

**CHAPTER 2**  
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## CHAPTER 2

### ADMINISTRATION AND PROCEDURES

#### PART 1 - DECISION MAKING BODIES AND OFFICIALS

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#### 14-2-101 PURPOSE

The purpose of this Chapter is to establish the authority of decision making bodies and officials responsible for administering the provisions of the Bountiful Land Use Code.

#### 14-2-102 CITY COUNCIL

- A. Powers Not Enumerated in this Title. The Bountiful City Council has powers and duties which are not set forth in this Title or Chapter, and those stated here are not an exclusive or an exhaustive list. For other powers and duties, see the Bountiful City Code and the Utah Code.
- B. Powers and Duties Related to this Title. In administering this Title, the City Council shall have the powers and duties set forth below. Each of such powers and duties shall be exercised pursuant to the procedural and other applicable provisions of the Utah Code and of this Title.
1. Adopt, modify, or reject a General Plan or any amendment thereto;
  2. Adopt, modify, or reject amendments to the text of the Land Use Code and to the zoning map;
  3. Hear and decide appeals from Planning Commission decisions as provided in this Title;
  4. Establish a fee schedule for applications required by provisions of this Title; and
  5. Perform any other power or duty set forth in this Land Use Code or in State law.
- C. Restriction on Eminent Domain for Trail Use. Eminent Domain may not be used for trails.

**14-2-103 PLANNING COMMISSION**

- A. Established. A Planning Commission, consisting of seven (7) members is hereby established to exercise the powers and duties specified herein.
  
- B. Appointment and Terms of Office.
  - 1. Planning Commission members shall be residents of Bountiful City and shall be appointed by the Mayor with the advice and consent of the City Council.
  - 2. The terms of Planning Commission members shall be staggered. Each member of the Planning Commission shall serve for a term of four (4) years and until a successor is appointed, provided that members may be appointed for terms shorter than three (3) years when necessary to provide staggered terms.
  - 3. Terms of Planning Commission members shall begin on July 1<sup>st</sup> of each year.
  - 4. Planning Commission members may be reappointed for successive terms.
  - 5. The Mayor, with the advice and consent of the City Council, may remove any member of the Planning Commission at any time with or without cause.
  - 6. A vacancy occurring on the Planning Commission by reason of death, resignation, removal, disqualification or any other reason shall be promptly filled by a replacement appointed in the same manner as the original appointment for the remainder of the unexpired term of the replaced member.
  - 7. The Mayor may appoint one person from the City Council as a full member of the Planning Commission.
  
- C. Organization and Procedure. The Planning Commission shall be organized and exercise its powers and duties as follows:
  - 1. Members of the Planning Commission shall select one (1) of its members as chair to oversee the proceedings and activities of the Planning Commission.
    - a. The chairperson shall serve for a term of one (1) year.
    - b. Members of the Planning Commission shall select one (1) of its members as vice-chair to act in the absence of the chair. The chair and vice-chair may be re-elected for successive terms.
  - 2. The Planning Commission may adopt policies and procedures, consistent with the provisions of this Title and applicable law, to govern the conduct of its meetings, the processing of applications, and for any other purposes considered necessary for the functioning of the Planning Commission. All such policies and procedures shall be submitted to the City Council for review and approval.
  - 3. The Planning Commission shall meet on a regular basis, as determined by a vote of the Commission members, and at such other times as the Commission

members may determine. All meetings shall be properly noticed as required by law, and held in accordance with the open meetings law set forth in Utah Code Ann. ' 52-4-1, et seq., as amended. At the beginning of each calendar year the Bountiful City Planning Department shall create and post in its office a schedule of Planning Commission meetings and application deadlines.

4. No official business shall be conducted by the Planning Commission unless a quorum of its members is present. Four (4) members of the Planning Commission shall constitute a quorum. Any action taken shall require a majority of members present and voting, unless otherwise prescribed by law.
5. Any person desiring to appear before the Planning Commission shall complete an application and submit all required materials and fees to the Planning Department. An application that does not include all of the required signatures, materials, fees, or other necessary information shall be deemed incomplete and returned to the applicant.
6. After an applicant has submitted a completed application to the Planning Department, the item shall be placed on the next available Planning Commission agenda, unless the applicant and the Commission Chair agree to postpone placing the item on the agenda or agree to continue the item to a subsequent meeting.
7. An applicant may request that an item be postponed or continued a maximum of one (1) meeting (i.e. once) or for forty five (45) days from the date of application, whichever is longer. If the matter is not heard within this deadline, the application is deemed to have expired or been withdrawn, and must be resubmitted if the applicant desires the Commission to act on the item. This shall not apply to completed applications that have been placed on an agenda, reviewed and discussed by the Planning Commission, and then continued for reasons determined by the Commission.
8. The Planning Commission shall not reconsider a previous action or change a recorded vote, and once an action is taken, the matter shall not be considered again for twelve (12) months from the date of decision.
9. Decisions of the Planning Commission shall take effect on the date of the meeting or hearing where the decision is made, unless a different date is designated in the Commission's rules or at the time the decision is made. The approval of written findings shall relate back to the date of decision.
10. The Planning Commission shall keep written minutes of its proceedings, showing the vote upon each question, or if absent or failing to vote, indicating that fact, and keep records of all its official actions. The Planning Commission may, but is not required to, have its proceedings transcribed by a secretary, a court reporter, a tape recorder, or other recording device.
  - a. The Planning Commission shall report, either verbally or in writing, its official acts and recommendations to the City Council. Any member of the

Planning Commission may also make a concurring or dissenting report or recommendation to the City Council.

- b. The minutes of all meetings of the Planning Commission shall be prepared and filed in the office of the Planning Director, under the direction of the City Recorder. All such records are public records and shall be available for public review and access in accordance with the Government Records and Access Management Act, Utah Code Ann., 63-2-101, et seq., as amended.

D. Powers and Duties. The Planning Commission shall have all the powers and duties, explicit or implied, given planning commissions by Utah State law and the Bountiful City Land Use Code, including but not limited to the following. Each of such powers and duties shall be exercised pursuant to the procedural and other provisions of this Title and of State law.

1. Prepare and recommend a general plan and amendments to the general plan to the City Council;
2. Recommend land use ordinances and maps, and/or amendments to the Land Use Code and maps, to the City Council;
3. Administer applicable provisions of this Title and of State law;
4. Recommend approval or denial of subdivision applications;
5. Advise the City Council on matters requested by the City Council;
6. Hear and decide the approval or denial of conditional use permits;
7. Hear and decide variances from this title;
8. Hear and/or decide any other matter that the City Council designates;
9. Exercise any other powers that are necessary to enable the Planning Commission to perform its function or that are delegated to it by the City Council; and
10. Perform any other power or duty set forth in this Land Use Code or in State law relating to Planning Commissions.

