhancement of the approaches to the City of Enoch. These structures are not required to be "thematic" nor of certain building materials or styles.
- E. **PROVIDE ADVICE AND INFORMATION.** The Historic Preservation Committee shall act in an advisory role to the Enoch City Planning Commission and the Enoch City Council regarding the identification and protection of local historic and archaeological resources. The Historic Preservation Committee shall work toward the continuing education of citizens regarding historic preservation and community history.
- F. **LIST OF HISTORICAL BUILDINGS, LANDMARKS, AND MONUMENTS.** The Historic Preservation Committee may be requested by the Enoch City Planning Commission or the Enoch City Council to compile and supply to those bodies a list of all existing buildings or other structures as well as monuments and landmarks in Enoch which the committee deems to be of historic interest because of the architecture, period of construction, persons who have resided or events which have occurred therein, or for other appropriate historic reasons. Such a list shall briefly describe each building or structure, the date of its construction, as nearly as can be ascertained, the reason for including it in the list and the name and address of its present owner as shown on the records of the Iron County Recorder. The committee shall file such list and subsequent amendments or additions thereto with the Planning Commission and City Council. Any such list shall be made available to any person desiring the same for only the cost of copying the list.

15-113. BUILDING INSPECTOR RESPONSIBILITY. The Building Inspector of Enoch is hereby empowered to function as the inspecting agent or officer for the Historic Preservation Committee and is authorized to investigate and report at the request of the committee concerning matters of structural integrity, architectural designs, location of structures, and other such reports as necessary for the proper operation of the Historic Preservation Committee.

15-114. DESIGNATION OF DISTRICT BOUNDARIES.

- A. The historic area consists of: structures both east and west of Enoch Road from the power substation at 4800 North to the old Gibson home at approximately 5700 North, properties in and around Johnson's Fort, the old Williams barn along Highway 91 at approximately 4300 North, and other sites to be determined by the Historic Preservation Committee.
- B. All monuments and landmarks existing within Enoch City limits.

15-115. CHANGE WITHIN HISTORIC DISTRICT. It shall be unlawful for any person to demolish any structure or edifice within the Historic District or any landmark or monument without first having procured from the City Council of Enoch a permit for said demolition. No application for the demolition permit shall be approved without the application first having been referred to the Historic Preservation Committee for its recommendations pursuant to this Chapter. Upon receipt of an application for demolition, the Historic Preservation Committee shall review the proposed action and within thirty (30) days make its recommendation to the Planning Commission either approving the demolition project as appropriate or recommending denial of the application and stating in said denial its reason therefore. The Planning Commission will then make its recommendation to the City Council for action. All applications for demolition permits shall be accompanied by a post demolition or post removal schematic construction plan or landscaping plan indicating the future use to which the site is to be put.

15-116. COMMITTEE ACTION. When an application for demolition is referred to the Historical Preservation Committee and the proposed plan is deemed inappropriate by said Committee, the Committee may require that the Planning Commission of Enoch withhold any recommendation of action on the application for demolition permit for a period of 45 days during which period the Committee shall negotiate with the owners of the property to determine whether an alternative to demolition is appropriate or feasible.

If at the end of the 45 day delay period no solution has been agreed upon, the application shall be forwarded to the City Council for approval and issuance of the permit upon condition that the premises on which the demolition is to occur shall be maintained clean, orderly, and in good condition to avoid becoming an eye sore, weed patch, or otherwise detrimental to the street scape in the area or to public health. The City Council may impose such requirements as it deems fit regarding improvements to be placed on the property after demolition, to include but not to be limited to grass and sprinklers, and may require such bonding as necessary to guarantee the installation and maintenance of those improvements as provided under the sub-division ordinance for the City of Enoch.

15-117. BUILDING PERMITS. Upon receipt of an application for remodeling or new construction, the Historic Preservation Committee shall meet and make its recommendations for approval or disapproval of the application within two (2) weeks of the referral. If the Historic Preservation Committee fails to act within the two (2) week period, the application shall be returned to the Planning Commission for recommendation to the City Council and the Planning Commission shall deem the application approved by the Historic Preservation Committee.

15-118. DEVELOPMENT STANDARDS.

- A. In passing upon an application for demolition or demolition in part, removal, or altering the exterior architectural appearance of any existing building or structure located within any Historic District, landmark or monument area, or an application for new construction or remodeling, the Historic Preservation Committee shall consider, along with the Planning Commission and the City Council, among other things, the historic, architectural, and aesthetic features of the structure, the nature and character of the surrounding area, the use of such structure and its importance to the City and the feasibility and desirability of preservation of the area.
- B. In passing upon an application for construction of new buildings or structure in a Historic District, the Historical Preservation Committee, the Planning Commission and the City Council shall consider whether the proposed building or structure will be visually compatible with the buildings and places to which it is to be visually related.
- C. The above development standards shall supersede any other specified regulations.

15-119. APPEAL OF ENOCH CITY COUNCIL DECISION.

