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Chapter 14.01. General Provisions.

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14.01.010. Short Title.

This Title shall be known as the Planning and Zoning Title of the Provo City Code, and may be so cited and pleaded. Said Title shall be referred to herein as this "Title," and the chapters and sections hereinafter referred to shall be chapters and sections of this Title.

14.01.020. Purpose.

This Title and the regulations and restrictions contained therein are adopted and enacted for the purpose of promoting the health, safety, morals, promote the prosperity, convenience, and general welfare of the present and future inhabitants of Provo City, and

(1) to encourage and facilitate the orderly growth and development of the City;

(2) to provide adequate open space for light and air, air quality, to prevent overcrowding of the land, and to lessen congestion on the streets;

(3) to secure economy in municipal expenditures, to facilitate adequate provision for public or alternative transportation, water, sewerage, schools, parks, vegetation, trees and landscaping, and other public facilities and services;

(4) to increase the security of home life and preserve and create a more favorable environment for the citizens and visitors of Provo City;

(5) to secure safety from fire, panic, and other dangers;

(6) to stabilize and improve property values;

(7) to enhance the economic and cultural well being of the inhabitants of Provo;

(8) to promote the development of a more wholesome, serviceable, and attractive City resulting from an orderly, planned use of resources. (Am 1992-75)

14.01.030. Intent.

It is hereby declared to be the intent of the Municipal Council of Provo City that this Title and the regulations set forth herein shall be so construed as to further the purpose of this Title and promote the objectives and characteristics of the respective zones.

14.01.040. Conflicting Provisions.

This Title shall not nullify the more restrictive provisions of the Provo City Code or other private covenants and agreements or other laws or general ordinances of the City, but shall prevail and take precedence over such provisions which are less restrictive.

14.01.050. Licenses to Conform.

All departments, officials, and employees of Provo City which are vested with duty or authority to issue permits and licenses shall conform to the provisions of this Title and shall issue no permit or license for a use, building, or purpose where the same would be in conflict with the provisions of this Title. Any such permit or license, if issued in conflict with the provisions of this Title, shall be null and void.

14.01.060. Building Permits Required.

No building or structure shall be constructed, reconstructed, altered, or moved, nor shall the use of land be changed except after the issuance of a permit for the same by the Building Inspection Division. For the purposes of this Section the issuance of a Building Permit will constitute a full building permit or fast track permit. (Am 1994-03)

14.01.070. Permits to Comply with the Zoning Rules.

(1) Permits shall not be granted for the construction or alteration of any building or structure, or for the moving of a building onto a lot, or for the change of the use in any land, building, or structure if such construction, alteration, moving, or change in use would be a violation of any of the provisions of this Title.

(2) No sewer service line, no water service line, or electrical utilities shall be installed to serve such premises if such use will be in violation of this Title.

14.01.080. Building Permits - Plat Required.

(1) When property boundaries are unclear or indeterminate all applications for building permits for new construction (and not interior remodels) shall be accompanied by:

(a) A plat drawn to scale showing the actual dimensions of the lot to be built upon, the size and location of existing buildings, buildings to be erected, and existing buildings on adjacent property and such other information as may be deemed necessary by the Building Inspector or the Planning Commission for the enforcement of this Title.

(b) A complete and accurate legal description of the property, which is the subject of the application, together with a certified survey of the property showing any conflict with adjoining property, overlaps or discrepancies between the legal description, and any existing fence lines. Also to be submitted will be a preliminary title search showing legal ownership of the property. If the developer is not the legal owner of the property, he shall, in addition, submit written proof of his right to develop the property. Such proof shall consist of options, contracts, or other documents. The developer will be entitled to black out confidential information on such documents as for example the amount of consideration paid and the amounts of periodic payments. A careful record of such applications and permits shall be kept in the Office of the Building Inspector for a period of one (1) year from the date of receipt thereof. (Am 1985-22, Am 1987-45)

14.01.090. Certificate of Occupancy and Zoning Compliance.

(1) It shall be unlawful to use or occupy, or to permit the use or occupancy of any building or premises until a Certificate of Occupancy and Zoning Compliance shall have been issued for the premises and/or building by Provo City. It shall also be unlawful to occupy or to allow to be occupied any building which has a greater intensity of use or different occupancy than provided for specifically in the Certificate of Occupancy and Zoning Compliance.

(2) Issuance of Certificates. A Certificate of Occupancy and Zoning Compliance, hereinafter referred to as "Certificate" is required to be issued by the Planning Commission of Provo City at the time a building is completed and final inspection granted by the Building Inspection Division. In addition, a new certificate shall be required at any time the occupancy of the building changes to a more intensive use or that the number of occupants in an apartment or multiple residential building increases more than five percent (5%) above the number declared in the previously-issued certificate.

(3) Information Required. The following information shall be made a part of any application for a Certificate of Occupancy and Building Compliance issued by the Provo City Planning Commission:

(a) Residential Certificates.

(i) The number of residential units in the building or buildings. (If there is more than one (1) building, the number of units should be listed separately for each building.)

(ii) Number of families residing or anticipated to live in the building.

(iii) The number of batching tenants and/or roomers anticipated to reside on the premises.

(iv) The number of automobiles anticipated to belong to tenants of the premises (recognizing that this number will vary, a ten percent (10%) variance will be allowed before a new Certificate of Occupancy is required to be filed for).

(v) The number of legal-sized off-street parking spaces being provided on the premises.

(vi) A signed certification of the property owner of the building or premises or his authorized agent stating that the information contained therein is accurate and that the stated conditions will be maintained on the premises.

(vii) A notice directed to the owner of the building or premises that any change in intensity of use of the building

or premises, or an increase of more than five percent (5%) in the number of occupants in an apartment or multiple residential building, will require the issuance of a new certificate.

(b) Commercial, Industrial, and Institutional Certificates.

(i) The number of employees on the premises.

(ii) The number of off-street parking spaces provided for employees on the site.

(iii) The number of off-street parking spaces provided for customers or visitors.

(iv) The number and type of restroom facilities provided.

(v) The square foot area within the building used for each separate type of occupancy.

(vi) A signed certificate by the owner of the building or premises or his authorized agent stating that the information and conditions set forth are true and will be maintained upon the site in this condition.

(vii) A warning directed to the owner of the premises that a change in intensity of use or occupancy of the building will require the issuance of a new certificate.

(4) Penalty for Violations. Failure to obtain a Certificate of Occupancy and Zoning Compliance for occupying or allowing to be occupied any residential, commercial, industrial, or institutional building or premises, or for changing the intensity of use or increasing the number of occupants as provided for in the Certificate of Occupancy and Zoning Compliance issued under this Title, shall be a misdemeanor and shall be punishable under the provisions of Chapter 14.42, Provo City Code.

(5) Nuisance. The occupation of any building for which a Certificate of Zoning Compliance has not been issued is hereby declared to be nuisance and shall be abated as such. It shall also be a nuisance for any building to be occupied with greater density than authorized herein or for any other occupancy than is authorized in the Certificate or required under this Section. (Am 1987-45)

14.01.100. Construction and Use to Conform to Plans.

Building permits or Certificates of Zoning Compliance, issued on the basis of plans and specifications approved by the Building Inspector, authorizes only the use, arrangement, and construction set forth in the approved plans and applications and no other use, arrangement, or construction. Use, arrangement, or construction at variance with that authorized in said plans and specifications shall be deemed a violation of this Title and shall be punishable as provided in Chapter 14.42, Provo City Code.

14.01.110. Prohibition of Sham Property Transactions.

(1) It shall be unlawful for a person to avoid an owner occupancy requirement set forth in this Title by engaging in a sham property transaction. For the purpose of this Section a "sham property transaction" means a transaction that:

(a) is designed primarily to avoid an owner occupancy requirement set forth in this Title;

(b) but for the avoidance of an owner occupancy requirement has no commercially reasonable purpose and would be unlikely to occur; and

(c) in substance does not completely transfer the property to another person because:

(i) the original owner maintains beneficial title to the property pursuant to an oral or written agreement; or

(ii) has executed documents whereby the property will be transferred back to the owner upon the happening of a future event.

(2) A sham transaction shall be presumed regarding premises required by this Title to be owner occupied when:

(a) the name of a person who does not occupy the premises periodically appears as the owner of the property in the chain of title over a period of time, or

(b) the name of the person who occupies premises and claims to be the property owner does not appear in any instrument in the land records of Utah County which grants a fifty-one percent (51%) or greater property interest in the property to such person, or

(c) a property owner who does not occupy the premises transfers the owner's interest in the property, or a portion thereof, to another person who:

(i) occupies the premises as the purported property owner and agrees to transfer the property back to the non-occupying property owner upon termination of person's occupancy of the premises on the property or some other event, or

(ii) executes, as a condition of occupancy, documents that will have the effect of transferring the title to the property back to the first property owner upon termination of the person's occupancy of the property.

(3) When a presumption of a sham transaction arises, the burden of proving otherwise shall be upon the persons alleged to have engaged in such a transaction. Such burden of proof may be met if each person involved a given transaction provides a notarized affidavit:

(a) acknowledging the person has read and understands the requirements of this Section; and

(b) swearing the transaction at issue is not a sham transaction as set forth in this section and was entered into for a valid, good faith purpose.

(4) A person who is a party to a sham transaction shall be guilty of a class B misdemeanor. A person who falsely furnishes an affidavit under this Section shall be guilty of a class A misdemeanor. (Enacted 2006-38)

Chapter 14.02. Administration and Procedures.

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14.02.010. Hearings - Notice and Procedure.

(1) Notice of a public hearing required by this Title before the Board of Adjustment, the Planning Commission, or the Provo Municipal Council shall be given at least fourteen (14) calendar days before the hearing in the manner hereinafter set forth. Such notice shall:

(a) state the time and place of the hearing;

(b) include a general explanation of the matter to be considered and general description of the area affected;

(c) be posted in at least three (3) public places within Provo City; and

(d) be published at least once in a newspaper of general circulation within Provo City,

(2) If the City mails notice of a proposed zoning change to property owners within the City within a specified distance of the

property on which the zoning change is being proposed, it shall also mail equivalent notice to property owners of an adjacent municipality within the same distance of the property on which the zoning change is being proposed.

(3) This Section is not intended to preclude the giving of additional notice that may be deemed necessary by the Planning Commission, Board of Adjustment or Municipal Council.

(4) If notice given under authority of this Section is not challenged as provided in Section 10-9-1001, Utah Code Annotated, within thirty (30) days from the date of the meeting for which notice was given, the notice shall be considered adequate and proper.

(5) Hearing procedure shall be as set forth in the bylaws of the Municipal Council, Planning Commission and Board of Adjustment.

(a) All written documents and evidence from the applicant shall be received by the Community Development Department at least fourteen (14) days in advance of the public hearing.

(b) An issue which may be a basis for appeal shall be raised in person or by letter before the close of the public hearing. Failure to raise an issue during the hearing precludes appeal on that issue. (Am 1987-45, Am 1992-75, Am 1997-68, 1998-48, Am 2000-54, Am 2001-25)

14.02.015. Notice to Nearby Entities.

(1) As used in this Section, "predevelopment activity" means a public hearing concerning or consideration by the Planning Commission or Municipal Council of:

(a) a proposed change in zoning designation;

(b) a preliminary or final plat describing a multiple-unit residential development or a commercial or industrial development; or

(c) a proposed modification of the City's General Plan whereby the vehicular capacity of a municipal road is proposed to be increased.

(2) The Planning Commission or Municipal Council, as the case may be, shall provide notice of predevelopment activity occurring in the City to the legislative body of:

(a) each municipality whose boundaries are within one (1) mile of the property that is the subject of the predevelopment activity; and

(b) Utah County if unincorporated territory is located within one (1) mile of the property that is the subject of the predevelopment activity.

(3) The notice required by Subsection (2) shall be provided at least seven (7) days before the predevelopment activity occurs.

(4) The Planning Commission or Municipal Council shall meet the notice requirement of Subsection (2) by mailing to each appropriate legislative body, at least seven (7) days before the predevelopment activity occurs, a copy of a Planning Commission or Municipal Council meeting agenda that contains information sufficient to enable a reasonable reader to understand that predevelopment activity is expected to occur in the City and the location of the property that is the subject of the predevelopment activity.

(5) If notice given under authority of this section is not challenged as provided in Section 10-9-1001, Utah Code Annotated, within thirty (30) from the date of the meeting for which notice was given, the notice is shall be considered adequate and proper. (Enacted 2000-54)

14.02.020 Amendments - Procedure.

(1) This Planning and Zoning Title, including the Map, may be amended by the Provo Municipal Council after said amendments shall have first been submitted for recommendation to the Planning Commission. 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 shall not be made to the Planning and Zoning Title and Map except to promote more fully the

objectives and purposes of this Title and the Provo City General Plan or to correct manifest errors. Any person seeking an amendment to the Planning and Zoning Title or Map shall submit to the Planning Commission a written petition containing the following information:

(a) Designation of the specific zone change or Title amendment desired.

(b) The reason and justification for such zone change or Title amendment, and a statement setting forth the manner in which a proposed amendment or zone would further promote the objectives and purposes of this Title and the Provo City General Plan.

(c) A complete and accurate legal description of the area proposed to be rezoned, or a draft of the proposed Title amendment.

(d) The filing fee as shown on the Consolidated Fee Schedule adopted by the Municipal Council.

(e) If a map amendment is proposed, the following shall also be submitted:

(i) An accurate plan, drawn to scale, showing all areas to be included within the proposed rezoning, designating the present zoning of the property subject of the petition, and properties immediately adjacent thereto.

(ii) A preliminary project plan meets the requirements of Section 15.03.300, Provo City Code.

(iii) The signature of the property owner or authorized agent or, in the case of a multiple property rezoning request, the signature of a majority of the persons who own property within the area proposed for the zoning map amendment.

(2) Upon receipt of a petition by the Planning Commission, the Commission shall hold a public hearing in accordance with the provisions of Section 14.02.010 of this Title and may approve, conditionally approve, or deny the preliminary project plan. Before recommending an amendment to this Title, the Planning Commission shall determine whether such amendment is in the interest of the public, and is consistent with the goals and policies of the Provo City General Plan. The following guidelines shall be used to determine consistency with the General Plan:

(a) Public purpose for the amendment in question.

(b) Confirmation that the public purpose is best served by the amendment in question.

(c) Compatibility of the proposed amendment with General Plan policies, goals, and objectives.

(d) Consistency of the proposed amendment with the General Plan's "timing and sequencing" provisions on changes of use, insofar as they are articulated.

(e) Potential of the proposed amendment to hinder or obstruct attainment of the General Plan's articulated policies.

(f) Adverse impacts on adjacent land owners.

(g) Verification of correctness in the original zoning or General Plan for the area in question.

(h) In cases where a conflict arises between the General Plan Map and General Plan Policies, precedence shall be given to the Plan Policies.

(3) The fee provided herein shall not be returnable and shall be applied to the General Fund 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 upon the general welfare of the community.

(4) If a building permit is not issued within one (1) year after rezoning and approval of a preliminary project plan, the preliminary project plan shall expire and be of no further force or effect. In such cases, the Planning Commission shall initiate proceedings to revert the subject property to the previous zone designation unless an applicant requests and is granted an extension of time by the Planning

Commission for good cause shown. (Am 1987-45, Am 1991-14, Am 1993-27, 1998-18, 1999-44, Am 2000-44, Am 2006-15)

14.02.030. Variances - Procedure.

(1) The Board of Adjustment may authorize variances from the terms of this Title as are found to be in compliance with the variance criteria set forth in Section 14.05.030(9), Provo City Code.

(2) Applications for variance shall be filed with the Board of Adjustment. Said application shall contain the following information:

(a) a description of the requested variance together with a designation of that section of the Provo City Code from which relief is being requested;

(b) an accurate plot plan, if appropriate, indicating the manner in which the variance will be applied and its effect upon adjacent properties;

(c) a filing fee as shown on the Consolidated Fee Schedule adopted by the Municipal Council

(d) a written statement indicating how the variance request complies with the variance criteria of Section 14.05.030(9), Provo City Code.

(3) Upon receipt of an application by the Board of Adjustment the Board shall hold a public hearing in accordance with procedures set forth in Section 14.02.010, Provo City Code. (Am 1987-45, Am 1988-48, Am 1999-12, Am 2006-15)

14.02.040. Conditional Use Permits.

(1) The Planning Commission may, subject to the procedures and standards set forth in this Chapter, grant, conditionally grant, or deny an application for a Conditional Use Permit for uses allowed by the Chapter for the applicable zone. The purpose of a Conditional Use Permit is to allow proper integration of uses into the community which may only be suitable in specific locations and may have potentially detrimental characteristics if not properly designed, located, and conditioned.

(2) The following standards shall apply to any request for a Conditional Use Permit:

(a) A proposed conditional use shall be granted unless the subject use will be detrimental to the health, safety, or general welfare of persons residing in the vicinity or injurious to property in the vicinity.

(b) A proposed conditional use shall be detrimental to the health, safety, or general welfare of persons residing in the vicinity or injurious to property in the vicinity:

(i) if the proposed use will cause unreasonable risks to the safety of persons or property because of vehicular traffic or parking, large gatherings of people, or other causes;

(ii) if the proposed use will unreasonably interfere with the lawful use of surrounding property;

(iii) if the proposed use will create a need for essential municipal services which cannot be reasonably met;

(iv) if the proposed use will in any other way be detrimental to the health, safety or general welfare of persons residing in the vicinity or injurious to property in the vicinity.

(c) A change in the market value of real estate shall not be a basis for the denial of a proposed conditional use.

(d) If a part of a proposed conditional use is found to be contrary to the standards described in this Section, the applicant may propose or consent to curative measures which will make the proposed use not contrary to the standards described in this Section.

(3) Application. Application for a Conditional Use Permit shall be made on a form authorized by the Planning Commission. Said

application shall be filed with the Planning Commission and shall be accompanied by the following:

(a) Plats, plans, or drawings drawn to scale showing the location and dimensions of buildings, streets, and other improvements on or near the subject property which may be affected by the proposed use and showing the nature and extent of those effects.

(b) A filing fee as shown on the Consolidated Fee Schedule adopted by the Municipal Council.

(4) Public Hearing. Prior to granting a Conditional Use Permit and after receipt of reports and recommendations, the Planning Commission shall hold a public hearing in accordance with the provisions of Section 14.02.010, Provo City Code.

(5) Action on Application. The Planning Commission may impose conditions on the issuance of a conditional use permit including, but not limited to, limitations on the size or shape of buildings; the dedication, relocation, and/or development of streets; installation and up sizing of utility mains, screening or landscaping to protect adjacent properties; the elimination or relocation of windows or doors to protect the public and adjacent property from the detrimental features of the proposed use; or the requirement of additional parking, or other changes. The Planning Commission may require that the applicant prepare and record covenants running with the land which under the conditions are binding upon the applicants and their successors. No building permit shall be issued until any required Conditional Use Permit has been obtained.