E. Appeals. Any person adversely affected by a final decision of the Planning Commission may appeal that decision as set forth in Section 14-2-108 of this Title. Any recommendation of the Planning Commission to another approval body is not a final decision and therefore cannot be appealed.

F. Examinations and Surveys. The Planning Commission and its authorized agents may enter upon any land at reasonable times to make examinations and surveys as necessary to enable it to perform its function to promote City planning, development, and enforcement of the provisions of this Title.

## **14-2-104 ADMINISTRATIVE COMMITTEE**

- A. Established. In order to provide for just and fair treatment in the administration of this Title, and to ensure that items of a routine nature are processed expeditiously and in a public forum, an Administrative Committee consisting of three (3) members is hereby established to exercise the powers and duties specified herein.
- B. Appointment and Terms of Office.
1. The Planning Director and City Engineer, or their designees, shall each serve as members of the Board. The third member and an alternate shall be appointed by the Mayor with the advice and consent of the City Council.
    - a. An appointed member of the Administrative Committee shall serve a term of two (2) years and until a successor is appointed. Terms shall commence July 1<sup>st</sup> of every odd year.
    - b. An appointed Administrative Committee member may be reappointed for successive terms.
    - c. The Mayor, with the advice and consent of the City Council, may remove an appointed member of the Administrative Committee at any time with or without cause.
    - d. A vacancy occurring on the Administrative Committee by reason of death, resignation, removal, disqualification or any other reason shall be promptly filled by a replacement appointed in the same manner as the original appointment for the remainder of the unexpired term of the replaced member.
  2. The Mayor, with the advice and consent of the City Council, may approve an alternate to the Administrative Committee.
- C. Organization and Procedure. The Administrative Committee shall be organized and exercise its powers and duties as follows:
1. The Planning Director shall oversee the proceedings and activities of the Administrative Committee, and shall act as the Committee Chair.
  2. The Planning Director or acting Chair may vote.
  3. The Administrative Committee shall not meet in the absence of the Planning Director, City Engineer, or their designees, and no official business shall be conducted by the Administrative Committee unless a quorum of its members is present.
  4. The Administrative Committee may adopt policies and procedures, consistent with the provisions of this Title and applicable law, to govern the conduct of its meetings, the processing of applications, and for any other purposes considered necessary for the functioning of the Committee.

5. The Administrative Committee shall meet as necessary to consider matters within its jurisdiction. All meetings shall be properly noticed as required by law, and held in accordance with the open meetings law set forth in Utah Code Ann. '52-4-1, et seq., as amended.
  6. Public comment shall be allowed on all items brought before the Administrative Committee. If an item brought before the Administrative Committee requires a public hearing and/or public notice, the noticing requirement shall be an on-site posting in a prominent location of the meeting date, location, and time, at least ten (10) days prior to the meeting, unless otherwise required by State Law. This noticing requirement shall supersede all other noticing provisions of this Title.
  7. Decisions of the Administrative Committee shall take effect on the date of the meeting or hearing where the decision is made, unless a different time is designated in the Board's rules or at the time the decision is made.
  8. The Administrative Committee shall keep written minutes of its proceedings, showing the vote upon each matter, and keep records of its examinations and other official actions.
    - a. The Administrative Committee shall provide a copy of each agenda and the outcome of each item to the City Council and Planning Commission.
    - b. The minutes of all meetings of the Administrative Committee shall be prepared and filed in the office of the Planning Director, under the direction of the City Recorder. All such records are public records and shall be available for public review and access in accordance with the Government Records and Access Management Act, Utah Code Ann., 63-2-101, et seq., as amended.
- D. Powers and Duties. The Administrative Committee shall have the power and duty to review and decide those matters designated by the City Council and/or Planning Commission. The Administrative Committee Chairman may assign any item designated for Administrative Committee review to the Planning Commission, in which case any power or review authority granted to the Administrative Committee shall also be afforded to the Planning Commission. Each of such powers and duties shall be exercised pursuant to the procedural rules and other provisions of this Title and of State law. Items specifically designated to the Administrative Committee are as follows:
1. Conditional use permits for home occupation licenses and for commercial business operations that do not require a new and/or amended site plan.
  2. Variances from the terms of this Title, as designated by Code.
  3. The expansion or modification of a non-complying single-family dwelling or structure where the non-complying aspect is continued.
  4. Lot-line adjustments.
  5. Any other matter designated by the City Council or Planning Commission.

- 6. Beer License violations short of suspension or revocation.
- E. Appeals. Any person adversely affected by a final decision of the Administrative Committee may appeal that decision as set forth in Section 14-2-108 of this Title. Any recommendation of the Administrative Committee to another approval body is not a final decision and therefore cannot be appealed.

**14-2-105 OTHER COMMITTEES**

The Mayor and/or Planning Director may organize other, non-binding committees as necessary to facilitate planning objectives.

**14-2-106 LAND USE ADMINISTRATION**

- A. Appointment. The Planning Director shall be responsible for administering and enforcing this Title.
- B. Interpretation. When necessary, the Planning Director shall interpret the provisions of this Title, subject to general and specific policies established by the Planning Commission and City Council. These interpretive decisions may be appealed as set forth in Section 14-2-108 of the Bountiful City Land Use Code.
- C. Administrative Duties. The Planning Director shall accomplish or cause to be accomplished all administrative actions required by this Title, including the giving of notice, holding of hearings, preparation of staff reports, and receiving and processing of appeals.

**14-2-107 ADA AND FFHA ACCOMMODATIONS**

None of the requirements of this Title shall be interpreted to limit any reasonable accommodation necessary to allow the establishment or occupancy of a residential facility for persons with a disability.

- A. Application. Any person or entity wanting a reasonable accommodation shall make application therefore to the Bountiful City Planning Director and shall articulate in writing the nature of the requested accommodation and the basis for the request.
- B. Decision. The Bountiful City Planning Director shall render a decision on each application for a reasonable accommodation. The decision shall be based on evidence of record. The Planning Director may approve a reasonable accommodation request, in whole or in part, if he/she finds all of the following:
  - 1. That the requested accommodation will not undermine the legitimate purposes of existing zoning regulations notwithstanding the benefit that the accommodation would provide to a person with a disability; and
  - 2. That, but for the accommodation, one or more persons with a disability likely will be denied an equal opportunity to enjoy housing of their choice; and



3. That the accommodation is the minimum amount necessary to provide one or more persons with a disability an equal opportunity to enjoy housing of their choice.
- C. Appeal. The decision of the Planning Director on the request for reasonable accommodation may be appealed in the manner set forth in 14-2-108 of the Bountiful City Land Use Code.