Any person aggrieved by any decision of the Enoch City Council, concerning historic preservation decisions, may appeal that decision to the Land Use Appeal Authority of Enoch, in the manner provided in "Code of Revised Ordinances of Enoch."

15-120. DEMOLITION OF HAZARDOUS STRUCTURES. This Ordinance shall not prohibit the demolition of structures that pose an immediate hazard to human health and safety as determined by the Building Inspector, or the Iron County Sheriff, or the Fire Chief, nor shall this Section preclude ordinary maintenance and repair not otherwise subject to building department regulations. It is the intent of this Section to preserve from deliberate acts and deliberate or inadvertent neglect, structures within the Historic District or adjacent to landmarks or monument sites.

15-121. ENFORCEMENT OF STATE HISTORIC PRESERVATION LAWS. The Historical Preservation Committee shall support the enforcement of all state laws relating to historic preservation. This include, but are not limited to: U.C.A. 11-18-2 "The Historic District Act"; U.C.A. 63-18-25-27 and 30 regarding the protection of Utah antiquities; and U.C.A. 63-18-37 regarding notification of the State Historic Preservation Office of any known proposed action which will destroy or affect a site, building, or object owned by the State of Utah and included on or eligible for the State or National Registers.

15-122. SEVERABILITY. If any section of this ordinance or part thereof shall be found to be unconstitutional or invalid, such decision shall not affect the validity of the remaining portions of this ordinance.

15-123. ENFORCEMENT AND PENALTIES. The provisions of this Chapter are subject to the enforcement provisions established in "Code of Revised Ordinances of Enoch."

15-124. REPEALER. The provisions of all prior ordinances that are inconsistent or in conflict with this ordinance are hereby repealed.

CHAPTER 15-200. ESTABLISHMENT OF HISTORIC SITES AND HISTORIC LANDMARK REGISTER AND STANDARDS FOR REHABILITATION.

PART 15-210. ENOCH CITY HISTORIC SITES LIST. The Historic Preservation Committee may designate historic properties to the Historic Sites List as a means of providing recognition to and encouraging the preservation of historic properties in the community.

A. CRITERIA FOR DESIGNATING PROPERTIES TO THE ENOCH CITY HISTORIC SITES LIST. Any district, building, structure, object or site may be designated to the Historic Sites List if it meets all the criteria outlined below:

1. It is located within the official boundaries of the city.
2. It is at least 50 years old.
3. It retains its historic integrity, in that there are no major alterations or additions that have obscured or destroyed the significant historic features. Major alterations that would destroy the historic integrity include, but are not limited to, changes in pitch of the main roof, enlargement or enclosure of windows on the principal facades, addition of upper stories or the removal of original upper stories, covering the exterior walls with non-historic materials, moving the resource from its original location to one that is dissimilar to the original, additions which significantly detract from or obscure the original form and appearance of the house when viewed from the public way.
4. It has been documented according to the Utah State Historic Preservation Office standards for intensive level surveys (January 1990 version or subsequent revisions) and copies of the documentation have been placed in the local and state historic preservation files.

B. DESIGNATION PROCEDURES. Any person, group, or government agency may nominate a property for listing in the Enoch City Historic Sites List. The nomination and listing procedures are as follows:

1. Completed Intensive Level Survey documentation for each nominated property must be submitted in duplicate to the Historic Preservation Committee.
2. The committee will review and consider properly submitted nominations at its next scheduled meeting. The commission will notify the nominating party, either orally or in writing, one week prior to the meeting that the nomination will be considered and will place that item on the agenda posted for the meeting. The one-week notification may be waived at the nominating party's option in order to accommodate "last-minute" submittal, though no nomination will be reviewed if it is submitted to the commission less than 48 hours prior to the meeting.
3. The Historic Preservation Committee will review the documentation for completeness, accuracy and compliance with the "Criteria for Designating Properties to the Enoch City Historic Sites List" and will make its decision accordingly.

C. RESULTS OF DESIGNATION TO THE HISTORIC SITES LIST.

1. Owners of officially designated historic sites may obtain a historic site certificate from the Historic Preservation Committee. The certificate contains the historic name of the property, the date of designation, and signatures of the mayor and the Historic Preservation Committee chairperson.
2. If a historic site is approved to be demolished or extensively altered, efforts will be made to document its physical appearance before that action takes place.

- a. The City will delay issuing a demolition permit for a maximum of one week and will notify a member of the Historic Preservation Committee, which will take responsibility for the documentation.
- b. Documentation will include, at minimum, exterior photographs (both black-and-white and color slides) of all elevations of the historic building. When possible, both exterior and interior measurements of the building will be made in order to provide an accurate floor-plan drawing of the building.
- c. The demolition permit will be issued after one week of the initial approval whether or not the Committee has documented the building. The permit may be issued earlier if the Committee completes its documentation before the one-week deadline.
- d. The documentation will be kept in the Committee's historic site files, which are open to the public.

D. REMOVAL OF PROPERTIES FROM THE HISTORIC SITES LIST. Properties that, in the opinion of the Historic Preservation Committee, no longer meet the criteria for eligibility may be removed from the Historic Sites List after review and consideration by the committee.