(6) Any use contrary to the Conditional Use Permit or any use utilized prior to obtaining such a permit when one is required under this Title or other ordinance or any use inconsistent with the Conditional Use Permit after it has been issued is unlawful and may be enjoined by the City.

(7) Any appeals to the decision of the Planning Commission regarding the issuance or denial of a conditional use permit shall be heard by the Board of Adjustment as outlined in Section 14.02.050, Provo City Code. (Am 1986-10, Am 1987-45, Am 1990-01, Am 1992-75, Am 2006-15)

14.02.050. Appeals.

Appeals to the Board of Adjustment shall be governed by the provisions set forth in Chapter 14.05, Provo City Code. (Am 1986-10, Am 1992-75, 1999-13)

14.02.060. Conditional Use Permit Expiration.

(1) Unless otherwise specified in the action granting a conditional use permit, a permit which has not been utilized within twelve (12) months from the effective date thereof shall expire and shall become null and void unless such time period is extended pursuant to the terms of this Section.

(a) Once any portion of the conditional use permit is utilized, the other portions and conditions related thereto become immediately operative and shall be strictly complied with.

(b) Utilization shall be construed to mean pouring of concrete, or commencement of framing on construction, or commencement of the use or uses for which the permit was granted.

(2) Subject to the criteria in Subsection (3) below, the twelve (12) month time period within which a conditional use permit must be utilized may be extended for six (6) months by the Community Development Director or his designee; or for twelve (12) months by the Planning Commission.

(a) In no case shall a conditional use permit be extended for more than twelve (12) months from the original expiration date. A conditional use permit shall expire and shall become null and void if utilization has not occurred within twenty four (24) months from the original effective date of the permit.

(b) An application for an extension of time shall be submitted prior to the original twelve (12) month expiration date.

(3) In order to approve an extension of time, the approving authority shall find, based on substantial evidence placed in the record, that:

(a) Substantial progress is being made toward obtaining site plan approval or a building permit, as the case may be;

(b) The conditional use permit has not been utilized due to reasons beyond the control of the applicant;

(c) Conditions originally approved with the conditional use permit are still viable based on currently applicable requirements of the Provo City Code; and

(d) No ordinance changes have occurred or are being considered that may affect the activity or project authorized by the permit. (Ren 1986-10, Am 2000-40, Am 2000-44)

14.02.070. Modification or Revocation of Conditional Use Permit.

(1) The Planning Commission, on its own motion or upon a staff recommendation or after receipt of an applicant's request, may hold a hearing upon the question of modification or revocation of a Conditional Use Permit granted under or pursuant to the provisions of this Section.

(2) Notice of said hearing shall be made in a manner prescribed by Section 14.02.010, Provo City Code.

(3) Applicants requesting Planning Commission consideration of the modification or revocation of a conditional use permit shall pay the Conditional Use permit fee and the public notice fee set forth in Chapter 14.43, Provo City Code.

(4) A Conditional Use Permit may be modified or revoked if the Planning Commission finds one or (1) more of the following:

(a) that the use permit was obtained by misrepresentation or fraud;

(b) that the use for which the permit was granted is not being exercised;

(c) that the use for which the use permit was granted has ceased or has been suspended for six (6) months;

(d) that the conditions imposed upon said use permit have not been complied with;

(e) that the use is detrimental to the health, safety, or general welfare of persons residing in the vicinity or injurious to property in the vicinity, except that a change in the market value of real estate shall not be considered an injury to property; or

(f) that the conditional use has been materially altered or expanded beyond the scope of the use originally authorized. Factors such as, but not limited to, increased number or size of structures, finding that a nuisance exists, or alteration of the approved project plan may be cause for modification or revocation of a conditional use permit. (Enacted 1986-10, Ren 1987-45, Am 1990-01, Am 1998-17)

14.02.080. Annexed Territory - Zoning.

Any property which, for any reason, is not designated on the official Zoning Map as being classified in any of the zones established hereby; or any property in the process of annexation, or annexed to or consolidated to Provo City subsequent to the effective date of this Section, shall be deemed to be classified in accordance with the lowest density zone allowed by the land use designation set forth for the subject property in the Provo City General Plan. (Enacted 1986-10, Ren 1987-45, Am 1992-75, Am 1997-79, Am 2000-54)

14.02.090. Project Plan Required.

See Sections 15.03.300 and 15.03.310, Provo City Code. (Enacted 1986-10, Am 1987-04, Am 1994-49, Am 1999-44, Am 2000-40, Am 2000-44)

14.02.110. Temporary Regulations.

(1) The Municipal Council may, without a public hearing, enact ordinances establishing temporary zoning regulations for any part or all of the area within the city if:

(a) the legislative body makes a finding of compelling, countervailing public interest; or

(b) the area is unzoned.

(2) Temporary zoning regulations may prohibit, restrict, or regulate the erection, construction, reconstruction, or alteration of any building or structure or subdivision approval.

(3) A temporary zoning regulation may not impose an impact fee or other financial requirement on building or development.

(4) The Municipal Council may, without a public hearing, enact an ordinance establishing temporary zoning regulations prohibiting construction, subdivision approval and other development activities within an area that is the subject of an Environmental Impact Statement or a Major Investment Study examining the area as a proposed highway or transportation corridor. Said temporary regulations may be renewed at the request of the Utah Transportation Commission for up to two (2) additional six (6) month periods by an ordinance enacted prior to the expiration of the previous temporary regulation, provided that such regulations shall be in effect only as long as the Environmental Impact Statement or Major Investment Study is in progress.

(5) Temporary zoning regulations shall not exceed six (6) months in duration. (Enacted 1992-75, Am 1997-77)

14.02.120. Land Use Code.

The Planning Commission shall prepare and maintain a Land Use Code which shall contain a list of the use numbers and use classifications used in this Title, together with the definitions and explanations of the Planning Commission concerning the same. The Land Use Code shall be used to interpret the meaning of any use number or use classification used in this Title. (Am 1987-26)

14.02.130. Pending Ordinance Amendments.

(1) When a proposed amendment to the zoning map or text of this Title or Title 15 is pending, a person who thereafter files an application which may be affected by the proposed amendment shall not be entitled to rely on the existing zoning map or text which may be amended.

(a) A proposed zoning map or text amendment shall be deemed "pending" when the amendment proposal first appears on a Planning Commission or Municipal Council agenda, as the case may be, which has been noticed as required in this Chapter.

(b) An application shall be deemed "filed" when all materials required for the application, as set forth in this Title or Title 15, have been submitted.

(i) If within one (1) year after an application has been filed the applicant has not taken substantial action to pursue an approval, the application shall expire and any vested rights thereunder shall terminate.

(ii) For the purpose of this Subsection, "substantial action" means action taken in good faith to diligently pursue any matter necessary to obtain final approval of the application.

(2) An application affected by a pending amendment to the zoning map or text of this Title or Title 15 shall be subject to the following requirements:

(a) The application shall not be acted upon until six (6) months from the date when the pending amendment to the zoning map or text of this Title or Title 15 was first noticed on a

Planning Commission or Municipal Council agenda, as the case may be, unless:

(i) the applicant voluntarily agrees to amend his application to conform to the requirements of the proposed amendment; or

(ii) the proposed amendment is sooner enacted or defeated, as the case may be.

(b) If a pending amendment to the zoning map or text of this Title or Title 15 is enacted within six (6) months after being noticed on a Planning Commission or Municipal Council agenda, as the case may be, an affected application which was filed while the amendment was pending shall conform to the enacted amendment.

(c) If a pending amendment to the zoning map or text of this Title or Title 15 is not enacted within six (6) months after being noticed on a Planning Commission or Municipal Council agenda, as the case may be, the amendment shall no longer be considered pending and any affected application may be approved without regard to the previously pending amendment.

(3) The Community Development Department shall give an applicant affected by a pending amendment to the zoning map or text of this Title or Title 15 written notice that:

(a) there is pending legislation;

(b) his application may require changes to conform to a zoning map or text amendment which may be enacted; and

(c) copies of the pending legislation are available at the Community Development office. (Enacted 2002-25)

Chapter 14.03. Major Street Plan

14.03.010. Adoption and Effect of Major Street Plan.

14.03.020. Amendment of the Major Street Plan.

14.03.030. Permits in Conformance with Major Street Plan.

14.03.040. Adoption of Local Street Plan.

14.03.050. Amendment of Local Street Plan.

14.03.010. Adoption and Effect of Major Street Plan.

(1) The Provo City Planning Commission shall adopt and maintain a major street plan for Provo City in conformance with, and as a part of, the General Plan in accordance with procedures for adopting and amending the Provo City General Plan as set forth in Chapter 15.17, Provo City Code, and the procedures set forth in this Chapter. Said major street plan shall contain the proposed location of all arterial and collector streets as defined in the Provo City Subdivision Regulations, and such other principal streets as the Planning Commission may deem appropriate.

(a) Prior to the Planning Commission adopting or amending the Major Street Plan, all neighborhoods and neighborhood chairs that would be directly affected by any changes to the Major Street Plan shall be notified and neighborhood meetings held. The Provo City Engineering Department shall make a presentation at a neighborhood meeting explaining the proposed changes to the public. When possible, public notice signs shall be placed in the public rights-of-way along the affected roadways advertising the proposed changes and the neighborhood meeting. A report of the meeting may be provided by the neighborhood chair to the Planning Commission for consideration following the meeting.

(b) Upon recommendation of a Major Street Plan by the Planning Commission, the major street plan shall be submitted to the Municipal Council for adoption.

(2) The adoption of a major street plan:

(a) does not require Provo City to immediately acquire property it has designated for eventual use as a public street;

(b) does not require a landowner to dedicate and construct a street as a condition of development approval, unless Provo City

determines that requiring the dedication and improvement of a street are necessary because of a development proposed by the landowner;

(c) does not prevent Provo City from requiring a landowner to take into account proposed streets in the planning of a development proposal; and

(d) does not prevent Provo City from acquiring property for street purposes via purchase, gift, voluntary dedication, or eminent domain. (Enacted 1992-75, Am 1998-34, Am 2005-57, Am 2006-13)

14.03.020 Amendment of the Major Street Plan

(1) Any person may file a request to amend the major street plan in accordance with procedures for amending the Provo City General Plan, as set forth in Chapter 15.17, Provo City Code. An applicant requesting a major street plan amendments shall pay the application fee for General Plan amendments adopted pursuant to Chapter 14.43, Provo City Code, and shall submit the following information:

(a) a map and legal description of street area to be amended,

(b) County Assessor's parcel map(s) of the affected area,

(c) names and addresses of owners whose property would be affected by the amendment, and

(d) a written statement of the purpose for the major street plan amendment request.

(2) An application to amend the Major Street Plan shall be filed and processed in accordance with procedures for adopting and amending the Provo City General Plan as set forth in this Chapter and Chapter 15.17, Provo City Code. (Enacted 1998-34, Am 2006-13)

14.03.030. Permits in Conformance with Major Street Plan.

(1) No permits 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 the major street plan, except that the Board of Adjustment shall have the power, upon an appeal filed with it by the owner of any land affected by the major street plan, to authorize the grant of a permit for a building or structure or parts thereof within any mapped street location in any case in which the Board of Adjustment makes one (1) of the following findings:

(a) the property of the appellant of which such map-street location forms a part will not yield a reasonable economic return to the owner unless such permit be granted; or

(b) in balancing the interest of the City in preserving the integrity of the major street plan and the interest of the owner in the use of the benefits of the property, the granting of such permit is required for justice and equity.

(2) Prior to any findings of the Board of Adjustment related to the issuance of a permit within any mapped street location, a public hearing shall be held in conformance with the provisions of Section 14.02.010, Provo City Code.

(3) In the event the Board of Adjustment decides 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.

(4) The major street plan map may not be used to unconstitutionally prohibit the development of property designated for eventual use as a public street. (Am 1992-75, Am 1998-34)

14.03.040. Adoption of Local Street Plan.

The Provo City Planning Commission shall adopt and maintain a local street plan which will provide long-range planning for local neighborhood streets. The local street plan shall provide the same generalized planning function for minor streets that is provided by the major street plan for arterial and collector streets. This process is

not intended to define specific alignments, and where such alignments must be protected they shall be placed on the major street plan. However, it is intended to ensure that property within a given area, which is expected to be eventually subdivided, can be adequately developed and serviced. Upon recommendation by the Planning Commission, local street plan shall be submitted to the Municipal Council for adoption. (Am 1987-45, Rep&ReEn 1998-34)

14.03.050 Amendment of Local Street Plan.

Any person requesting an amendment to a local street plan may file a request for such amendment with the Planning Commission, which shall review the request for compliance with the purposes of Chapter 14.03.040, Provo City Code, and make a recommendation to the Municipal Council. Applicants for local street plan amendments shall pay the application fee as set forth in Chapter 14.43, Provo City Code and shall submit the following information:

- (1) A map and legal description of the street to be amended.
- (2) County Assessor's parcel map(s) of the affected area.
- (3) Names and addresses of property owners who may be affected by the amendment.
- (4) A written statement of the purpose(s) for the local street plan amendment request. (Enacted 1991-14, Am 1992-75, Am 1997-62, Am 1998-34)

Chapter 14.04. Planning Commission.

- 14.04.010. Planning Commission Created - Chairman - Rules.
- 14.04.020. Planning Commission Duties.
- 14.04.030. Planning Commission Staff - Organization.
- 14.04.040. Planning Commission Procedures.
- 14.04.050. Staff Action on Planning Commission Matters.

14.04.010. Planning Commission Created - Chairman - Rules.

(1) A Provo City Planning Commission is hereby created. Said Commission shall consist of seven (7) members, each of whom shall be a resident of Provo City and each of whom shall be appointed by the Mayor with the advice and consent of the Municipal Council.

(2) The terms of office for all members of the Planning Commission shall be three (3) years and until their successors are appointed and qualified except where appointment to a shorter term is necessary to provide for staggered terms among Commission members. Members may be removed with or without cause by a majority vote of the Municipal Council.

(3) Members shall be selected without respect to political affiliation and shall serve without compensation except for payment of reasonable expenses.

(4) The Planning Commission shall:

- (a) elect from its membership a chair who shall serve a one (1) year term;
- (b) pursuant to Section 14.04.040, Provo City Code, adopt reasonable policies and rules for the transaction of business; and
- (c) keep a public record of its proceedings.

(5) The Mayor shall, with the advice and consent of the Municipal Council, appoint one (1) or two (2) alternate members of the Planning Commission, who shall serve in the absence of a member or members of the Planning Commission under rules established by the Planning Commission. Except as just provided, alternate members shall be appointed and serve as described in Subsection (1) of this Section.

(6) When a regularly scheduled and noticed meeting of the Planning Commission does not occur because a quorum of the Commission is not present, all action items scheduled to be heard on that date shall be continued to the next regularly scheduled meeting of the Commission. Items originally scheduled to be heard at the meeting on the second Wednesday of the month shall be automatically

continued to the meeting scheduled for the fourth Wednesday of the month. Items originally scheduled to be heard at the meeting on the fourth Wednesday of the month shall be automatically continued to the meeting scheduled for the second Wednesday of the following month. (Am 1986-10, Am 1986-27, Am 1992-75, Am 2000-19, Am 2002-26)

14.04.020. Planning Commission Duties.

Except when otherwise expressly provided, the Planning Commission shall do the following:

(1) Perform all functions and duties permitted or required of a Planning Commission by Chapter 9 of Title 10 of the Utah Code, as amended.

(2) Hear and decide all applications for conditional use permits.

(3) Review and approve or disapprove project plans.

(4) Make any decision required by this Title, the making of which is not expressly conferred upon another person or board. (Am 1986-10)

14.04.030. Planning Commission Staff - Organization.

The Planning Commission shall have the following staff:

(1) Executive Director. The Executive Director to the Provo City Planning Commission shall be the Community Development Director of Provo City as duly appointed by the Mayor.

(2) Duties of Executive Director. The Executive Director, acting under the general direction of the Mayor of Provo City, shall be responsible for providing staff services to the Planning Commission as provided in Titles 14 and 15 of the Provo City Code within the provision of budget authority appropriated by the Provo Municipal Council.

(3) Secretary. The Secretary to the Planning Commission shall be appointed by the Executive Director from the staff of the Community Development Department.

(4) Duties of Secretary. Subject to provisions of Title 14 of the Provo City Code and the direction of the Executive Director of the Planning Commission, the Secretary shall in general attend to all correspondence of the Commission; send out or cause to be published all notices required; attend all meetings of the Commission and all public hearings (except when excused by the Executive Director with temporary services arranged); compile all required records; maintain the necessary schedules, minutes, files, and indexes; and generally perform or supervise all clerical work of the Commission.

(5) This Section shall not be construed to prevent the Mayor from appointing citizens of Provo City to advise the Planning Commission when additional citizen participation is deemed desirable by the Mayor pursuant to Section 2.10.070, Provo City Code. (Am 1986-12, Am 1998-31)

14.04.040. Planning Commission Procedures.

Subject to applicable state law and the provisions of this Title, the Planning Commission shall establish reasonable rules related to organization and procedure with respect to matters within its jurisdiction. Such policies and procedures shall be approved by the Municipal Council before taking effect. (Am 1986-10, Am 1992-75, Am 2002-26)

14.04.050. Staff Action on Planning Commission Matters.

(1) The Planning Commission may direct that any matter over which it has jurisdiction be formally or informally referred to the Planning Commission staff for review and the preparation of recommendations. This can be done through adopted bylaws, motion of the Planning Commission or under the direction of the Planning Commission chair.

(2) If a matter is referred to the Planning Commission staff as permitted by Subsection (1) of this Section, the staff shall conform to

any instructions or limitations contained in the referral, and subject thereto shall review the referred matter and conduct any necessary hearings and shall prepare written recommendations for the Planning Commission, including recommendations on conditional use permit applications.

(3) Unless the Planning Commission shall otherwise direct, an applicant for authorization to develop property may in writing consent to the staff recommendation and waive further action by the Planning Commission. If the applicant waives further action by the Planning Commission, the staff recommendation shall be considered approved by the Planning Commission and appropriate authorization and permits may be issued. This Subsection (3) shall not apply to any action with respect to which the Planning Commission is required by state law to take direct action. (Am 1986-10, Am 1994-03, Am 1995-61)

Chapter 14.04A Design Review Committee.

- 14.04A.010. Design Review Committee Created - Organization.
14.04A.020. Powers and Duties - Procedure.

14.04A.010. Design Review Committee Created - Organization.

There is hereby created a Design Review Committee which shall consist of five (5) members and two (2) alternates who are professionals in the fields of architectural design, education, landscape design, interior design, urban design, architectural history, art or graphic design, engineering, or planning. At least one (1) member shall be a business person from the community with an occupation not included among those listed above. The Planning Commission shall recommend persons to serve on the Design Review Committee. Members of the Design Review Committee shall be appointed by the Mayor with the advice and consent of the Municipal Council. The Design Review Committee shall be organized and operate as described in Section 2.20.020, Provo City Code and shall meet as often as the Committee deems necessary to carry out its duties. (Enacted 1998-60)

14.04A.020. Powers and Duties - Procedure.