**14-2-108 APPEALS**

- A. An applicant, board or officer of the City, or any person adversely affected by a Land Use Authority's decision administering or interpreting a land use ordinance, code or ruling on a request for a variance may, within fourteen calendar days of the written decision, appeal that decision to the Appeal Authority. No other appeals may be made to the Appeal Authority.
- B. The appeal must be in writing and specifically allege that there is an error in an order, requirement, decision or determination by the Land Use Authority. The appellant shall state every theory of relief that it can raise in District Court.
- C. The Appeal Authority shall hold a public meeting within forty-five days after an appeal has been filed, unless a longer period has been agreed to in writing by the parties involved. A decision of the Appeal Authority takes effect when the written decision is issued, unless the Appeal Authority otherwise states.
- D. The Appeal Authority shall hold a de novo hearing. The requirements of State law and City ordinances shall be applied.
- E. A decision of the Appeal Authority is subject to a petition for review in the District Court as provided by State law.

**14-2-109 APPEAL AUTHORITY**

- A. The Appeal Authority for Bountiful City shall consist of an administrative law judge. The Appeal Authority shall hear and decide appeals from:
  1. Decisions on variance requests from the terms of the Land Use Code, and
  2. Decisions interpreting and applying land use codes.
- B. The City Council may designate separate appeal authorities to hear each of the two types of appeals described above.
- C. The administrative law judge shall be appointed by the Mayor with the advice and consent of the City Council, and shall serve for two years. An alternate judge may also be appointed by the same process. The City Council may remove an administrative law judge for cause and after a public hearing if the judge so requests.
- D. The Appeal Authority shall act in a quasi-judicial manner and its decisions on issues within its jurisdiction are final.

**14-2-110      PROPERTY IN GOOD STANDING**

Any land use authority may postpone deliberation of any application or approval until such time that any unlawful nonconformity or unlawful noncompliance associated with the subject property, structure, site, or entity is remedied. Furthermore, any land use authority may deny any application or approval if it is found that the subject property, structure, site, or entity is in violation of any provision of the City Code.

**14-2-111 APPROVAL/REVIEW BODIES**

Item	Subcategory	Approval/Review Bodies			
		Staff	AC	PC	CC
Conditional Use Permit	Home Occupation Licenses & Commercial Business Operation	No	Final	No	No
	Accessory Dwelling Units	No	Final	No	No
	All Others	No	No	Final	No
Subdivision	All	No	No	Recommend	Final
Re-Zone	All	No	No	Recommend	Final
Land Use Code Text Amendment	All	No	No	Recommend	Final
Combine Lots/Lot Line Adjustment	All	No	Final	No	No
Land Use Code/Map Interpretation	All	Planning Director	No	No	No
General Plan	All	No	No	Recommend	Final
Site Plan	Residential SFD	Final	No	Appeal	No
	Res SFD 200+ feet from street	No	Final	No	No
	All other Residential	No	No	Recommend	Final
	Res. SFD Accessory Structure	Final	No	No	No
	All other Res. Accessory Structure	Final	No	No	No
	Non-Residential	No	No	Recommend	Final
	Non-Residential Accessory Structure	Final	No	No	No
	All Non-SFD Residential Amend	No	No	Recommend	Final
	All Non-Residential Amend	No	No	Recommend	Final
Alteration and Modification of Non-Complying Site or Structure	Residential SFD	As Designated	All Others	No	No
	All Others	No	As Designated	All Others	No
Alteration and Modification of Non-Conforming Use	All	No	As Designated	All Others	No

**14-2-111 APPROVAL/REVIEW BODIES (CONTINUED)**

Item	Subcategory	Approval/Review Bodies			
		Staff	AC	PC	CC
Easement Release	All	No	No	No	Final
Variance	Slopes > 30%	No	Final	No	No
	Cuts and Fills (includes retaining walls) > 10 feet	No	Final	No	No
	Setbacks	No	No	Final	No
	All others	No	No	Final	No
Drive Approach	Residential SFD	Final	No	No	No
	All Non-SFD (without site plan review)	Final	No	No	No
	All Non-SFD (with site plan review)	No	No	Recommend	Final
Interior Remodel	All	Final	No	No	No
Retaining Wall	All	Final	No	No	No
Signs	Commercial Pole/Monument – New Developments	No	No	Recommend	Final
	All Others	Final	No	No	No
Utility Connections	All	Final	No	No	No
Vacate/Abandon Public Property	All	No	No	Recommend	Final
Improve Public Property	All	No	No	Recommend	Final
ADA and FFHA Accommodations	All	Planning Director	No	No	No

**Staff** = The Planning, Engineering, and/or Building Department employees as assigned.

**AC** = Administrative Committee; As currently composed.

**PC** = Planning Commission; As currently composed.

**CC** = City Council; As currently composed.

## CHAPTER 2

### ADMINISTRATION AND PROCEDURES

#### PART 2 - ZONE ESTABLISHMENT

<b>14-2-201</b>	<b>ZONE ESTABLISHMENT</b>
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<b>14-2-203</b>	<b>LOCATION OF ZONE BOUNDARIES</b>
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#### **14-2-201 ZONE ESTABLISHMENT**

In order to accomplish the purpose of this Code, Bountiful City is hereby divided into zones as follows:

R	Single Family Residential Zone
RM	Multiple Family Residential Zone
C	Commercial Zone
DN	Downtown Zone
PO	Professional Office Zone
H	Hospital Zone
MXD	Mixed Use Zone
PF	Public Facilities Zone
MWP	Mountain Development and Watershed Protection Zone

#### **14-2-202 OFFICIAL ZONING MAP**

- A. The location and boundaries of all zoning districts as contained herein, including subsequent amendments, are shown on the map entitled BOUNTIFUL CITY ZONING MAP. The territory within the City shall be subject to the land use restrictions set forth for such zoning districts, as shown upon the maps.
- B. Amendments to the boundaries of a specific zoning district shown on the BOUNTIFUL CITY ZONING MAP shall be accomplished in accordance with the provisions set forth in this Title.
- C. The Planning Director shall update the zoning district map as soon as possible after amendments are adopted by the City Council. Upon entering any such amendment on the map or maps, the Planning Director shall change the date of the map or maps to indicate the latest revision. New prints of the updated map may then be issued.

#### **14-2-203 LOCATION OF ZONE BOUNDARIES**

Where uncertainty exists with respect to the boundaries of various zones, the following rules shall apply:

- A. Where the boundaries on the zone map approximate street lines, the centerline of said street shall be construed to be the zone boundary.
- B. Where the boundaries approximate lot lines, said lot lines shall be construed to be the zone boundary, unless otherwise indicated.
- C. Where the boundaries approximate rivers or streams, the centerline of said, river or stream, shall be construed to be the zone boundary.
- D. In the absence of any street, lot line, river, or stream, the zone boundary shall be determined by the legal description contained in the ordinance adopting the zoning classification for the subject property.
- E. Absent any of the above indicators, the zone boundary shall be determined by the use of the scale of measurement shown on the zoning map.
- F. In all instances, the Planning Director shall interpret the zoning map.