15-211. ENOCH CITY HISTORIC LANDMARK REGISTER. Significant historic properties may be designated to the Historic Landmark Register for the purposes of recognizing their significance and providing incentives and guidelines for their preservation.

A. CRITERIA FOR DESIGNATING PROPERTIES TO THE ENOCH CITY HISTORIC LANDMARK REGISTER. Any district, building, structure, object or site may be designated to the Historic Landmark Register if it meets all the criteria outlined below:

- 1. It is located within the official boundaries of the city.
- 2. It is currently listed in the National Register of Historic Places, or it has been officially determined eligible for listing in the National Register of Historic Places under the provisions of 36 CFR 60.6(s). Properties listed on or determined eligible for the National Register must, in addition to retaining their integrity, meet at least one of the following National Register criteria:
 - a. associated with events that have made a significant contribution to the broad patterns of our history; or
 - b. associated with the lives of persons significant in our past; or
 - c. embody the distinctive characteristics of a type, period, or method of construction or that represent the work of a master, or that possess high artistic values, or that represent a significant and distinguishable entity whose components may lack individual distinction; or
 - d. have yielded, or may be likely to yield, information important in pre-history or history (archeological sites, for example).
- 3. The owner of the property approves of the action to designate his/her property to the Historic Landmark Register and has submitted to the Committee a written statement to that effect.

B. DESIGNATION PROCEDURES.

- 1. Official designation proceedings must begin with the submittal of a written request for designation by the property owner to the Committee chairperson. The letter must identify the property by its address and historic name, give the date the property was listed in the National Register or officially determined eligible, and include a statement verifying that the property owner is indeed the owner of legal record of the property proposed for designation. This official request may

be preceded by informal contacts with the property owner by Committee members, private citizens, local officials, or others regarding designation of the property.

2. Upon receipt of the written request for designation, the Committee chairperson shall arrange for the nomination to be considered at the next Committee meeting, which shall be held at a time not to exceed 30 days from the date the request was received.
3. The decision by the Committee shall be based on the eligibility of the property in terms of meeting the "Criteria for Designating Properties to the Enoch City Historic Landmark Register." The Committee shall forward its recommendation in writing to the City Council within fourteen (14) days.
4. The City Council may, by approval and passage of an appropriate resolution, designate properties to the Historic Landmark Register. Following designation, a notice of such shall be mailed to the owners of record together with a copy of this ordinance.
5. After a property has been formally designated to the Historic Landmark Register, the designation may be amended or rescinded in the same manner as the original designation was made.
6. Upon official designation, the Committee shall record the designation with the County Recorder's Office to indicate such designation on the official title thereof.

C. RESULTS OF DESIGNATION TO THE HISTORIC LANDMARK REGISTER.

1. Properties designated to the Historic Landmark Register may receive special consideration in the granting of zoning variances or conditional use permits in order to encourage their preservation.
2. In the event of rehabilitation of the property, local building officials will consider waiving certain code requirements in accordance with Section 104 (f) of the Uniform Building Code (1988 Edition), which deals with historic buildings, or the Uniform Code for Building Conservation, a special code for existing buildings.
3. Owners of Historic Landmarks may seek assistance from the Historic Preservation Committee in applying for grants or tax credits for rehabilitating their properties.
4. Proposed repairs, alterations or additions to Historic Landmarks are subject to the review of the Historic Preservation Commission and the subsequent review and approval of the City Council. The purpose of this review is to ensure the preservation of historic materials and features to the greatest degree possible.
 - a. Applications for permits pertaining to Historic Landmark properties, shall be forwarded by the Building Inspector to the Historic Preservation Committee prior to their issuance.
 - b. At its next scheduled meeting, the Committee shall review the applications and proposed work for compliance with the Secretary of the Interior's "Standards for Rehabilitation," hereafter referred to as the "Standards" (see Section 15-212).
 - c. The Committee's recommendation shall be forwarded within three (3) days to the City Council for their consideration in reviewing the applications. The recommendation must indicate which of the "Standards" the Committee's decision was based on and, where appropriate, a brief explanation. Copies of the recommendation shall be sent to the Building Inspector and the property owners at the same time.
 - d. The City Council shall schedule the matter for its next City Council Meeting and, upon review of the Historic Preservation Committee's rec-

ommendation and other comments given at the meeting, make a decision regarding the appropriateness of the proposed action. Approved projects will be issued a "Certificate of Historical Appropriateness" which authorizes the building permit to be issued.

- D. ENFORCEMENT.** The provisions of this section are subject to the enforcement provisions established in Chapter 9-500 and 9-600 Building Regulations in "The Code of Revised Ordinances of Enoch."