The Design Review Committee shall review and make design recommendations regarding the external design of buildings and site plans for all proposed new buildings, structures, and uses which are subject to project plan approval and design review. The administrative procedures set forth in Section 14.04.050, Provo City Code, shall apply to all recommendations regarding design approval.

(a) For purposes of these procedures, the Design Review Committee shall be considered staff to the Planning Commission. Unless the Planning Commission shall otherwise direct, an applicant for design approval may in writing consent to the Design Review Committee's recommendation and waive further action by the Planning Commission. If the applicant waives further action by the Planning Commission, the Design Review Committee recommendation shall be considered approved by the Planning Commission. If an applicant disagrees with the Committee's recommendation, the applicant may request review by the Planning Commission. Any decision of the Planning Commission may be appealed to the Board of Adjustment as provided in Chapter 14.05, Provo City Code.

(b) The Design Review Committee may delegate to staff the review and approval of minor projects as established by the Planning Commission in Article XI of the Planning Commission bylaws. (Enacted 1998-60)

Chapter 14.05. Board of Adjustment.

- 14.05.010. Board of Adjustment Created.
14.05.020. Organization of Board.
14.05.030. Appeals to Board - Powers and Duties.

- 14.05.040. Procedure.
14.05.050. Judicial Appeal.

14.05.010. Board of Adjustment Created.

(1) There is hereby created a Board of Adjustment which shall consist of five (5) members, each to be appointed by the Mayor with the advice and consent of the Municipal Council for a term of five (5) years, provided that the terms of the members of the first Board so appointed shall be such that the term of one (1) member shall expire each year.

(2) Any member may be removed for cause by the Mayor upon written charges and after public hearings, if such public hearing is requested.

(3) The Mayor with the advice and consent of the Municipal Council shall fill any vacancy for the unexpired term of any member whose term becomes vacant.

(4) One (1) member, but only one (1), of the Planning Commission shall be a member of the Board of Adjustment.

(5) The Mayor may appoint up to two (2) alternate members to the board with the advice and consent of the Municipal Council.

(6) No more than two (2) alternates may sit at any meeting of the Board of Adjustment at one (1) time. (Am 1992-75, Am 1995-99, Am 1997-33)

14.05.020. Organization of Board.

(1) The Board of Adjustment shall organize and elect a chair and adopt rules in accordance with the provisions of this Title.

(2) Meetings of the Board shall be held at the call of the chair and at such other times as the Board may determine. The chair or, in his absence, the acting chair may administer oaths and compel the attendance of witnesses. All meetings of the Board shall be open to the public. The Board shall keep minutes of its proceedings showing the vote of each member on each question, or if absent or failing to vote, indicating such fact, and shall keep records of its examinations and other official actions all of which shall be immediately filed in the office of the Board and shall be a public record.

(3) Hearing officer - The Mayor may appoint an administrative officer to decide routine and uncontested matters before the board of adjustment. The board of adjustment shall:

- (a) designate which matters may be decided by the administrative officer; and
(b) establish guidelines for the administrative officer to comply with in making decisions. (Am 1987-45, Am 1992-75, Am 1995-99)

14.05.030. Appeals to Board - Powers and Duties.

The Board of Adjustment shall hear and decide appeals from zoning decisions applying this Title; variances from the terms of this Title; and may authorize special exceptions to the terms of this Title pursuant to the procedures and standards set forth in Subsection (10) of this Section.

(1) The applicant or any person or entity adversely affected by a decision administering or interpreting a provision within this Title may appeal that decision applying the provision by alleging that there is error in any order, requirement, decision, or determination made by an official in the administration or interpretation of the provision.

(2) Any officer, department, board, or bureau of the City affected by the grant or refusal of a building permit or by any other decision of the administrative officer or interpretation of a provision of this Title may appeal any decision to the Board of Adjustment.

(3) The Board of Adjustment shall hear and decide appeals from Planning Commission decisions regarding conditional use permits.

(4) The person or entity making the appeal has the burden of proving that an error has been made.

(5) Only decisions applying this Title may be appealed to the Board of Adjustment.

(6) A person may not appeal, and the Board of Adjustment may not consider, any zoning amendments to the Provo City Code.

(7) Appeals may not be used to waive or modify the terms or requirements of a provision within this Title.

(8) Interpretation. Upon appeal from a decision by an administrative official to decide any question involving the interpretation of any provision of this Title, including determination of the exact location of any zone boundary if there is uncertainty with respect thereto. With respect to the boundaries of the flood plain zone, the Board of Adjustment may use the Flood Insurance Rate Map (FIRM) to interpret the flood plain boundaries.

(9) Variances.

(a) Any person or entity desiring a waiver or modification of the requirements of this Title as applied to a parcel of property that he owns, leases, or in which he holds some other beneficial interest may apply to the Board of Adjustment for a variance from the terms of this Title.

(b) The Board of Adjustment may grant a variance only if:

(i) Literal enforcement of this Title would cause an unreasonable hardship for the applicant that is not necessary to carry out the general purpose of this Title;

(ii) There are special circumstances attached to the property that do not generally apply to other properties in the same district;

(iii) Granting the variance is essential to the enjoyment of a substantial property right possessed by other property in the same district;

(iv) The variance will not substantially affect the general plan and will not be contrary to the public interest; and

(v) The spirit of this Title is observed and substantial justice done.

(c) (i) In determining whether or not enforcement of the zoning ordinance would cause unreasonable hardship under Subsection (9)(b) of this Section, the Board of Adjustment 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 this Title would cause unreasonable hardship as outlined under Subsection (9)(b) of this Section, the Board of Adjustment may not find an unreasonable hardship if the hardship is self-imposed or economic.

(d) In determining whether or not there are special circumstances attached to the property under subsection (9)(b) of this Section, the Board of Adjustment 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 district.

(e) The applicant shall bear the burden of proving that all of the conditions justifying a variance have been met.

(f) Variances run with the land.

(g) The Board of Adjustment and any other body may not grant use variances.

(h) In granting a variance, the Board of Adjustment may impose additional requirements on the applicant that will:

(i) mitigate any harmful affects of the variance; or

(ii) serve the purpose of the standard or requirement that is waived or modified.

(10) Special Exceptions. The Board of Adjustment, as a special exception to the height regulations of the applicable zone, may approve a permit to exceed the maximum building height of a one family dwelling. To grant such special exception the Board of Adjustment shall find that plan proposed:

(a) Is a design better suited to the site than can be achieved by strict compliance to these regulations; and

(b) Satisfies the following criteria:

(i) the topography of the lot presents practical difficulties for construction when the height limitations are applied,

(ii) the structure has been designed for the topographic conditions existing on the particular lot, and

(iii) the impact of additional height on neighboring properties has been identified and reasonably mitigated.

(iv) The minimum depth of front, rear, and side yards can and will be increased as follows:

(A) Front yard: two (2) additional feet for each one (1) foot of building height in excess of thirty feet (30) measured at the front elevation.

(B) Rear yard: two (2) additional feet for each one (1) foot of building height in excess of thirty-five (35) feet measured at the rear elevation.

(C) Side yard: one (1) additional foot for each one (1) foot of building height in excess of thirty-five (35) feet measured at the side elevation.

(c) In making these findings the Board of Adjustment may consider the size of the lot upon which the structure is proposed.

(d) The burden of proof is upon the applicant to submit sufficient data to persuade the Board of Adjustment that the foregoing criteria have been satisfied.

(e) The Board of Adjustment may deny an application for a height special exception if:

(i) The architectural plans submitted are designed for structures on level, or nearly level ground and the design is transposed to hillside lots requiring support foundations such that the structure exceeds the height limits of these regulations;

(ii) The additional height can be reduced by modifying the design of the structure through the use of stepping or terracing or by altering the placement of the structure on the lot;

(iii) The additional height will substantially impair the views from adjacent lots, and the impairment can be avoided by modification; or

(iv) The proposal is not in keeping with the character of the neighborhood.

(11) Nonconforming Uses. The Board of Adjustment may make determinations regarding the existence, expansion, or modification of nonconforming uses.

(12) Variances - Flood Plain Zone.

(a) To grant variances varying or adapting the strict application of any of the requirements of the Flood Plain Zone. In passing upon applications for a variance from the provisions of the Flood Plain Zone, the Board of Adjustment shall consider all technical evaluations, all relevant factors, standards specified in other sections of this Title, and:

(i) the danger that materials may be swept onto other lands to the injury of others;

(ii) the danger to life and property due to flooding or erosion damage;

(iii) the susceptibility of the proposed facility and its contents to flood damage and the effect of such damage on the individual owner;

(iv) the importance of the services provided by the proposed facility to the community;

(v) the availability of alternative locations for the proposed use which are not subject to flooding or erosion damage;

(vi) the compatibility of the proposed use with existing and anticipated development;

(vii) the safety of access to the property in times of flood for ordinance and emergency vehicles;

(viii) the expected heights, velocity, duration, rate of rise, and sediment transport of the flood waters expected at the site; and

(ix) the costs of providing governmental services during and after flood conditions, including maintenance and repair of public utilities and facilities such as sewer, gas, electrical and water system, and streets and bridges.

(b) Upon consideration of the foregoing factors and the purposes of this Title, the Board of Adjustment may attach such conditions to the granting of variances as it deems necessary to further the purposes of this Title. The following provisions shall apply:

(i) Generally, variances may be issued for new construction and substantial improvements to be erected on a lot by one-half (1/2) acre or less in size contiguous to and surrounded by lots with existing structures constructed below the base flood level. As the lot size increases beyond the one-half (1/2) acre, the technical justification required for issuing the variance increases.

(ii) Variances may be issued for the reconstruction, rehabilitation or restoration of structures listed on the National Register of Historic Places or the State Inventory of Historic Places, without regard to the procedures set forth in the remainder of this Section.

(iii) Variances shall not be issued within any designated floodway if any increase in flood levels during the base flood discharge would result.

(iv) Variances shall only be issued upon a determination that the variance is the minimum necessary, considering the flood hazard, to afford relief.

(v) Variances shall only be issued upon:

(A) a showing of good and sufficient cause;

(B) a determination that failure to grant the variance would result in exceptional hardship to the applicant; and

(C) a determination that the granting of the variance will not result in increased flood heights, additional threats to public safety, extraordinary public expense, create nuisances, cause fraud on or victimization of the public, or conflict with the Provo City Code and other existing local laws or ordinances.

(vi) Any applicant to whom a variance is granted permitting construction of a house with an elevation below the base flood elevation shall be given written notice that the cost of flood insurance will be commensurate with the increased risk resulting from the lowered floor elevation. (Am 1992-75, Am 1995-99, Am 2001-33)

14.05.040. Procedure.

(1) The Board of Adjustment shall act in strict accordance with the procedure specified by law and by this Title.

(2) All appeals and applications made to the Board shall be in writing, on forms prescribed by the Board and within fourteen (14) days of the action or decision appealed from by filing a Notice of Appeal with the officer from whom the appeal is taken or with the Board of Adjustment. The officer from whom the appeal was taken shall forthwith transmit to the Board of Adjustment all papers constituting the record upon which the action appealed from was taken.

(3) Every appeal or application shall refer to the specific sections of the Provo City Code involved, and shall exactly set forth the interpretation that is claimed, the use for which the conditional use permit is sought, or the details of the variance that is applied for and the grounds on which it is claimed that the variance should be granted, as the case may be.

(4) At least fourteen (14) days before the date of any hearing on an application of appeal to the Board of Adjustment, the secretary of such Board shall transmit to the Planning Commission a copy of the notice of the aforesaid hearing and shall request that the Planning Commission submit to the Board of Adjustment its advisory opinion on said application or appeal, and the Planning Commission shall submit a report or such advisory opinion prior to the date of said hearing.

(5) An appeal stays all proceedings in furtherance of the action appealed from unless the officer from whom the appeal is taken certifies to the Board of Adjustment after the Notice of Appeal shall have been filed with him that by reason of facts stated in the Certificate, a stay would, in his opinion, cause imminent peril to life or property. In such case, proceedings shall not be stayed otherwise than by restraining order which may be granted by the Board of Adjustment or by the District Court on application and notice and due cause shown.

(6) No action of the Board shall be taken on any case until after proper notice has been given and public hearing has been held. Upon the hearing, any party may appear in person or by agent or by attorney.

(7) Every decision of the Board of Adjustment shall be by motion, each of which shall contain a full record of the findings of the Board in the particular case.

(8) In exercising its powers, the Board of Adjustment may reverse or affirm, wholly or partly, or may modify the order requirement, decision, or determination as ought to be made, and to that end shall have all of the powers of the officer from whom the appeal is taken. The concurring vote of three (3) members of the Board shall be necessary to reverse any order, requirement, decision or determination of any such administrative official, or agency or to decide in favor of the appellant on any matter upon which it is required to pass under any such section of the Provo City Code, or to affect any variation in such section of the Provo City Code.

(9) Decisions of the Board of Adjustment become effective at the meeting in which the decision is made, unless a different time is designated in the Board's rules or at the time the decision is made.

(10) Notices of public hearings required by this Title before the Board of Adjustment shall be given at least fifteen (15) calendar days before the hearing by publication or at least once in a newspaper of general circulation within Provo City. Such notice shall state the time and place of such hearing and shall include a general explanation of the matter to be considered and a general description of the area affected. Additional notice may be given as deemed necessary. (Am 1987-45, Am 1992-75, Am 1995-99, Am 2003-17)

14.05.050. Judicial Appeal.

(1) Any person aggrieved by or affected by any decision of the Board of Adjustment may have and maintain a plenary action for relief from the District Court of competent jurisdiction, provided petition for such relief is presented to the court within thirty (30) days after

the filing of such decision in the office of the Board of Adjustment or with the City Recorder.

(2) The filing of a petition does not stay the decision of the Board of Adjustment.

(3) Before filing the petition, the aggrieved party may petition the Board of Adjustment to stay its decision.

(4) Upon receipt of a petition to stay, the Board of Adjustment may order its decision stayed pending District Court review if the Board of Adjustment finds it to be in the best interest of the city.

(5) After the petition is filed the petitioner may seek an injunction staying the Board of Adjustment's decision. (Am 1992-75)

Chapter 14.06. Interpretation and Definitions.

14.06.010. Rules of Construction and Interpretation.

14.06.020. Definitions.

14.06.030. Illustrations.

14.06.010. Rules of Construction and Interpretation.

(1) All provisions, terms, phrases and expressions contained in this Title shall be liberally construed to accomplish the purposes set forth herein.

For the purpose of this Title, certain words and terms shall be interpreted as follows:

(2) Words used in the present tense include the future unless the context clearly indicates the contrary.

(3) Words in the singular number include the plural and the plural includes the singular as the context and application of this Title may reasonably suggest.

(4) Words which are not included herein, but are defined in the Uniform Building Code, shall have the meaning as defined within the Uniform Building Code.

(5) Chapter and section headings contained herein shall not be deemed to govern, limit, modify, or in any manner affect the scope, meaning, or intent of any chapter or section herein.

(6) When a period of time is prescribed or allowed by this Title, the computation of days shall be in accordance with the following:

(a) In computing any period of time prescribed or allowed by this Title, the day of the act, event, or default from which the designated period of time begins to run shall not be included. The last day of the period so computed shall be included. The last day of the period so computed shall be included, unless it is a Saturday, a Sunday, or a legal holiday, in which event the period runs until the end of the next day which is not a Saturday, a Sunday, or a legal holiday.

(b) When a period of time prescribed or allowed is less than seven (7) days, intermediate Saturdays, Sundays and legal holidays shall be excluded in the computation.

(c) When a period of time is prescribed such period shall be for consecutive calendar days unless the basis of computation is expressly otherwise.

(7) Unless the context clearly indicates to the contrary, conjunctions shall be interpreted as follows.

(a) "**And**" indicates that all connected items, conditions, provisions or events shall apply.

(b) "**Or**" indicates that one (1) or more of the connected items, conditions, provisions or events shall apply.

(c) "**Either . . . or**" indicates that the connected items, conditions, provisions or events shall apply singly but not in combination.

(8) The word "shall" is always mandatory. The word "should" means the matter described ought to be accomplished if reasonable and possible under the circumstances. The word "may" is permissive.

(9) Words and phrases shall be construed according to the common use and understanding of the language, but technical words

and phrases which have acquired a peculiar and appropriate meaning in law shall be construed and understood according to such meaning.

(10) In determining compliance with the numerical requirements of this Title, any computation or measurement resulting in a fractional number shall be rounded to the nearest whole number.

(11) All public officials, bodies, and agencies to which reference is made are those of the City of Provo, Utah unless otherwise indicated.

(12) Whenever a provision appears requiring the Mayor, head of a department, or some other officer or employee to do some act or perform some duty, it shall be construed to authorize such officer to designate, delegate, and authorize professional-level subordinates to perform the required act or duty unless the terms of the provision or section specify otherwise. (Am 2002-23)

14.06.020. Definitions.

For the purposes of this Title, certain words and phrases have the following meanings:

"**Accessory Apartment**" means a subordinate residential living area created within a one family dwelling which:

(a) meets the requirements of the applicable zone where the accessory apartment is located, and

(b) has an interior connection between the one family dwelling and accessory apartment.

"**Accessory Building**" means a building or structure, the use of which is incidental to and subordinate to the main building or structure.

"**Accessory Use**" means a use which is incidental and subordinate to the prescribed permitted use within any respective zoning provision when the principal use exists in the same parcel and zone. No accessory use shall be allowed on a particular parcel unless the permitted use is being actively utilized.

"**Adult Day Care**" means nonresidential care and supervision:

(a) for three (3) or more adults at least four (4) but less than twenty-four (24) hours a day; and

(b) that meets the needs of functionally impaired adults through a comprehensive program that provides a variety of health, social, recreational, and related support services in a protective setting.

"**Alley**" means a public thoroughfare for the use of pedestrians and vehicles which affords, or is designated, or intended to afford, a secondary means of access to abutting properties as set forth in Chapter 15.03, Provo City Code.

"**Apartment**" means a dwelling unit located in an apartment building, (except when used with the term "accessory apartment").

"**Apartment Building**" means a building containing five (5) or more dwelling units.

"**Area**" means the aggregate of the maximum horizontal cross section within given boundaries.

"**Assisted Living Facility**" means a residential facility with a home-like setting that provides an array of coordinated supportive personal and health care services, available twenty four (24) hours per day, to residents who have been assessed under Utah State Department of Health rules to need any of these services. Each resident shall have a service plan based on the assessment, which may include:

(a) specified services of intermittent nursing care;

(b) administration of medication; and

(c) support services promoting resident's independence and self sufficiency.

"**Baching Apartment**" See "Dwelling, Baching Singles".

"**Baching Singles**" means the number of related or unrelated individuals set forth in Subsection (a) of this definition, none of whom is a head of household, who are occupying a baching singles dwelling unit in accordance with regulations applicable to the zone where the dwelling unit is located.