#### **14-2-204 NEWLY ANNEXED TERRITORIES**

- A. Territories which the City annexes shall be assigned a zoning designation by the City Council at the time the annexation ordinance is adopted. The Planning Director shall recommend a zone designation for the area to the City Council.
- B. In order to ensure due process and to protect the right of the citizens of the City, property shall be zoned as indicated in the most recently adopted version of the General Plan unless it can be demonstrated to the City Council that some other zoning designation is appropriate. No official of the City shall utilize zoning designation commitments as a means of bargaining for the annexation of property into the City.

#### **14-2-205 AMENDMENTS TO THE LAND USE CODE AND MAP**

- A. This Title, including the official zoning map, may be amended by the City Council after the Planning Commission has reviewed the proposed amendments and made an official recommendation to the Council.
- B. For the purpose of establishing and maintaining sound, stable, and desirable development within the City, it is declared to be the public policy that amendments should not be made to the Bountiful City Land Use Code or Zoning Map except to promote the objectives and purpose of this Title, the Bountiful City General Plan, or to correct manifest errors.
- C. Any person or organization seeking an amendment to the Land Use Code or any property owner or authorized agent of any property owner seeking an amendment to the

Zoning Map shall submit to the Bountiful City Planning Department a completed application containing the following information:

1. Designation of the specific zone change or Land Use Code text amendment desired.
  2. The reason and justification for such zone change or Land Use Code text amendment, and a statement setting forth the manner in which a proposed amendment or Zone would further promote the objectives and purposes of this Ordinance.
  3. A complete and accurate legal description of the area proposed to be rezoned, or a draft of the proposed Land Use Code text amendment.
  4. An accurate plat, drawn to scale with appropriate dimensions, showing all areas to be included within the proposed rezoning, designating the present zoning of the property subject to the petition, and properties immediately adjacent thereto.
  5. A list of all property owners within a radius of five hundred (500) feet of the boundaries of the property to be rezoned, as currently shown in the records of the Davis County Recorder, on self-adhesive labels ready for mailing to all names on the list.
  6. A filing fee for a zone change or text amendment, as set by the City Council, paid at the time of application. This fee is non-refundable. An application initiated by the City shall be exempt from paying the required filing fee. The purpose of this fee is to offset the cost of legal publications, notification of property owners, and the staff time involved in researching the appropriateness of said request and its effect on the general welfare of the City.
- D. Upon receipt of a completed application, the Planning Director shall forward a copy of all material to the Planning Commission for consideration at the next regularly scheduled meeting that satisfies all of the noticing requirements.
- E. The Planning Commission and/or City Council shall not hear a petition to rezone a parcel of land, or portion of a parcel of land, that was considered for rezone within the previous twelve (12) months, except that the City Council may reconsider a previous action to deny a request sooner than the expiration of the twelve (12) month period, if:
1. At least one (1) City Council member, who voted with the prevailing majority on the earlier City Council action, moves to have the City Council reconsider the matter and a quorum of the City Council approves the reconsideration; and
  2. The appropriate notices are published and a public hearing held, as required by law. Referral to and reconsideration of the rezone by the Planning Commission shall be at the discretion of the City Council.
- F. Once an item has been properly noticed and placed on an agenda, the Planning Commission shall consider the request and shall approve, disapprove or continue the petition for future consideration. After taking final action on such petition, the Planning

Commission shall certify its recommendation to the City Council as approval or disapproval of the proposed amendment. Before recommending a text amendment to this Code or a change to the Zoning Map, it must be found that such amendment is necessary, is in the interest of the public, and is in harmony with the objectives and purposes of this Code. Failure on the part of the Planning Commission to make recommendation to the City Council within thirty (30) days after hearing the petition shall be deemed to constitute approval of such proposed amendment or change which shall then be passed on to the City Council for appropriate action.

- G. The City Council shall determine if a public hearing should be scheduled to consider the Zone Map amendment or Land Use Code text amendment. Concurrence by the City Council with an unfavorable recommendation of the Planning Commission shall constitute a denial of the application, and no public hearing shall be held. If the recommendation is favorable or if the City Council determines the proposed amendment to be desirable despite an unfavorable recommendation, a public hearing shall be held.
- H. The public noticing requirement for a zone map amendment or Land Use Code text amendment shall be as required by State Law. In addition, the following shall apply for a zone map amendment:
  - 1. Notice shall be sent to all property owners within five hundred (500) feet radius of the subject property at least fourteen (14) days prior to the first scheduled public hearing.
  - 2. A sign shall be posted on the site or adjacent to the closest section of public right-of-way, at least ten (10) days in advance of the scheduled meeting.
- I. After the public hearing, the City Council may adopt, amend and adopt, or reject the zone change or Land Use Code text amendment.
- J. Resubmission of any application for the same amendment shall not be allowed for a period of one (1) year from the date of final decision or from the date when the application was withdrawn.

**14-2-206 VARIANCES**

- A. Variances from the terms of this Code may be granted by the Planning Commission or the Administrative Committee, according to the provisions of this Title and State Law. An application for a variance shall be filed with the Planning Department. Said application shall contain the following:
  - 1. A description of the requested variance, together with a description of that Land Use Code provision for which relief is being requested and why such provision causes undue hardship or need for variance.
  - 2. An accurate plot plan, where appropriate, indicating the manner in which the variance will be applied and its effect on adjacent properties.
  - 3. A filing fee as set by the City Council.



4. If required, mailing addresses of all of the property owners within three hundred (300) feet of the subject property, as per current County records, printed on self adhesive labels.
- B. Any request for variance shall be heard and decided by the Planning Commission unless the item falls within a category designated for Administrative Committee review. When considering the request, the Planning Commission or Administrative Committee shall hold a public hearing to review the request and other concerns and take appropriate action upon the request.
- C. The noticing requirement for a variance heard by the Planning Commission shall be as follows:
  1. Notice sent to all property owners within a three hundred (300) feet radius of the subject property fourteen (14) days prior to the hearing date.
  2. Posted with notification signage on the subject property by the City and shall be posted by the City at least ten (10) days in advance of the scheduled meeting.
- D. The noticing requirement for a variance request heard by the Administrative Committee shall be the same as required for any public hearing held by the Administrative Committee, as set forth in 14-2-104.
- E. The Planning Commission or Administrative Committee, after hearing necessary testimony, information and citizen input, shall then make a finding conforming to this Title and Section 10-9a-702 of the Utah State Code, which is as follows:

**10-9a-702 Variances.**

(1) Any person or entity desiring a waiver or modification of the requirements of a land use 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 applicable appeal authority for a variance from the terms of the ordinance.