15-212. STANDARDS FOR REHABILITATION. The following "Standards for Rehabilitation" shall be used by the Historic Preservation Committee and City Council when determining the historic appropriateness of any application pertaining to Historic Landmark properties:

- A. A property shall be used for its historic purpose or be placed in a new use that requires minimal change to the defining characteristics of the building and its site and environment.
- B. The historic character of a property shall be retained and preserved. The removal of historic materials or alteration of features and spaces that characterize a property shall be avoided.
- C. Each property shall be recognized as a physical record of its time, place, and use. Changes that create a false sense of historical development, such as adding conjectural features or architectural elements from other buildings, shall not be undertaken.
- D. Most properties change over time; those changes that have acquired historic significance in their own right shall be retained and preserved.
- E. Distinctive features, finishes, and construction techniques or examples of craftsmanship that characterize a property shall be preserved.
- F. Deteriorated historic features shall be repaired rather than replaced. Where the severity of deterioration requires replacement of a distinctive feature, the new feature shall match the old in design, color, texture, and other visual qualities and, where possible, materials. Replacement of missing features shall be substantiated by documentary, physical, or pictorial evidence.
- G. Chemical or physical treatments, such as sandblasting, that cause damage to historic materials shall not be used. The surface cleaning of structures, if appropriate, shall be undertaken using the gentlest means possible.
- H. Significant archeological resources affected by a project shall be protected and preserved. If such resources must be disturbed, mitigation measures shall be undertaken.
- I. New additions, exterior alterations, or related new construction shall not destroy historic materials that characterize the property. The new work shall be differentiated from the old and shall be compatible with the massing, size, scale, and architectural features to protect the historic integrity of the property and its environment.
- J. New additions and adjacent or related new construction shall be undertaken in such a manner that if removed in the future, the essential form and integrity of the historic property and its environment would be unimpaired.

TITLE 16-000. SHADE TREE ORDINANCE

CHAPTER 16-100. ENOCH CITY SHADE TREE ORDINANCE.

PART 16-110. PURPOSE. This chapter is hereby declared to be enacted for the following purpose:

- A. To promote the health, safety, convenience, and general welfare of the inhabitants of Enoch, Utah;
- B. To recognize the importance of green space and urban forestry;
- C. To enhance the natural beauty of the area;
- D. To encourage beautification through proper and effective landscaping and maintenance; and
- E. To provide for a street environment and pedestrian walkways that are hospitable through landscaping.

16-120. CREATION AND ESTABLISHMENT OF SHADE TREE COMMITTEE. There is hereby created and established a Shade Tree Committee of the City of Enoch, State of Utah, which shall consist of five members, citizens and residents of this city, who shall be appointed by the mayor with the approval of the City Council. One City Council member shall serve as an ex-officio member of the Shade Tree Committee.

16-130. TERM OF OFFICE. The term of office for the five persons to be appointed by the mayor shall be two years, except that the term of two of the members appointed to the first Committee shall be for one year. In the event that a vacancy shall occur during the term of any member, a successor member shall be appointed for the unexpired portion of the term.

16-140. COMMITTEE'S RESPONSIBILITIES AND DUTIES. The Committee shall hold regular meetings in compliance with the Open and Public Meetings Act. Special meetings may be called by the Committee or the Mayor. It shall be the responsibility of the Committee to study, investigate, counsel and develop and/or update annually, and recommend a written plan for the care, preservation, pruning, planting, replanting, removal or disposition of trees and shrubs in parks, along streets and in other public areas. Such plan will be updated annually without requiring change to this ordinance. The Committee may also recommend goals, objectives and policies where open space and/or landscaping is required as a condition for development, and recommend policies for the enforcement of approved plans. The Committee, when requested by the City Council, shall consider, investigate, make findings, report and recommend upon any special matter of question coming within the scope of its work. The Committee may also recommend funding mechanisms for the planning and management of the community forest and the beautification of the City and review those portions of the city budget allocated for the planting and care of trees and advise officials on the appropriateness of the funding levels. The Committee may assist in the dissemination of news and information regarding the selection, planting, and maintenance of trees within the corporate limits, whether they be on public or private property, and to make such recommendations from time to time to the City Council as to desirable legislation concerning the community forest program and activities for the municipality.

16-150. DEFINITIONS.

- A. **Street Trees.** "Street trees" are herein defined as trees, shrubs, bushes, and all other woody vegetation on land lying between property lines on either side of all streets, avenues, or ways within the City.

- B. Park Trees.** “Park trees” are herein defined as trees, shrubs, bushes and all other woody vegetation in public parks having individual names, and all areas owned by the City, or to which the public has free access as a park.
- C. Public Right-of-Way.** “Public right-of-way” means a portion of property reserved for public use and accepted for such use by the city to provide circulation and travel to abutting properties, including, but not limited to, streets, alleys, sidewalks, provisions for public utilities, cut and fill slopes, parking/planting strips, and open public spaces.
- D. Public Nuisances.** “Public nuisances” are herein defined as any tree or shrub located on private property having a destructive or communicable disease or other pestilence which endangers the growth, health, life or well-being of trees, shrubs or plants in the city or which is capable of causing an epidemic spread of a communicable disease or insect infestation; the roots of any tree or shrub, located on private property, which cause the surface of the public street, curb or sidewalk to be up-heaved or otherwise disturbed or which may inhibit the provision of utilities or other public services; any tree, shrub or portion thereof located on private property which, by reason of location or condition, constitutes an imminent danger to the health, safety or well-being of the general public on city property.