(a) (i) In R1 zones located within the areas described in Subsection (c) of this definition, the number of persons who constitute batching singles shall be three (3) or more.

(ii) In all zones other than those described in Subsection (a)(i) of this definition, the number of persons who constitute batching singles shall be four (4) or more.

(b) The following presumption shall be employed in applying this definition:

(i) A group of individuals living together in the same dwelling unit shall be presumed to be batching singles if the dwelling unit is occupied by the number of individuals authorized in the zone where the batching singles dwelling unit is located, and such individuals are:

(A) unrelated adults over the age of eighteen (18) years and do not have any minor dependent children who occupy the dwelling unit, or

(B) college students over the age of sixteen (16) years, or

(C) any combination of (A) and (B).

(D) A college student is a person who attends, at least half time, any college, university or other institution authorized to confer degrees by the State of Utah.

(ii) The burden of disproving this presumption shall be on the person challenging it and shall be made based on a preponderance of evidence.

(iii) For the purpose of this presumption minor dependent children of any individual resident of the dwelling unit shall be excluded in calculating the number of individuals living in the dwelling unit.

(c) Subsection (a) of this definition shall apply to the following neighborhood areas:

(i) Dixon - Commencing at the intersection of Interstate 15 and the Provo River; thence northeast along the Provo River to 500 North; thence east on 500 North to 600 West; thence south on 600 West to Center Street; thence west on Center Street to Interstate 15; thence north on Interstate 15 to the Provo River;

(ii) Edgemont - Commencing at 3700 North and Lovers Lane; thence east along 3650 North to 870 East; thence south to 2780 North; thence west along 2780 North to Timpview Drive; thence south to 2600 North; thence west to Canyon Road at 2720 North; thence southwest along Canyon Road to 2680 North; thence west to University Avenue; thence north along University Avenue to Lover's Lane; thence North along Lovers Lane to 3700 North;

(iii) Foothills - Commencing at 1350 East and 820 North; thence northeast to 2000 East; thence south on 2000 East to 300 South; thence west on 300 South to 1250 East; thence north on 1250 East to 200 South; thence west from 200 South to 1050 East; thence north on 1050 East to Center Street; thence west on Center Street to 900 East; thence north on 900 East to Birch Lane; thence southwest on Birch Lane to 1350 East and 820 North;

(iv) Fort Utah - Commencing at the intersection of Center Street and the Provo River; thence east along the Provo River to I-15; thence south to Center Street; thence west to the Provo River.

(v) Franklin - Commencing at the intersection of Center Street and Interstate 15; thence east on Center Street to 500 West; thence South on 500 West to 100 South; thence east on 100 South to 250 West; thence south at 250 West to 200 South; thence east on 200 South to 200 West; thence south on 200 West to 600 South; thence west on 600 South to I-15; thence northwest on I-15 to Center Street;

(vi) Indian Hills - Commencing at 3460 North and Little Rock Drive; thence northeast to 3650 North and Foothill Drive; thence south on Flite Drive to Iroquois Drive at 3100 North; thence southwest on Iroquois Drive to Mojave Lane; thence northwest on Mojave Lane to Indian Hills Drive; thence southwest on Indian Hills Drive to 840 East; thence north on 840 East to 3460 North and Little Rock Drive;

(vii) Joaquin - Commencing at 960 North and University Avenue; thence east on 960 North to 150 East; thence south on 150 East to 600 North; thence west on 600 North to 700 East; thence north on 700 East to 900 North; thence east on 900 North to 900 East; thence south on 900 East to Center Street; thence west on Center Street to 200 East; thence north on 200 East to 100 North; thence west on 100 North to 100 East; thence north on 100 East to 600 North; thence west on 600 North to University Avenue; thence north on University Avenue to 960 North;

(viii) Lakewood - Commencing at the intersection of 1100 West and 1020 South; thence east on 1020 South to Frontage Road; thence southeast on Frontage Road to the south boundary of Provo City; thence west along south boundary of Provo City to 1100 West; thence north on 1100 West to 1020 South;

(ix) North Park - Commencing at the intersection of Columbia Lane and Provo River; thence east along Columbia Lane, then east along Bulldog Boulevard to University Avenue; thence south on University Avenue to 500 North; thence west on 500 North to the intersection of 500 North and Provo River; thence northeast along the Provo River to Columbia Lane;

(x) Pleasant View - Commencing at 2230 North and University Avenue; thence east to 250 East; thence east along 2320 North to the intersection of North Temple Drive and Temple Hill Drive; thence southwest on North Temple Drive to 900 East; thence South on 900 East to Stadium Avenue; thence south to University Parkway; thence west along University Parkway to 350 East; thence north to Stadium Avenue; thence west to Canyon Road; thence north to 1800 North; thence west to the intersection of University Avenue and 1650 North; thence north on University Avenue to 2230 North;

(xi) Provost - Commencing at the intersection of Center Street and 900 East; thence east to 1060 East; thence south to 230 South; thence east to 1200 East; thence south to 300 South; thence east to the eastern boundary of Provo; thence south to 900 South; thence west to South State Street; thence northwest to 900 East; thence north to the intersection of 900 East and Center Street.

(xii) Rivergrove - Commencing at the intersection of I-15 and Grand Avenue; thence southeast along Grand Avenue to 900 North; thence east to 1250 West; thence north to 1000 North; thence northeast to the intersection of 1460 East and Jordan Avenue; thence northeast along Grandview Lane to State Street; thence south along State Street to the Provo River; thence west following the Provo River to I-15; thence north along I-15 to the intersection of I-15 and Grand Avenue.

(xiii) Sherwood Hills - Commencing directly north of East Lawn Drive at the northern boundary line of Provo; thence following the boundary line of Provo to Foothill Drive; thence southwest along N. (xiv) Little Rock Drive to the intersection of 3460 North and 870 East; thence northwest curving around Scenic Drive and connecting to Timpview Drive at 4300 North; thence north

along Timpview Drive, then along East Lawn Drive and continuing north to the northern boundary line of Provo.

(xiv) Wasatch - Commencing at 1900 North and 1200 East; thence east on 1900 N to Oak Lane; thence east on Oak Lane to 1400 East; thence south on 1400 East to 820 North; thence west on 820 North to 1350 East; thence northwest from 1350 East (connecting to Birch Lane) to 900 East; thence north on 900 East to just north of Fir Circle (1500 North), thence northwest from 1500 North (connecting to Fir Ave.) to approximately 1200 East and 1700 North; thence north from the intersection of 1200 East and 1700 North to approximately 1900 North and 1200 East.

"Bed and Breakfast Inn" means a building of residential design of historic or neighborhood significance in which not fewer than three (3) but not more than nine (9) rooms are rented out by the day, offering overnight lodgings to tourists, and where one (1) or more meals may be provided to overnight guests.

"Billboard" means a freestanding ground sign located on industrial, commercial, or residential property if the sign is designed or intended to direct attention to a business, product, or service that is not sold, offered, or existing on the property where the sign is located.

"Block Face" means all property fronting upon one (1) side of a street between intersecting and intercepting streets, or between the street and the railroad right-of-way, waterway, terminus of a dead end street, city boundary, public park, or other natural boundary. An intercepting street shall determine only the boundary of the block face of the side of the street which it intercepts.

"Buildable Area" means that portion of a lot or parcel which is eligible to place a building or structure and complies with the setbacks of the zone where property is located.

"Building" means a permanently located structure for the shelter, housing, or enclosure of any person, animal, article, or chattel. When any portion hereof is completely separated from every other portion thereof by a division wall or fire wall, without openings, each such portion shall be a separate building. "Building" shall not include any form of vehicle, even though immobilized. Where this Chapter requires, or where special authority granted pursuant to this Chapter requires, that a use shall be entirely enclosed within a building, this definition shall be qualified by adding "and enclosed on all sides."

"Building Attached" means any buildings separated by six (6) feet or less shall be deemed "attached" for the purposes of this Title and as such shall meet all requirements of this Title as if it were one (1) building, whether actually physically connected or not.

"Building Height" means the vertical distance measured from the average elevation of the finished lot grade at each face of the building minus any artificial terracing or earth berming placed by the owner or developer that goes beyond that required for backfill or foundation drainage, to the highest point of the coping of a flat roof, or to the deck line of a mansard roof, or to a point halfway between the lowest part of the eaves or cornice and the highest point of a pitched or hipped roof; provided that those structures set forth in Section 14.34.090, Provo City Code, shall be excluded from said measurement. The height of a stepped or terraced building is the maximum height of any segment of the building. Refer to Figure 14.06.020, at the end of this Chapter, for building height illustrations.

"Building Line" means a line parallel to the front lot line and at a distance therefrom equal to the required depth of the front yard measured in accordance with the method set forth in "Yard-Front" and extending across the whole width of the lot.

"Building-Main" means the principal building on a lot or building site designed or used to accommodate the primary use to which the premises are devoted. Where a permissible use involves more than one (1) structure designed or used for the primary purpose, as in the case of apartment groups, each such permitted building on

one (1) lot as defined by this Title shall be construed as constituting a main building.

"Caretaker Dwelling" See "Dwelling, Caretaker".

"Caretaker" means an individual who cares for real property as allowed in certain commercial and industrial zones in accordance with applicable provisions of this Title.

"Carport" means a covered area for one or more motor vehicles which:

- (a) is not completely enclosed by walls or doors;
- (b) conforms to all of the regulations set forth in this Title for a private garage; and,
- (c) if provided as required covered parking under this Title, is architecturally compatible with the main structure on the lot where the carport is located.

"Center-line of Street" means that line designated as "Center-line" in any street in the City by the records of the City Engineer.

"Certified Residential Facility for Persons with a Disability" means a dwelling unit certified by the State of Utah for the housing of three (3) or fewer persons with a disability.

"Child Day Care Center" means a facility in which thirteen (13) or more children ages two (2) through thirteen (13) years are cared for in lieu of care ordinarily provided by parents in their own home.

"Coin-operated Amusement Video Game Center (Arcade)" means any business establishment containing greater than three (3) coin-operated amusement, electronic, or video machines or games.

"Conditional use" means a land use that, because of its unique characteristics or potential impact on the city's surrounding neighbors, or adjacent land uses, may not be compatible in some areas, or may be compatible only if certain conditions are required that mitigate or eliminate the detrimental impacts.

"Condominium" means the ownership of a single unit in a multi-unit project together with an undivided interest in common in the common areas and facilities of the property created pursuant to the Utah Condominium Ownership Act.

"Condominium Project" means a real estate condominium project; a plan or project whereby two (2) or more units, whether contained in existing or proposed apartments, commercial, or industrial buildings or structures or otherwise, are separately offered or proposed to be offered for sale. "Condominium Project" shall also mean the property when the context so requires.

"Convalescent, Rest Home and Nursing Home Services" means an intermediate care/nursing facility or a skilled nursing facility for the care of adults who due to advance age, disability, or impairment require assistance and/or supervision by staff. Such facility does not include adult day care provided in conjunction with a residential facility for elderly persons or a residential facility for persons with a disability.

"Court" means an unoccupied space on the lot other than a required yard, designed to be partially surrounded by a building or group of buildings.

"Day Care Services" means care of a child for a portion of the day which is less than twenty four (24) hours, in his own home by a responsible person or outside of his home in a day care center. This includes preschools.

"Design Corridor" means the nearby lands comprising the streetscape on a collector or arterial street, state highway or other street which are designated for uniform design treatment to help redevelop and beautify such areas as provided in Chapter 14 of this Title.

"Dwelling" means a building or portion thereof designed and used for residential occupancy, including one-family, two-family, multi-family, and apartment buildings; but shall not include boarding, rooming, or lodging houses, tents, trailers, mobile home

parks, motels, motor courts, motor lodges, cottage camps, or similar structures designed or used primarily for transient residential uses.

"Dwelling-One-family" means a detached dwelling unit arranged, designed for, and occupied by not more than one (1) family, and which has a kitchen and a bathroom.

"Dwelling-One-family, with Accessory Apartment" means a dwelling which:

(a) contains a one-family dwelling unit and an accessory apartment within the same building, where the accessory apartment is subordinate to the one-family dwelling unit, and

(b) meets the requirements of the applicable zone where the accessory apartment is located.

"Dwelling-One family Attached" means a one-family dwelling attached to two (2) or more one-family dwellings by common vertical walls.

"Dwelling-One-family Semi-Detached" (Twin Home) means a one family dwelling attached to one other one-family dwelling by a common vertical wall, and each dwelling is located on a separate lot.

"Dwelling-Two Family" means a dwelling arranged, designed for, and occupied by two (2) families living independently of each other and containing two (2) dwelling units.

"Dwelling-Multiple Family" means a dwelling arranged, designed for, and occupied by three (3) or four (4) families living independently of each other, and containing three (3) or four (4) dwelling units.

"Dwelling-Apartment" means a dwelling arranged, designed for, and occupied by five (5) or more families living independently of each other, and containing five (5) or more dwelling units.

"Dwelling, Batching Singles" means a dwelling unit arranged, designed for, and occupied by not more than the number of batching singles authorized by the zone where the dwelling unit is located.

"Dwelling, Caretaker" means a dwelling unit:

(a) located on property in a commercial or industrial zone for the purpose of providing security or otherwise caring for the property, and

(b) which conforms to applicable provisions of this Title.

"Dwelling Group" means a group of two (2) or more detached dwellings located on a parcel of land in one ownership and having one (1) yard or court in common.

"Dwelling Unit" means one (1) or more rooms in a dwelling designed and used for living and sleeping purposes, and having a kitchen and a bathroom.

"Efficiency Dwelling Unit" means a dwelling unit with an area of less than five hundred fifty (550) square feet which is limited to no more than two (2) occupants. The sleeping area must be a minimum of seventy (70) square feet and the living area two hundred twenty (220) square feet.

"Elderly person" means a person who is sixty (60) years old or older, who desires or needs to live with other elderly persons in a group setting, but who is capable of living independently.

"Family," unless otherwise expressly provided in this Title means:

(a) One (1) individual living alone, or

(b) One (1), but not more than one (1) at the same time, of the following groups of individuals described in subsections (i), (ii), or (iii) who together occupy a one-family dwelling unit as one (1) nonprofit housekeeping unit and who share common living, sleeping, cooking and eating facilities:

(i) a head of household and:

(A) all persons related to the head of household as a parent, child, grandparent, grandchild, brother, sister, uncle, aunt, nephew, niece, great-grandparent or great-grandchild by blood, marriage, adoption,

guardianship, or any other duly authorized custodial relationship, and

(B) not more than two (2) additional related or unrelated persons, including but not limited to, personal care or personal service providers; or

(ii) in R1 zones located within neighborhood areas described in Subsection (c) of the definition of "batching singles" in this Section, two (2) related or unrelated individuals and any children of either individual, if any, or

(iii) in all other zones, three (3) related or unrelated individuals and any children of either individual, if any.

(c) In applying this definition the existence of more than one (1) kitchen in a dwelling unit shall create a presumption that two (2) housekeeping units exist in the dwelling.

(d) "Family" does not include:

(i) batching singles, as defined in this Section, even if related as set forth in Subsection (a)(i) of this definition;

(ii) any society, club, fraternity, sorority, association, lodge, combine, federation, coterie, or like organization;

(iii) any number of individuals whose association is temporary or seasonal in nature; or

(iv) any number of individuals who are in a group living arrangement as a result of criminal offenses.

"Family Day Care" means child care within a home that provides care for not more than six (6) children.

"Family Group Day Care" means child care within a home which provides care for at least seven (7) but less than thirteen (13) children.

"Farmers Markets" means an establishment for the sale of fresh produce and related food items on a seasonal basis from the period of June through October. A farmers market is for the purpose of providing space for two (2) or more vendors.

"Fence" means:

(a) a structure used as a boundary, screen, separation, means of privacy, protection or confinement that is constructed of posts, rails, and a barrier consisting of lumber, vinyl, wire mesh, masonry or similar fencing materials; or

(b) a hedge or other continuous growth of vegetation.

"Floor Area" means the sum of all areas of several floors of the building, including basements, mezzanine, and intermediate-floored tiers and penthouses of head room height, measured from the exterior faces of exterior walls or from the centerline of common walls separating buildings. The floor area, however, shall not include areas used for parking of vehicles and areas devoted exclusively to the housing of mechanical equipment for heating, ventilating, and other service uses to the building.

"Frontage" means all of that property abutting on one (1) side of a street and lying between the two (2) nearest intersecting or intercepting streets, or between a street and a waterway, end of a dead end street, or political subdivision boundary, measured along street line. An intercepting street shall determine only the length of frontage along the side of the street which it intercepts.

"Garage-Private" means an accessory building or an accessory portion of the main building designed and/or used only for the shelter or storage of vehicles owned or operated by the occupants of the main building, and in which no occupation or business for profit is conducted, and which, if constructed as required covered parking, is architecturally compatible with the main structure.

"Garage-Public" means any premises, except those described as private garage, used for the storage or care of self-propelled vehicles, or where any such vehicles are equipped for operation repairs, or kept for remuneration hire or sale.

"Garage-Yard Sale" means a sale of personal belongings in a residential zone, which sale is conducted by a bona fide resident of

the premises. (See also 14.35.025, Provo City Code Temporary Use Exemptions.)

"General Plan" means a document that Provo City adopts that sets forth general guidelines for proposed future development or the land within the municipality, as set forth in Sections 10-9-301 and 10-9-302 17-27-301 and 17-27-302, Utah Code, as amended. "General plan" includes what is also commonly referred to as a "master plan."

"Grade-Finish" (Adjacent Ground Elevation) means the lowest point of elevation of the finished surface of the ground, within the area between the building and a line five (5) feet from building.

"Grade-Natural" means the elevation of the surface of the ground which has been created through the action of natural forces and has not resulted from man-made cuts, fills, excavation, grading, or similar earth moving processes. The topographic maps of Provo City shall be the primary, though not exclusive, reference for determination of natural grade. Natural grade shall be determined in every instance where necessary by the City Engineer of Provo City.

"Guest" means any person or persons staying, for a time period not to exceed thirty (30) days, within a dwelling unit without payment or compensation or remuneration to the owners, tenants, or full-time inhabitants of said dwelling unit.

"Head of Household" means one (1) individual who occupies a dwelling unit and who:

- (a) has a parent/child relationship, grandparent/child relationship or a legal marriage relationship with another individual occupying the same dwelling unit; and/or
- (b) is an owner occupant.

"Historic Building" means any building which has been designated on the Provo City Landmarks Register by action of the Provo City Landmarks Commission and the Municipal Council.

"Home Occupation" means the use of a portion of a dwelling as an office, studio, or work room for occupations which are customarily conducted in the home, and which are incidental to the primary use as a home or residence, and provided further that all conditions of Chapter 14.41, Provo City Code, are satisfied.

"Hotel" means a building designed or used as the temporary abiding place of individuals who are lodged, with or without meals, for compensation and in which there are more than ten (10) sleeping rooms usually occupied singly, and in which no provision is made for cooking in any guest room.