(2) (a) The appeal authority may grant a variance only if:

- (i) literal enforcement of the ordinance would cause an unreasonable hardship for the applicant that is not necessary to carry out the general purpose of the land use ordinances;
- (ii) there are special circumstances attached to the property that do not generally apply to other properties in the same zone;
- (iii) granting the variance is essential to the enjoyment of a substantial property right possessed by other property in the same zone;
- (iv) the variance will not substantially affect the general plan and will not be contrary to the public interest; and
- (v) the spirit of the land use ordinance is observed and substantial justice done.

(b) (i) In determining whether or not enforcement of the land use ordinance would cause unreasonable hardship under Subsection (2)(a), the appeal authority may not find an unreasonable hardship unless the alleged hardship:

- (A) is located on or associated with the property for which the variance is sought; and
- (B) comes from circumstances peculiar to the property, not from conditions that are general to the neighborhood.
- (ii) In determining whether or not enforcement of the land use ordinance would cause unreasonable hardship under Subsection (2)(a), the appeal authority may not find an unreasonable hardship if the hardship is self-imposed or economic.
- (c) In determining whether or not there are special circumstances attached to the property under Subsection (2)(a), the appeal authority may find that special circumstances exist only if the special circumstances:
  - (i) relate to the hardship complained of; and
  - (ii) deprive the property of privileges granted to other properties in the same zone.
- (3) The applicant shall bear the burden of proving that all of the conditions justifying a variance have been met.
- (4) Variances run with the land.
- (5) The appeal authority may not grant a use variance.
- (6) In granting a variance, the appeal authority may impose additional requirements on the applicant that will:
  - (a) mitigate any harmful affects of the variance; or
  - (b) serve the purpose of the standard or requirement that is waived or modified.

F. In granting a variance, the Planning Commission or Administrative Committee may impose such reasonable conditions as will ensure that the use of the property to which the variance applies will be as compatible as practicable with the surrounding properties

**14-2-207 ESTABLISHMENT OF USES NOT SPECIFIED**

When a use is not specifically contained in the list of permitted or conditional uses in a particular zone, it is considered a non-permitted use and therefore is not allowed. The City Council may amend the Land Use Code to allow additional uses through the Land Use Code text amendment process set forth in 14-2-205.

**14-2-208 CLARIFICATION OF ZONING**

Any property which, for any reason, is not clearly zoned on the City's official Zoning Map, or is determined not to be subject to the requirements of a zone classification as provided by this Code, is hereby declared to be in the Mountain Development and Watershed Protection (MWP) Zone, and shall be subject to the requirements of that Zone.

**14-2-209 CLARIFICATION OF AMBIGUITY**

If ambiguity arises concerning appropriate classification of a particular use within the meaning and intent of this Code, or with respect to matters of height, yard requirements, area requirements, zone boundaries, or any other provision of this Title as set forth herein and as they may pertain to unforeseen circumstances, including technological changes and processing of materials, the Planning Director shall ascertain all pertinent facts and shall make a decision in writing as appropriate. The decision of the Planning Director may be appealed in the manner

provided for appeals of decisions of the Planning Director in administering the Land Use Ordinance, as set forth in 14-2-108 of the Bountiful City Land Use Code.

## CHAPTER 2

### ADMINISTRATION AND PROCEDURES

#### PART 3 - ARCHITECTURAL AND SITE PLAN APPROVAL

<b>14-2-301</b>	<b>PURPOSE</b>
<b>14-2-302</b>	<b>APPROVAL REQUIRED</b>
<b>14-2-303</b>	<b>APPLICATION</b>
<b>14-2-304</b>	<b>ACCOMPANYING MAPS AND DRAWINGS REQUIRED</b>
<b>14-2-305</b>	<b>REVIEW AND APPROVAL</b>
<b>14-2-306</b>	<b>CONSIDERATIONS IN REVIEW OF APPLICATIONS</b>
<b>14-2-307</b>	<b>INSTALLATION OF IMPROVEMENTS</b>

#### **14-2-301 PURPOSE**

The purpose of the architectural and site plan review and approval process is:

- A. To determine compliance with this Code;
- B. To promote the orderly and safe development of land in the City;
- C. To implement the policies and goals established in the Bountiful City General Plan; and
- D. To promote the orderly layout of buildings, landscaping, walkways, lighting, and other site improvements.

#### **14-2-302 APPROVAL REQUIRED**

- A. The following uses shall require site plan approval from the Planning Commission and the City Council:
  - 1. Any industrial use.
  - 2. Any commercial use.
  - 3. Any institutional use.
  - 4. Any multiple-family use, including apartments, condominiums, and two family units (duplexes).
  - 5. Any combination of residential and non-residential uses, except for home occupations.
  - 6. Any other non single-family residential use.
- B. The Bountiful City Planning and Engineering Departments are the bodies designated to review and approve single-family residential site plans.

#### **14-2-303 APPLICATION**

The property owner or an authorized agent shall submit a completed application, including all required materials and fees, to the Planning Department. An application that does not include all of the required signatures, materials, fees, or other necessary information shall be deemed incomplete and returned to the applicant.

#### **14-2-304 ACCOMPANYING MAPS AND DRAWINGS REQUIRED**

All maps, drawings, and illustrations shall conform to Chapter 15 - *Design Standards for Non-Single Family Development*, and to all other provisions of this title, and shall be prepared and drawn to a standard scale large enough to show details clearly with dimensions thereof. Said maps and drawings shall be stamped by a Registered Architect, Engineer, Landscape Architect, or Land Surveyor in accordance with the laws of the State of Utah and the provisions of this Title. The following shall be included:

A. For Preliminary Review:

1. A vicinity map showing site orientation and location in relation to streets and arterial roads.
2. Survey of the subject site prepared by a Surveyor registered in the State of Utah.
3. Typed statement describing the proposal.
4. Statement of building use, occupancy, area tabulations, parking, and landscaping tabulations.
5. The location of all proposed and existing structures on the subject property and within fifty (50) feet on immediately adjoining properties to show that light and air are preserved, and to show that the development will not be detrimental to the orderly and harmonious development of the City.
6. Location and types of landscaping and/or fencing and screening within yards and setback areas, including proposed sprinkling and irrigation systems.
7. Location of existing and proposed utilities (i.e., power, water, sewer, gas, telephone, storm drains) and other public infrastructure improvements (i.e., curb, gutter, sidewalk, streets) together with existing easements and rights-of-way.
8. Design of ingress and egress to provide a functional on-site traffic flow and to prevent interference with traffic on adjacent streets.
9. Off-street parking and loading facilities in compliance with the off-street parking and loading standards as set forth in Chapter 18 of this Code, including provisions for pedestrians and the disabled.
10. Existing and proposed contours and spot elevations.
11. Preliminary drainage plan.