PART 16-160. URBAN FORESTRY PROGRAM.

- A. Purpose.** The Urban Forestry Program is established to encourage and perpetuate awareness of the many benefits derived from proper landscaping on public and private property in Enoch.
- B. Duties.** In carrying out the Urban Forestry Program, the City may: plant, prune, remove, fertilize, spray, brace and provide all necessary maintenance on street trees and park trees and may direct same on private property when necessary; provide assistance to the committee in developing an annual work plan, street inventories, tree list, and in developing and implementing goals and objectives associated with the Urban Forestry Program.
- C. Powers.** The City shall have the authority and jurisdiction to: enter onto private property whereon there is located a tree, shrub, or plant that is suspected to be a public nuisance as defined herein and may direct the necessary treatment or removal; alleviate interference with the provision of essential services; and preserve the aesthetics of public places. The City shall have the power to proclaim and enforce rules, regulations and specifications concerning the trimming, spraying, removal, planting, pruning and protection of trees, shrubs, vines, hedges and other plants upon the rights-of-way of any street, alley, sidewalk, or other public place in the city and; trees, plants, shrubs, etc. located on private property that constitute a hazard or treat as described herein.

16-170. PLANTING, MAINTENANCE AND REMOVAL ON PUBLIC PROPERTY.

- A. Planting.** It is recommended that residents select trees from the Enoch Tree Committee Tree List (See Part 16-230). This list is only a guide and trees not on the list may be planted, if so desired.
- B. Distance from Curb and Sidewalk.** The distance trees may be planted from curbs or curb lines and sidewalks will be in accordance with the three species size classes of this ordinance, and no trees may be planted closer to any curb or sidewalk than the following: small trees, two (2) feet; medium trees, three (3) feet; large trees, four (4) feet.
- C. Distance from Street Corners and Fireplugs.** No street tree shall be planted closer than 30 feet of any street corner, measured from the point of nearest intersecting curbs or curb lines. No street tree shall be planted closer than 10 feet of any fireplug.

- D. **Utilities.** No street trees other than those species listed as small trees in the Tree List may be planted under or within 15 lateral feet of any overhead utility wire, or over or within 5 lateral feet of any underground water line, sewer line, transmission line or other utility.
- E. **Protection of Public Trees near Construction Activities.** Any tree located on city property in the immediate vicinity of any excavation, demolition or construction site of any building, structure, street or utilities work, which has the potential for injury, shall be protected from such injury, as directed by the City. Should a tree become injured beyond the point of recovery as a result of construction activities the responsible party shall replace the injured tree.
- F. **Tree Topping.** It shall be unlawful as a normal practice for any person, firm or city department to top any street tree, park tree, or other tree on public property. Topping is defined as the severe cutting back of limbs to stubs larger than three inches in diameter within the tree's crown to such a degree so as to remove the normal canopy and disfigure the tree. Trees severely damaged by storms or other causes, and certain trees under utility wires or other obstructions where other pruning practices are impractical may be exempted from this ordinance, with the prior written approval of the City or Shade Tree Committee.
- G. **Removal of Stumps.** All stumps of street and park trees shall be removed below the surface of the ground so that the top of the stump shall not project above the surface of the ground.

PART 16-180. ADJACENT PRIVATE LANDOWNER RESPONSIBILITIES.

- A. **Pruning, Corner Clearance.** Every owner of any tree overhanging any street or right-of-way within the City shall prune the branches so that such branches do not obstruct the view of any street intersection and so that there shall be a clear space of nine (9) feet above the surface of the street or sidewalk. The City, with a recommendation from the Shade Tree Committee, will notify, in writing, the owners of such trees. Said owners shall remove all dead, diseased and/or dangerous trees, or broken or decayed limbs which constitute a menace to the safety of the public or creates a nuisance as defined in this chapter. In the event of failure of the owners to comply with such provisions, the city shall have the right to prune any tree or shrub on private property, at the expense of the owner, when it interferes with the proper spread of light along the street from a street light or interferes with visibility of any traffic control device.
- B. **Dead or Diseased Tree Removal on Private Property.** Should any dead or diseased trees be identified on private property within the city, and should such trees constitute a hazard to life and property, or harbor insects or disease that constitute a potential threat to other trees within the city, the City, with concurrence of the Shade Tree Committee, will notify, in writing, the owners of such trees. The notice will include alternative remedies to the situation. Should removal be the only remedy, removal shall be done by said owners at their own expense within the time specified in said notice. In the event of failure of the owners to comply with such provisions, the City shall have the authority to remove such trees and to charge the cost of removal to the owner's utility bill.