"Household Pets" means animals or fowl ordinarily permitted in the house and kept for company or pleasure and not for profit, such as dogs, cats, rabbits and canaries, but not including a sufficient number of dogs to constitute a kennel. Household pets shall not include chickens nor any animals which are capable of inflicting harm or discomfort or endangering the health, safety, or welfare of any person or property. The number of household pets shall be limited to that allowed by the provisions of each respective zone as set forth in this Title.

"HUD Code" means the Federal Manufactured Housing Construction & Safety Standards Act, as amended.

"Junk Yard or Automobile Wrecking Yard" means any lot, land, or area used for the storage, keeping, dismantling, or abandonment of junk, automobiles, household furniture and appliances, machinery, scrap material, or parts thereof. Any more than one (1) such item on the one (1) property shall constitute a junk yard or automobile wrecking yard.

"Kennel" means a place where three (3) or more dogs of four (4) months of age or older are raised, kept, housed, boarded or are engaged in commercial business of breeding.

"Kitchen" means any room or space used or intended or designed to be used for cooking or for the preparation and/or serving of food, including such areas as wet bars and snack bars, notwithstanding whether such room or space is located within a primary dwelling structure or a structure accessory to the dwelling

and finished as an addition to the living, working, or recreational space within the dwelling as may be permitted under the provisions of this Title. Facilities that establish the use of a room or space as a kitchen include refrigerators, stoves, other cooking appliances, built-in cabinets, sinks, garbage disposal units, 220 voltage and/or natural gas supply lines, in any combination intended to permit any room or space to be used as a kitchen.

"Land Use Ordinance" means this Title or Title 15, Provo City Code, or a predecessor ordinance governing planning, zoning, development, or subdivision of land, but does not include the General Plan.

"Licensed Residential Facility for Persons with a Disability" means a dwelling unit licensed by the State of Utah for the housing of four (4) or more persons with a disability.

"Liquor Store" means a facility for the sale of package liquor which is located on premises owned or leased by the State of Utah and is operated by Utah State employees. (This definition shall not be construed to include package agencies accessory to another main use, or to restaurants with mini-bottle licenses.)

"Lot" means any of the following:

(a) a parcel of real property shown as a delineated parcel of land with a number and designation on the final plat of a subdivision recorded in the office of the County Recorder of Utah County; or

(b) a parcel of land, the dimensions or boundaries of which are defined by a record of survey map recorded in the office of the County Recorder of Utah County in accordance with the law regulating the division of said land; or

(c) a parcel of real property not delineated as in 1 or 2 above and containing not less than the prescribed minimum area required in the zone in which it is located and which abuts at least one (1) public street and is held under one (1) ownership.

"Lot Area" means the total area measured on a horizontal plane included within the lot lines of the lot or parcel of land.

"Lot-Corner" means a lot situated at the intersection of two (2) or more streets, which street shall have angle of intersection of not more than one hundred thirty-five (135) degrees.

"Lot Coverage" means the total horizontal area of a lot, parcel, or building site covered by any building or occupied structure which extends above the surface of the ground level and including any covered automobile parking spaces. Covered patios, covered walkways, and covered recreation areas shall not be considered as lot coverage provided that said areas are not more than fifty percent (50%) enclosed.

"Lot Depth" means the horizontal length of a straight line connecting the bisecting points of the front and the rear lot lines.

"Lot-Flag or Flag Lot" means an interior lot which does not meet minimum street frontage requirements and which has as part of the lot an access strip (the "flag pole") at least twenty (20) feet wide abutting a public street and connecting the main body of the lot (the "flag") to the street.

"Lot-Interior" or **"Interior Lot"** means a lot other than a corner lot.

"Lot-Irregular" means a lot which is not rectangular in shape.

"Lot Line-Front" means a line separating an interior lot from a street. In the case of a corner lot, the side bordering on the street which has the smallest dimension shall be the front lot line.

"Lot Line-Rear" or **"Rear Lot Line"** means the recorded lot line most distant from and generally opposite the front lot line. For regular lots, the term "generally opposite" means the lot line which is parallel to the front lot line. For irregular lots, the term "generally opposite" means a lot line which (i) does not adjoin the front lot line, (ii) is located to the rear of the lot, and (iii) is more or less parallel to any portion of the front lot line, except that in the case of an interior

triangular or pie-shaped lot, it shall mean a straight line ten (10) feet in length which is:

- (a) parallel to the front lot line or its chord, and
- (b) intersects the two (2) other lot lines at points most distant from the front lot line. Each lot shall be deemed to have one (1) rear lot line.

"Lot Line-Side" or **"Side Lot Line"** means any lot boundary line which is not a front lot line or a rear lot line.

"Lot-Regular" means a lot which is rectangular in shape.

"Lot-Through" or **"Through Lot"** or **"Double Frontage Lot"** means a lot having a frontage on two parallel or approximately parallel streets. Said lots for purpose of this Title shall have two (2) street frontages and two (2) front yards.

"Lot Width" means the distance across a lot or parcel of property measured at the interior edge of the required front yard along a line parallel to the front lot line, or parallel to a straight line connecting the ends of an arc which constitutes the front lot line.

"Manufactured Home" means a factory-built one-family dwelling that is manufactured or constructed under the authority of 42 United States Code Sec. 5401, and which is built on a permanent chassis and designed to be used as a dwelling with or without a permanent foundation when connected to the required utilities, and includes the plumbing, heating, air conditioning, and electrical systems contained therein. They bear a seal from the U.S. Department of Housing and Urban Development (HUD) certifying code compliance. When built in compliance with the standards for One-family Dwellings established in 14.34.310, a manufactured home shall, for purposes of use restrictions, be considered a one-family dwelling.

"Markets" means a retail store. For convenience of this Title, a neighborhood market or convenience market shall be defined as a market with less than eighteen thousand (18,000) square feet of gross floor area. The term "supermarket" will be defined as a market with a gross floor area of eighteen thousand (18,000) square feet or more.

"Mobile Home" means a transportable, factory-built home, designed to be used as a year-round residential dwelling and built prior to enactment of the HUD Code.

"Modular Home" means factory-built housing constructed in sections and assembled onto a permanent foundation at a building site which is certified as meeting the applicable building codes.

"Noncomplying Structure" means a structure that:

- (a) legally existed before its current land use (zoning) designation; and
- (b) because of one (1) or more subsequent land use ordinance changes, does not conform to the setback, height restrictions, or other regulations, excluding those regulations which govern the use of the land.

"Nonconforming Lot" means a lot that:

- (a) legally existed before its current land use (zoning) designation;
- (b) has been shown continuously on the records of the Utah County Recorder as an independently existing piece of property; and
- (c) because of one (1) or more subsequent land use ordinance changes does not conform with the minimum size, width, frontage, depth or other applicable dimensional requirements of the zone where the lot is located.

"Nonconforming Sign" means a sign or sign structure that:

- (a) legally existed before its current land use (zoning) designation; and
- (b) because of subsequent land use ordinance changes does not conform to the regulations that now govern use of the sign.

"Nonconforming Use" means a use of land that:

- (a) legally existed before its current land use (zoning) designation;

- (b) has been maintained continuously since the time the land use ordinance governing the land changed; and

- (c) because of one (1) or more subsequent land use ordinance changes does not conform to the regulations that now govern the use of the land.

"Other Nonconformity" means a circumstance governed by a land use ordinance other than a nonconforming use or lot, or a noncomplying structure, or use that:

- (a) legally existed before the current land use (zoning) designation of the lot where the nonconformity is located; and

- (b) because of subsequent zoning land use ordinance changes does not conform with the regulations that now govern the use of the land.

"Nursery-Day Child-care Center, Preschool" means any premises used for the care of six (6) or more children under the age of six (6) years who are not related within the second degree to the operator of said premises.

"Offices" means a building, room, or department wherein a business or service for others is transacted, but not including the storage or sale of merchandise on the premises.

"Owner Occupant" means, except as set forth in Subsection (c) of this definition:

- (a) an individual who:

- (i) possesses, as shown by a recorded deed, fifty (50) percent or more ownership in a dwelling unit, and

- (ii) occupies the dwelling unit with a bonafide intent to make it his or her primary residence; or

- (b) an individual who:

- (i) is a trustor of a family trust which:

- (A) possesses fee title ownership to a dwelling unit;

- (B) was created for estate planning purposes by one (1) or more trustors of the trust; and

- (ii) occupies the dwelling unit owned by the family trust with a bonafide intent to make it his or her primary residence. Each living trustor of the trust shall so occupy the dwelling unit except for a trustor who temporarily resides elsewhere due to a disability or infirmity. In such event, the dwelling unit shall nevertheless be the domicile of the trustor during the trustor's temporary absence.

- (c) A person who meets the requirements of Subsections (a) and (b) of this definition shall not be deemed an owner occupant if the property on which the dwelling unit is located has more than one (1) owner and all owners of the property do not occupy the dwelling unit with a bona fide intent to make the dwelling unit their primary residence.

- (i) A claim that a person is not an owner occupant may be rebutted only by documentation, submitted to the Community Development Department, showing that the person who occupies the dwelling unit has a bona fide intent to make the dwelling unit his or her primary residence as indicated by the following documents which show such person:

- (A) is listed as a primary borrower on documents for any loan presently applicable to the property where the dwelling unit is located;

- (B) has claimed all income, deductions, and depreciation from the property on his or her tax returns for the previous year;

- (C) is the owner listed on all rental documents and agreements with tenants who occupy the dwelling unit, including any accessory apartment;

- (D) is the owner listed on all insurance, utility, appraisal, or other contractual documents related to the property; and

(E) is a full-time resident of Utah for Utah State income tax purposes.

(ii) Any person who claims to be an owner of the dwelling unit, but who does not occupy it, shall provide documentation to the Community Development Department which shows such person:

(A) has not claimed any income, tax deduction, or depreciation for the property on the person's tax returns for the previous year;

(B) is not listed as an owner on any rental document or agreement with any tenant who occupies the dwelling unit, including any accessory apartment; and

(C) is not listed as an owner on any insurance, utility, appraisal, or a agreement related to the property.

(iii) Any person, or group of persons, who fails, upon request of the Community Development Department, to provide any of the documents set forth in Subsections (c)(i) or (c)(ii) of this definition or who provides a document showing that ownership of a dwelling unit is shared among persons who do not all occupy the dwelling unit shall mean for the purpose of this Title that such person or persons shall not be deemed an "owner occupant" of the dwelling unit in question.

(d) The provisions of Subsection (c) of this definition shall apply to any person who began a period of owner occupancy after March 1, 2009, regardless of when the person purchased the property where such person resides.

"Parking Area" or "Parking Lot" means an open area, other than a street or alley, used for the parking of more than four (4) automobiles whether free, for compensation, or as an accommodation. Required parking spaces shall not be provided within a required front yard or side yard adjacent to the street or a corner lot.

"Parking Space" means a permanently surfaced area measuring not less than eight and one half (8 ½) by eighteen (18) feet for large cars and seven and one half (7 ½) by fifteen (15) feet for compact cars, as provided for in Section 14.37.140, Provo City Code exclusive of access or maneuvering area, ramps, or columns, except that within a parking structure, a single supporting column may encroach up to six (6) inches into the required width of the parking space along one (1) side of the space for a distance of not more than two (2) feet along the length of the space, to be used exclusively as temporary storage space for one (1) private motor vehicle.

"Parcel" See definition of "Lot."

"Person" means an individual, an association, a firm, a copartnership, a corporation, or any similar legal entity.

"Person with a disability" means a person who has a physical or mental impairment that substantially limits one (1) or more of a person's major life activities, including a person having a record of such an impairment, or being regarded as having such an impairment. This definition shall not include any person who has an impairment due to the current illegal use of, or addiction to, any federally controlled substance, as defined by federal law.

"Personal Care Provider" means a person who resides in the same dwelling unit as a family and who, with or without payment, provides daily physical, medical, or other assistance to another person on an on-going basis.

"Personal Service Provider" means a person who resides in the same dwelling unit as a family and who provides personal services such as a butler, maid, gardener, caretaker, and the like.

"Planning Commission" means the Planning Commission of Provo City as duly appointed under the provisions of State Law.

"Primary Residence" means:

(a) the place where a person resides and which has the same address as the address shown on the person's:

- (i) current driver license,
- (ii) current vehicle registration,
- (iii) voter registration card, if any,
- (iv) last filed state tax return, and
- (v) last filed federal tax return.

(b) If the addresses shown on the above-referenced documents are not all the same, then the person whose name appears on such documents shall be deemed to have no primary residence.

"Principal Building" See definition of "Building-Main."

"Public" means that which is under the ownership of the United States Government, Utah State, or any subdivision thereof, Utah County, or Provo City (or any departments or agencies thereof).

"Residential Facility for Elderly Persons" means a one-family or multiple-family dwelling unit that meets the following requirements:

(a) A residential facility for elderly persons may not operate as a business.

(b) A residential facility for elderly persons shall:

(i) be owned by one of the residents or by an immediate family member of one (1) of the residents or be a facility for which the title has been placed in trust for a resident:

(ii) be consistent with existing zoning of the desired location; and

(iii) be occupied on a twenty four (24) hour-per-day basis by eight (8) or fewer elderly persons in a family-type arrangement.

(c) A residential facility for elderly persons may not be considered a business because a fee is charged for food or for actual and necessary costs of operation and maintenance of the facility.

(d) A residential facility does not include a health care facility as defined by Section 26-21-2 of the Utah Code, as amended, and any other ordinance adopted under authority of the Utah Code.

"Residential Facility for Persons with a Disability" means a dwelling unit licensed or certified by the Utah Department of Human Services, in which more than one (1) person with a disability resides.

"Residential Health Care Facility" means a facility providing assistance with activities of daily living and social care to two (2) or more residents who require protected living arrangements. This type of use includes Residential Health Care Facilities and Residential Care (Type N, up to three patients) facilities as defined and classified by Utah State regulations.

"Service Organization, Low Impact" means a non-profit, public or private business, professional and/or service organization that operates in a consistent manner with other office or business uses in regards to hours of operation, number of clients and services provided. Examples of low impact service organizations may include but are not limited to the following: legal services, Red Cross, Children's Justice Center, outpatient substance abuse, Cancer Society, etc.

"Services Organization, Moderate Impact" means a non-profit, public or private business, or service organization that provides a wide spectrum of services to a larger number of people. Moderate Impact uses will be determined by the scoring criteria as set forth in Section 14.34.390, Provo City Code. Examples of moderate impact service organizations may include but are not limited to the following: Community Action Agency, mental health agencies, battered women's shelter, etc.

"Service Organization, High Impact" means a non-profit, private and public, business, and service organization that provides

services such as temporary or permanent supervised housing, meals, etc. High Impact uses will be determined by the scoring criteria as outlined in Section 14.34.390, Provo City Code. Examples of high impact service organizations may include, but are not limited to, in-patient substance abuse, congregate shelters, soup kitchens, etc.

"Sheltered Workshop" means an on-site supervised educational or vocational training facility that does not provide housing. Examples of sheltered workshops could include Central Utah Enterprises or Deseret Industries.

"Sidewalk Café" means an outdoor dining area located on a public sidewalk adjacent to a street-level eating or drinking establishment where patrons may consume food and/or beverages provided by an abutting food service establishment, either on a table service or take-out basis, and which may or may not be defined by a removable physical barrier around the dining area.

"Sign" means any words, lettering, parts of letters, figures, numerals, phrases, sentences, devices, designs, picture, trade names, or trademarks by which anything is made known, such as are used to designate a firm, an association, a corporation, a profession, a business, a service, or commodity, or product, or any type of publicity or propaganda, whether placed on the ground, rocks, trees, stumps, or other natural objects, or on a building, wall, roof, frame, support, fence, or other manmade structure, which are visible from any public street, public highway, or public road right-of-way. For purpose of this Code, the word "sign" does not include the flag, pennant, or insignia of any nation, state, city, or other political unit, or of a nonprofit organization. It shall not include, further, an official notice issued by any court or public body or officer or directional warning or information sign or structure required or authorized by law.

"Special District" means all entities established under the authority or Utah Code Annotated, Title 17A, as amended, and any other governmental or quasi-governmental entity that is not a county, municipality, school district, or unit of the state.

"Story" means that portion of a building included between the surface of any floor, and surface of the floor next above it; or if there be no floor above it, then the space between such floor and the ceiling above it.

"Street" means a thoroughfare which has been dedicated to the public and accepted by proper public authority, or a thoroughfare not less than twenty (20) feet wide, which has become a public thoroughfare by right of use and which affords the principal means of access to abutting property; provided that easements, walkways, and alleys shall not be considered as "Streets" for the purpose of this Title. Streets include: public rights-of-way, including highways, avenues, boulevards, parkways, roads, lanes, walks, alleys, viaducts, subways, tunnels, bridges, public easements, and other ways. See also Chapter 15.03, Provo City Code.

"Structure" means anything constructed or erected which is either located on the ground or attached to something having a location on the ground.

"Structure-Subgrade" means any structure which:

- (a) is located primarily below natural grade;
- (b) does not extend more than two and one-half (2 ½) feet, at any point, above natural grade;
- (c) is completely covered with a minimum of six (6) inches of soil capable of supporting vegetation on its horizontal surface where required by the landscaping provisions of the respective zone in which it is located;
- (d) is decoratively finished on any vertical surface not completely covered with soil;
- (e) within a required front or street side yard, is located entirely beneath a finish grade which:
 - (i) does not exceed a twenty-five percent (25%) slope, and

(ii) does not extend more than two and one-half (2 ½) feet above natural grade at any point, and

(iii) is the same as the natural grade along any property line. Subgrade structures are not subject to lot coverage or setback provisions of this Title provided they have sufficient soil coverage, as defined herein, and fully meet the landscaping requirements set forth in the provisions of any respective zoning district.

"Structural Alterations" means any change in the supporting member of a building such as bearing walls, columns, beams or girders, and floor joists or roof joists.

"Studio Dwelling Unit" see "Efficiency Dwelling Unit."

"Subdivision" means any land that is divided, resubdivided or proposed to be divided into two (2) or more lots, parcels, sites, units, plots, or other division of land for the purpose, whether immediate or future, for offer, sale, lease, or development either on the installment plan or upon any and all other plans, terms, and conditions. A subdivision includes:

(a) the division or development of land whether by deed, metes and bounds description, devise and testacy, lease, map, plat, or other recorded instrument; and

(b) divisions of land for all residential and nonresidential uses, including no land used or to be used for commercial, agricultural, and industrial purposes. "Subdivision" does not include a bona fide division or partition of agricultural land for agricultural purposes or of commercial, manufacturing, or industrial land for commercial, manufacturing, or industrial purposes.

"Travel Trailers" and **"Recreational Vehicles"** means a motorized or non-motorized vehicle which is designed or used for temporary human habitation and for travel or recreational purposes, which does not at any time exceed eight (8) feet in width and forty (40) feet in length and which may be moved upon a public highway without a special permit or chauffeur's license, or both, without violating provisions of the Vehicle Code.