12. Preliminary building elevations and sections.
  13. Architectural drawings, sketches, or perspective drawings of the exterior elevations of proposed buildings, structures, signs, including types, textures, and colors of materials to be used.
  14. Other pertinent building features.
- B. For Final Review:
1. Detailed development of all items required for Preliminary Review.
  2. Modifications required by conditions of the Planning Commission for Preliminary Approval and further optional modifications by owner/developer.
  3. Landscape plan including plant materials list and details of installation prepared by a landscape architect or licensed landscape installer.
- C. For Building Permit:
1. All final construction documents including detailed development of all items required for Preliminary and Final Review.
  2. Documentation showing compliance with County Flood Control requirements.
  3. Surface and subsurface drainage, including catch basins, piping and detention basins.
  4. Landscaping and sprinkler plans and details of installation prepared by a landscape architect or licensed landscape installer.

**14-2-305 REVIEW AND APPROVAL**

- A. The Planning Commission shall determine if the proposed architectural and site development plans submitted are consistent with this Chapter and with the purpose and objectives of this Code. Upon a finding that the application meets the intent of this Chapter, the Planning Commission shall recommend to the City Council to approve, approve with conditions, or deny the architectural and site development plans as submitted. The Planning Commission recommendation shall expire within six months from the time of recommendation.
- B. The final decision by the City Council shall expire within one year of the final decision. If an entire project is not to be built simultaneously, a phasing plan must be approved at the time of final approval, and construction commenced within one year of the approved phasing dates. One extension of up to six months may be approved by the City Council.

## **14-2-306      CONSIDERATIONS IN REVIEW OF APPLICATIONS**

The Planning Commission shall consider the following matters, and others when applicable, in their review of architectural and site development plans, and may refer the plans to one or more expert consultants if the Planning Commission deems it necessary.

- A.      Considerations relating to traffic safety and traffic congestion:
  - 1.      The effect of the site development on traffic conditions on abutting streets.
  - 2.      The layout of the site with respect to locations and dimensions of vehicular and pedestrian entrances, exits, drives, and walkways.
  - 3.      The arrangement and adequacy of off-street parking areas and other vehicular facilities.
  - 4.      The location, arrangement, and dimensions of truck loading and unloading facilities.
  - 5.      The transportation patterns within the boundaries of the development, and the impact on transportation patterns within the general vicinity of the development.
  - 6.      The design, construction, and durability of all site plan elements.
  
- B.      Considerations relating to signs:
  - 1.      That all signs are compatible with the architectural design of the buildings and are in compliance with the provisions of Chapter 19 of this Title.
  - 2.      That directional and/or informational signs are in compliance with the provisions of Chapter 19 this Code and are in locations and of such dimensions so as to not cause poor visibility for traffic.
  
- C.      Considerations relating to landscaping and other site improvements:
  - 1.      That the location, height, and materials of walls, fences, hedges, and screen plantings concealing storage areas, utility installations, or other unsightly development are harmonious with adjacent development.
  - 2.      That the planting of ground cover or other surfacing is designed to prevent dust and erosion.
  - 3.      That the design keeps the destruction of existing healthy trees to a minimum.
  - 4.      That the design, construction, and durability of all site plan elements meets the standards set forth in this Title.
  
- D.      Considerations relating to buildings and site layout:

1. That the general building silhouette and mass, including location on the site, elevations, and relation to natural plant coverage, is in appropriate and harmonious relationship to the character of the neighborhood.
  2. That the exterior design is appropriate and harmonious in relation to adjoining structures in height, bulk, area openings, breaks in facade facing the street (or streets), line and pitch of roofs, and arrangement of structures on the parcel.
- E. Considerations relating to drainage:
1. The effect of the site development plan on the adequacy of the storm and surface water drainage facilities.

#### **14-2-307      INSTALLATION OF IMPROVEMENTS**

Landscaping, sprinkling systems, walls, fences and/or screening structures, walks, parking areas, and other on-site improvements shall be installed in accordance with approved final site plan prior to issuance of any occupancy permit. If the installation of any of these improvements cannot be completed due to weather or other circumstances beyond the control of the owner or developer, a Conditional Certificate of Occupancy may be issued if a Performance Security and Deferral Agreement are signed by the developer or owner which shall guarantee completion of all unfinished improvements. Such agreement shall be reviewed and approved by the City Attorney.

The Performance Security and Deferral Agreement shall consist of:

- A. A signed statement by the owner or developer that such improvements will be completed by the earliest possible date to be determined by mutual agreement between the owner or developer, the Planning Director and/or City Engineer. An extension beyond this date may be granted if the owner or developer contacts the City fourteen (14) days prior to the original completion date, the Planning Director and/or City Engineer agree to such an extension, and the agreement is so amended.
- B. A performance security, in favor of Bountiful City and in an amount equal to one hundred twenty-five percent (125%) of the estimated cost of installation of the unfinished improvements, is received in the form of either a security bond by a surety company duly authorized to do business in the State of Utah, or a letter of credit by a bank or savings and loan institution, or a cash deposit. The performance security shall be refunded upon inspection and acceptance of the improvements by the City of Bountiful.
- C. A signed agreement by the owner or developer that the bond will be forfeited to the City in the event the improvements are not installed by the agreed date, including a statement the City will have the right to take legal action to compel the completion of such improvements.



## CHAPTER 2

### ADMINISTRATION AND PROCEDURES

#### PART 4 - NONCONFORMING USES AND NON-COMPLYING SITES/BUILDINGS

14-2-401	DEFINITIONS
14-2-402	GENERAL PROVISIONS
14-2-403	ABANDONMENT OF NONCONFORMING USE
14-2-404	CHANGE OF STATUS
14-2-405	TERMINATION OF NONCONFORMING USES AND NONCOMPLYING STRUCTURES
14-2-406	DETERMINATION OF NONCONFORMING STATUS
14-2-407	SCHOOLS

#### 14-2-401 DEFINITIONS

See Chapter 3 of this Title for the following definitions:

“NONCOMPLYING STRUCTURE” (also “NONCONFORMING STRUCTURE”)

“NONCONFORMING LOT”

“NONCONFORMING SIGN”

“NONCONFORMING USE”

“NONCONFORMITY”

“OTHER NONCONFORMITY “

#### 14-2-402 GENERAL PROVISIONS

- A. Continuation. A nonconformity in any zone may be continued as provided so long as no additions or enlargements are made thereto and no structural alterations are made therein, except as provided in this Chapter or as may be required by law. If any nonconformity is removed from the property on which it was located, it shall not be replaced unless it conforms to the current provisions of this Title.
- B. Maintenance and Repair. Repairs and structural alterations may be made to any nonconformity within the existing footprint thereof provided that the degree of nonconformity is not increased.
- C. Alteration and Modification. Any expansion of a nonconformity that increases the degree of nonconformance is prohibited. Alterations, modifications or changes to a noncomplying structure or site or nonconforming use may be allowed only if the proposed alteration, modification or change reduces and mitigates the degree of the existing nonconformity, is in harmony with the surrounding neighborhood and is consistent with the General Plan. When considering if an alteration, modification or change may be approved, the Planning Commission shall consider whether all the following factors are reduced or mitigated, where applicable:
  1. Setback restrictions,
  2. Height restrictions

3. Aesthetics,
4. Landscaping,
5. Parking,
6. Traffic and pedestrian circulation.

An application to alter, modify or change a nonconforming use or site shall be reviewed by the Planning Commission. For purposes of this Section, the addition of a solar energy device to a building is not an expansion.