PART 16-190. ARBORIST LICENSE AND BOND. Any person or firm wishing to engage in the business or occupation of planting, pruning, treating, or removing street or park trees within the city shall confirm procedures with the Parks Department prior to beginning work. Proof of a city business license and evidence of possession of liability insurance in the minimum amounts of \$500,000 bodily injury per person, \$250,000 property damage not to exceed \$1,000,000 per occurrence indemnifying the City or any person injured or damaged resulting from the pursuit of such endeavors as herein described shall be required.

16-200. PENALTIES, CLAIMS AND APPEALS. Any person violating any provision of this ordinance or who fails to comply with any notice issued pursuant to the ordinance, upon being found guilty, shall be subject to a fine as set by the Appeals Board for each separate offense.

- A. Proper Notice.** In the event that a violation of the provisions of this chapter exists, the Shade Tree Committee shall refer violations to the code enforcement officer who shall ascertain the name of the property owner or occupant who caused the violation, and he/she shall serve notice in writing, either personally or by mailing notice, registered mail, postage prepaid, addressed to the property owner or occupant at the last known post office address as disclosed by the records of the County Assessor, requiring such property owner or occupant, as the case may be, to correct or remedy the violation within the time specified in such notice, from the date of service of such notice, except in the event of an emergency.
- B. Assessment of Claim.** In the event of failure to effect replacement or otherwise remedy the violation in accordance with such notice, the City's Representative is authorized to employ necessary assistance and cause such correction or remedy to be accomplished. He/she shall prepare an itemized statement of all expenses incurred in accomplishing the correction or remedy of such violation and shall mail a copy thereof to the owner demanding payment within 90 days of the date of mailing. Such statement shall be deemed delivered when mailed by registered mail and addressed to the last known address of the property owner involved.
- C. Payment.** If the property owner or occupant fails to make payment within said 90 day period, the City may cause a sworn statement to be recorded in the office of the County Recorder showing the cost and expense incurred for the work, the date the work was done, and the location of the property on which the work was done. Such recording of sworn statement shall constitute a lien on the property and shall remain in full force and effect for the amount due with interest thereon as determined by the city until final payment has been made. A sworn statement recorded in accordance with the provisions hereof shall be prima facie evidence that all legal formalities have been complied with and that the work has been done properly and satisfactorily, and shall be full notice to every person concerned that the amount of the statement, plus interest, constitutes a charge against the property designated or described in the statement and that the same is due and collectible as provided by law.
- D. Appeals.** Any person may appeal a ruling or order of the Shade Tree Committee or authorized representative to the City Council, who may afford a hearing in a proper case and make a final decision. Appeals must be made in writing within 5 days of the ruling or order in question. The authorized representative and parties appealing shall be notified of the appeal hearing at least 48 hours in advance to enable their attendance. Following such notice of intent to appeal, no action on the problem shall be taken by the authorized representative pending the outcome of the appeal. The City Council shall hear all parties wishing to be heard on the matter during the appeal proceedings, and shall order the authorized representative to take such actions as are necessary to execute the decision.

16-210. INTERFERENCE UNLAWFUL. It shall be unlawful for any person to prevent, delay or interfere with the Shade Tree Committee or any of its agents or with Enoch City personnel while engaged in and about the planting, cultivating, mulching, pruning, spraying or removing of any street trees, park trees, or trees on private grounds as authorized in this ordinance.

16-220. SEVERABILITY. If any section of this ordinance is found to be invalid or unconstitutional, it shall not affect the validity of any remaining sections.

PART 16-230. TREE LIST.

Height	Name	Scientific Name
Large – 70’ or more	Ash, Green	Fraxinus pennsylvanica
Large	Catalpa, Northern	Catalpa speciosa
Large	Coffeetree, Kentucky	Gymnocladus dioicus
Large	Ginkgo	Ginkgo biloba
Large	Hackberry, Common	Celtis occidentalis
Large	Maple, Norway	Acer platanoides
Large	Maple, Crimson	Acer
Large	Oak, Bur	Quercus macrocarpa
Large	Pine, Austrian	Pinus nigra
Large	Planetree, London	Plantanus x acerifolia
Medium – 30’-70’	Arborvitae, Oriental	Thuja orientalis
Medium	Chokecherry, Common	Prunus virginiana
Medium	Maple, Paperbark	Acer griseum
Medium	Pine, Pinyon	Pinus edulis
Small – 30’ or less	Goldenchain Tree	Laburnum x watereri
Small	Hawthorn, Washington	Crataegus phaenopyrum
Small	Oak, Gambel	Quercus, gambelii
Small	Pistachio	Pistacia vera
Small	Redbud, Eastern	Cercis canadensis

Title 17-0000. LIBRARY.

Part 17-100 Purpose Statement.

The purposes of this ordinance are to establish a Library Board in accordance with Utah State Law: recognize and clarify the powers and duties of the Library Board and the Library Director: provide for control and accountability for the public and private funds that are used by the Library and: recognize Enoch City as the governmental entity primarily responsible for the operation, staffing and control of the Enoch City Library.

Part 17-200 Library Board of Directors

17-220 Composition of the Library Board.