"Twin Home" see "Dwelling-One Family Semi-Detached."

"Use" means the purpose for which premises or a building therein is designed, arranged, or intended, or for which it is or may be occupied or maintained.

"Use-Accessory" see "Accessory Use."

"Veterinary Hospital" means an establishment for the care and treatment of animals including household pets, livestock, and commercial poultry, all facilities to be within a completely enclosed building, except for exercising runs and the parking of automobiles.

"Yard" means a space on a lot or parcel, unoccupied and unobstructed by a building or structure from the finish grade upwards except as otherwise provided in this Title.

"Yard-Front" or **"Front Yard"** means an open, unoccupied landscaped yard extending across the full width of a lot or parcel, having at no point a depth of less than the minimum required horizontal distance between the front lot line, or its tangent, and the closest permissible location of the main building. Said distance shall be measured by a line at right angles to the front lot line, or its tangent.

"Yard-Rear" or **"Rear Yard"** means a yard extending across the full width of a lot, having at no point a depth of less than the minimum required horizontal distance between the rear lot line, or its tangent, and the closest permissible location of the main building. Said distance shall be measured by a line at right angles to the rear lot line, or its tangent. Such yard shall include all land area between the rear lot line and the closest permissible location of the main building. Each lot shall be deemed to have one (1) rear yard.

"Yard-Side" or **"Side Yard"** means a yard between the main building and the side lot line extending from the required front yard, or the front lot line where no front yard is required, to the required

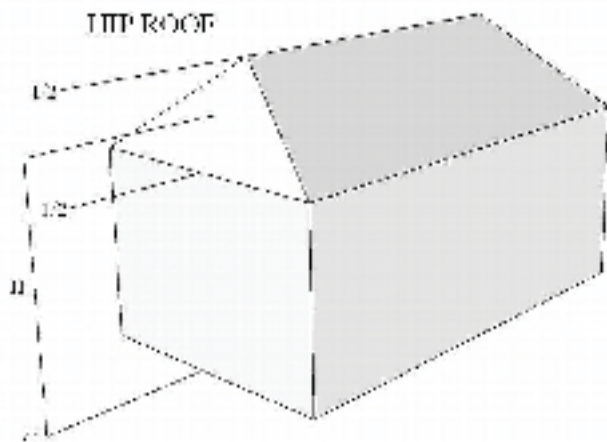
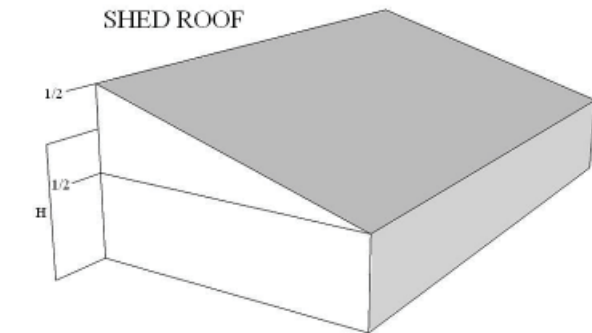
rear yard, or the rear lot line where no rear yard is required; the width of which side yard shall be measured horizontally from, and at right angles to, the nearest point on the side lot line towards the closest permissible location of the main building.

"Zone" means a portion of the incorporated territory of Provo City exclusive of streets, alleys, and other public ways, which has been given a zone designation which provides for certain uses of the land premises and buildings and within which certain yards and open spaces are required and certain height and other limitations are established for buildings; all as set forth and specified in this Title. (R&R 1985-65, Am 1987-04, Am 1987-19, Am 1987-45, Am 1987-53, Am 1987-59, Am 1990-01, Am 1990-38, Am 1990-47, Am 1990-57, Am 1991-46, Am 1991-56, Am 1992-29, Am 1992-43, Am 1992-79, Am 1993-02, Am 1995-79, Am 1995-99, Am 1996-65, Am 1996-69, Am 1998-06, Am 1998-07, Am 1998-25, Am 1998-50, Am 1998-55, Am 1998-60, 1998-64, 1998-65, 1999-04, 1999-14, 1999-16, 1999-25, 1999-36, Am 2001-33, Am 2002-05, Am 2002-23, Am 2003-08, Am 2003-20, Am 2003-28, Am 2003-37, Am 2004-44, Am 2009-16, Am 2009-33, Am 2009-46)

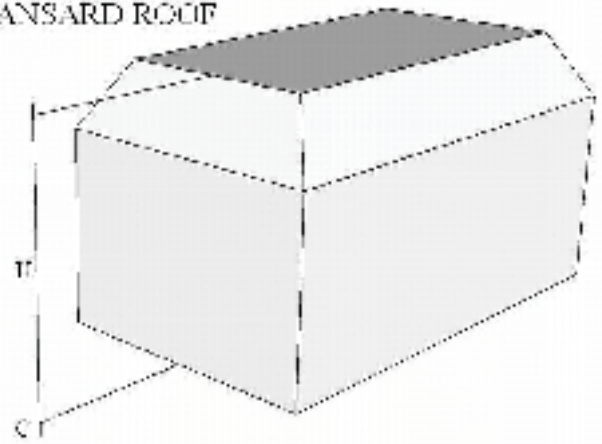
14.06.030 Illustrations.

For the convenience of users of this Title, certain terms are illustrated below and elsewhere within this Title. If any conflict arises between an illustration and a definition, the definition shall apply. (En 2001-33)

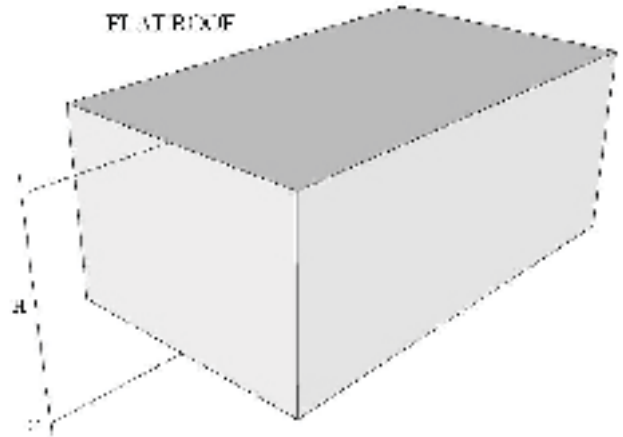
Figure 14.06.030 Examples of Building Heights



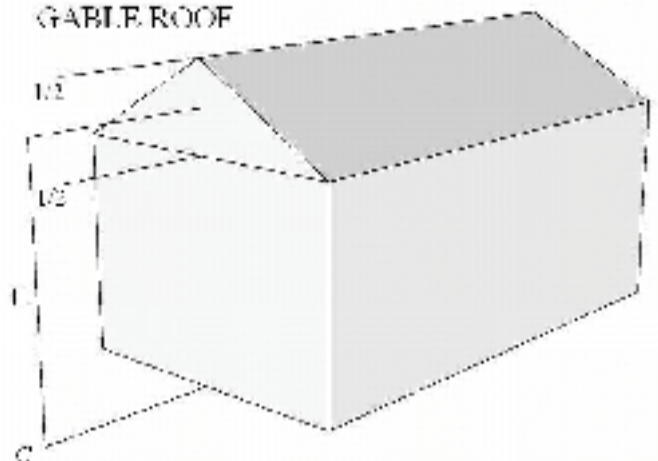
MANSARD ROOF



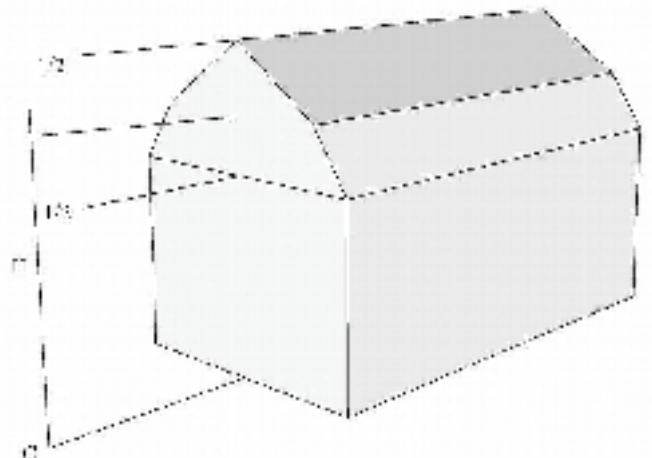
FLAT ROOF

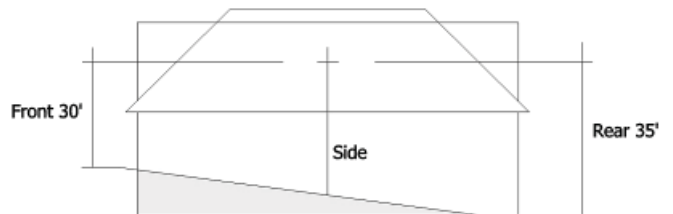
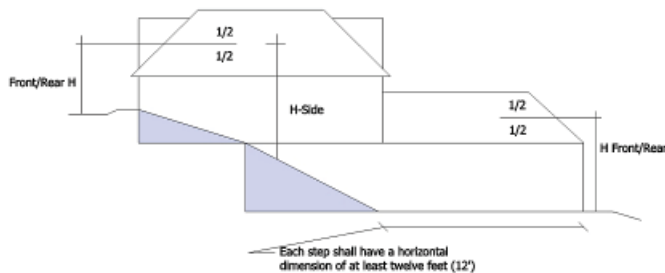
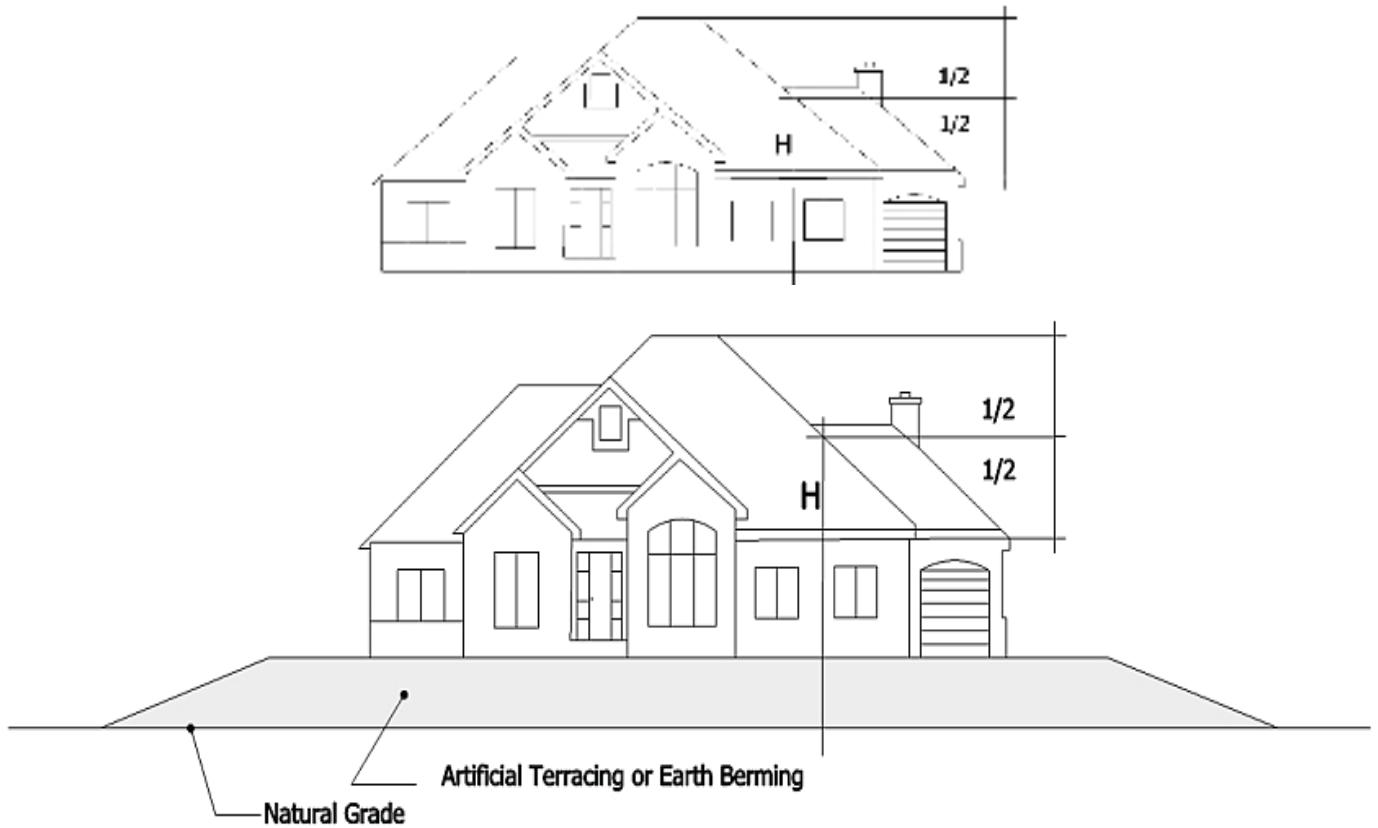


GABLE ROOF



GAMBREL ROOF





H - Building Height
 C - Average Elevation of the Finished Lot Grade

Building Height - the vertical distance measured from the average elevation of the finished lot grad at each face of the building minus any artificial terracing or earth berming placed by the owner or developer that goes beyond that required for backfill or foundation drainage, to the highest point of the coping of a flat roof, or to the deck line of a mansard roof, or to a point halfway between the lowest part of the eaves or cornice and the highest point of a pitched or hip roof.

Chapter 14.07. Zone Establishment.

- 14.07.010. Declaration of Purpose.
- 14.07.020. Location on Map.
- 14.07.030. Determining Zone Boundaries.

14.07.010. Declaration of Purpose.

In order to accomplish the purposes of this Title, Provo City is hereby divided into zones in accordance with the General Plan of the City as hereinafter set forth. In the preparation of this Title, due and careful consideration was given, among other things, to the relative quantities of land needed for particular uses and to the suitability of such land for such uses, to existing and probable future conditions within the City, and to the character of each of the several zones, with a view to conserving the value of buildings and encouraging the most appropriate use of land throughout the City. (Am 1992-75)

14.07.020. Location on Map.

The location and boundaries of each of the zones as contained herein are shown on the Zone Map entitled ZONE MAP OF PROVO CITY, UTAH and all boundaries, notations, and other data shown thereon are hereby adopted as part of this Title, and shall become as much a part of this Title as if fully described herein.

14.07.030. Determining Zone Boundaries.

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

- (1) Where the indicated boundaries on the Zone Map are approximately street or alley lines, the centerline of said street or alley shall be construed to be the zone boundary.
- (2) Where the indicated boundaries are approximate lot lines, said lot lines shall be construed to be the zone boundary unless otherwise indicated.
- (3) Where the indicated boundaries are approximately canals, water courses, or other clearly defined natural features, the center lines of such canals, water courses, or natural features shall be construed to be the zone boundaries unless otherwise indicated.
- (4) In the absence of any street, land survey, lot, canal, water course, or other natural feature or measurement, the zone boundary shall be determined by the use of scale of measurement shown upon the Map.
- (5) Where other uncertainty exists, the Planning Commission shall interpret the locations of zone boundaries upon said Zone Map. (Am 1998-55, 1998-58)

Chapter 14.08. A1 - Agricultural Zone.

- 14.08.010. Purpose and Objectives.
- 14.08.020. Permitted Uses.
- 14.08.030. Lot Area.
- 14.08.040. Lot Width.
- 14.08.050. Lot Frontage.
- 14.08.060. Prior Created Lots.
- 14.08.070. Lot Area Per Dwelling.
- 14.08.080. Yard Requirements.
- 14.08.090. Projections into Yards.
- 14.08.100. Building Height.
- 14.08.110. Distance Between Buildings.
- 14.08.120. Permissible Lot Coverage.
- 14.08.130. Parking, Loading and Access.
- 14.08.140. Project Plan Approval.
- 14.08.150. Other Requirements.

14.08.010. Purpose and Objectives.

The Agricultural Zone (A1) is established to provide areas in which agricultural pursuits can be encouraged and supported within

the municipality. The A1 zone is designed and intended to protect agricultural uses from encroachment of urban development until such time as residential, commercial, or industrial uses in such areas become necessary and desirable. Uses permitted in the A1 zone, in addition to agricultural uses, must be incidental thereto and should not change the basic agricultural character of the zone. Conversion of the agricultural zone to zones allowing urban uses should be accomplished in an orderly and progressive manner, with no "leap-frog" encroachments of such uses or developments into the agricultural area.

14.08.020. Permitted Uses.

- (1) Those uses or categories of uses as listed herein, and no others, are permitted in the A1 zone.
- (2) All uses contained herein are listed by number as designated in the Standard Land Use Code published and maintained by the Planning Commission. Specific uses are identified by a four (4) digit number in which all digits are whole numbers. Classes or groupings of such uses permitted in the zone are identified by a four (4) digit number in which the last one (1) or two (2) digits are zeros.
- (3) All such classes listed herein and all specific uses contained within them in the Standard Land Use Code will be permitted in the A-1 zone subject to the limitations set forth herein.
- (4) Permitted Principal Uses. The following principal uses and structures, and no others, are permitted in the A1 zone:

Use No.	Use Classification
1111	One family dwelling - detached (see Section 14.34.310, Provo City Code)
1291	Residential facility for elderly persons (see Section 14.34.230, Provo City Code)
1292	Residential facility for persons with a disability (see Section 14.34.230, Provo City Code)
4811	Electric transmission right-of-way (identifies areas where the surface is devoted exclusively to the right-of-way of the activity)
4821	Gas pipeline right-of-way (identifies areas where the surface is devoted exclusively to the right-of-way of the activity)
4824	Gas pressure control stations
4831	Water pipeline right-of-way (identifies areas where the surface is devoted exclusively to the right-of-way of the activity.
4835	Irrigation distribution channels
4836	Water pressure control stations and pumping plants
4841	Sewage pipeline right-of-way (identifies areas where surface is devoted exclusively to right-of-way activity)
4844	Sewage pumping stations
4864	Combination utilities right-of-way (identifies areas where surface is devoted exclusively to right-of-way activity)
4873	Storm drain or right-of-way (predominantly covered pipes or boxes)
8100	Agriculture
8200	Agricultural-related activities
8300	Forestry activities and related services
8400	Fishing activities and related services

- (5) Permitted Accessory Uses. Accessory uses and structures are permitted in the A1 zone, provided they are incidental to, and do not substantially alter the character of the permitted principal use or

structure. Such permitted accessory uses and structures include, but are not limited to, the following:

(a) Accessory buildings such as garages, carports, bath houses, greenhouses, gardening sheds, recreation rooms, and similar structures which are customarily used in conjunction with and are incidental to a principal use or structure.

(b) Swimming pools and incidental bath houses subject to the standards of Section 14.34.210, Provo City Code.

(c) Storage of materials used for the construction of a building including a temporary contractor's office and/or tool shed, provided that such uses are on the building site or immediately adjacent thereto, and provided further, that such shall be for only the period of construction and thirty (30) days thereafter.