- D. Relocation. Only noncomplying structures may be relocated. If a noncomplying structure is relocated within the City, it shall be located in a manner which fully conforms to the applicable requirements of this Title.
- E. Restoration. A noncomplying structure or a nonconforming sign damaged by fire, wind, tornado, earthquake, or other natural disaster or calamity may be restored as it existed previously and its use may be continued so long as restoration is complete within one (1) year.

**14-2-403 ABANDONMENT OF NONCONFORMING USE**

- A. Abandonment of a nonconforming use shall be presumed to have occurred if:
  1. A majority of the primary structure associated with the nonconforming use has been voluntarily demolished without prior written agreement with the City regarding an extension of the nonconforming use; or
  2. The use has been discontinued for a minimum of one (1) year; or
  3. The primary structure associated with the nonconforming use remains vacant for a period of one (1) year; or
  4. The property is subdivided or otherwise diminished, whether through metes and bounds deed exchange, subdivision plat, or any other means.
- B. Burden of Proof. Any party claiming that a nonconforming use has been abandoned shall have the burden of establishing the abandonment.
- C. Rebutting Presumption of Abandonment - Burden of Proof. The property owner may rebut the presumption of abandonment and shall have the burden of establishing that any claimed abandonment has not in fact occurred.

**14-2-404 CHANGE OF STATUS**

Whenever any nonconforming use is changed to a conforming use, the nonconforming use status is immediately abandoned and it is unlawful to revert back to that nonconforming use.

**14-2-405      TERMINATION OF NONCONFORMING USES AND NONCOMPLYING STRUCTURES**

- A.    Illegal Use. An illegal nonconforming use shall be terminated immediately without regard to this Section.
  
- B.    Reconstruction or restoration of a noncomplying structure is prohibited, or the nonconforming use of a structure is terminated, if:
  - 1.    The structure is allowed to deteriorate to a condition that the structure is rendered uninhabitable and is not repaired or restored within six (6) months after written notice to the property owner from the Building Official or the Planning Director that the structure is uninhabitable and that the noncomplying structure or nonconforming use will be lost if the structure is not repaired or restored within six (6) months; or
  - 2.    The property owner or his/her agent has voluntarily demolished a majority of the noncomplying structure; or
  - 3.    The property owner or his/her agent has voluntarily demolished a majority of the structure that contains the nonconforming use.

**14-2-406      DETERMINATION OF NONCONFORMING STATUS**

Burden of Proof. In all cases, the property owner shall have the burden of proving by a preponderance of evidence that a lot, structure, use or other circumstance which does not conform to the provisions of this Title was legally established.

- A.    A preponderance of evidence is evidence which is more credible and convincing than evidence offered in opposition to it.
  
- B.    Evidence offered to prove a lot, structure, use, or other circumstance was legally established may include, but is not limited to:
  - a.    The date when the circumstance was created;
  - b.    Copies of applicable zoning, building, or other code provisions in effect at the time of creation;
  - c.    Documents showing the nonconforming circumstance was authorized, such as building permits, letters, and meeting minutes of governmental bodies where the circumstance was discussed and/or authorized;
  - d.    Property inspection reports which indicate the degree that the nonconforming circumstance complies with applicable codes in effect at the time of creation; and
  - e.    Affidavits of persons with personal knowledge of the circumstances of creation.

- C. If a previously existing land use code is applied to a claimed nonconforming circumstance, and no provision of such code would have allowed such circumstance, it shall be prima facie evidence that the nonconforming circumstance was not legally established.
- D. If when established, a lot, structure, use, or other circumstance did not conform to the provisions of applicable land use code provisions, the fact that it has been occupied, used, or existed for a considerable period of time shall not be a factor in determining whether the circumstance should be deemed legally established.
- E. Abatement or Compliance. If a property owner is unable to demonstrate that a nonconformity was legally established, it shall be deemed illegal and shall be abated or brought into conformance with applicable provisions of this Title. Abatement or compliance shall be achieved within thirty (30) days, unless the work which must be undertaken to achieve compliance cannot be accomplished in that time period. In such case the owner of the property shall enter into a legally binding agreement wherein the owner agrees to a schedule to achieve conformity as soon as reasonably practicable, so long as compliance is achieved within six (6) months.

#### **14-2-407      SCHOOLS**

The nonconforming status of a school district or charter school use or structure is terminated when the property associated with the school district or charter school use or structure ceases to be used for school district or charter school purposes for a period of one (1) year or longer.

## CHAPTER 2

### ADMINISTRATION AND PROCEDURES

#### PART 5 - CONDITIONAL USES

<b>14-2-501</b>	<b>PURPOSE OF CONDITIONAL USE PROVISIONS</b>
<b>14-2-502</b>	<b>PERMIT REQUIRED</b>
<b>14-2-503</b>	<b>APPLICATION</b>
<b>14-2-504</b>	<b>FEE</b>
<b>14-2-505</b>	<b>PUBLIC COMMENT AND NOTICE</b>
<b>14-2-506</b>	<b>DETERMINATION</b>
<b>14-2-507</b>	<b>INSPECTION</b>
<b>14-2-508</b>	<b>REVOCAION</b>
<b>14-2-509</b>	<b>TIME LIMIT</b>
<b>14-2-510</b>	<b>RE-APPLICATION AFTER DENIAL OR REVOCAION</b>
<b>14-2-511</b>	<b>CONTINUING EFFECT</b>

#### **14-2-501 PURPOSE OF CONDITIONAL USE PROVISIONS**

Certain uses which necessitate special conditions in order to make them compatible with permitted uses within a zone designation, are classified as conditional uses and require approval of a Conditional Use Permit.

#### **14-2-502 PERMIT REQUIRED**

A Conditional Use Permit shall be required for any use listed as a conditional use in any zoning designation and/or as set forth elsewhere in this Title. A Conditional Use Permit may be revoked upon failure of the original applicant or any successor, owner, or occupant to comply with conditions precedent to the original approval of the permit, or as otherwise provided in the Bountiful City Code.

#### **14-2-503 APPLICATION**

- A. Conditional Use Permit application shall be filed with the Planning Department as provided in this Title. Conditional uses shall be heard and decided by the Planning Commission or the Administrative Committee as set forth in this Title.
- B. Applications for Conditional Use Permits shall be accompanied by: maps, drawings, statements, reports, studies, or other documents, as required by the approval body and/or City staff. If applicable, the applicant shall also provide mailing addresses of all of the property owners within three hundred (300) feet of the subject property, per current County records, printed on self-adhesive labels.