- A. The Library Board shall consist of five (5) Directors. Directors shall include the following:
 - 1. The Enoch City Mayor, or the Mayor's designee;
 - 2. An Iron County Commissioner; and
 - 3. Three (3) qualified Enoch City residents appointed by the Enoch City Mayor and approved by a majority vote of the Enoch City Council. In the event that an Iron County Commission refuses or fails to serve, an additional Enoch City resident shall be appointed.
- B. All appointments shall be made prior to July 1st of each year.
- C. Directors shall serve without pay. Expenses incurred in the performance of their duties may be compensated in accordance with Enoch City Policy.

17-230 Terms of Office for Library Board.

- A. The term of appointment for a Director is three (3) years.
- B. A Director may not be appointed to serve more than two (2) consecutive terms in office.
- C. In order to stagger the terms in office of the entire board, and consistent with the terms in office as of the passage of this ordinance, the terms of one third of the Directors shall expire each year.

17-240 Removal from Office.

- A. The Enoch City Mayor, with the majority consent of the Enoch City Council, may remove any Director for neglect of duty, commission of a criminal act, violations of ethical duties imposed by the Utah Public Employees Ethics Act, or other misconduct.

17-250 Vacancies.

- A. Any vacancy in the Library Board occasioned by removal, resignation, or otherwise, shall be filled by appointment of a Director for the unexpired term by the Enoch City Mayor with a majority vote of the Enoch City Council.
- B. Appointment of an individual to serve out the unexpired term of a Director shall apply to the calculation of the individual's two (2) terms in office.

17-260 Organization of the Library Board.

- A. Prior to July 1st of each year the Directors shall meet to elect a Chairman and such officers as they deem necessary for operation during the next year.
- B. The Directors shall adopt such bylaws, rules and regulations as they deem necessary for governing the Library Board.

17-270 Powers and Duties of the Library Board.

- A. The Library Board shall:
 - 1. Institute and revise all policies, procedures and rules for the day-to-day operation of the Enoch City Library.
 - 2. Supervise, care for, and control the Library rooms and building.
 - 3. Make recommendations and give advice to the Enoch City Council on matters affecting the Enoch City Library.
 - 4. On or before the third Wednesday in April, report to the Enoch City Council the current status of the library, including, but not limited to the most recent financial statement and any other statistics, information and suggestions the Directors may have.

17-280 Library Board Meetings and Decorum.

- A. The Library Board shall comply with Utah Open and Public Meetings Act and Enoch City Meeting Procedures and Rules as adopted and changed from time to time.

Part 17-300 Accounting for and Expenditure of Library Funds.

- A. All funds that are in any manner received for the library shall be deposited in an account maintained by Enoch City, in accordance with Utah State Law. Said funds shall be used for the sole purpose of the Library.
- B. The expenditure of money for the benefit of the Library, regardless of the source of the money, shall be made in accordance with Enoch City Purchasing Policy, and after Enoch City Council approval, if applicable.
- C. Donated funds shall be accounted for by Enoch City and expenditure or encumbrance of donated funds shall be made only in accordance with Enoch City Purchasing Policy and after Enoch City Council approval, if applicable.

Part 17-400 Library Director.

- A. The Library Director shall be appointed by the Library Board, and in accordance with Enoch City Personnel Policy, to run the day-to-day operations of the Enoch City Library.
- B. Upon appointment and confirmation, the Library Director shall be an employee of Enoch City with the followings powers and duties:
 - 1. The Library Director shall be assigned compensation and benefits in accordance with Enoch City Personnel Policy, and applicable wage studies, during the hiring process.
 - 2. The Library Director shall be accountable to the Library Board and the Enoch City Manager for the performance of the Enoch City Library and its employees.
 - 3. The Library Director shall be subject to discipline up to and including termination in accordance with Enoch City Personnel Policy.

4. The Library Director shall follow, and ensure that all other Enoch City Library employees and volunteers follow all Enoch City Policies as well as any Policies instituted by the Enoch City Library Board, the Enoch City Administration, and the Enoch City Council.
5. The Library Director shall be accountable, in accordance with Utah State Law and Enoch City accounting policy or practice, for all funds received at the Enoch City Library.
6. If the Library Director permits or allows any person to take materials from the Library by means other than are provided in this Chapter, or applicable Library Policy and Procedure, he or she shall be subject to removal from office and shall be personally liable for all damages occurring on account of such misconduct.
7. The Library Director shall act as the executive officer of the Library Board.

Part 17-500 Use of Library and Materials.

- A. The term “material(s)” shall include books, audio or visual materials, periodicals, leaflets, pamphlets, or any material that is cataloged and in the possession of the Library.
- B. Any person may be permitted to withdraw materials from the Library as long as a Library card has been received. In the event that materials are withdrawn by a person who resides outside of Enoch City and an “out of city” fee (if applicable) shall be paid.
- C. Any person obtaining material from the Library shall be responsible for all damage or injury to said materials.
- D. Any person retaining materials for a longer period of time than provided by Library policy shall pay a late fee as determined by the Library Board.

APPENDIX DESCRIBING FIRE DISTRICTS OR ZONES.