(d) Stands for the purpose of displaying and selling agricultural or farming products which are grown or produced on the premises on which said stand is located. Said stand shall not exceed a ground coverage of three-hundred (300) square feet, and will be limited to one (1) stand per parcel of property.

(e) Windmills, silos, tank houses, buildings or shelters for farm equipment and machinery, water wheels, water reservoirs, and storage tanks.

(f) Buildings or structures required for the housing, nurture, confinement, or storage of animals, crops, products, or other uses lawfully produced or permitted on the property.

(6) Conditional Uses. The following uses and structures are permitted in the A1 zone only after a conditional use permit has been approved, and subject to the terms and conditions thereof:

Use No.	Use Classification
1516	Bed and breakfast inn
1902	Ranch or farm employee dwellings (one (1) per ten (10) acres of land area)
4700	Communications (subject to Section 14.34.420, Provo City Code)
4814	Electricity regulating substations
4818	Small generation
4829	Other gas utilities, NEC
4833	Water storage as part of a utility system (open reservoirs)
4834	Water storage as part of a utility system (covered including water storage standpipes)
4839	Other water utilities or irrigation, NEC
4871	Channel or right-of-way (predominantly open flume-like structure)
4872	Debris basin (a dam and basin for intercepting debris)
4874	Spreading grounds (area for percolating water into underground)
6722	Police protection and related activities, branch (office only)
6910	Religious activities
7400	Recreation activities

(Am 1986-10, 1987-19 1987-53 1989-56 1991-72 Am 1992-58, Am 1993-09, Am 1995-02, Am 1995-51, Am 1997-49, Am 1998-06, Am 1998-07, Am 1998-50, 1999-29, Am 1999-50, Am 2006-21, Am 2009-08, Am 2009-39)

14.08.030. Lot Area.

(1) The minimum area of any lot or parcel of land in the A1 zone shall be as indicated by the subzone used in conjunction with the A1 zone designation.

(2) Subzones are designated by adding a suffix number to the A1 zoning symbol. Such suffix number shall be the minimum lot area for the subzone, stated in acres. For example, a subzone of the A1 zone requiring lots to be a minimum of ten (10) acres would be designated on the Zoning Map as "A1.10."

(3) Minimum area for any lot or parcel of land in the A1 zone shall be as indicated below for the subzone in which the lot or parcel is situated.

A1.1	1 acre
A1.5	5 acres
A1.10	10 acres
A1.20	20 acres
A1.40	40 acres

14.08.040. Lot Width.

Each lot or parcel of land in the A1 zone shall have an average width of at least one hundred (100) feet. (Am 1997-59)

Section 14.08.045 Lot Depth.

Each lot or parcel of land in the A1 zone shall have a minimum lot depth of one hundred (100) feet. (Am 1998-20)

14.08.050. Lot Frontage.

Each lot or parcel of land in the A1 zone shall abut a public street for a minimum distance of sixty (60) feet.

14.08.060. Prior Created Lots.

Lots or parcels of land which were created prior to the application of this zone (December 12, 1974) shall not be denied a building permit solely for reasons of nonconformance with the parcel requirements of this Chapter.

14.08.070. Lot Area Per Dwelling.

Not more than one (1) single-family dwelling may be placed upon a lot or parcel of land in the A1 zone, except that ranch or farm employee dwellings may be permitted in conjunction with a bona fide agricultural use at a ratio of one (1) dwelling per ten (10) acres of land.

14.08.080. Yard Requirements.

The following minimum yard requirements shall apply in the A1 zone:

(Note: All setbacks are measured from the property line.)

(1) Front Yard. Each lot or parcel in the A-1 zone shall have a front yard of not less than thirty (30) feet.

(2) Side Yard. Except as provided in Subsections (3), (4), and (5) of this Section each lot or parcel of land in the A1 zone shall have a side yard of not less than ten (10) feet on each side of a principal structure. Buildings exceeding thirty five (35) feet in height pursuant to a conditional use permit shall have side yards of at least ten (10) feet per side plus an additional one (1) foot of setback for each two (2) feet of building height over thirty five (35) feet.

(3) Side Yard - Corner Lots. On corner lots, the side yard contiguous to the street shall be not less than thirty (30) feet.

(4) Side Yard - Driveway. See Section 14.37.100, Provo City Code.

(5) Side Yard - Accessory Building. The side yard of an accessory building shall be the same as that required for a principal building, except that accessory buildings which house animals or poultry shall be located at least one hundred (100) feet from any dwelling.

(6) Rear Yard. Each lot or parcel of land shall have a rear yard of not less than thirty (30) feet.

(7) Rear Yard - Accessory. An accessory building may be located on the rear property line so long as:

(a) It provides for all roof drainage to be retained on the subject lot or parcel.

(b) It is not used for the housing of animals or poultry. Accessory buildings so used shall be located at least one hundred (100) feet from any dwelling. (Am 1987-45, Am 1988-16, Am 1991-56, Am 1995-02, Am 1997-63, Am 1998-19, Am 1999-30)

14.08.090. Projections into Yards.

(1) The following structures may be erected on or projected into any required yard:

(a) Fences and walls in conformance with the Provo City Code and other City codes or ordinances.

(b) Landscape elements including trees, shrubs, agricultural crops, and other plants.

(c) Necessary appurtenances for utility service.

(2) The structures listed below may project into a minimum front or rear yard not more than four (4) feet, and into a minimum side yard not more than two (2) feet.

(a) Cornices, eaves, belt courses, sills, buttresses, or other similar architectural features.

(b) Fireplace structures and bays, provided that they are not wider than eight (8) feet measured generally parallel to the wall of which they are a part.

(c) Stairways, balconies, door stoops, fire escapes, awnings, and planter boxes or masonry planters not exceeding twenty-four (24) inches in height.

(d) Porte-cochere over a driveway in a side yard, providing such structure is not more than one (1) story in height and twenty-four (24) feet in length, and is entirely open on at least three (3) sides except for necessary supporting columns and customary architectural features.

14.08.100. Building Height.

(1) No lot or parcel of land in the A1 zone shall have a building or structure used for dwelling or public assembly which exceeds a height of two (2) stories with a maximum of thirty-five (35) feet.

(2) Silos, windmills, and other accessory structures customarily associated with an agricultural use may exceed thirty-five (35) feet in height upon specific approval by the Planning Commission. (Am 1985-65)

14.08.110. Distance Between Buildings.

The distance between any accessory building and a dwelling shall be not less than twenty (20) feet.

14.08.120. Permissible Lot Coverage.

In the A1 zone, all buildings, including accessory buildings and structures, shall cover not more than twenty percent (20%) of the area of the lot or parcel of land.

14.08.130. Parking, Loading, and Access.

(1) Each lot or parcel in the A1 zone shall have on the same lot or parcel two (2) parking spaces for each dwelling unit.

(2) Said spaces shall be improved with asphaltic cement or concrete and shall be provided with a dust-free and mud-free access from a public street or road.

(3) In all other cases, parking shall comply with the provisions of Chapter 14.37, Provo City Code.

14.08.140 Project Plan Approval.

See Sections 15.03.300 and 15.03.310, Provo City Code. (Am 1986-10, Am 1999-44, Am 2001-10)

14.08.150. Other Requirements.

(1) Signs. Unless otherwise prohibited by law, signs of the type and description listed below, but no others, may be placed and maintained in the A1 zone:

(a) Signs or name plates not exceeding two (2) square feet in area and displaying only the name and address of the occupant.

(b) One (1) unlighted sign not exceeding four (4) square feet in area to identify the premises as being associated with a trade organization, or as producing products under a trade name or symbol.

(c) Two (2) signs advertising the sale of products lawfully produced on the premises, provided said signs do not exceed ten (10) square feet each.

(d) Two (2) temporary signs with a maximum area of six (6) square feet each, pertaining to the sale, lease, or rent of the particular building, property, or premises upon which displayed, and no other.

(e) Signs or monuments identifying points of interest or sites of historic significance. The size of said signs or monuments shall be specifically approved by the Planning Commission.

(2) Landscaping. See Chapter 15.20, Provo City Code.

(3) Trash Storage. See Section 14.34.080, Provo City Code.

(4) Walls and Fences. No requirement. (Am 1987-45, Am 1990-53, Am 1994-28, Am 1996-72, Am 1998-06, Am 1998-43, Am 1999-61)

Chapter 14.09. RA - Residential Agricultural Zone.

14.09.010. Purpose and Objectives.

14.09.020. Permitted Uses.

14.09.030. Lot Area.

14.09.040. Lot Width.

14.09.050. Lot Frontage.

14.09.060. Prior Created Lots.

14.09.070. Lot Area Per Dwelling.

14.09.080. Yard Requirements.

14.09.090. Projections Into Yards.

14.09.100. Building Height.

14.09.110. Distance Between Buildings.

14.09.120. Permissible Lot Coverage.

14.09.130. Parking, Loading and Access.

14.09.140. Project Plan Approval.

14.09.150. Other Requirements.

14.09.010. Purpose and Objectives.

The Residential Agricultural Zone (RA) is established to provide areas on the fringes of the corporate area of Provo City where residential uses may be harmoniously integrated with incidental agricultural pursuits. This zone is intended to allow the keeping of farm animals and fowl in conjunction with one-family dwelling units to an extent consistent with said development, and in proportion to the amount of land area provided for this purpose. It is intended, at the same time, to retain land in parcels large enough to provide efficient and attractive development as urban uses extend in an orderly manner into these areas. The Residential Agricultural (RA) zone is also intended to accommodate residential developments which are oriented to an equestrian lifestyle. This would allow the design of a residential community which could contain noncommercial stables, training areas, and equestrian trails as an integral part of the development.

14.09.020. Permitted Uses.

(1) Those uses or categories of uses as listed herein, and no others, are permitted in the RA zone.

(2) All uses contained herein are listed by number as designated in the Standard Land Use Code published and maintained by the Planning Commission. Specific uses are identified by a four-digit

number in which the last one (1) or two (2) digits are zeros.

(3) All such classifications listed herein and all specific uses contained within them in the Standard Land Use Code will be permitted in the RA zone subject to the limitations set forth herein.

(4) Permitted Principal Uses. The following principal uses and structures, and no others, are permitted in the RA zone:

Use No.	Use Classification
1111	One-family dwelling - detached (see Section 14.34.310, Provo City Code)
1291	Residential facility for elderly persons (see Section 14.34.230, Provo City Code)
1292	Residential facility for persons with a disability (see Section 14.34.230, Provo City Code).
4811	Electric transmission right-of-way (identifies areas where the surface is devoted exclusively to the right-of-way of the activity)
4821	Gas pipeline right-of-way (identifies areas where the surface is devoted exclusively to the right-of-way of the activity)
4824	Gas pressure control stations
4831	Water pipeline right-of-way (identifies areas where the surface is devoted exclusively to the right-of-way of the activity)
4835	Irrigation distribution channels
4836	Water pressure control stations and pumping plants
4841	Sewage pipeline right-of-way (identifies areas where surface is devoted exclusively of right-of-way activity)
4844	Sewage pumping stations
4864	Combination utilities right-of-way (identifies areas where surface is devoted exclusively to right-of-way activity)
4873	Storm drain or right-of-way (predominantly covered pipes or boxes)
8110	Field and seed crops
8120	Truck crops
8130	Orchards and vineyards
8141	Beef cattle and cows (noncommercial only) as limited herein
8142	Horses (noncommercial only) as limited herein
8145	Paddock, with animal limitations set forth herein
8150	Animal specialties (noncommercial only) as limited herein
8160	Pasture and rangeland
8224	Animal kennels, boarding, breeding, training, and grooming (excluding large animals)

(5) Limitations on the keeping and maintenance of animals and fowl permitted in the RA zone:

(a) Horses: There shall be no more than four (4) horses per acre of land used exclusively for their care and keeping.

(b) Bovine Animals, sheep, or goats: There shall be no more than two (2) such animals per acre of land used exclusively for the care and keeping thereof.

(c) Poultry, rabbits, chinchillas, hamsters, and other small animals: There shall be no more than twenty-five (25) such animals on the premises. Nothing herein shall be construed as authorizing the keeping of animals capable of inflicting harm or endangering the health and safety of any person or property.

(d) Animal kennels, boarding, breeding, training, and grooming: There shall be no more than ten (10) small animals maintained on the premises.

(6) Permitted Accessory Uses. Accessory uses and structures are permitted in the RA zone, provided they are incidental to, and do not substantially alter, the character of the principal permitted use or structure. Such permitted accessory uses and structures include, but are not limited to, the following:

(a) Accessory buildings such as garages, carports, bath houses, greenhouses, gardening sheds, recreation rooms, and similar structures which are customarily used in conjunction with, and are incidental to, a principal use or structure.

(b) Swimming pools and incidental bath houses subject to the standards of Section 14.34.210, Provo City Code.

(c) Storage of materials used for the construction of a building, including a temporary contractor's office and/or tool shed, provided that such uses are on the building site or immediately adjacent thereto, and provided further that such shall be for only the period of construction and thirty (30) days thereafter.

(d) Buildings or structures required for the housing, nurture, confinement, or storage of animals permitted in this zone, or equipment required for the care and keeping thereof.

(e) Home occupations, subject to the conditions of Chapter 14.41, Provo City Code.

(f) Household pets.

(7) Conditional Uses. The following uses and structures are permitted in the RA zone only after a Conditional Use Permit has been approved, and subject to the terms and conditions thereof:

Use No.	Use Classification
1516	Bed and breakfast inn
4700	Communications
4814	Electricity regulating substations
4818	Small generation
4829	Other gas utilities, NEC
4834	Water storage as part of a utility system (covered including water storage standpipes)
4872	Debris basin (a dam and basin for intercepting debris)
4874	Spreading grounds (area for percolating water into underground)
6241	Mortuaries
6722	Police protection and related activities, branch (office only)
6910	Religious activities
8221	Veterinarian services
8222	Animal hospital services

(Am 1986-10, Am 1987-45, Am 1987-19, Am 1987-53, Am 1988-52, Am 1989-56, Am 1990-01, Am 1992-56, Am 1992-58, Am 1993-09, Am 1995-02, Am 1995-91, Am 1997-49, Am 1998-06, Am 1998-07, Am 1998-50, Am 1999-50, Am 2006-21, Am 2009-08)

14.09.030. Lot Area.

The minimum area of any lot or parcel of land in the RA zone shall be one-half (1/2) acre.

14.09.040. Lot Width.

Each lot or parcel of land in the RA zone shall have an average width of at least one hundred (100) feet. (Am 1998-03)

Section 14.09.045 Lot Depth.

Each lot or parcel of land in the RA zone shall have a minimum lot depth of one hundred (100) feet. (Am 1998-20)

14.09.050. Lot Frontage.

Each lot or parcel of land in the RA zone shall abut a public street for a minimum distance of sixty (60) feet.

14.09.060. Prior Created Lots.

Lots or parcels of land which were created prior to the application of this zone (December 12, 1974) shall not be denied a building permit solely for reason of nonconformance with the parcel requirements of this Chapter.

14.09.070. Lot Area Per Dwelling.

Not more than one (1) single-family dwelling may be placed upon a lot or parcel of land in the RA zone.

14.09.080. Yard Requirements.

The following minimum yard requirements shall apply in the RA zone: (Note: All setbacks are measured from the property line.)

(1) Front Yard. Each lot or parcel in the RA zone shall have a front yard of not less than thirty (30) feet.

(2) Side Yard. Except as provided in Subsections (3), (4), and (5) of this Section each lot or parcel of land in the RA zone shall have a side yard of not less than ten (10) feet on each side of a principal structure. Buildings exceeding thirty five (35) feet in height pursuant to a conditional use permit shall have side yards of at least ten (10) feet per side plus an additional one (1) foot of setback for each two (2) feet of building height over thirty five (35) feet.

(3) Side Yard - Corner Lots. On corner lots, the side yard contiguous to the street shall be not less than twenty five (25) feet.

(4) Side Yard - Driveway. See Section 14.37.100, Provo City Code.

(5) Side Yard - Accessory Building. The side yard of an accessory building shall be the same as that required for a principal building, except that accessory buildings which house animals or poultry shall be located at least one-hundred (100) feet from any dwelling.

(6) Rear Yard. Each lot or parcel of land shall have a rear yard of not less than thirty (30) feet.

(7) Rear Yard - Accessory Building. An accessory building may be located on the rear property line so long as:

(a) It provides for all roof drainage to be retained on the subject lot or parcel.

(b) It is not used for the housing of animals or poultry. Accessory buildings so used shall be located at least one-hundred (100) feet from any dwelling. (Am 1987-45, Am 1988-16, Am 1991-56, Am 1995-02, 1998-04, Am 1998-19, Am 1999-30)

14.09.090. Projections Into Yards.

(1) The following structures may be erected on or project into any required yard:

(a) Fences and walls in conformance with the Provo City Code and other City codes or ordinances.

(b) Landscape elements including trees, shrubs, agricultural crops, and other plants.

(c) Necessary appurtenances for utility service.

(2) The structures listed below may project into a minimum front or rear yard not more than four (4) feet, and into a minimum side yard not more than two (2) feet.

(a) Fences and walls in conformance with the Provo City Code and other City codes or ordinances.

(b) Landscape elements including trees, shrubs, agricultural crops, and other plants.

(c) Necessary appurtenances for utility service.

(3) The structures listed below may project into a minimum front or rear yard not more than four (4) feet, and into a minimum side yard not more than two (2) feet.

(a) Cornices, eaves, belt courses, sills, buttresses, or other similar architectural features.

(b) Fireplace structures and bays, provided that they are not wider than eight (8) feet, measured generally parallel to the wall of which they are a part.

(c) Stairways, balconies, door stoops, fire escapes, awnings, and planter boxes or masonry planters not exceeding twenty-four (24) inches in height.

(d) Porte-cochere over a driveway in a side yard, provided such structure is not more than one (1) story in height and twenty-four (24) feet in length and is entirely open on at least three (3) sides, except for necessary supporting columns and customary architectural features.

14.09.100. Building Height.

No lot or parcel of land in the RA zone shall have a building or structure which exceeds a height of two (2) stories with a maximum of thirty-five (35) feet. Chimneys, flagpoles, or similar structures not used for human occupancy are excluded in determining height. (Am 1985-65)

14.09.110. Distance Between Buildings.

The distance between any accessory buildings and a dwelling shall be not less than twenty (20) feet.

14.09.120. Permissible Lot Coverage.

In the RA zone, all buildings, including accessory buildings and structures, shall cover not more than thirty percent (30%) of the area of the lot or parcel of land.

14.09.130. Parking, Loading, and Access.

(1) Each lot or parcel in the RA zone shall have on the same lot or parcel two (2) parking spaces for each dwelling unit.

(2) Said spaces shall be improved with asphaltic cement or concrete and shall be provided with dust-free and mud-free access from a public street or road.

(3) In all other cases, parking shall comply with the provisions of Chapter 14.37, Provo City Code.