#### **14-2-504 FEE**

The applications for any Conditional Use Permit shall be accompanied by an appropriate fee set by the City Council.

**14-2-505 PUBLIC COMMENT AND NOTICE**

- A. Any request for a conditional use permit shall be heard and decided by the Planning Commission unless the item falls within a category designated for Administrative Committee review. When considering the request, the Planning Commission or Administrative Committee shall hold a public hearing to review the request and other concerns, and then take appropriate action upon the request.
- B. The noticing requirement for a Conditional Use Permit heard by the Planning Commission shall be as follows:
  - 1. Sent to all property owners within a three hundred (300) feet radius around the subject property at least fourteen (14) days prior to the meeting.
  - 2. Posted with notification signage on the subject property by the applicant/agent. The signage shall be provided to the applicant/agent by the City and shall be posted by the applicant/agent ten (10) days in advance of the scheduled meeting.
- C. The noticing requirement for a conditional use permit request heard by the Administrative Committee shall be the same as required for any public hearing held by the Administrative Committee, as set forth in 14-2-104.

**14-2-506 DETERMINATION**

- A. A conditional use permit shall be approved if reasonable conditions are proposed, or can be imposed, to mitigate the reasonably anticipated detrimental effects of the proposed use in accordance with the applicable standards.
- B. If the reasonably anticipated detrimental effects of a proposed conditional use cannot be substantially mitigated by the proposal, or if the imposition of reasonable conditions to achieve compliance with applicable standards is not possible, the conditional use permit request may be denied.
- C. Standards applicable to conditional uses include all the requirements of this Title, and consideration of the following:
  - 1. The location of the proposed use in relationship to other existing uses in the general vicinity.
  - 2. The effects of the proposed use and/or accompanying improvements on existing developments in the general vicinity;
  - 3. The appropriate buffering of uses and buildings, proper parking and traffic circulation, and the use of building materials and landscaping which are in harmony with the area.
- D. The applicant, at his or her cost, shall provide any report and/or study relating to utilities, traffic impact, school impact, soil and water impact, existing conditions, line-of-sight and

building massing, and any other information requested by the City in order to render a proper decision.

**14-2-507 INSPECTION**

Following the issuance of a Conditional Use Permit, the Planning Department shall approve an application for a building permit upon compliance of construction plans meeting such conditions and requirements as established by the Planning Commission. Representatives of the Planning Department shall inspect the project to insure that all required improvements meet the conditions of the Conditional Use Permit and this Code before a certificate of occupancy is issued by the Engineering Department and before an application for permanent power for the property may be approved by the Bountiful City Power Department.

**14-2-508 REVOCATION**

- A. Upon receiving a written complaint alleging a violation or failure to comply with any condition prescribed in a Conditional Use Permit, the Planning Department shall investigate the complaint. If the complaint has merit, and attempts to remedy the complaint fail, the Planning Department:
  - 1. May place the complaint on the agenda of a regularly scheduled meeting of the approving body, provided that the permittee shall have at least fourteen (14) days notice of the meeting.
- B. Permittee shall be given written notice by personal service or by certified mail of the exact nature of the complaint and the date and time of the hearing before the Land Use Authority. An informal hearing may be conducted to determine the current status of the Conditional Use Permit prior to any public hearing, without notification to surrounding owners.
- C. The Land Use Authority, after hearing the evidence presented regarding the complaint, may continue the hearing from time to time, may modify or rescind any condition or requirement of the Conditional Use Permit as it deems necessary, or may take no action and dismiss the complaint.
- D. If, after review at the informal hearing the Land Use Authority finds that evidence of failure to comply with the provisions of the Conditional Use Permit is substantial enough to consider revocation; it shall schedule a formal hearing for purposes of considering revocation of the Conditional Use Permit. The notice for the revocation hearing shall be the same noticing procedure used for considering a new petition.
- E. The Land Use Authority, after hearing final evidence and testimony on the status of the Conditional Use Permit, may revoke the Conditional Use Permit or modify the conditions as deemed necessary.
- F. Any permittee aggrieved by an order may appeal such decision as set forth in 14-2-108.

#### **14-2-509      TIME LIMIT**

- A.     A temporary Conditional Use Permit for a use which is incidental or directly related to an intended permanent use or is intended to become a permanent use may be issued by the Administrative Committee for a period of six (6) months. This permit may be renewed by the Planning Department for a total of three (3) successive six (6) month periods allowing a total of two (2) years for the temporary Conditional Use Permit. Where hardship or unusual circumstances exist, the Administrative Committee may extend the temporary permit for one (1) additional year. These extensions shall be granted in two (2) separate six (6) month increments. A temporary Conditional Use Permit shall not be issued for a use which is not incidental to or directly related to an intended permanent use on the property.
  - 1.     Mobile offices, homes or trailers which are used for business purposes shall only be allowed for a six (6) month time period as authorized by the Administrative Committee. The Administrative Committee may extend the time period for the temporary structure up to one (1) additional year providing that the Planning Commission and City Council have granted final site plan approval and construction has commenced.
  - 2.     Temporary structures shall be removed from the property upon occupancy of the permanent structure. Any pre-manufactured structure which meets all building code regulations and which is part of the approved site plan, and any construction trailer which is removed at the end of construction, shall be exempt from this regulation.
  
- B.     Bountiful City does not issue temporary Conditional Use Occupancy Permits, and any document purporting to be a temporary conditional use occupancy permit is void.
  
- C.     Unless there is substantial action under a Conditional Use Permit within a maximum period of one (1) year of its issuance, the Conditional Use Permit shall expire. The Bountiful City Planning Director may grant a maximum extension of six (6) months, when deemed in the public interest. Substantial action under this section shall mean:
  - 1.     For new construction or a remodel, at least twenty five percent (25%) of the proposed construction has been completed
  - 2.     For a use located in an existing or completed structure, at least twenty five percent (25%) of the approved area is continuously occupied and utilized for the conditional use.

#### **14-2-510      RE-APPLICATION AFTER DENIAL OR REVOCATION**

It is unlawful to apply or reapply for a Conditional Use Permit within one (1) year of the date of denial or revocation of a Conditional Use Permit regarding any parcel of property or any portion thereof.



**14-2-511 CONTINUING EFFECT**

- A. A Conditional Use Permit applies to a specific parcel of property, or portion of a parcel of property, and may not be transferred to another parcel of property.
- B. A Conditional Use Permit for the operation of a business does not run with the land unless the approving body specifies otherwise. A Conditional Use Permit for the construction of improvements to a property will run with the land unless the Planning Commission sets conditions that limit it to a specific individual and/or for a finite period of time. If any aspect of the conditional use becomes a legal nonconforming element due to a later amendment to this Ordinance, the provisions of Part 4 of this Chapter relating to nonconformities shall apply.