SECTION 1. FIRE DISTRICTS OR ZONES REFERENCED.

This is the Appendix referenced in section 9-533 of this Code of Revised Ordinances of this municipality in which the fire districts or zones are described.

SECTION 2. ENTIRE MUNICIPALITY DESIGNATED FIRE DISTRICT.

The entire municipality is declared to be and hereby is designated a fire zone for the purpose of the Uniform Building Code and any ordinances of the municipality relating to building and fire prevention.

SECTION 3. FIRE DISTRICT NUMBER ONE.

Fire district number one shall include the following described areas:

- A. None
- B.
- C.

SECTION 4. FIRE DISTRICT NUMBER TWO.

Fire district number two shall include all of those areas of the municipality located in areas zoned commercial or industrial by the zoning ordinances of the municipality, except the areas above described in Section 3.

SECTION 5. FIRE DISTRICT NUMBER THREE.

Fire district number three shall include all areas of the municipality not included in fire districts one or two.

NOTE:

Fire District Number One. Fire district number consists of heavily concentrated buildings in large downtown cities. Examples include downtown Salt Lake City, Provo, Logan, St. George, Cedar City, Price and Brigham City. Most towns and small cities would not have a fire district number one. Only limited areas of most downtown small cities would be designated to this classification. In this district the opportunity for fire spreading to other buildings is great.

Fire District Number Two. Fire district number two is less concentrated commercial and industrial areas. Fire district number two is characterized by commercial and industrial buildings having minimum set-backs of 20 feet from side (sometimes front) property lines.

Fire District Number Three. Fire district number three is characterized by residential zoning and buildings. Generally, in district three, there is little risk of fire spreading to adjacent buildings.

It is recommended that your building inspector or fire inspector be consulted for the purpose of describing the fire districts.

It is important that the descriptions of districts one and two be accurate. You may describe the districts by blocks or feet. Many municipalities describe their fire districts by both blocks and feet. For example: 150 feet west of State Street and 250 feet east of State Street from First North to Seventh South.

APPENDIX
ESTABLISHING LIMITS OF DISTRICTS IN WHICH STORAGE OF
FLAMMABLE OR COMBUSTIBLE LIQUIDS IN OUTSIDE ABOVE
GROUND TANKS AND EXPLOSIVES ARE PROHIBITED AND IN
WHICH BULK STORAGE OR LIQUEFIED PETROLEUM GAS IS
RESTRICTED AND AMENDMENTS TO THE FIRE CODE.

SECTION 1. APPENDIX IDENTIFIED. This Appendix is the Appendix referred to in Sections 10-154, 10-155, 10-156 and 10-157 of the Code of Revised Ordinances of this municipality that relate to the Uniform Fire Code.

SECTION 2. PROHIBITED STORAGE ABOVE GROUND. The limits referred to in Section 15.201 of Uniform Fire Code in which storage of flammable or combustible liquids in outside above-ground tanks are prohibited are as follows:

The entire town.

SECTION 3. BULK PLANTS FOR FLAMMABLE OR COMBUSTIBLE RESTRICTED. The limits referred to in Section 15.601 of the Uniform Fire Code in which bulk plants for flammable or combustible liquids are prohibited are as follows:

The entire town.

SECTION 4. BULK STORAGE OF LIQUEFIED PETROLEUM GASES. The limits referred to in Section 10-155 of the Code of Revised Ordinances – Section 20.105(a) of the Uniform Fire Code in which the storage of liquefied petroleum gas is prohibited are:

The entire town.

SECTION 5. EXPLOSIVES RESTRICTED. The limits referred to in Section 11.106(b) of the Uniform Fire Code in which the storage of explosives and blasting agents is prohibited are as follows:

The entire town.

SECTION 6. AMENDMENTS. The amendments to the Uniform Fire Code referred to in Section 10-157 of the Code of Revised Ordinances are as follows:

None.

NOTE of Explanation to this Appendix:

1. **STORAGE OF FLAMMABLE OR COMBUSTIBLE LIQUIDS** in outside above-ground tanks (Section 10-154(A) of the Code of Revised Ordinances – Section 15-201 of the Uniform Fire Code should be prohibited in the mercantile and other congested areas.

2. **NEW BULK PLANTS FOR FLAMMABLE OR COMBUSTIBLE LIQUIDS** (Section 10-154(B) of the Code of Revised Ordinances – Section 15-601 of the Uniform Fire Code) should be prohibited in areas zoned to be used solely for residential occupancies and for mercantile establishments, primarily retail in character.
3. **BULK STORAGE OF LIQUEFIED PETROLEUM GASES** (Section 10-155 of the Code of Revised Ordinances – Section 20.105(a) of the Uniform Fire Code) should be restricted in areas of heavy population and in the congested commercial areas.
4. **STORAGE OF EXPLOSIVES AND BLASTING AGENTS** (Section 10-155 of the Code of Revised Ordinances – Section 11.106(b) of the Uniform Fire Code) should be prohibited in the business district, closely built commercial areas and heavily populated areas.