14.09.140 Project Plan Approval.

See Sections 15.03.300 and 15.03.310, Provo City Code. (Am 1986-10, Am 1999-44, Am 2001-10)

14.09.150. Other Requirements.

(1) Signs. Unless otherwise prohibited by law, signs of the type and description listed below, but no others, may be placed and maintained in the RA zone.

(a) Signs or name plates not exceeding two (2) square feet in area and displaying only the name and address of the occupant.

(b) Two (2) temporary signs with a maximum area of six (6) square feet each, pertaining to the sale, lease, or rent of the particular building, property, or premises upon which displayed, and no other.

(c) Signs or monuments identifying points of interest or sites of historic significance. The size of said signs or monuments shall be specifically approved by the Planning Commission.

(2) Landscaping. See Chapter 15.20, Provo City Code.

(3) Trash Storage. See Section 14.34.080, Provo City Code.

(4) Walls and Fences. No requirement. (Am 1987-45, Am 1990-53, Am 1994-28, Am 1996-72, Am 1998-43, Am 1999-61)

Chapter 14.10. R1 - One Family Residential.

- 14.10.010. Purposes and Objectives.
- 14.10.020. Permitted Uses.
- 14.10.030. Lot Area.
- 14.10.040. Lot Width.
- 14.10.050. Lot Frontage.
- 14.10.060. Prior Created Lots.
- 14.10.070. Lot Area Per Dwelling.
- 14.10.080. Yard Requirements.
- 14.10.090. Projections Into Yards.
- 14.10.100. Building Height.
- 14.10.110. Distance Between Buildings.
- 14.10.120. Permissible Lot Coverage.
- 14.10.130. Parking, Loading and Access.
- 14.10.140. Project Plan Approval.
- 14.10.150. Other Requirements.

14.10.010. Purposes and Objectives.

The One-Family Residential (R1) zone is established to provide areas for the encouragement and promotion of an environment for family life by providing for the establishment of one (1) family detached dwellings on individual lots, or attached one-family dwellings in a planned open space environment. This zone is characterized by attractively landscaped lots and open spaces with lawns, shrubs, and small orchards.

14.10.020. Permitted Uses.

- (1) Those uses or categories of uses as listed herein, and no others, are permitted in the R1 zone.
- (2) All uses contained herein are listed by number as designated in the Standard Land Use Code published and maintained by the Planning Commission. Specific uses are identified by a four (4) digit number in which all digits are whole numbers. Classes or groupings of such uses permitted in the zone are identified by a four (4) digit number in which the last one (1) or two (2) digits are zeroes.
- (3) All such categories listed herein and all specific uses contained within them in the Standard Land Use Code will be permitted in the R1 zone, subject to the limitations set forth herein.
- (4) Permitted Principal Uses. The following principal uses and structures, and no others, are permitted in the R1 zone:

Use No.	Use Classification
1111	One-family dwelling - detached (see Section 14.34.310, Provo City Code)
1112	One-family dwelling - attached (in approved planned unit developments only)
1292	Residential facility for persons with a disability (see Section 14.34.230, Provo City Code).
4811	Electric transmission right-of-way (identifies areas where the surface is devoted exclusively to the right-of-way of the activity)
4821	Gas pipeline right-of-way (identifies areas where the surface is devoted exclusively to the right-of-way of the activity)
4824	Gas pressure control stations
4831	Water pipeline right-of-way (identifies areas where the surface is devoted exclusively to the right-of-way of the activity)
4835	Irrigation distribution channels
4836	Water pressure control stations and pumping plants

4841	Sewage pipeline right-of-way (identifies areas where surface is devoted exclusively of right-of-way activity)
4844	Sewage pumping stations
4864	Combination utilities right-of-way (identifies areas where surface is devoted exclusively to right-of-way activity)
4873	Storm drain or right-of-way (predominantly covered pipes or boxes)

(5) Permitted Accessory Uses. Accessory uses and structures are permitted in the R1 zone provided they are incidental to, and do not substantially alter the character of, the permitted principal use or structure. Such permitted accessory uses and structures include, but are not limited to, the following:

- (a) Accessory buildings such as garages, carports, bath houses, greenhouses, gardening sheds, recreation rooms, and similar structures which are customarily used in conjunction with, and incidental to, a principal use or structure;
- (b) Swimming pools and incidental bath houses subject to the standards of Section 14.34.210, Provo City Code.
- (c) Vegetable and flower gardens and noncommercial orchards;
- (d) Home occupations subject to the regulations of Chapter 14.41, Provo City Code;
- (e) Storage of materials used for construction of a building, including the contractor's temporary office, provided that such use is on the building site or immediately adjacent thereto, and provided, further, that such use shall be permitted only during the construction period and thirty (30) days thereafter;
- (f) Household pets, provided no more than two (2) dogs and two (2) cats six (6) months of age or older shall be kept at any residence or commercial establishment at any time. Nothing herein shall be construed as authorizing the keeping of any animal capable of inflicting harm or discomfort or endangering the health and safety of any person or property.
- (6) Conditional Uses. The following uses and structures are permitted in the R1 zone only after a Conditional Use Permit has been approved, and subject to the terms and conditions thereof.

Use No.	Use Classification
1291	Residential facility for elderly persons (see Section 14.34.230, Provo City Code)
4700	Communications
4814	Electricity regulating substations
4818	Small generation
4829	Other gas utilities, NEC
4834	Water storage as part of a utility system (covered including water storage standpipes)
4872	Debris basin (a dam and basin for intercepting debris)
4874	Spreading grounds (area for percolating water into underground)
6722	Police protection and related activities, branch (office only)
6910	Religious activities

(Am 1986-10, Am 1987-19, Am 1988-49, Am 1989-56, Am 1990-01, Am 1991-01, Am 1991-14, Am 1991-56, Am 1992-58, Am 1992-65, Am 1995-91, Am 1997-49, Am 1998-06, Am 1998-07, Am 1998-10, Am 1998-50, Am 1999-50, Am 2003-24, Am 2005-18, Am 2006-21, Am 2009-08)

14.10.030. Lot Area.

The minimum area of any lot or parcel of land in the R1 zone shall be as indicated by the subzone used in conjunction with the R1 zone designation. Subzones are designated by adding a suffix number to the R1 zoning symbol. Such suffix number shall be the minimum lot area for the subzone, stated in thousands of square feet. For example, a subzone of the R1 zone requiring lots or parcels to be a minimum of eight thousand (8,000) square feet would be designated on the zoning map as R1.8. The minimum area of any lot or parcel of land in the R1 zone shall be as indicated below for the subzone in which the lot or parcel is situated.

R1.6	six thousand (6,000) square feet
R1.7	seven thousand (7,000) square feet
R1.8	eight thousand (8,000) square feet
R1.9	nine thousand (9,000) square feet
R1.10	ten thousand (10,000) square feet
R1.15	fifteen thousand (15,000) square feet
R1.20	twenty thousand (20,000) square feet.

14.10.040. Lot Width.

(1) Each lot or parcel of land in the R1 zone, except corner lots, shall have a width of not less than the following for the subzone in which said lot or parcel of land is situated:

R1.6	sixty (60) feet
R1.7	seventy (70) feet
R1.8	eighty (80) feet
R1.9	eighty-five (85) feet
R1.10	ninety (90) feet
R1.15	ninety-five (95) feet
R1.20	one hundred (100) feet

(2) Each corner lot or parcel in the R1 zone shall be ten (10) feet wider than the minimum required for interior lots in the subzone in which it is located.

Section 14.10.045 Lot Depth.

Each lot or parcel of land in the R1 zone shall have a minimum lot depth as indicated below for the subzone in which the lot or parcel is situated:

R1.6	ninety (90) feet
R1.7	ninety (90) feet
R1.8	one hundred (100) feet
R1.9	one hundred (100) feet
R1.10	one hundred (100) feet
R1.15	one hundred (100) feet
R1.20	one hundred (100) feet (Am 1998-20)

14.10.050. Lot Frontage.

Each lot or parcel of land in the R1 zone shall abut a public street for a minimum distance of thirty-five (35) feet, on a line parallel to the centerline of the street or along the circumference of a cul-de-sac improved to City standards. Frontage on a street end which does not have a cul-de-sac improved to City standards shall not be counted in meeting this requirement.

14.10.060. Prior Created Lots.

Lots or parcels of land which were created prior to the application of the zone (December 12, 1974), shall not be denied a building permit solely for reason of nonconformance with the parcel requirements of this Chapter.

14.10.070. Lot Area Per Dwelling.

Not more than one (1) one-family dwelling may be placed on a lot or parcel of land in the R1 zone.

14.10.080. Yard Requirements.

The following minimum yard requirements shall apply in the R1 zone: (Note: All setbacks are measured from the property line.)

(1) Front /Rear Yard. Each lot or parcel in the R1 zone shall have a minimum combined front and rear yard of at least fifty (50) feet. The minimum depth of a front or rear yard shall be twenty (20) feet. Exception: Notwithstanding a lesser setback for the main building, garages and carports, whether attached or not, shall be setback at least twenty-six (26) feet from the property line when necessary to ensure a twenty (20) foot driveway depth, measured from the back of side walk.

(2) Side Yard. Except as provided in Subsections (3), (4), (5) and (6) of this Section, each lot or parcel of land in the R1 zone shall have a side yard of not less than ten (10) feet, the combined sum shall be a minimum of twenty (20) feet. Buildings exceeding thirty five (35) feet in height pursuant to a conditional use permit shall have side yards of at least ten (10) feet per side plus an additional one (1) foot of setback for each two (2) feet of building height over thirty five (35) feet.

(3) Side Yard - Corner Lots. On corner lots, the side yard contiguous to the street shall not be less than twenty (20) feet and shall not be used for vehicle parking, except such portion as is devoted to driveway use for access to a garage or carport.

(4) Side Yard - Driveway. See Section 14.37.100, Provo City Code.

(5) Accessory Buildings Within the Buildable area. Accessory buildings meeting all setback requirements (within the buildable area) for the main dwelling shall:

(a) Have a building footprint and height less than the main dwelling.

(b) Comply with all lot coverage requirements.

(c) Comply with the latest adopted edition of the Uniform Building code.

(d) Only be used for those accessory uses allowed in the respective zone.

(e) Maintain architecturally similar material and colors with main building.

(6) Accessory Building Outside the Buildable area. Accessory buildings that do not meet the setback requirements (outside the buildable area) for the main dwelling shall meet the conditions in Section (5) above and the following:

(a) Be no closer to the front property line than the main building.

(b) Be no larger than ten percent (10%) of the actual lot area of said property.

(c) Be set back a minimum of three (3) feet from any property line.

(d) Not be located within a recorded public utility easement, unless a release can be secured from all public utilities.

(e) Have no portion of the building exceed 12 feet in height within 10 feet of a property line.

(f) Not be located within a front or street side yard.

(g) Comply with distance between buildings requirements.

(7) Exceptions for Garages and Carports. If an accessory use is a "garage - private," or a "carport" the rules stated above in this Section shall apply, except that in the rear yard of a residential corner lot, a garage or a carport may be located not closer to the property line (next to the side street) than any residence on the adjoining lot, but in no case closer than thirty (30) feet from the property line, whichever limitation is the more restrictive. (Am 1991-56, Am 1994-02, Am 1994-42, Am 1994-63, Am 1995-02, Am 1996-51, Am 1998-19, 1998-22, Am 1999-04, Am 1999-30)

14.10.090. Projections into Yards.

(1) The following structures may be erected on or projected into any required yard:

- (a) fences and walls in conformance with the Provo City Code and other City codes or ordinances;
- (b) landscape elements including trees, shrubs, agricultural crops and other plants; and
- (c) necessary appurtenances for utility service.

(2) The structure listed below may project into an interior side yard, subject to Uniform Building Code requirements. Only one (1) such structure shall be permitted per lot.

(a) A carport over a driveway, provided such structure is not more than one (1) story in height and twenty-four (24) feet in length, and is entirely open on at least three (3) sides, except for necessary supporting columns and customary architectural features.

(b) This Section shall be applied only to lots or parcels located within the Neighborhood Conservation District which is formed by the following boundaries: Commencing at the intersection of 50 South and 900 East; thence south along 900 East to the intersection of South State Street and 900 East; thence, northwest along South State Street to 600 South; thence west along 600 South and the D&RG Western Railroad line to approximately 700 West; thence along said line in a north westerly direction to the Provo River; thence, north east along said river to 940 North; thence, east along 940 North to 150 East; thence, south along 150 East to 800 North; thence, east along 800 North to 900 East; thence, south along 900 East to 100 North; thence east along 100 North to 1000 East; thence south to the intersection of 50 South and 1000 East, thence west along 50 South to the point of the beginning.

(3) The structures listed below may project into a minimum front or rear yard not more than four (4) feet, and into a minimum side yard not more than two (2) feet:

- (a) Cornices, eaves, belt courses, sills, buttresses, or other similar architectural features.
- (b) Fireplace structures and bays, provided that they are not wider than eight (8) feet, measured generally parallel to the wall of which they are a part.
- (c) Stairways, balconies, door stoops, fire escapes, awnings and planting boxes or masonry planters not exceeding twenty-four (24) inches in height.

(4) The structure listed below may project into a rear yard not more than twelve (12) feet. Patio, provided such structure is not more than one (1) story in height and is open on at least three (3) sides, except for necessary supporting columns and customary architectural features. (Am 1985-65, Am 1994-02, Am 1998-26, Am 1999-30)

14.10.100. Building Height.

No lot or parcel of land in the R1 zone shall have a building or structure used for dwelling or public assembly which exceeds a maximum height of thirty five (35) feet, measured at each building facade, except that the front elevation shall not exceed thirty (30) feet.

(1) In no case shall the height of an accessory structure exceed the height of any main structure on the same lot.

(2) The height limitations of this Section shall not apply to the structures set forth in Section 14.34.090(2), Provo City Code.

(3) A special exception for greater height may be granted subject to Section 14.05.030(10), Provo City Code. (Am 1985-65, Am 1992-43, Am 2001-33)

14.10.110. Distance Between Buildings.

The distance between any accessory buildings and a dwelling shall not be less than six (6) feet.

14.10.120. Permissible Lot Coverage.

(1) In an R1 zone, all buildings, including accessory buildings and structures, shall not cover more than forty (40) percent of the area of the lot or parcel of land upon which they are placed.

(2) At least fifty (50) percent of the area of any lot shall be maintained in landscaping as defined in Section 15.20.040, Provo City Code. On any lot or parcel, concrete or asphaltic cement shall not cover more than twenty-five (25) percent of a front yard, twenty-five (25) percent of a rear yard, and no portion of at least one (1) side yard. The other side yard may be used for a paved driveway. (Am 2001-49, Am 2006-46)

14.10.130. Parking, Loading, and Access.

(1) Each lot in the R1 zone shall have, on the same lot, off-street parking sufficient to comply with Chapter 14.37, Provo City Code.

(2) Said spaces shall be paved with asphaltic cement or concrete and shall be provided with a paved access from a public street.

(3) Except for tandem parking on a driveway as provided in Subsection 14.37.080(1)(c)(i), Provo City Code, no parking spaces shall be provided within thirty (30) feet of a front property line.

(4) The total area of all parking spaces on a lot (including a garage, carport, and uncovered parking slabs) and associated access lanes shall cover not more than thirty (30) percent of the lot. (Am 2001-49)

14.10.140. Project Plan Approval.

See Sections 15.03.300 and 15.03.310, Provo City Code. (Am 1986-10, Am 1999-44, Am 2001-10)

14.10.150. Other Requirements.

(1) Signs. Unless otherwise prohibited by law, signs of the type and description listed below, but no others, may be placed and maintained in the R1 zone.

(a) Signs or name plates not exceeding two (2) square feet in area and displaying only the name and address of the occupant.

(b) Two (2) temporary signs with a maximum area of six (6) square feet each, pertaining to the sale, lease, or rent of the particular building, property, or premises upon which displayed, and no other.

(c) Signs or monuments identifying points of interest or sites of historic significance. The site of said signs or monuments shall be specifically approved by the Planning Commission.

(2) Landscaping. See Chapter 15.20, Provo City Code.

(3) Trash Storage. See Section 14.34.080, Provo City Code.

(4) Fencing Standards. Structural fences six (6) feet or less in height shall not require a building permit. Structural fences over six feet in height shall require a building permit from the Building Inspection Division. A structural or vegetative fence shall not create a sight distance hazard to vehicular or pedestrian traffic as determined by the Provo City traffic engineer.

(a) Front Yard. Solid walls, fences, hedges or screening materials which are sight obscuring may be built to a maximum of three (3) feet in height in any required front yard perimeter. Such walls, fences, hedges or screening materials may slope upward to connect with a higher side yard fence. The length of a sloped fence section shall not exceed one section or a maximum of ten (10) feet. Walls, fences, hedges or screening materials which are not sight obscuring (at least fifty percent (50%) open) may be built to a maximum of six (6) feet in height in a front yard.

(b) Side Yard. Solid, sight obscuring fences or walls and non-sight obscuring fences (at least fifty percent (50%) open) may be built to a maximum height of six (6) feet .

(c) Rear Yard. Walls and fences in a rear yard may exceed six (6) feet provided that a building permit is first obtained from the Building Inspection Division prior to construction.

(d) Corner Lots. A fence not more than six (6) feet high may be constructed in a side yard adjacent to a public street on a corner lot, provided it does not extend into the clear vision area of a corner lot as defined by Section 14.34.100, Provo City Code.

(e) Entryways. Entry treatments to private driveways or subdivision development entrances may not exceed six (6) feet at the highest point, except lamps on pillars, and must comply with the provisions of 14.34.100, Provo City Code. Pillars shall be allowed to extend up to eighteen (18) inches above the allowable height of a fence provided that the pillars shall have a minimum spacing of no less than six (6) feet, measured face to face.

(f) Grade differences. Where there is a difference in the grade of the properties on either side of a fence, wall or other similar structure, the height of the fence shall be measured from the natural grade of the property upon which it is located.

(g) Retaining Walls. Where a retaining wall protects a cut below or a fill above the natural grade and is located on the line separating lots or properties, such retaining wall may be topped by a fence, wall or hedge of the same height that would otherwise be permitted at the location if no retaining wall existed.

(h) Privacy Walls. Privacy walls which project into a required front yard will be subject to staff review.

(i) Double Frontage Lots. A fence or wall may be erected in the rear yard of a double frontage lot subject to staff review.

(j) Exceptions. The provisions of this Section shall not apply to certain other fences such as tennis court backstops or patio enclosures as approved by the Zoning Administrator, if it is determined that such do not create a hazard or violation of other sections of the Provo City Code or other City ordinances. All other exceptions must obtain Planning Commission approval. Standards for barbed wire and similar types of fences are listed in section 9.14.020, Provo City Code. (Am 1986-10, Am 1987-45, Am 1989-30, Am 1990-53, Am 1992-45, Am 1995-06, Am 1996-72, Am 1998-06, Am 1998-43, Am 1999-25, Am 1999-61)